

TENTATIVE AGENDA AND **REVISED** MINIBOOK FOR  
STATE WATER CONTROL BOARD MEETING  
ON DECEMBER 17, 2013

The following tentative agenda and **revised** minibook does now include material for Tabs E and F. **For specific material for Tabs E and F see below.**

General VPDES Permit for Discharges of Stormwater Resulting from Construction Activities (9VAC25-880)

Board Memo	Page 102
Public Comment Summary/Response - April to June	Page 108
Public Comment Summary/Response - October to November	Page 166
Regulation Text	Page 190

Virginia Stormwater Management Regulations (9VAC25-870)

Board Memo	Page 229
Public Comment Summary/Response - October to November	Page 230
Regulation Text	Page 246

TENTATIVE AGENDA

**STATE WATER CONTROL BOARD MEETING**  
TUESDAY, DECEMBER 17, 2013

House Room C  
General Assembly Building  
9th and Broad Streets  
Richmond, VA 23219

CONVENE – 9:30 A.M.

			<b>TAB</b>
<b>I.</b>	<b>Minutes</b> (September 30, 2013)		A
<b>II.</b>	<b>Final Regulations</b>		
	Facility and Aboveground Storage Tank Regulations (9VAC25-91)	Porterfield	B
	General VPDES Permit for Nonmetallic Mineral Mining (9VAC25-190)	Daub	C
	General VPDES Permit for Storm Water Discharges Associated With Industrial Activity (9VAC25-151)	Tuxford	D
	General VPDES Permit for Discharges of Stormwater Resulting from Construction Activities (9VAC25-880)	Hammond	E
	Virginia Stormwater Management Regulations (9VAC25-870)	Hammond	F
	Virginia Pollutant Discharge Elimination System (VPDES) Permit Program Regulation (9VAC25-31)	Graham	G
<b>III.</b>	<b>Proposed Regulations</b>		
	Certification of Nonpoint Source Nutrient Credits (9VAC25-900)	Harris	H
<b>IV.</b>	<b>Significant Noncompliers Report</b>	O'Connell	I
<b>V.</b>	<b>Other Business</b>		
	2014 Revolving Loan Fund Projects	Gills	J
<b>VI.</b>	<b>Public Forum</b>		
<b>VII.</b>	<b>Future Meetings</b> (Confirm 2014 Schedule)		

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to the staff contact listed below.

**PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS:** The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For **REGULATORY ACTIONS (adoption, amendment or repeal of regulations)**, public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during

the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is an additional comment period, usually 45 days, during which the public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

**REGULATORY ACTIONS:** Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

**CASE DECISIONS:** Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented during the public comment period (i.e., those who commented at the public hearing or during the public comment period) up to 3 minutes to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

**POOLING MINUTES:** Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

**NEW INFORMATION** will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances, new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

**PUBLIC FORUM:** The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

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**Request to Adopt Final amendments to the Facility and Aboveground Storage Tank Regulations (9VAC25-91 et seq.):** The staff will bring to the Board at the December 17, 2013 meeting, a request to accept final amendments to the Facility and Aboveground Storage Tank Regulations (9VAC25-91 et seq.) This regulation contains requirements that Aboveground Storage Tanks (also known as ASTs) in Virginia must meet. The regulations are applicable to owners of aboveground storage tanks with capacities of greater than 660 gallons of oil. These regulations are necessary to prevent pollution of state waters, lands, and storm drain systems from the discharge of oil from new and existing aboveground storage tanks (AST). The regulations include: (i) requirements for registration of facilities and individual petroleum Aboveground Storage Tanks located within the Commonwealth; (ii) standards and procedures to prevent pollution from new and existing ASTs; and (iii) requirements for the development of facility oil discharge contingency plans for facilities with an aggregate capacity of 25,000 gallons or greater of oil.

Section 62.1-44.34:15.1 of the Code of Virginia directs the State Water Control Board to adopt regulations concerning aboveground storage tanks. The statute specifically directs the board to adopt regulations with different regulatory requirements based on the aggregate capacity of the tanks. The board is also directed to establish performance standards for aboveground storage tanks at facilities with an aggregate capacity of one million gallons or greater existing prior to January 29, 1992, and located in the City of Fairfax.

Section 62.1-44.34:19.1 of the Code of Virginia requires the Board to develop an inventory of facilities with an aboveground storage capacity of more than 1,320 gallons of oil or individual aboveground storage tanks having a storage capacity of more than 660 gallons of oil. The Board is authorized by statute to develop regulations concerning the registration of these tanks.

Section 62.1-44.34:15 of the Code of Virginia requires facilities to provide an Oil Discharge Contingency Plan to the Department for approval. These plans detail actions that will be taken by the operator in the event an oil spill occurs.

There is no direct mandate for aboveground storage tank regulations in federal law; however, federal regulations such as 40 CFR Part 112 (Oil Pollution Prevention), and 29 CFR 1910.106 (Occupational Safety and Health Regulations) and industry standards (such as API 653 and API 570) contain a number of requirements related to AST construction and operation. Many of those federal requirements are similar in their purpose/effect to the requirements envisioned by the State's Pollution Prevention Law and Oil Discharge Contingency Plan mandates. Every attempt has been made to make the requirements of the State's aboveground storage tank regulations consistent with requirements already contained in those federal regulations and industry standards.

The regulations need to be revised to incorporate new performance standards for certain aboveground storage tanks located in the City of Fairfax as mandated by actions taken by the 2011 General Assembly (CH 884 of the 2011 Acts of Assembly). State law requires certain aboveground storage tanks located in the City of Fairfax to meet new performance standards by July 1, 2021. Other changes will align Virginia's regulatory requirements with federal requirements and current industry standards. Updating these regulations to be consistent with current federal requirements and current industry standards will require the most up to date and protective standards to be met in Virginia, and will be more protective of the health, safety, and welfare of citizens.

A Notice of Intended Regulatory Action (NOIRA) was published in the Virginia Register of Regulations on November 11, 2011.

Proposed amendments to the Facility and Aboveground Storage Tank Regulations were developed through a public participation process that involved a 19 member Regulatory Advisory Panel (RAP) of stakeholders which met a total of 4 times, once in 2011 (Dec 12<sup>th</sup>) and 3 times in 2012 (Feb. 2<sup>nd</sup>, March 12<sup>th</sup> and April 16<sup>th</sup>). Staff worked with the members of the RAP to develop the proposed amendments.

Based on the input of the Regulatory Advisory Panel and comments received during the NOIRA comment period, the DEQ prepared proposed amendments to the regulation. On June 25, 2012, the Board voted to proceed to public comment and hearing on these proposals. Following Board approval, the Attorney General's Office completed its review on June 27, 2012. The Department of Planning and Budget completed an economic impact review on August 11, 2012. The Secretary of Natural Resources granted approval of the proposed regulatory amendments on October 19, 2012, and the Governor approved the amendments on July 8, 2013.

DEQ published the proposed amendments in the Virginia Register on August 12, 2013. The public comment period for the proposed amendments was scheduled from August 12, 2013 to October 11, 2013.

Pursuant to Section 2.2-4007.03 of the Code of Virginia and 9VAC25-11 (Public Participation Guidelines), DEQ held 2 public hearings as follows:

September 9, 2013 at 2 p.m. – DEQ’s Northern Virginia Regional Office in Woodbridge, Virginia

September 20, 2013 at 10:30 a.m. – DEQ’s Central Office in Richmond, Virginia.

DEQ received a total of 17 comments on the proposed amendments from 6 organizations and individuals. Comments received and the responses to comments are included below.

This regulatory action amends the Facility and Aboveground Storage Tank Regulations (9VAC25-91-10 et seq.) The following is a summary of significant amendments to the regulation:

- The proposed changes to the regulations include the addition of a new section (section 145) that contains the requirements applicable to ASTs located in the City of Fairfax. These requirements are being added in response to changes that have been made to state statute (Ch. 884 of the 2011 Acts of Assembly.) A definition of elevated tank is also being added to the regulations in section 10, the definition section in response to these changes. Consensus was reached by the Regulatory Advisory Panel on the language in section 145 and on the definition of elevated tank. Comments were submitted from the City of Fairfax in support of the proposed regulatory language.
- While reviewing the regulations, areas were identified where additional flexibility could be added to the regulations. This includes changes to:
  - § Closure requirements- (§120) the regulations were modified to allow for approvable leak detection methods to be used.
  - § Performance standards- (§130) Inventory control requirements were revised to reduced recordkeeping.
  - § Variances- (§160) the section was revised to add more commonly requested and granted variances to the list of variances by regulation.
  - §
- The registration fee requirement is being removed. Registration fees range from \$25-\$100 and are paid every 5 years.
- The pollution prevention requirement section has been reorganized. The regulation now lists all requirements ASTs and facilities with an aggregate capacity of greater than 25,000 gallons must meet first, then lists additional requirements ASTs and facilities with greater than 1 million gallons must meet in addition to the other requirements.
- The regulations are being updated to reference current industry standards and practices. This will benefit the regulated community by allowing the use of additional testing methods to be used to conduct inspections of aboveground storage tanks.

In response to comments, additional changes are being made to the regulations since originally proposed. These changes are in response to public comment and include the following:

- Examples were added to the exclusion section of the regulation to clarify that certain vehicles were excluded from regulation.
- Language was added to clarify when professional engineering statements for secondary containment would be required to contain language specified by regulation.
- The regulation has been modified to clarify that the operator shall institute safe fill, shutdown, and transfer procedures. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by

facility personnel. The goal of the requirement is to ensure that the facility has developed and implemented procedures to ensure that safe fill, shutdown and transfer occurs.

Editorial changes are being made to the regulation. A citation in 9VAC25-91-220 is being corrected and corrections are being made to the names of documents incorporated by reference.

Public comment

Commenter	Comment	Agency response
James McGrath	9VAC25-91-30.A.2 contains an exclusion for, “Licensed motor vehicles, unless used solely for the storage of oil”. Believes that the wording of this exclusion is unclear. Suggests that DEQ consider defining the term licensed motor vehicles in the regulations. Asked if a federal government owned vehicle in the federal motor vehicle registration system would qualify as being licensed.	Licensing motor vehicles is an activity that the State Water Control Board is not authorized to perform. Any motor vehicle that has been issued license plates by an authorized state or federal entity is deemed to be a licensed motor vehicle. This would include vehicles such as airport refueling trucks and mobile refueling vehicles that are operated to refuel other vehicles on airports and military installations. The regulation has been modified to include an example of licensed motor vehicles not solely used for the storage of oil.
James McGrath	Believes that DEQ considers airport fueling trucks to be “fuel transportation equipment or fuel transportation vehicles” and that these vehicles qualify for the exclusion described in 9VAC25-91-30.A.2. Suggests adding an example of the exclusion (e.g. airport refueling trucks, mobile refueling vehicles) as an example in the regulations.	The regulation has been modified to include an example of licensed motor vehicles not solely used for the storage of oil. (e.g. airport refueling trucks, mobile refueling vehicles)
James McGrath	9VAC25-91-130.B.2.a requires secondary containment or approved method to be evaluated and certified. The terms “dike or berm” have been removed. Is it DEQ’s intent to require that double-wall tanks be evaluated and certified as well as dikes and berms? If not, I would like to suggest that an exemption for double-wall tanks be included in this section.	EPA has issued guidance concerning the certification of smaller shop built double walled tanks as meeting the secondary containment requirements of Spill Prevention, Control and Countermeasure (SPCC) (CFR Part 112). The board is not exempting double walled tanks from the certification requirement; however if a tank meets EPA’s double walled tank guidance, no professional engineer certification is needed for that tank. No change has been made to the regulation.
James McGrath	9VAC25-91-130.B.3.a, there is a requirement that, “Each operator shall institute <b>and maintain records</b> of safe fill, shutdown, and transfer procedures, or equivalent measures approved by the board. The regulation is unclear if having written safe fill, shutdown, and transfer procedures satisfies the recordkeeping requirement, or if, records need to be maintained for	The regulation has been modified to clarify that the operator shall institute safe fill, shutdown, and transfer procedures. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by facility personnel. The goal of the requirement is to ensure that the facility has developed and implemented procedures to ensure that safe fill, shutdown and transfer occurs to prevent overfills.

	each individual tank fill and each fuel transfer to document that they were performed according to established procedures.	
James McGrath	9VAC25-91-130.B.3.d, states “These gauges shall be calibrated annually.” Some gauge manufacturers do not specify calibration procedures, or may specify calibrations at a different frequency. Suggests rewording the regulation to state “These gauges shall be installed, calibrated, operated, and maintained in accordance with manufacturer’s instructions.”	The board believes that the regulated community should follow manufacturer’s guidelines concerning the calibration of gauges; however, as the commenter stated, some manufacturers do not specify a timeframe during which recalibration should occur. The board believes that at a minimum, gauges should be calibrated on an annual basis to minimize the chance that overfilling of a tank would occur due to a faulty oil level gauge. No change has been made to the regulation.
Carol Peterson	Section 9VAC25-91-110- Notifications- was not included in the regulatory text. Is this because there were no changes to that section or was it mistakenly omitted?	No changes are being proposed to Section 110- Notifications; therefore, it was not published in the Virginia Register or Town Hall websites as part of the proposed regulation.
Carol Peterson	9VAC25-91-130 B. 5. c. Sample Weekly checklists, contains item (8) Separator or drainage tank in satisfactory condition. Separators are exempt from regulation and the term drainage tank is not defined. Suggests adding a definition of “drain tank” to the regulation for clarification.	The commenter is correct that 9VAC25-91-30 A. 19 excludes oily water separators from the requirements of this chapter; however, not all separators are excluded from regulation. The weekly checklist requires separators and drainage tanks to be visually inspected. There are many types of drainage tanks that are present at regulated facilities that serve different purposes. The objective of this requirement is for the operator to visually inspect the condition of tanks in order to identify and correct any damaged equipment prior to an equipment failure occurring and oil being spilled. No change is being made to the regulation in response to this comment.
Andrew Wilson, Fire Marshall, City of Fairfax	Supports adoption of the proposed regulatory changes. Facilities in the City of Fairfax have already begun implementing plans to comply with the new regulatory requirements.	The Board appreciates the commenter’s support for the regulation.
R. Scott Silverthorne, Mayor, City of Fairfax	Supports adoption of the proposed regulatory changes.	The Board appreciates the commenter’s support for the regulation.
Sharon Nicklas, HRSD	Supports the proposed amendment to eliminate the tank registration fee.	The Board appreciates the commenter’s support for the regulation.
Sharon Nicklas, HRSD	Recommends the requirement for registration renewal in section 9VAC25-91-100.F be deleted. HRSD is unaware of any value gained from the renewal of tank registration every 5 years. This requirement is inconsistent with UST registration requirements	§62.1-44.34:19.1 of the Code of Virginia requires AST tank registrations to be renewed every five years or whenever title to a facility or tank is transferred. The commenter’s suggested change is inconsistent with state law. No change will be made to the proposed regulation in response to this comment.

	<p>which only require registration for the original tank or for modifications to the tank system. Executive Order #14 requires regulations to be designed to achieve their objectives in the most efficient, cost-effective manner and HRSD believes that requiring a renewal every five years is a paperwork burden for the tank owner and DEQ.</p>	
Pamela Faggert, Dominion	<p>9VAC25-91-130 B.2.e states the certification statement must be provided by a professional engineer that evaluated the tank system's secondary containment. This statement does not match Dominion's existing engineering certification statements, and would require Dominion to amend each of their secondary containment certification statements to match the specified certification language. Dominion believes this is costly and does not provide and benefit to the environment. Suggests revising 9VAC25-91-130.B.2. to include the following language "Operators of an existing AST with a current certification on [date rule becomes effective] may maintain their existing engineering certification statement until their next certification date or within 10 years, whichever is sooner. At such time, the certification statements must conform to requirements in 9VAC25-91-130 B.2.e.</p>	<p>The current regulations require secondary containment to have been certified with respect to compliance with the applicable requirements of 40 CFR Part 112 (1997), NFPA 30 and 29 CFR 1910.106 by June 30, 1998. It is not the board's intent to require all certifications to be re-performed and submitted with the wording of the certification stated in 9VAC25-91-130 B. 2.e. upon the effective date of the regulation. It is the board's intent that all future certifications meet the certification statement requirements of 9VAC25-91-130 B. 2.e. The regulation has been modified to clarify this requirement.</p>
Pamela Faggert, Dominion	<p>Supports the addition of Steel Tank Institute (STI) STI-SP001 tank inspection checklist standards. Would like regulations to be revised to include the recommended schedule for tank re-inspections contained in STI-SP001. Recommends that the proposed rule incorporate a consideration of risk factors similar or identical to STI-SP001 in its tank re-inspection schedule requirements in 9VAC25-91-130C.2.</p>	<p>62.1-44.34:15.1 of the Code of Virginia requires formal inspections to be conducted at facilities with an aggregate storage capacity of 1 million gallons of oil or greater every five years. No change has been made to the regulation.</p>
Pamela Faggert, Dominion	<p>Supports the new provision in 9VAC25-91-160D.11 that removed double-walled ASTs from daily and weekly inspection requirement and</p>	<p>The Board appreciates the commenter's support for the regulation.</p>

	extends the inspection frequency for these tanks to once every 31 days.	
Pamela Faggert, Dominion	Suggests revising 9VAC25-91-130B.3.a to clarify that the safe fill, shutdown, and transfer procedures should be current and active, not historical. Suggests revising language to read “Each operator shall institute and maintain records of <u>written</u> safe fill, shut down, and transfer procedures or equivalent...”	The regulation has been modified to clarify that the operator shall institute safe fill, shutdown, and transfer procedures. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by facility personnel. The goal of the requirement is to ensure that the facility has developed and implemented procedures to ensure that safe fill, shutdown and transfer occurs.
Pamela Faggert, Dominion	Dominion has gauges installed at fill ports on the outside of secondary containment berms rather than at the tanks. Suggests revising 9VAC25-91-130B.3.d to the following “All ASTs shall be equipped with a gauge that is readily visible and indicates the level of oil in the tank. In addition, the storage capacity, product stored and tank identification number shall be clearly marked on the tank at the location of the gauge. These gauges shall be calibrated annually.”	It is difficult to create regulatory language to address all tank configurations. The board believes that this specific request would be more appropriately handled through examining the specific tank’s configuration and examining if a variance from the regulation would be appropriate. No changes have been made to the regulation.
Pamela Faggert, Dominion	9VAC25-91-190 was not published in the Virginia Register as part of this proposal. In Section 180, a reference to section 190 is stricken. In Section 200, a reference to Section 190 is maintained. It is unclear if section 190 is proposed to be retained in the regulation or repealed.	No changes are being proposed to Section 190; therefore, it was not published in the Virginia Register or Town Hall websites as part of the proposed regulation. Section 190 will remain part of the regulation and is not being amended as part of this regulatory action.

**All changes made in this regulatory action**

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
10	10	Definitions	A definition of elevated tank is being added to the regulations. This definition is needed since it is a term that is being used in a new section (section 145) of the regulations.
20	20	Applicability	This section clarifies which oil capacities are included when calculating the aggregate storage capacity of the facility.
30	30	Exclusions	An additional exclusion is being described in the regulations to clarify ASTs that are excluded from the regulations. The regulations have excluded ASTs that are part of machinery from the regulations, and the regulations are being revised to further describe the

			exclusion. This exclusion deals with ASTs that are integral parts of equipment or machinery. In response to a comment, examples of licensed motor vehicles that are excluded from the regulation have been added to the regulation. (e.g. airport refueling trucks, mobile refueling vehicles)
40	40	Compliance Dates	Compliance dates have been revised to incorporate the effective date of the last revision of the regulations.
50	50	Statement of Purpose	The term board is being replaced with the term department since annual reports are submitted to the department.
60	60	Administrative fees	Registration fees will no longer be charged. Fees will still be required for review of Oil Discharge Contingency Plans (ODCP). The regulation clarifies the different facility size categories and the applicable application fee. The agency's address has been revised.
70	70	Notices Correspondence to the Department of Environmental Quality	The agency's address has been revised. The section title has been revised to more accurately reflect the requirements of the section. The section provides details to the regulated community concerning where they should send different correspondence- either the central office or the regional office.
90	90	Evaluation of chapter	This section is being removed since it is no longer applicable. Periodic reviews of the regulations are detailed in a Governor's Executive order.
100	100	Registration requirements	The section of the regulation clarifies when a registration form is required to be submitted.
120	120	Aboveground storage tank closure	Compliance dates have been revised to incorporate the effective date of the last revision of the regulations. The term "board" is replacing the term "department" in this section to use terminology consistent with statutory requirements. The section has also been revised to allow for the use of approvable leak detection systems to be used instead of requiring soil sampling.
130	130	Pollution prevention standards and procedures	<p>This section has been reorganized and removes redundant requirements from the regulations. Previously this section listed requirements each category of facilities was required to meet separately. The section has been reorganized to list all of the requirements ASTs with an aggregate storage capacity of 25,000 gallons of oil or more must meet first. Additional requirements facilities with a capacity of 1 million gallons of oil or more must meet are listed following the requirements for facilities with an aggregate storage capacity of 25,000 gallons of oil. In addition to these changes, current industry standards have been mentioned in the regulations.</p> <p><i>Inventory Control</i></p> <p>Changes have been made to the inventory control and testing for significant variation requirements. Requirements for refineries have been placed after the requirements for facilities. Facilities are no longer required to reconcile physical measurements every time a stored amount is recorded. If a significant variation exists for two consecutive reconciliation periods, the</p>

			<p>facility operator is then required to reconcile physical measurements. This will reduce the recordkeeping requirements for facilities.</p> <p><i>Secondary Containment</i> Clarifications have been made to the secondary containment requirements. The regulations specify the board's expectations for secondary containment that have been implemented though department policy. The PE certification is described in the regulations. Additionally, the PE certification may include qualifications, which the board may choose to accept. This will provide more flexibility to the facility concerning requirements for secondary containment. In response to a comment received, a clarification has been made to the regulation concerning when the wording of professional engineering statements must match the required statements included in the regulation.</p> <p><i>Safe fill and shutdown procedures</i> Safe fill and shutdown procedures have been clarified. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by facility personnel.</p> <p><i>Pressure testing of piping</i> Pressure testing of piping requirements have been revised to incorporate the effective date of the last revision of the regulations.</p> <p><i>Visual daily and weekly inspections</i> Visual daily and weekly inspection requirements have been revised to incorporate the effective date of the last revision of the regulations. Facilities may also conduct daily inspections less frequently than daily if normal operations are not being conducted. Facilities may also conduct weekly inspections less than weekly if normal operations are not being conducted. Daily and weekly inspections need to be conducted at least once every 14 days. The regulations are also being clarified to state that when facility inspections identify problems, the problems need to be corrected.</p> <p><i>Training requirements</i> Training requirements are being clarified. Training requirements have been revised to incorporate the effective date of the last revision of the regulations.</p> <p><i>Facilities with an aggregate capacity of 1 million gallons or more</i> In addition to the areas listed above, facilities with an aggregate capacity of 1 million gallons of oil or more must meet the following additional requirements: Formal inspections and reinspections; high level alarm for safe filling of tanks; and cathodic protection of piping. These requirements were previously in the regulations and are not new, but have been grouped into their own subsection of the regulations.</p>
140	140	Performance standards for aboveground storage tanks newly installed, retrofitted,	Compliance dates have been revised to incorporate a previous effective date of the regulations. References to NFPA 30 and BOCA are being replaced with a

		or brought into use	reference to the Uniform Statewide Building Code. The Uniform Statewide Building Code references many codes and standards, and is required to be followed in Virginia.
	145	Performance standards for aboveground storage tanks located in the City of Fairfax	This is a new section being added to the regulation to specifically address the AST facilities with an aggregate capacity of 1 million gallons of oil or greater located in the City of Fairfax. State law requires these tanks to meet certain performance standards by July 1, 2021. The section includes information concerning ASTs the section is applicable to, and includes the performance standards the ASTs must meet, including requirements for strength testing, and release prevention barriers.
150	150	Recordkeeping	This section has been clarified to state inspection records are to be kept.
160	160	Variations to the requirements of part III (9VAC25-91-130 et seq.) of this chapter	Additional variances by regulation are being added to the regulation. These additional variances allow for a facility to obtain a variance from the regulation without petitioning the board. The additional variances are common variances requested by the regulated community and granted by the board. Adding these variances to the regulations removes the requirement for a facility to petition the board for a variance if the conditions of the variance are being met. This reduces the regulatory burden on the regulated community as well as the department's resources.
170	170	Contingency plan requirements and approval	The regulation is being clarified to include the purpose of Oil Discharge Contingency Plans. The term board is being replaced with the term department to be consistent with statutory requirements. Statutory references are being updated. A deadline is also being included in the section for the board to receive notification of amendments to the Facility Response Plan (FRP) if the FRP is part of the ODCP.
180	180	Groundwater characterization study (GCS)	The term department is being replaced with the term board to be consistent with statutory requirements.
200	200	Reporting; GCS well monitoring report	The term board is being replaced with the term department since annual groundwater reports are required to be submitted to the department, not the board.
220	220	Resources available	This section is being revised to list the many resources that may assist the regulated community with maintaining compliance with the numerous codes and regulations ASTs are subject to. Depending on the size of the tank, and tank construction, there are many requirements or standards that may be applicable to the AST. Tanks are manufactured to meet certain standards that vary depending on the type of tank, the intended contents of the tank, and the location of the tank. This section acts as a list of resources the regulated community may wish to consult when selecting an AST to use, upgrading an existing tank, or inspecting tanks. A citation was corrected in this section of the regulation.
		Documents incorporated by	Some documents previously listed in section 220 are

		reference	being incorporated by reference. Corrections were made to titles and dates of documents incorporated by reference since originally proposed.
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**Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Nonmetallic Mineral Mining (9VAC25-190):** The current VPDES General Permit for Nonmetallic Mineral Mining will expire on June 30, 2014, and the regulation establishing this general permit is being amended to reissue another five-year permit. The staff is bringing this final regulation before the Board to adopt the permit regulation. All changes to the current regulation are shown below. The draft regulation takes into consideration the recommendations of a technical advisory committee formed for this regulatory action. The technical advisory committee consisted of industry representatives and DEQ staff.

The Board’s authorization of the proposal was received at the June 17, 2013 meeting. A Notice of Public Comment Period was published July 15, 2013 through September 13, 2013 with a public hearing on August 29, 2013 in Glen Allen with two representatives of the industry attending the hearing. Written comments were received from Vulcan Materials Company, Virginia Transportation Construction Alliance, Cardo MM&A and Kyanite Mining Corporation. Following is a summary of comments and agency response:

COMMENT: Vulcan Materials Company (Walter Beck, Environmental Engineer), Virginia Transportation Construction Alliance, Sam Hollins, Aggregates Program Manager and Cardno MM&A, Brain Parker, PE, Mining Engineer.

In section 9VAC25-190-70 Part I B 10 (Special Condition #10), the industry requested language be changed to add *from process water discharges* and to remove *in vicinity of the outfall* as it is confusing and ambiguous. They offered the following languages be considered as a replacement to the existing proposed language:

10. There shall be no discharge of floating solids or visible foam in other than trace amounts *from process water* discharges. There shall be no solids deposition or oil sheen from petroleum products *discharged to* surface water as a result of the industrial activity.

AGENCY RESPONSE: Staff notes that in the previous permit the floating solids or visible foam requirement only applied to process water and agrees with this comment.

Staff agrees that the second sentence in this special condition needed clarification and made the changes suggested by the commenters.

COMMENT: Kyanite Mining Corporation (John Snoddy, Environmental & Safety Director), made a similar comment that the phrase “in the vicinity” should be clarified to mean downstream of the outfall.

AGENCY RESPONSE: Staff agrees and believes the changes to 70 Part I B 10 as described in the agency response above accomplishes what Kyanite Mining is asking.

COMMENT: Vulcan Materials Company (Walter Beck, Environmental Engineer), Virginia Transportation Construction Alliance, Sam Hollins, Aggregates Program Manager and Cardno MM&A, Brain Parker, PE, Mining Engineer.

In section 9VAC190-70 Part I B 16 (c) (Special Condition #16 for Inactive and Unstaffed Facilities), the industry requested language be changed to allow for an alternative timeframe (outside of the proposed 30-days prior) for notifying the Department that a site is no longer inactive or unstaffed if the alternate timeframe is approved by the Department. Otherwise the DEQ will not have ability to allow a change in timeframe due to it being too rigid in the permit.

AGENCY RESPONSE: Staff agrees that alternate timeframes should be considered and added: To reactivate the site the permittee shall notify the department within 30 days *or an alternate timeframe if written approval is received in advance by the board.*

COMMENT: Vulcan Materials Company (Walter Beck, Environmental Engineer), Virginia Transportation Construction Alliance, Sam Hollins, Aggregates Program Manager and Cardno MM&A, Brain Parker, PE, Mining Engineer.

In 9VAC25-190-70 Part I B – Requested the addition of a new special condition. Their intent is to not require a DMR for process water outfalls that were designed not to discharge. They offered the following language for consideration: *Process Water Systems designed to operate as “No Discharge” and that will have no discharge of wastewater or pollutants, except in storm events greater than a 25 year/24 hour storm event, are allowed to discharge under this permit. Discharges are only allowed in storm events exceeding the size or intensity of a 25 year/24 hour storm event due to excessive rainfall amounts. No sampling or DMR is required for these discharges as they are considered to be discharging in emergency discharge conditions. The operation of these systems shall not contravene the Water Quality Standards (9VAC25-260), as adopted and amended by the Board, or any provisions of the State Water Control Law.*

AGENCY RESPONSE: Staff agrees that such a special condition is needed and inserted similar language as follows: *Process water systems designed to operate as “no discharge” shall have no discharge of wastewater or pollutants, except in storm events greater than a twenty-five-year, 24-hour storm event. In the event of such a discharge, the permittee shall report an unusual or extraordinary discharge per Part III H of this permit. No sampling or DMR is required for these discharges as they are considered to be discharging in emergency discharge conditions. These discharges shall not contravene the Water Quality Standards (9VAC25-260), as adopted and amended by the Board, or any provision of the State Water Control Law. Any other discharge from this type of system is prohibited, and shall be reported as an unauthorized discharge per Part III G of this permit.*

The concept is similar to the comment received except reporting is required per Part III H (in the event of a 25-year 24-hour storm event discharge) and Part III G of the permit (in the event a prohibited discharge occurs).

#### Significant Changes Since Proposed

All changes made to the regulation are included below. The most significant change since the proposal is the addition of the new special condition that eliminates the need for discharge monitoring reports for process water systems that are designed to operate as a no discharge system except during a 25-year, 24-hour storm event. However, notifications are required whenever there is a discharge.

#### All changes made in this regulatory action:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10	NA	Definitions exist for <i>14 allocated facility, industrial activity, permittee, process wastewater, run-off coefficient, SIC, significant materials, storm water, storm water discharge associated with industrial activity, and vehicle /equipment washing.</i>	Definitions were added for <i>best management practices (BMPs), department (DEQ), municipal separate storm sewer system (MS4), significant spills, twenty-five-year, 24-hour storm event and total maximum daily load (TMDL)</i> . This terminology is used in the regulation and needed explanation. Also deleted metallic products and food processing raw material from the definition of <i>significant materials</i> since these materials would not be found at these facilities. Also clarified the <i>vehicle/equipment washing</i> definition to mean this is <i>vehicle or equipment degreasing</i> to match the terminology used in a similar general permit (concrete products).
NA	15	None	Applicability of incorporated references based on the dates that they became effective. A statement was added to update all Title 40 Code of Federal Regulations within the document to be those published as of July 1, 2013. This is a recommendation from the DEQ Office of Policy
20 and 70	NA	Effective dates from July 1, 2009 to June 30, 2014	Effective dates were updated to reflect this reissuance from July 1, 2014 to June 30, 2019.
Section 50	NA	No requirement to be in	Reformatted to match structure of other general permits

A, B		compliance with the antidegradation policy in the Water Quality Standards 9VAC25-260-30. Other requirements to authorize discharge are similar to final, just reformatted.	being issued at this time. Also, added that an owner will be denied authorization when the discharge would violate the antidegradation policy. This is based on EPA comments provided on other general permits reissued recently. The requirement that the discharge must meet the assumptions and requirements of a TMDL was reworded to match other general permits
Section 50 C	NA	Receipt of the general permit does not relieve any owner of the responsibility to comply with any other federal, state, or local statute, ordinance, or regulation.	Added the statement " <i>Compliance with this general permit constitutes compliance with the Clean Water Act, the State Water Control Law, and applicable regulations under either, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation.</i> " This was added in response to Attorney General Office comments on other general permits recently reissued to recognize there are some exceptions to compliance with the Clean Water Act as stated in the permit regulation.
50 D	NA	None	Added language to allow for administrative continuances of coverage under the old expired general permit until the new permit is reissued and coverage is granted or coverage is denied; provided the permittee has submitted a timely registration and is in compliance with the existing permit. This language is being added to all recently reissued general permits so permittees can discharge legally if the permit reissuance process is delayed.
60 A	NA	Permittees requesting coverage under this general permit must notify DEQ <i>180 days</i> prior to their expiration date. New facilities must submit a registration statement <i>at least 30 days</i> prior to commencement of discharge.	Reformatted this section to match the structure of other recently reissued general permits. Permittees currently holding an individual VPDES permit and requesting coverage under this general permit must notify DEQ <i>210 days</i> prior to the expiration date of their individual permit. This gives the permittee time to meet the deadline for timely application for reissuance of the individual permit if their request for coverage under the general permit is denied. Owners of existing facilities registration submittal dates were revised to April 1, 2014, which is <i>90 days</i> prior to expiration instead of 180 days prior. New facilities must submit a registration statement at <i>least 45 days</i> prior to commencement of discharge. These new deadlines meet agency and permittee needs.
60 B	NA	None	Added language accepting late registration statements (after <i>June 30, 2014</i> , the expiration date) but stated that authorization to discharge will not be retroactive. Also, that existing permittees may be provided administrative continuance of permit coverage if a complete registration statement is submitted before <i>July 1, 2014</i> .
60 C	NA	Vehicle equipment or degreasing activities and vehicle washing and return water from operations where mined material is dredged is not included in	Vehicle equipment or degreasing activities and vehicle washing and return water from operations where mined material is dredged was added to the characterization of each outfall's discharge since it is part of the process water definition.

		the characterization of each outfall's discharge.	
60 C	NA	There is no requirement for the owner to notify the MS4 owner and to copy DEQ with that notification.	The following notification requirement was added to the registration statement: <i>"Whether the facility will discharge to a Municipal Separate Storm Sewer System (MS4). If so, provide the name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit, and shall copy the DEQ regional office with the notification. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number."</i> This notification is a permit requirement and the TAC thought it should be repeated as a reminder in the registration process.
60 C	NA	There is no question asking about vehicle or equipment degreasing to determine if TPH limits are required.	The question <i>"Indicate if there are vehicle or equipment degreasing activities performed on site. If yes, indicate if there is any process wastewater generated from these activities"</i> was added because the answer to this question is needed to determine if TPH limits are required.
60 C	NA	There is no requirement to submit monitoring data to determine compliance with the Chickahominy special standards in the water quality standards regulation.	The requirement to submit monitoring data to determine compliance with a new special condition for Chickahominy watershed discharges that reflect the existing Chickahominy special standards in the water quality standards regulation (see Part II B 14 below) was added.
60 E	NA	There is no allowance for registration statements to be submitted electronically.	Added the allowance for registration statements to be submitted electronically as well as by postal mail. TAC thought electronic submissions of registration statements are appropriate at this time.
65	70 Part I B 18	Termination of permit coverage existing in section 65 as part of the regulation and not of the permit.	Repealed this section <i>"Termination of permit coverage."</i> And moved it inside the permit itself. This section contains requirements for termination so it is more appropriate as part of the permit.
70	NA	The introductory paragraph to Part I which summarizes the requirements of the permit includes effluent limitations, monitoring, storm water management and conditions applicable to all permits	<i>Special Conditions</i> have been included in the introductory paragraph to Part I.
70 Part I A	NA	The footnotes are out of order in the limits tables.	The footnotes have been rearranged so they are in order in the limits tables.
70 Part I A 1	NA	Footnote #3 for process water states that <i>monitoring for TPH is only required for outfalls from vehicle /equipment washing facilities or from</i>	Footnote #3 for process water states that <i>monitoring for TPH is only required for outfalls that contain process wastewater from vehicle or equipment degreasing.</i> Vehicle degreasing or equipment degreasing has been clearly defined in section 10 (definitions) to mean the washing or steam cleaning of engines or other drive

		<i>discharges that pass through oil/water separators.</i>	components of a vehicle or equipment in which the purpose is to degrease and clean petroleum products. It does not mean washing sediment off trucks. This has always been unclear to the staff and this change helps to clarify that.
70 Part I A I	NA	The TPH methods are not listed in footnote #3.	The TPH methods are listed in footnote #3.
70 Part I A 2	NA	The requirement for " <i>no discharge of floating solids or visible foam</i> " is included.	The requirement for " <i>no discharge of floating solids or visible foam</i> " is moved to Part I B 10 (Special conditions).
70 Part I A 4	NA	The timing requirement for collecting a storm water sample (at least three days from preceding storm event and during the first 30 minutes of discharge) is included.	The timing requirements for collecting a storm water sample (at least three days from preceding storm event and during the first 30 minutes of discharge) has been moved to Part II A (monitoring requirements for storm water) with some changes.
70 part I B 1	NA	The requirement to clean up spilled fluids includes the words " <i>to the maximum extent possible.</i> "	The requirement to clean up spilled fluids was revised to delete the words " <i>to the maximum extent possible.</i> " Legal staff recommended that this is difficult to enforce.
70 Part I B 6	NA	The requirement to <i>modify, revoke and reissue the permit if a more stringent effluent standard or limit is promulgated by EPA</i> is listed.	The requirement to <i>modify, revoke and reissue the permit if a more stringent effluent standard or limit is promulgated by EPA</i> was deleted. General permits are not modified, revoked or reissued. The TAC thought a new effluent standard would be incorporated more appropriately during reissuance.
70 Part I B 10	NA	The requirement that " <i>There shall be no discharge of floating solids or visible foam in other than trace amounts</i> " was in Part I A 2.	The requirement that " <i>There shall be no discharge of floating solids or visible foam in other than trace amounts</i> " was moved here from Part I A 2 with the addition to clarify that it applied to <i>process water discharges</i> . The addition of the requirement that " <i>there shall be no solids deposition or oil sheen from petroleum products discharged to surface water as a result of the industrial activity</i> " was added to another general permit (concrete products) and thought applicable to this permit as well. It serves as an added measure of protection and something the inspector can look for to ensure proper BMPs, clean up measures or treatment is occurring.
70 Part I B 11	NA	A definition of <i>vehicle/equipment washing</i> is listed.	A definition of <i>vehicle/equipment washing</i> is deleted because it had no requirement associated with it and was already in section 10 (Definitions).
70 Part I B 14	NA	The requirement to meet the Chickahominy special standards (from the water quality standards regulation at 9VAC25-260-310 m) was not included.	A requirement to meet the Chickahominy special standards was added. These special standards contain more stringent effluent limits for several parameters for discharges to the Chickahominy watershed. It was included so that any nonmetallic mining permits in that watershed could be eligible for this general permit.
70 Part I B 15	NA	The requirement that <i>there shall be no discharge or storm water discharge-related activities that cause or contribute to a violation of water quality standards</i>	The requirement was included but revised as follows: <i>the discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.</i> This was done to match the wording used in other recently reissued general permits.

		<i>or that adversely affect aquatic life</i> was included.	
70 Part I B 16		The requirement that describes how temporary facility closures at inactive and unstaffed sites is in Part II C 2 (Storm water Management).	The requirement that describes how temporary facility closures at inactive and unstaffed sites will be implemented is moved here from Part II. The same condition was recently added to another general permit (concrete products). It previously only applied to storm water but now can be implemented for the entire site and now requires board approval and a 30 day reactivation notification or an alternate timeframe if written approval is received in advance from the board. Also, no discharge monitoring reports are required while the facility is inactive and unstaffed.
70 Part I B 17	NA	The special condition to allow process water systems that are <i>designed to operate as 'no discharge' systems</i> to discharge only during <i>greater than a 25 year 24 hour storm events</i> as an emergency discharge is not included.	Added a new special condition that allows process water systems that are <i>designed to operate as 'no discharge' systems</i> to discharge only during <i>greater than a 25 year 24 hour storm events</i> as an emergency discharge. No DMRs are required for these emergency discharges but notification to the department is required. No other discharges from this type of system are allowed.
70 Part II	NA	Storm water management requirements are in this section.	This entire section was revised to match (for the most part) language in the 2009 Industrial Storm Water General Permit. Some differences can be found but these were done with TAC consensus. The storm water variations in wording do not change the requirements significantly. Notable differences are described separately.
70 Part II A 1	NA	The requirement to provide additional information to include the date, duration and rainfall measurements which generate a discharge is included.	This requirement is deleted and this subsection was replaced with monitoring instructions from Part I A 4. The TAC thought the additional information was not needed since these facilities discharge storm water through storm water management structures and the date, duration and rainfall measurements would not apply or be useful.
70 Part II A 2	NA	The requirement to send DMRs to large or medium MS4 systems is included.	This requirement is deleted as it is not a routinely included in all DEQ storm water general permit requirements and is not a requirement in the EPA 2008 or draft 2013 multi-sector general (storm water) permit. The permittee is required to notify the MS4 owner if the discharge will enter an MS4.
70 Part II A 2	NA	Storm water management structure must meet a <i>representative sample</i>	The timing requirements moved from Part I A 4 to Part II A 2 were clarified to require that samples from a storm water management structure (which are a series of large settling lagoons) must meet the <i>representative samples</i> requirement. There is no additional timing requirements from storm water management structures to obtain a 'first flush' of storm water which is, at most industrial sites, considered the worst case scenario and containing the most pollutants. When the discharge is through a series of large storm water management structures that hold and settle the solids over time and rarely discharge. If they do discharge, the storm water that is discharged is from the end of the series of control structures where the water

			has been in the ponds the longest and therefore, the most settled. This sampling requirement for a <i>representative discharge</i> from the storm water control structure vs. other types of storm water discharges was in the 2009 permit, but was not clear.
70 Part II C 1	NA	A permittee is allowed a sampling waiver when adverse conditions prevent taking a sample. <i>When a permittee is unable to collect samples within a specified sampling period due to adverse weather conditions, the permittee shall collect a substitute sample from a separate qualifying event in the next period and submit these data along with the data for the routine sampling in that period.</i>	The permittee is not required to take a substitute sample. This is annual sampling and permittee are usually able to take a storm water sample during the year. However, a requirement was added that the permittee must provide the dates and times that the outfalls were viewed and sampling was attempted in order to ensure the permittee is attempting to take samples throughout the year.
70 Part II C 1	NA	A sampling waiver in instances when there is <i>no measureable storm event</i> is not included.	The waiver was expanded to include when <i>no measureable storm event</i> occurs. This is consistent with other general permits issued recently.
70 Part III A	NA	No laboratory certification requirement is included.	<i>"Samples taken as required by this permit shall be analyzed in accordance with IVAC30-45: Certification for Noncommercial Environmental Laboratories, or IVAC30-46: Accreditation for Commercial Environmental Laboratories."</i> This is a new regulatory requirement effective January 1, 2012, and is being added to all general permits as they are reissued.
70 Part III L	NA	A requirement to meet sewage sludge standards is listed.	Removed requirement to meet sewage sludge standards as sewage discharges are not covered by this permit.
70 Part II Y	NA	Permits may be transferred via permit modification.  Automatic transfer of ownership may occur when the board is notified <i>30 days in advance</i> of proposed transfer.	Ownership transference via permit modification is deleted as this activity is not appropriate for general permit coverage.  Automatic transfer of ownership may occur when the board is notified <i>30 days in advance of proposed transfer unless permission for a later date has been granted by the department</i> . Permittees are rarely able to meet the 30 day prior requirement and the staff thinks they need some flexibility with this.

**General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity (9VAC25-151) - Amendments to the Regulation and Reissuance of the General Permit (VAR05):** The staff is bringing these final regulation amendments before the Board to request adoption of the regulation reissuing the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity, VAR05. The current general permit

will expire on June 30, 2014, and the regulation is being amended to reissue the general permit for another five-year term. The amended regulation takes into consideration the recommendations of a technical advisory committee (TAC) formed for this regulatory action.

The Board authorized a public comment period and a public hearing for this rulemaking at their meeting on June 17, 2013. The public comment period ran from July 15, 2013 through September 13, 2013, and a public hearing was held on August 29, 2013. Twenty seven people attended the public hearing, and five people spoke at the hearing. Written comments were received from 654 individuals. Of these, 629 were essentially the same comment, generated in response to a Chesapeake Bay Foundation (CBF) “red alert” that they sent out. A list of all the comments received is included in the Agency Background Document, along with the staff response. The majority of the comments received had to do with the Chesapeake Bay TMDL special conditions that were added to the permit for this reissuance. Changes were made to the regulation to address the public comments.

#### Significant Changes Since the Proposed Stage

Details of all the changes that were made in this regulatory action can be found after the listing of public comments and responses. The most significant changes since the proposed stage are to the Chesapeake Bay TMDL special conditions, and to the Sector S (Air Transportation) section regarding the EPA Effluent Limitation Guidelines (ELG) for airport deicing.

The Chesapeake Bay TMDL special condition requiring nutrient and sediment monitoring for facilities in the Chesapeake Bay watershed was expanded to require permittees to analyze the collected monitoring data and compare it to the industrial storm water loading values that Virginia supplied to EPA for the Phase I Watershed Implementation Plan (WIP). If the average of the facility data for TN, TP or TSS is above the loading value, then the permittee must develop and submit for approval a TMDL Action Plan to reduce the pollutant of concern down to the loading value by 2024. The plan must contain annual benchmarks to demonstrate the ongoing progress towards meeting the reductions, and the permittee is required to submit an annual report by June 30<sup>th</sup> each year describing the progress in meeting the reductions.

EPA's ELG for the Airport Deicing Category (40 CFR 449) was published on May 16, 2012. The proposed regulation included a section in Sector S (Air Transportation) for the new ELG, which we based on EPA Headquarters draft 2013 Multi-Sector General Permit and the EPA ELG. Based on comments received from EPA Region 3, this section was expanded for the final to include much more detail and additional requirements from the EPA ELG for the "Monitoring, Reporting, and Recordkeeping" subsection of the permit.

#### Public comment

Commenter	Comment	Agency response
<b>Written Comments Received During the Public Comment Period</b>		
1. Thomas G. Shepperd, Hampton Roads PDC, 723 Woodlake Dr., Chesapeake, VA 23320	a. <u>Section 60 Registration Statement and Storm Water Pollution Prevention Plan (SWPP)</u> . C5 requires the facility to identify whether or not it discharges, or will discharge, to an MS4. If so, the permittee must provide the name of the MS4 owner. This provision is important because permit special condition #12 requires the permittee to notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under this permit. In order to facilitate timely identification and notification of the MS4, the HRPDC encourages DEQ to include a table of MS4 localities and program	Good suggestion. A table of MS4 localities and program administrator contact information will be included with the Registration Statement that we post on-line and make available to the public.

	<p>administrator contact information with the Registration Statements that are made available to potential permittees.</p>	
	<p>b. <u>Part 1B - Special Conditions.</u> The HRPDC recommends that facilities be required to collect monitoring data for total nitrogen, total phosphorus, and total suspended solids for the entire permit cycle rather than just the first two years. While the data collected in the first two years will serve to characterize the discharge, the subsequent monitoring can be used to determine continued compliance with the TMDL.</p>	<p>We initially proposed CB TMDL sampling for the entire 5 year permit term, but the ISWGP TAC felt that 2 years of data would be adequate to characterize the nutrient and sediment contributions for facilities in the CB watershed. Since there are no limits in the permit for the TMDL discharges from these facilities, there is nothing to compare additional data to in order to assess continued compliance. No change is proposed for this monitoring.</p>
<p>2. Michael Chase, Corporate Secretary, Corporate Counsel, ChromaScape Inc., 2055 Enterprise Pkwy, Twinsburg, OH 44087</p>	<p>We are aware that Virginia is considering expanding stormwater regulation enforcement to more aggressively protect streams and rivers by regulating the run-off water of mulch yards in the state. Clean water is of critical importance for everyone, so this is a goal that we share with the regulators and citizens of Virginia. Our concern is that we know of 37 medium to large-scale producers of colored mulch in the state, and regulations that are stricter than necessary could harm the industry and could cost jobs of mulch producers in Virginia (as well as sales and jobs at companies that supply those mulch producers, of course).</p> <p>Therefore, our request for the Department of Environmental Quality is that enforcement of stormwater regulations for mulch producers be rationally based on actual dangers presented by the use of mulch colorants and the production thereof. Because of the relatively safe nature of mulch colorants from large producers, it is our belief that the restrictions and requirements of the DEQ to prevent water pollution from mulch production yards should be less onerous than those of other potential sources of water pollution.</p>	<p>While we understand the concerns of the colored mulch producers, data that we have indicates that many of these operations are having water quality problems. We believe that including additional SWPPP requirements and benchmark monitoring is appropriate for these facilities. We recognize that mulch dyeing/coloring operations may not be using formulations that contain the pollutants of concern, so we have allowed a waiver from the monitoring after one monitoring period if their samples show that they are below the quantitation level for the specific monitoring parameter. They would also need to certify to us annually that they still do not use dyeing products that contain the waived parameter(s).</p>
<p>3. Richard J. Schreck, Executive Vice-President, Virginia Asphalt</p>	<p>VAA members have only one comment which concerns additional sampling required for plants located in the Chesapeake Bay (CB) watershed. Most of Virginia's asphalt plants discharge to the CB drainage basin. While we understand the need for monitoring</p>	<p>The monitoring we are requiring from facilities in the Chesapeake Bay watershed (i.e., nutrient and sediment sampling for the first two years of the permit term - - a total of four samples), will be used to characterize the</p>

<p>Association, Inc., 6900 Patterson Ave., Richmond, VA 23226</p>	<p>nitrogen and phosphorous discharges from many facilities, we feel the requirement for asphalt plants to sample four times during the first two years of the five year permit cycle is unnecessary. Because of the materials used to produce asphalt concrete, aggregates and liquid asphalt, there is no reason to believe that these facilities will have any source of nutrients onsite that would be discharged during rainfall runoff. There may be other industrial classifications that also have no nutrient exposure to rainfall runoff. VAA members suggest that DEQ identify and exempt SIC codes that would not be expected to discharge nutrients from the sampling and incorporate that determination into the regulation and permit issuance process. These exempt SIC codes could then be simply listed as insignificant sources in the nutrient loading calculation process for the Chesapeake Bay.</p>	<p>discharges from the different industrial GP sectors. This is needed for the Chesapeake Bay TMDL to determine if additional nutrient and sediment reductions will be required for the next reissuance of the general permit. At this time we do not have any nutrient data, and very limited sediment data, for the industrial GP facilities. It would be premature to exempt certain facilities from the sampling requirements because we “think” they may not contribute nutrients or sediment. We need the facilities to collect the data to verify their contributions. We do not believe that four samples are an onerous requirement.</p>
<p>4. Bryan T. Chrisman, Assistant Town Manager, Town of Luray, 45 East Main Street, P.O. Box 629, Luray, Virginia 22835</p>	<p>My primary comments focus on the testing. For small businesses, this can be quite an expense, especially now with the addition of the Bay testing parameters. The testing is also spread out over the first half of the permit cycle instead of the first year. It seems like the same number of tests (albeit with extra testing parameters) but just over a longer period of time.</p> <p>My comment is this: for businesses that have a documented history of testing waivers due to the fact that they don’t generate significant levels of pollutants, and that don’t engage in processes that generate the specified Bay pollutants, and that have not changed their operations, there could be a testing protocol whereby these permit holders sample for the required parameters (regular and Bay) once per quarter for the first year of the permit and if they are below limits, then they can apply for a testing waiver for having to do any further testing during the remaining 4 years of that permit cycle. This would provide 4 tests over 12 months of initial benchmark sampling to prove that once again, their business is not generating significant amounts of pollutants. To me, this seems far more fair and equitable for those business operations that do not generate storm water pollutants. Completing</p>	<p>We are only requiring that four samples be collected for those facilities in the Chesapeake Bay watershed. The semi-annual sampling for this corresponds to the semi-annual sampling we have gone to in the rest of the permit for all benchmark, effluent limitation, TMDL and impaired waters monitoring. This allows permittees to collect all their required samples at the same time, which saves them time and money. Also, quarterly storm event sampling can be problematic in Virginia, and would be especially so if an extended drought were to reoccur. Semi-annual sampling gives facilities more opportunity to be able to collect a sample from a qualifying storm event during the sampling period. With regards to DMRs, we are deploying an electronic DMR reporting system for storm water GP holders that will simplify the reporting for those that wish to participate.</p>

	<p>the inspection reports, updating the maps and reviewing BMP's are not a significant issue for most permit holders, but continual testing, and submittal of DMR's can be both time consuming and expensive.</p>	
<p>5. Thomas G. Foley, PE, Environmental Manager, Vulcan Materials, 6860 Commercial Dr., Springfield VA 22151</p> <p><b>Also submitting the same comments:</b></p> <p>Sam L. Hollins, Aggregates Program Manager, Virginia Transportation Construction Alliance (VTCA)</p> <p>Brian Parker, PE, Mining Engineer, Cardno MM&amp;A, 10988 Richardson Rd., Ashland, VA 23005</p> <p>Walter Beck, Environmental Engineer, Mideast Division, Vulcan Construction Materials, LP, 5601 Ironbridge Pkwy, Chester, VA 23831</p>	<p>a. <u>Increase of Benchmark Monitoring from Annual to Semi-Annual.</u> DEQ has proposed to revise Parts I.A.1.b and I.A.2.d of the General Permit to increase the frequency of benchmark monitoring from once per year to twice per year. DEQ's Agency Background Document states that this change was made "to allow better tracking of compliance with the monitoring requirements," as well as to more quickly identify which facilities are having storm water quality issues. During the TAC, DEQ stated that these changes were needed due to the way its enforcement Point Assessment Criteria work; more monitoring is needed so that more points can be accumulated by non-compliant facilities and an enforcement action could be triggered sooner.</p> <p>These explanations are not sufficient to justify the proposed change. There is no record to support DEQ's statement. The General Storm Water Permit program was designed so that general requirements could be established for similarly situated facilities. Facilities subject to the General Permit are largely self regulating. The monitoring benchmarks are used by permittees to evaluate and adjust best management practices ("BMPs"). Moreover, monitoring is not the only measure of compliance. Permittees are required to complete monthly inspections, maintain documentation of those inspections, maintain BMPs, and conduct training. All of this information is available to DEQ to inspect at any time. One additional data point for a benchmark constituent per year will not meaningfully advance the water quality goals of the program.</p> <p>If a compliance problem is truly the issue then, deal with a non-compliance issue of a permittee not taking a sample on a case by case basis possibly by performing an onsite inspection of the facility. If water samples</p>	<p>For this reissuance we have changed the Benchmark Monitoring, Effluent Limitation Monitoring and Impaired Waters Monitoring from annual to semi-annual. This will allow the permittee to see more quickly when they have and exceedance of a benchmark concentration or an effluent limitation, and will improve water quality by having SWPPP modifications, control measure adjustments and corrective actions taken sooner in the process. Having all the permit monitoring on the same semi-annual basis will also allow the Department to better track compliance with the permit monitoring requirements, and allow us to see more quickly which facilities are having storm water quality issues so that inspections can be targeted to the facilities that need more attention. Also, having all the monitoring on the same semi-annual basis will take the confusion out of the reporting requirements for the permittee.</p> <p>The permit still allows facilities to qualify for benchmark waivers, and for this reissuance we are allowing facilities to use the data from the last two monitoring periods from the previous permit term as part of their waiver submittal. We are also allowing them to average the sampling results to qualify for the benchmark waiver. We believe that benchmark monitoring waivers are the incentive for facilities to minimize the pollutants in their storm water discharges to the maximum extent practicable.</p>

<p>John R. Snoddy, Environmental &amp; Safety Director, Kyanite Mining Corp., 30 Willis Mountain Plant Lane, Dillwyn, VA 23936 (Comments 5 a and b only)</p>	<p>are not being taken routinely then there are likely other problems that can be identified by an onsite inspection.</p> <p>Moreover, the costs associated with the additional monitoring far exceed the benefits. The increased sampling will double the cost of sampling for every facility covered by this permit in the Commonwealth. This increased cost is in addition to the costs associated with additional monitoring required as part of the Chesapeake Bay TMDL implementation. Such a significant increase in permitting compliance costs in today's economy without any corresponding benefit makes it harder for Virginia businesses to compete and does not portray the key message that "Virginia is open for business."</p>	
	<p>b. <u>Monitoring of Sediment and Nutrients by Facilities in the Bay Watershed.</u> DEQ has proposed to revise Special Condition 6 to require all industrial facilities in the Chesapeake Bay watershed subject to the General VPDES Storm Water Permit requirements to monitor discharges for total suspended solids ("TSS"), total nitrogen ("TN") and total phosphorus ("TP"). The monitoring is to be conducted semi-annually for the first two years of permit coverage (four samples), and will be used to characterize the contributions of specific industrial sectors for these parameters.</p> <p>It is unduly burdensome and unnecessary to apply this requirement to all industrial sectors. The monitoring requirement should only apply to facilities that are likely to contribute these particular parameters. Sectors such as Q (Water Transportation) and R (Ship and Boat Building and Repair Yards) are not associated with the types of activities that could reasonably result in an increase of nitrogen or phosphorus loading to the Chesapeake Bay.</p> <p>Moreover, many industrial sectors already have TSS data available. If a facility already achieves the applicable TSS benchmark based on existing data, it should be allowed to request a sampling waiver for both the sector specific TSS sampling parameter of the permit and the Special Condition 6 TSS</p>	<p>See response #3.</p> <p>Also, based on comments received, we have added a provision that allows facilities that have collected TN, TP or TSS data during the previous permit term to use that data, and data from the first two monitoring periods of this permit to satisfy the four consecutive monitoring periods requirement (see special condition #7 b (2)).</p> <p>Regarding adding provisions to allow an "out" for facilities whose initial monitoring results show that nitrogen and phosphorus are not present in their discharge in amounts greater than benchmark levels, we are only requiring four samples in this permit term to characterize the nutrient contributions from facilities in the Chesapeake Bay watershed. No additional requirements are imposed in this permit term.</p>

	<p>requirement. As written, a facility could be granted a waiver under Part I A 1 b 2 but would still be subject to TSS monitoring pursuant to Special Condition 6.</p> <p>Additionally, provisions should be added to allow an "out" for facilities whose initial monitoring results show that nitrogen and phosphorus are not present in their discharge in amounts greater than benchmark levels.</p>	
	<p>c. <u>Addition of Sampling Requirements for Total Recoverable Copper for Sector Q and Total Recoverable Cooper and Total Recoverable Zinc for Sector R.</u> DEQ has proposed to revise the Sector specific monitoring requirements for Sectors Q and R. Sector Q's monitoring requirements now include Total Recoverable Copper; Sector R has been revised to add monitoring for both Total Recoverable Copper and Total Recoverable Zinc. DEQ's Agency Background Document states that this additional monitoring has been added because "[t]hese sectors are very similar in their storm water discharge characteristics." While this statement explains why the monitoring requirements are proposed to be the same for both Sectors, it does not explain why these additional parameters have been added.</p> <p>There is no data or information in the record to justify the addition of these parameters. The benchmark levels DEQ is proposing for copper and zinc are lower than that typically found in Virginia soils. NRCS obtained copper and zinc data for soils across the Commonwealth. On average, copper and zinc concentrations in those soils are orders of magnitude greater than the benchmark concentrations included in the permit. For example, the average copper and zinc concentration detected were 28.9 and 58.4 ppm, respectively, while the benchmark concentrations in the permit are 0.018 and 0.12 ppm for copper and zinc respectively. A copy of the soil data obtained by USDA NRCS Soil Data Mart can be found at the following website:  <a href="http://datagateway.nrcs.usda.gov/">http://datagateway.nrcs.usda.gov/</a></p> <p>The monitoring requirement applies to "Total Copper" and "Total Zinc." Thus, it is likely</p>	<p>The Department has chosen to monitor the presence of Cu and Zn in storm water discharges from industrial activities under Sectors Q and R, specific to water transportation and ship and boat yard repair and maintenance facilities. These potentially toxic pollutants, in their dissolved form, have been continually tracked by DEQ for nearly two decades via individual VPDES permits issued to industrial activities under SIC codes 3731/3732 and 4499. In addition, whole effluent toxicity (WET) testing performed on storm water samples from those Sectors reveal that those discharges are often toxic when Cu and Zn are present singularly or in combination (synergistic effect).</p> <p>Cu and Zn may be found in numerous products and materials expected to be used in these Sectors, such as anti-foulant and anti-corrosive paints and coatings, wiring, piping, and other metallic components used on-site, but stored at locations exposed to the weather. Industrial activities involving those materials and products, if performed at exposed locations such as coating removal and reapplication, repair and maintenance of vessel hulls or other equipment's structures, repair and maintenance of engines and machinery, waste and scrap material handling and storage, and similar activities are all expected to be primary or contributing sources of Cu and Zn if operational controls are not continually applied.</p> <p>The DEQ is confident that monitoring point source storm water discharges from industrial activities under Sectors Q and</p>

	<p>that any copper and zinc concentrations identified in the discharges would be associated with TSS that contains copper and zinc from the native soil and not associated with copper and zinc associated with industrial activity.</p> <p>EPA's recommended water quality criterion for copper and zinc is expressed as a dissolved metal concentration. This is based on the knowledge that the concentration of dissolved metal better approximates the toxic fraction than does the concentration of total metal.</p> <p>Benchmarks are intended to be measures of proper storm water management. Thus, where the copper and zinc are associated with native soils, the benchmark measures are not meaningful. They do not assess whether storm water is being properly managed at the site because copper and zinc that is present is not associated with the industrial operation, but instead is naturally occurring in the soil. One of the facilities currently permitted in Sector Q has not met the Zinc benchmark yet has no shipbuilding, no parts storage, no maintenance, or other industrial marine transportation materials on its site. Instead, the facility has large land areas exposed to storm water, which results in sediment discharges (particularly during large rain events). The background levels of zinc in the sediment are higher than the current benchmark limit.</p> <p>Although there are certain facilities within Sectors Q and R that may perform activities that could result in the presence of copper or zinc in the storm water from the site, many of the facilities in these categories do not have such operations. One option might be to modify the benchmark sampling requirements for these sectors to provide that the monitoring is only required for facilities that use or store materials containing copper and zinc that are not covered and are exposed to storm water. Additionally, the benchmark levels should be based on the dissolved metal concentration, not total recoverable, so that bound copper and zinc in soils/TSS are not detected and attributed to industrial activity.</p>	<p>R for Cu and Zn, in their total recoverable form, will yield valuable data relevant to those potentially toxic heavy metals known to impart water quality impairments, such as whole effluent toxicity and observed values that may exceed applicable water quality standards for surface waters of Virginia, if suitable and appropriate operational controls (BMPs) are not imposed. Further, neither Al or Fe are addressed by Virginia's Water Quality Standards for fresh or salt waters. As such, Al and Fe are inappropriate constituents to regularly monitor for the purpose of determining if industrial storm water discharges from Sectors Q and R are, or may be causing or contributing to water quality impairments in surface waters of Virginia.</p> <p>No change is proposed for this section.</p>
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	<p>If the benchmark values remain as "totals," they should be adjusted to account for copper and zinc associated with native soils.</p>	
<p>6. L J Hansen, P.E., Assistant Director, Department of Public Works, City of Suffolk, 440 Market Street, 2<sup>nd</sup> Floor, Suffolk, VA 23439</p> <p><b>Also submitting the same comments:</b></p> <p>Barbara Brumbaugh, City of Chesapeake, VA, and City of Norfolk</p>	<p>a. <u>9VAC25-151-50, Newly Constructed Facilities.</u> The draft industrial regulations require any newly constructed facilities (constructed after November 29, 2010) meet the runoff reduction methods or purchase credits prior to obtaining coverage under the VPDES Industrial Permit. This provision should be removed from these draft regulations in its entirety. Per state law (§62.1-44) and regulations (4VAC50-60), sites are not required to construct to the new storm water standards until July 1, 2014, with some sites grandfathered for additional permit cycles. Facility construction is covered under the Virginia Storm Water Management Program (VSMP) Permit or General Construction Permit and should not be mentioned in an Industrial permit. Additionally, the drafted industrial regulations are not consistent with the construction regulations outlined in 4VAC50-60 for both redevelopment and the timeframe specified above.</p> <p>b. <u>9VAC25-151-60, Registration Statement and Storm Water Pollution Prevention Plans (SWPPP).</u> This section of the permit requires the facility to identify whether or not it discharges to an MS4, and if so identify the MS4. This provision requires the permit holder to notify the MS4 of the discharge within 30-days of coverage under the terms of this permit. It may be beneficial for DEQ to provide a table or a link to a map that identifies the MS4 localities and program administrator contact information.</p> <p>c. <u>9VAC25-151-70, Special Conditions.</u> The regulations require the permit holder to provide monitoring data semi-annually for total nitrogen, total phosphorus, and total suspended solids for the first two years of the permit to assist with establishing a baseline. The City recommends that the permit language be modified to require monitoring be performed annually for the entire 5-year permit cycle. The provision for obtaining an exemption of the monitoring requirements if</p>	<p>Virginia's Phase I Chesapeake Bay TMDL WIP states that waste loads for future growth for new facilities in the Chesapeake Bay watershed with industrial stormwater discharges cannot exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the industrial activity. We allow facilities to use the VSMP water quality criteria (0.41 lbs/acre/yr) to meet the requirement, and in response to public comments we have corrected the date in the requirement to state that it applies to construction that commences after June 30, 2014.</p> <p>We agree. See response #1a.</p> <p>We disagree. See response #1 b.</p> <p>The two consecutive monitoring data sets waiver provision was for the old permit's benchmark monitoring. The TMDL waiver is for the first four monitoring periods, and doesn't apply to the Chesapeake Bay TMDL sampling because that sampling is only required for the first four monitoring periods of the permit.</p>

	<p>two consecutive monitoring data sets show the analysis below detectable limits should be continued and if possible to allow for facilities to receive an exemption if the MS4 permit holder is in agreement with the exemption. Additionally, the City recommends baseline monitoring for any impairment (bacteria, PCB, metals, etc.) within the watershed for which the discharge occurs to assist with TMDL source tracking.</p>	<p>Regarding baseline monitoring for any impairment, that is already required in the permit in Part I A 1 c (4).</p>
	<p>d. The City of Suffolk would also like to seek clarification on the status of a landfill in post-closure condition. The City would like to see an exemption for facilities that have been remediated and stabilized but have not yet cleared the mandatory 30 year monitoring period from the necessity to obtain an Industrial Permit for stormwater collected on a remediated facility with the associated costs of SWPPP preparation and monitoring.</p>	<p>We have added a clarification that landfills in post-closure care that have been closed and capped in accordance with the waste permitting regulations do not require this permit.</p>
<p>7. James J. Pletl, Ph.D., Director of Water Quality, HRSD, Water Quality Department, PO Box 5911, Virginia Beach, VA 2347</p>	<p>With regard to the no-net increase concept, HRSD is concerned that if we needed to build a new wastewater treatment plant to serve our community or expand/upgrade our current facility we would be required to prove that the project would not add any pounds of nutrients or sediment to the Bay, even though we do not store or manufacture nutrients or sediment on our site; in fact, our treatment process actually removes these pollutants. We do not believe this is appropriate. In addition, from a practical perspective, we question how we would perform the calculations required by the GP, given the fact that there is no established formula for doing so. To our knowledge, no one has established the nutrient and sediment loadings associated with industrial activity generally or, more appropriately, for each individual industrial activity. In addition, we object to these requirements because the text: (i) includes no exemptions for <i>de minimis</i> construction activity; (ii) is inappropriately retroactive to November 29, 2010; (iii) does not limit the definition of "site" in the Registration Statement and Storm Water Pollution Prevention Plan section to the industrial area of the site; and (iv) fails to acknowledge that land disturbance may occur</p>	<p>The requirement for "no net increase" of industrial storm water nutrients and sediment is from Virginia's Phase I Chesapeake Bay TMDL WIP, and is included in this permit for consistency with the WIP. The requirement is only for pre- and post-development loadings of nutrient and sediment. In response to public comment we have modified the requirement to state that it applies to industrial activity area expansions (i.e., construction activities, including clearing, grading and excavation activities) that commence on or after July 1, 2014 (the effective date of this permit), and that any land disturbance that is exempt from permitting under the VPDES construction stormwater general permit regulation (9VAC25-880) is exempt from this requirement.</p> <p>Regarding the VAMWA comments, see the response to comment #9.</p>

	<p>on a previously developed site.</p> <p>Because there are numerous critical issues with the "no-net increase" language that could lead to significant confusion and possible non-compliance, we agree with the recommendations made by the Virginia Association of Municipal Wastewater Agencies ("VAMWA") in their comments that DEQ address these issues before the proposed general permit regulation is finalized. We also support VAMWA's comments regarding TMDL, impaired waters, and Chesapeake Bay monitoring, and ask that DEQ and the State Water Control Board fully address all of VAMWA's comments before finalizing the GP.</p>	
<p>8. Margaret L. (Peggy) Sanner, Virginia Senior Attorney, Chesapeake Bay Foundation (CBF), Capitol Place, 1108 East Main St., Suite 1600, Richmond, VA 23219</p>	<p>a. <u>ISGP Regulatory Framework, the Bay TMDL and the Phase I WIP.</u> The ISGP will authorize approximately 900 industrial facilities to discharge runoff to Virginia streams, rivers and the Chesapeake Bay. Approximately 25% of these facilities discharge first to a permitted Phase I or Phase II MS4, and the balance discharge directly into local waterways. As pollutant point sources, these facilities are required by Clean Water Act ("CWA") § 402(p) and regulations of the Virginia State Water Control Board to be covered by a VPDES permit that prescribes best available/best conventional pollution control technology and additional necessary water quality-based limitations. Notably, the State Water Control Law and regulations and the CWA mandate that, where there is an approved applicable TMDL, a VPDES permit like the present example must ensure that the discharges it authorizes are consistent with the assumptions and requirements of the TMDL's waste load allocation ("WLA").</p> <p>The Bay TMDL, which applies to most ISGP-permitted facilities, sets forth the maximum load of nutrients and sediment that the Bay and its tributaries may receive and still maintain water quality standards; it allocates this load among the watershed's 7 jurisdictions, major river basins and significant pollutant source sectors; and it identifies the point source WLAs and</p>	<p>There are currently 1343 facilities permitted under the ISWGP for their industrial activity storm water discharges; of these, close to 900 discharge to the Chesapeake Bay watershed.</p> <p>The industrial storm water loads that were developed for the Phase I WIP were an aggregate. Aggregate loads were appropriate because actual facility data was not used to develop the entire individual facility loading, and these industrial storm water discharges have low nutrient and sediment loadings. Aggregate loadings for VPDES ISWGP facilities were included as part of the local load allocation for regulated MS4s. These loads were included in EPA's TMDL under the "regulated stormwater" category for each sub-watershed. No further breakdown or actual facility WLAs were included in the TMDL.</p>

	<p>nonpoint source load allocations ("LAs") that comprise the total Bay load. The Bay TMDL notes that the industrial stormwater WLA was developed using data supplied by Virginia, includes that WLA (with the MS4 WLA) in the regulated stormwater category and explains that the industrial stormwater WLA is "subtracted from the MS4 load when applicable." As the sum of the individual WLAs, LAs and natural background, the Bay TMDL states goals that will only be achieved if all sources meet their load. Ensuring that Bay TMDL-compliant WLAs are included as VPDES permit limitations is, therefore, critical to the success of the Bay TMDL and a crucial part of its reasonable assurances framework.</p> <p>Virginia's Phase I WIP commits to achieving these goals in part by tasking each pollution source sector "with significant but achievable actions in a way that all sectors share in meeting TMDL allocations." Specifically, it affirmed that the industrial stormwater WLA "will be included as part of the local load allocation for regulated MS4s." As noted above, the Phase I WIP also clarified that the industrial stormwater sector is subject to a "no net increase standard," such that new facilities may not exceed the nutrient and sediment loadings that were discharged prior to the site's being developed for industrial activity.</p>	
	<p>b. <u>The ISGP Contravenes Assumptions and Requirements of the Bay TMDL, Virginia's Phase I WIP, the Clean Water Act and the State Water Control Law.</u> The ISGP incorrectly states that "compliance with this general permit constitutes compliance with the federal Clean Water Act and the State Water Control Law." The statement is incorrect because the Permit's provisions are not consistent with basic assumptions and requirements of the Bay TMDL and Phase I WIP.</p> <p>(1) <u>The ISGP Must be Amended to Require Permittees to Meet Bay TMDL-Compliant WLAs.</u> In stark contradiction to critical assumptions and requirements of the Bay TMDL, the ISGP fails to assign any part of</p>	<p>In the Phase I WIP, the aggregate TN and TP wasteload allocations for non-significant industries were considered to be conservative "placeholders". The WIP stated that DEQ would adopt procedures to add nutrient reporting requirements to non-significant industrial permits to establish better estimates of these loads over the coming years. Once better estimates of these loads are generated, the WIP may be adjusted accordingly.</p> <p>Consistent with this commitment, we added nutrient and sediment sampling requirements for Chesapeake Bay watershed facilities to the ISWGP to characterize the loadings from these</p>

<p>the industrial stormwater WLA (or an obligation to reduce pollutants to meet that WLA) to any covered industrial facility and also fails to address this WLA by any other means.</p> <p>First, the Permit does not assign a Bay TMDL WLA to any permittee, and it incorrectly implies that Bay TMDL consistency requires nothing more than holding new and expanding facilities to the principle of no net increase in nutrient and sediment pollution.</p> <p>Second, Virginia has not followed through on its WIP commitment that the industrial stormwater WLA "will be included as part of the local load allocation for regulated MS4s." Virginia's two new MS4 permits - the Phase II MS4 General Permit and the Arlington County Phase I Permit -- make this point clear. No provision in either requires the MS4 to be responsible for the WLA (or associated pollutant reductions) of any industrial facility. Instead, both include a Special Condition requiring the MS4 permittee to calculate its own separate Bay TMDL-consistent total reduction obligation (and its WLA for the current permit period), using a Phase I WIP ("L2") formula that depends on the total pervious and impervious acreage within the MS4's service area. Further, we understand that these localities define their service areas to exclude the acreage (and therefore the Bay TMDL-consistent reduction obligation) of any facility, whether industrial or MS4, which is covered by a separate VPDES stormwater permit even if that separate permitted facility discharges directly to the MS4.</p> <p>If this Permit is approved in its current form, therefore, no entity will be responsible for Virginia's industrial stormwater WLA, a result that would violate the Clean Water Act and the State Water Control Law.</p> <p><i>Recommended Revision #1:</i> The Permit should be revised to require each permittee: to calculate its Bay TMDL-consistent reduction obligation (and its WLA for this permit period), using the Phase I WIP formula now incorporated into Virginia's new MS4 permits; within two years to develop, submit</p>	<p>facilities.</p> <p>The GP does not assign a Bay TMDL WLA to any permittee because we do not have any actual facility data to base a WLA on.</p> <p>The permit does require new and expanding Bay facilities to meet the "no net increase" in nutrient and sediment pollution, consistent with our WIP commitment.</p> <p>In response to this and other similar comments, we have modified the permit Special Condition 7 b (Facilities in the Chesapeake Bay watershed), and added subsection (3) to address Chesapeake Bay TMDL waste load allocations and Chesapeake Bay TMDL action plans. This new section requires facilities to analyze the nutrient and sediment data collected for the Chesapeake Bay TMDL. The data must be compared to the loading values that were submitted to EPA for the Phase I WIP, and where the data is above the loading values, the permittee must develop a TMDL action plan to reduce the facility loading down to the target value by 2024. The action plan must be submitted to the Department for approval within 90 days following the end of the permit's second monitoring year, and annual reports describing the progress in meeting the required reductions must be submitted by June 30<sup>th</sup> of each year.</p>
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	<p>for DEQ's approval, and implement by the end of the permit period a Chesapeake Bay TMDL action plan that requires a 5% reduction in the load; and, at the end of the permit period, to include a new action plan as part of its application for permit renewal that demonstrates how the permittee will achieve an additional Bay TMDL-consistent 35% reduction in nutrients and sediment.</p> <p>This protocol -- the same that applies to MS4 permittees - is the appropriate protocol for industrial permittees for several reasons: (1) the Phase I WIP committed to assigning the industrial stormwater WLA to MS4s, so use of the MS4 protocol for industrial stormwater permittees is consistent therewith; (2) many industrial stormwater permittees discharge into MS4s service areas, such that the pollution accounting and reduction methodology should be the same; and (3) performing and implementing the recommended calculations and reductions are tasks well within the expertise of each covered facility. (Indeed, the draft Permit requires a similar calculation of nutrients and sediment loads in cases of new or expanding permittees, and it also requires permittees to adopt appropriate best management practices to minimize or eliminate pollutants as required to meet the WLA for applicable non-Bay TMDLs.)</p>	
	<p><u>(2) The ISGP Should Require 5 Years of Nutrient and Sediment Monitoring To "Ground-Truth" the Calculated WLA for Bay TMDL-Consistency for the Next Permit Period.</u> The draft Permit's Special Condition 6(b), which requires each Bay watershed permittee to undertake two years of semi-annual monitoring of the nutrients and sediments discharged from its site, should be amended to require such monitoring semi-annually for the entire five years of the permit term.</p> <p>This proposed revision is appropriate to take into account that the pollutant loading from industrial sites will, in many cases, include nutrients and sediments specifically associated with the industrial activity that may be in addition to the nutrients and</p>	<p>We initially proposed CB TMDL sampling for the entire 5 year permit term, but the ISWGP TAC felt that 2 years of data would be adequate to characterize the nutrient and sediment contributions for facilities in the CB watershed.</p> <p>As described in response to #8 b (1) above, the permittees will have to analyze their sampling data to determine if they need to develop a TMDL action plan to reduce their nutrient and sediment loadings.</p> <p>We are not proposing additional CB TMDL sampling in this permit term. Facilities may include this sampling in their action plans as the means to demonstrate adequate progress towards</p>

	<p>sediment as calculated with the Phase I WIP "L2" formula referenced above. Data from 5 years of monitoring will assist the permittee and DEQ in determining whether the control measures undertaken by the permittee are effective in reducing nutrient and sediment loads as required under the Permit, and will enable any upward adjustment of the facility's calculated Bay TMDL WLA (and associated reduction obligations) for the next permit cycle to reflect actual site conditions.</p> <p><i>Recommended Revision #2:</i> The Permit should be amended to require permittees throughout the term of the Permit to undertake semi-annual monitoring of the nutrient and sediment loads in the runoff from each covered industrial site. The Permit should require the permittee to incorporate this data as appropriate in the development and implementation of the action plan for the next permit cycle as called for in Recommended Revision #1.</p>	<p>meeting required reductions, but we are not proposing this sampling across the board at this time. After the third year of this permit term, we will convene a TAC to assist the Department with the reissuance of this GP. We will analyze the statewide CB data, and with the TAC's input, we will develop appropriate monitoring requirements for the next permit term based on that analysis.</p>
	<p><u>(3) The ISGP's SWPPP Provisions Must Be Revised to Ensure Consistency with the Assumptions and Requirements of the Bay TMDL.</u> The Permit's requirement that each permittee develop and implement a stormwater pollution prevention plan ("SWPPP") with control measures that reduce pollutants from the site's stormwater discharges must be revised to ensure greater accountability and public transparency, consistent with the Bay TMDL's "Accountability Framework."</p> <p>The ISGP specifies, among other things, that the permittee's key pollution control measures be described in the SWPPP. Relevant provisions include: Special Condition 6, requiring the permittee to adopt controls consistent with the assumptions and requirements of applicable TMDLs; Special Condition 7, requiring Bay watershed permittees that discharge into MS4s to adopt controls that comply with any local Bay TMDL-related ordinances; Special Condition 8, requiring new or expanding Bay watershed permittees to adopt controls that ensure no net increase in nutrient and sediment pollution from the new activity; any other control</p>	<p>Regarding <i>Recommended Revision #3:</i> With the addition to the permit of the TMDL action plan development and submittal for review (required by SC#7 B (3) (b)), and the annual reports (required by SC#7 B (3) (d)), we believe the additional submittal of all parts of the SWPPP that address nutrient and sediment discharges and reductions, including a description of relevant controls and other BMPs, would not serve any benefit to the Department or the permittee. We are not proposing to make this change.</p> <p>Regarding <i>Recommended Revision #4:</i> The requirement in this subsection is not new or changed, just moved. The "Annual outfall evaluation for unauthorized discharges" subsection was moved from Section 80, Part III E 1 h (the Comprehensive Site Compliance Evaluation section). The annual outfall evaluation did not really fit under the Comprehensive Site Compliance Evaluation, so it was moved back to the Non-storm Water Discharges section, where it was in the 2004 general permit.</p>

	<p>measures to "reduce the pollutants in all storm water discharges"; and relevant inspection information such as schedules, results, and necessary corrective actions.</p> <p>However, while each permittees must fully implement, update and maintain copies of its SWPPP, the SWPPP is not required to be submitted to DEQ, the Environmental Protection Agency or even the operator of a receiving MS4 -- except on request. Without the requirement that the SWPPP be submitted to the agency or otherwise made publicly available, the existence and effectiveness of a permittee's chosen controls will remain unknown and unaccountable, and this sector's progress toward meeting the Bay TMDL goals obscured.</p> <p><i>Recommended Revision #3:</i> The Permit should be revised to require submission to DEQ of all parts of the SWPPP that address nutrient and sediment discharges and reductions, including a description of relevant controls and other BMPs (implementation, inspections, and any modification and/or corrective actions).</p> <p>The ISGP also proposes new provisions relating to outfall inspections for unpermitted discharges, including one which would enable DEQ, upon permittee request, to reduce the annual rate of required outfall inspections from 100% to 20%. No criteria which would justify such a decision are included in the Permit.</p> <p><i>Recommended Revision #4:</i> The Permit should be revised to eliminate this option or to modify it to require the permittee to first establish, pursuant to specified criteria, that inspection of 20% of outfalls will not compromise the effectiveness of the SWPPP or any Bay TMDL-consistent pollution reductions.</p>	<p>The requirements for this subsection did not change. The subsection in question here allows permittees with many outfalls to request in writing that they be allowed to evaluate a percentage of their outfalls every year for unauthorized discharges. This request is only approved (on a case-by-case basis) for facilities with so many outfalls that for them to evaluate each one each year is really impractical. No change is proposed here.</p>
	<p>c. <u>The ISGP Contravenes Virginia's Trading Laws.</u> The draft Permit would improperly allow new or expanding permittees to use nutrient credits in a manner that is not authorized by Virginia's recent nutrient trading legislation. The Permit would allow new and expanding permittees to use nutrient</p>	<p>The intent of the language in the permit is to allow the permittee to use nutrient credits or offsets, if these are allowed by applicable regulations, to satisfy the no net increase permit requirements for newly constructed or expanded facilities in the Chesapeake Bay watershed.</p>

	<p>credits in a manner – to comply with water quality requirements for land-disturbing activities -- that the trading laws permit only for entities covered by a General VSMP Permit for Discharges of Stormwater from Construction Activities or a Construction Individual Permit. Virginia's Nutrient Trading Act makes it clear, however, industrial stormwater permittees may only engage in nutrient trading to comply with a WLA assigned in their VPDES permits. As drafted, however, this Permit assigns no WLA to permittees, so permittees would be precluded from engaging in nutrient trading.</p> <p><i>Recommended Revision #5:</i> The Permit must be amended to correct the current permit's misapplication of Virginia's trading laws by deleting the current provision that allows for meeting water quality design criteria through acquisition of nutrient credits. Assuming that the Permit is amended, as suggested above, to require the permittee to calculate and meet a facility-specific Bay TMDL-consistent WLA, the Permit should also be amended to allow the permittee to meet that WLA through acquisition of nutrient credits.</p>	<p>The permit has been amended to reword the references to nutrient credits or offsets to those that are allowed for the facility by applicable regulations.</p>
	<p><u>d. The ISGP Should be Revised to Address Local Water Quality Issues.</u> The ISGP should be revised to require permittees to implement measures and controls to meet pollution reductions made necessary by appropriate local water quality ordinances more stringent than statewide standards.</p> <p>The Permit currently requires permittees to take corrective action to address exceedances of applicable effluent limitations, applicable TMDL WLAs, or reductions required by a local ordinance established to meet Chesapeake Bay TMDL requirements. It does not, however, require permittees to make changes required to meet more stringent local water quality ordinances promulgated to protect exceptional state waters and for other proper reasons.</p> <p><i>Recommended Revision #6:</i> The Permit must be amended to ensure that the permittee takes corrective action necessary to meet local, more stringent water quality requirements promulgated pursuant to Va. Code § 62.1-</p>	<p>The regulation itself has a requirement in Section 50 E that states: “Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.”</p> <p>It was felt that this needed to be in the permit itself, and not just in the regulation section, so SC#6 was modified to include this.</p> <p>Also, SC #8 (Discharges through a regulated MS4 to Chesapeake Bay TMDL waters) was modified, in response to public comments, to clarify that applicable local ordinance requirements apply and are in addition to the requirements of this permit.</p>

	44.15:33.	
<p>9. Robert C. Steidel, Virginia Association of Municipal Wastewater Agencies, Inc.(VAMWA), P.O. Box 51, Richmond, VA 23218</p>	<p>a. <u>No Net Increase of Bay-Related Nutrient &amp; Sediment Loads.</u> DEQ has proposed “no net increase” requirements for new or expanding industrial stormwater dischargers in the Chesapeake Bay Watershed in the following three sections of the Proposed GP: (1) Authorization to Discharge (9VAC25-151-50.B.4); (2) Registration Statement and Storm Water Pollution Prevention Plan (9VAC25-151-60.C.13) and (3) Special Conditions (9VAC25-151-70 Part I.B.8). VAMWA’s comments are as follows:</p> <p><u>(1) Support for 0.41 lbs/ac/yr Phosphorus Compliance Option.</u> DEQ has proposed that the permittee may meet the state’s general post-construction phosphorus criterion of 0.41 lbs/ac/yr as a means of complying with the no net increase requirement for the three pollutants. VAMWA strongly supports this option subject to DEQ’s confirmation of VAMWA’s understanding of this provision.</p> <p>We understand that the construction of new POTWs or expansion of existing POTWs may trigger the above VSMP post-construction phosphorus requirement for stormwater as a design element when the area of land disturbance meets or exceeds certain area thresholds established in the VSMP Program Regulations (e.g., 1 acre generally or 2,500 square feet in Chesapeake Bay Preservation Act designated areas of jurisdictions subject to this statute).</p> <p>We further understand from our experience with the design and operation of POTWs that POTWs generally have no onsite industrial activity-related sources of nutrients (or sediments). For example, wastewater containing nutrients is handled on the “wet” side of the operation in process tanks and pipes, where it is cleaned prior to discharge in accordance with POTW VDPES permit limits. Solids (sludge) is removed from the process but is typically handled indoors, or under cover, in a manner that precludes stormwater runoff.</p> <p>We seek DEQ’s confirmation that in the above scenarios the no net increase provision</p>	<p>The commenter is correct that in the scenarios listed the no net increase provision will impose no additional burden on a new or expanded POTW aside from compliance with the independently applicable VSMP regulations.</p>

	<p>will impose no additional burden on a new or expanded POTW aside from compliance with the independently applicable VSMP regulations.</p>	
	<p>(2) <u>Request for Exemption for New or Expanded Sector T POTWs.</u> As stated above, POTWs typically have no onsite industrial activity-related sources of nutrients (or sediments) due to the normal design and operation of such a facility. In contrast, other types of facilities such as manufacturers of fertilizers or nutrient-containing chemicals, or other types of manufacturing facilities that either use as raw materials significant quantities of nutrients (or solids stored outdoors or capable of being transported by stormwater) or produce such products may warrant analysis. Given the nature of POTW design and operation, we request that DEQ include an exemption in the regulation for Sector T POTWs or otherwise state DEQ’s expectation in the regulation or accompanying guidance that new or expanded POTWs are generally not expected to be subject to any additional requirements (beyond VSMP compliance) as a result of this GP’s no net increase provision.</p>	<p>The nutrient and sediment sampling we are requiring from facilities in the Chesapeake Bay watershed will be used to characterize the discharges from the different industrial GP sectors. This is needed for the Chesapeake Bay TMDL to determine if additional nutrient and sediment reductions will be required for the next reissuance of the general permit. At this time we do not have any nutrient data, and very limited sediment data, for the industrial GP facilities. It would be premature to exempt certain facilities from the sampling requirements because we “think” they may not contribute nutrients or sediment. We need the facilities to collect the data to verify their contributions.</p> <p>The no net increase provision and requirements are a separate issue that we will address in the accompanying guidance.</p>
	<p>(3) <u>Support for Site-Specific No Net Increase Compliance Option.</u> In addition to the above VSMP-based compliance option, VAMWA supports the option of complying by means of a site-specific no net increase determination. While in the typical POTW construction scenario we would expect the VSMP regulation to control (because it is applicable when the land disturbance threshold is met or exceeded), we support retaining a site-specific calculation as an independent option under this GP.</p>	<p>Facilities have the option to use the VSMP water quality design criteria, or a site-specific calculation to demonstrate compliance with the no net increase requirement.</p>
	<p>(4) <u>Support for Nutrient Credit Use Compliance Option.</u> DEQ has proposed that the permittee may use nutrient credits “to meet the no net increase requirement.” VAMWA strongly supports this option, which is consistent with VA Code § 62.1-44.19:21(D).</p>	<p>Other comments have noted problems with the wording of this option in the proposed regulation. As such, the permit has been amended to reword the references to nutrient credits or offsets to those that are allowed for the facility by applicable regulations.</p>
	<p>(5) <u>Create <i>De Minimis</i> Exemption Consistent with VSMP Thresholds.</u> The Proposed GP is inconsistent with the Board’s recently</p>	<p>In response to public comments, we have amended this wording to state that any land disturbance that is exempt from</p>

	<p>adopted VSMP regulations establishing post-construction phosphorus criteria in that the VSMP regulations include land disturbance area thresholds (e.g., 1 acre or in certain places 2,500 sq. ft.) as applicability triggers. The Proposed GP includes no minimum threshold, which is problematic especially for “expansion.” Is the construction of 8’ x 12’ wooden storage shed an expansion? Any reasonable approach to implementing this novel no net increase provision should include a <i>de minimis</i> threshold, at least in case of Sector T POTWs and perhaps other sectors. VAMWA urges DEQ to develop and apply a threshold. We recommend the VSMP area thresholds. For the reasons above, VAMWA recommends exempting any land-disturbance if it would otherwise be exempted by the VMSP regulations. In the alternative, DEQ could consider exempting Sector T facilities that would not require a DEQ certificate to construct (pursuant to 9VAC25-790-180), as these types of facilities would ordinarily be small and have little impact on overall POTW operations.</p>	<p>permitting under the VPDES construction stormwater general permit regulation (9VAC25-880) is exempt from this requirement.</p>
	<p>(6) <u>Provide Contemporaneous Guidance on Load Calculations.</u> If DEQ does not adopt the options and exemptions supported above, VAMWA is concerned about the lack of clear rules and procedures for implementing the GP. VAMWA is highly interested in understanding how DEQ would expect a permittee to perform the required analysis and calculations of no net increase. We recommend that this GP reissuance be suspended until such time as DEQ establishes implementation guidance so that the regulated community will not face uncertainty and attendant costs and delays.</p>	<p>We will include implementation guidance with the permit reissuance describing load calculations for the no net increase provision.</p>
	<p>(7) <u>Eliminate Retroactive Regulation.</u> The no net increase requirement is inappropriately retroactive. It applies to new facilities or those that have expanded or will have expanded after November 29, 2010 and before the effective date of July 1, 2014. Although VAMWA understands the basis for the November 29, 2010 date, we question the legality of reaching back in time to add requirements after-the-fact. Practically speaking, this is a terribly inefficient method</p>	<p>We agree and have modified the regulation to specify that the no net increase requirements apply to construction that commences after June 30, 2014.</p>

	<p>of regulation, especially for regulating facility construction or expansion of all things. In such a case, there would be no opportunity to address the requirement as a part of the project (already completed). In addition, projects that are in active construction as of the July 1, 2014 date should be grandfathered for the same reason.</p>	
	<p>(8) <u>Define “Site” For New Facilities.</u> The term “site” in the Registration Statement and Storm Water Pollution Prevention Plan section is undefined, and is not limited, as it should be, to the industrial area of the property, though we believe this is the intent. VAMWA recommends clarifying that “site” generally includes only the <i>industrial area</i> of the property for purposes of defining the extent of the no net increase requirement. (However, the owner should also have the option of including additional non-industrial land on the same or adjacent parcels as part of any plan of the owner to comply with the no net increase requirement.)</p>	<p>As suggested, we have modified registration section to state that the loading is from the “industrial area of the property”. We have also added the definition of “site” from the VPDES Permit Regulation to this regulation, and added: “The owner may include additional non-industrial land on the site as part of any plan to comply with the no net increase requirement. Consistent with the definition of "site", this includes adjacent land used in connection with the facility.”</p>
	<p>(9) <u>Clarify Reference to Pre-Development Condition.</u> The no net increase provisions for both new and expanded industrial activities should be clarified to ensure that the November 29, 2010 condition is recognized, i.e., that “prior to the land being developed” cannot be misinterpreted to mean a forested or other undeveloped condition, if site was previously developed in some manner. These provisions should read “prior to the land being developed <i>for the new industrial activity</i>” and “prior to the land being developed <i>for the expanded industrial activity</i>,” respectively.</p>	<p>We have made the clarifications suggested.</p>
	<p>b. <u>Excessive Monitoring Requirements.</u> The Proposed GP requires that facilities that are subject to TMDL wasteload allocations (WLAs) that discharge to an impaired water without a TMDL or that discharge to the Chesapeake Bay monitor for the pollutant(s) of concern twice per year. There are separate rules for PCB monitoring (discussed below). If the TMDL pollutant is not detected in the first four monitoring periods, the permittee can request that sampling be discontinued, unless the TMDL has specific instructions to</p>	<p>EPA imposed the Chesapeake Bay TMDL on the Bay states and required them to develop for EPA approval a TMDL WIP. ISWGP facilities are one of the permitted point sources that had to be included in the WIP. However, Virginia has no data to base ISWGP WLAs on, much less any reductions. Therefore, we told EPA that the TN and TP WLAs for non-significant industries were conservative “placeholders”, and that we would adopt procedures to add</p>

	<p>the contrary. Similarly, if the impaired water pollutant is not present in facility discharges or is “caused solely by natural background sources,” the permittee can request that further monitoring be discontinued. Chesapeake Bay nutrient and sediment monitoring can be discontinued per the permit terms after the first two years of permit coverage. VAMWA objects to the Proposed GP’s costly stormwater testing mandates for the following reasons.</p> <p>First, the existence of the Chesapeake Bay TMDL alone will trigger widespread stormwater testing at hundreds of facilities. Assuming it costs \$100 to test for nitrogen, phosphorus, and sediment, it will cost the state’s permittees (of which there are an estimated 867 in the Bay Watershed) over \$350,000 to run the minimum number of tests. This \$350,000 worth of direct test costs will occasion significant additional work for permittees and for DEQ staff in handling the resultant data, resulting in far higher actual costs for staff time than the \$350,000 lab cost estimate indicates. Further, it is unclear what benefit this broad-based nitrogen, phosphorus and sediment testing requirement is intended to achieve much less achieve cost-effectively. The industrial facilities covered by the GP are regulated because they are potential dischargers of pollutants (e.g., metals) related to their industrial activities. DEQ has not explained why any of the particular source sectors would have any greater risk of nutrient and sediment discharges than an unregulated industrial facility (one not included in one of the GP’s industrial sectors) or even a commercial property of comparable size. The entire approach seems to be one of monitoring for monitoring’s sake, which is arbitrary and wasteful. For these reasons, VAMWA requests that DEQ delete the Bay monitoring requirements in the permit entirely.</p>	<p>nutrient reporting requirements to non-significant industrial permits to establish better estimates of these loads over the coming years. Consistent with this commitment, we added nutrient and sediment sampling requirements for Chesapeake Bay watershed facilities to the ISWGP to characterize the loadings from these facilities. Once better estimates of these loads are generated, the WIP may be adjusted accordingly, and nutrient and sediment reductions may be required for ISWGP facilities in the next permit term.</p> <p>No change to the monitoring is proposed based on this comment.</p>
	<p>With regard to monitoring for other pollutants and for monitoring outside the Bay Watershed, VAMWA is concerned that DEQ has included text in subsection (3) and (4) of Part I.A. (9VAC25-151-70, Part I.A.1.c.3, Facilities discharging to an impaired water</p>	<p>We agree that the permit should be more clear as to Impaired Waters and TMDL applicability. We have added an opening paragraph to the Impaired Waters monitoring section to specify that the monitoring requirements only apply to</p>

	<p>with an approved TMDL wasteload allocation, and Part I.A.1.c.4, Facilities discharging to an impaired water without an approved TMDL wasteload allocation) that would impose monitoring requirements on a permittee that are dependent on future events or future pollutant minimization plans from DEQ. In these cases, and particularly in the case of PCB monitoring, the permittee has no actual notice of the requirement at the time the GP is issued.</p> <p>The issuance of the GP to a particular permittee is a case decision, just like the issuance of an individual permit. Case decisions by agencies are governed by the Virginia Administrative Process Act (VA Code §2.2-4000, <i>et seq.</i>). Requirements imposed through case decisions must be through a proceeding that provides for affected persons (the permittee) “reasonable notice” of the requirements imposed. VA Code § 2.2-4019.A (emphasis added). Although VAMWA recognizes the special challenges that crafting a General Permit imposes (along with the attendant benefits for both permittees and the agency), we respectfully note that, as drafted, parts of the GP would not provide reasonable notice (or in some cases any notice at all) of the requirements that it purports to impose.</p> <p>On the level of the substantive statutes, generally the Clean Water Act and the State Water Control Law (“SWCL”), or regulations adopted pursuant to them, do not directly impose requirements such as these. Rather, specific requirements and limitations are imposed through permits. Secondary treatment and consistency with adopted water quality standards are imposed by permit in a manner specific to individual dischargers, and changes to these underlying CWA or SWCL requirements are not effective until included in the next permit reissuance (or modification as appropriate). It would be similarly inconsistent with the CWA and SWCL for DEQ to develop a new Pollutant Minimization Plan requirement and impose it simply by letter.</p> <p>VAMWA submits that APA procedures</p>	<p>facilities discharging to waters identified as impaired in the 2010 Integrated Report (this is the latest approved report). We also added an opening paragraph to the TMDL monitoring section to specify that the TMDL monitoring requirements only apply to TMDLs that are approved prior to the effective date of this permit.</p>
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	<p>require that a permittee know or be able to determine at the time of GP coverage what the monitoring requirements (or any other requirements) will be. If they are not determinable at that time, the proper procedure would be for the agency to reopen and modify the permit during the term, as permit Part II.X authorizes. Alternately, we suggest that new monitoring requirements that come about mid-permit may simply be imposed with the next five-year reissuance. In fact, the short five-year term of NPDES permits is specifically for the purposes of (1) new or changed requirements with changing conditions and needs, and (2) a measure of reasonable assurance for the permittee as to what his requirements will be during the term. These provisions protect not only the permittee, but also third parties who may have input into purported new mid-term requirements.</p> <p>Without taking away from the generality of our comments, we note in particular the draft requirements that would purport to impose, mid-term and without any prior notice to permittees of the substance of requirements, pollutant monitoring and Pollutant Minimization Plan requirements simply by letter from DEQ. This is entirely outside of the powers of agencies of the Commonwealth under the APA.</p>	
	<p>Separate from these points, and although our request is that the Department delete the Bay TMDL monitoring and any references to requirements to be identified in the future, we wanted to go on record as opposing the idea of discontinuing sampling based on lack of detection, rather than lack of quantitation. Consistent with the Department’s other programs and on its traditional insistence on data quality, and consistent with the fact that by definition no substantive reliance can be placed on the numbers in a &lt;PQL result, any reference to discontinuing sampling should be based on lack of quantitation.</p>	<p>We agree that the “not detected” and “not present” language in the TMDL and Impaired Waters monitoring sections is too nebulous. We have modified that language to use the term “quantitation level”.</p>
	<p>Also not by way of limitation of our comments above, we note particularly that, if the Department has in mind PCB monitoring at the very low levels that might be present in</p>	<p>We have deleted the specific PCB references in the TMDL and Impaired Waters monitoring sections. Facilities discharging to waters impaired for PCBs</p>

<p>these discharges, such levels will not be detectable with approved methods. The far more sensitive EPA developmental Method 1668 is not approved and may not be required by permit. 40 C.F.R. § 136.1; 9VAC25-31-840.G.5. We also note that (if that Method were to be approved) the Method is very costly, and the cost of those analyses would be orders of magnitude beyond the costs of the Bay TMDL-related monitoring to which we object above.</p> <p>If DEQ wishes to provide for new mid-term monitoring requirements for PMPs, we suggest the following approach (redline of the General Permit with DEQ's currently proposed changes accepted).</p> <p>(3) Facilities discharging to an impaired water with an approved TMDL wasteload allocation <u>at the time of Permit issuance.</u></p> <p>(a)</p> <p>(b) ...Note: Facilities discharging to waters impaired for PCBs shall <u>may</u> follow the <u>an alternate</u> monitoring schedule and the pollutant minimization plan (PMP) requirements described in the written notification from the Department.</p> <p>(c) ...</p> <p>(d) ...</p> <p>(4) Facilities discharging to an impaired water without an approved TMDL wasteload allocation, <u>for which there is an identified pollutant responsible for the impairment at the time of Permit issuance.</u></p> <p>(a) ...</p> <p>(b) . . . Note: Facilities discharging to waters impaired for PCBs shall <u>may</u> follow the <u>an alternate</u> monitoring schedule and the pollutant minimization plan (PMP) requirements described in the written notification from the Department.</p> <p>(c) ...</p> <p>(d) ...</p> <p>(e) <u>The Department may modify the Permit pursuant to Part II.X to propose and apply additional monitoring requirements to address</u></p>	<p>will be notified of this when they receive permit coverage, the same as they would for any other impairment.</p>
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	<p><u>newly approved TMDL wasteload allocations applicable to affected dischargers.</u></p>	
	<p>c. <u>Stormwater Runon</u>. The Proposed GP requires that a permittee include in their SWPPP stormwater control measures (BMPs) that “prevent or control pollutants in storm water discharges from the facility.” 9VAC25-151-80 Part III.B.4. Discharges from a particular facility “include storm water runon that commingles with storm water discharges associated with industrial activity at the facility.” Sources of runon from adjacent properties must also be identified in the SWPPP site map.</p> <p>VAMWA objects to the requirement that permittees must identify and address pollutants in runon from neighboring properties. In our view, making a permittee responsible for a third-party’s pollutant discharges inappropriately expands the regulated area and activities of the GP, which should remain limited to the industrial areas and activities of the regulated site. VAMWA questions DEQ’s legal authority for imposing responsibility on the GP permittee for runon pollutants, which DEQ should address directly with the runon source if at all. For these reasons, VAMWA recommends that DEQ delete references to “runon” throughout the Proposed GP.</p>	<p>The language that was added to the permit relative to storm water run-on was taken directly from EPA’s 2008 MSGP. Storm water run-on that commingles with industrial activity storm water at a permitted facility has always been part of EPA’s storm water program. This is because a facility is ultimately responsible for what is discharged from their facility, regardless of the originating source. If storm water from an unregulated source is causing problems at a facility’s discharge point, the facility needs to meet with DEQ so that we can get the unpermitted discharge controlled.</p> <p>No change is proposed for this section.</p>
	<p>d. <u>Other Recommended Clarifications and Edits</u>. In addition to the recommendations made above, VAMWA notes the following more minor issues that should be clarified before the GP is finalized.</p> <p>(1) <u>SWPPPs (9VAC25-151-80 Part III)</u>. The Proposed GP requires that a SWPPP include control measures that are “selected, designed, installed, implemented and maintained” in accordance with good engineering practices and “manufacturer’s specifications.” DEQ should consider substituting “best professional judgment” for “manufacturer’s specifications” which could be unduly conservative for various reasons.</p>	<p>We have modified the opening paragraph of the SWPPP section to be more consistent with EPA’s 2008 MSGP. The opening paragraph now reads: <i>“A Storm Water Pollution Prevention Plan (SWPPP) shall be developed and implemented for the facility covered by this permit. The SWPPP is intended to document the selection, design, and installation of control measures, including BMPs, to eliminate or reduce the pollutants in all storm water discharges from the facility, and to meet applicable effluent limitations and water quality standards.”</i></p>
	<p>(2) <u>Dust Suppression and vehicle tracking of industrial materials (9VAC25-151-8 Part III.B.4.c.9)</u>. DEQ should consider</p>	<p>We agree and have modified the requirement to allow the use of reuse water as well.</p>

	<p>authorizing through this GP a permittee to use reuse water for dust suppression or spraying stockpiles, which would be consistent with and further state legislative policy and DEQ's stated interest in effluent reuse. In addition, the numbering of this section appears to be incorrect.</p>	
	<p>(3) <u>Copies of DMRs to MS4s (9VAC25-151-70 Part I.A.5.b).</u> DEQ should consider clarifying how a permittee that discharges through a regulated MS4 will submit signed copies of DMRs to the MS4 operator "at the same time as the reports are submitted to the department" if the permittee is using e-DMR. It is unclear that there will be a signed copy, in the traditional sense, or that it will be possible to simultaneously submit a copy to the MS4 when the electronic version is sent to DEQ.</p>	<p>The eDMR system allows the user to print a copy of the completed DMR that was submitted to the Department, so a copy will be available to transmit to the MS4 owner.</p>
	<p>4) <u>Permit Coverage (9VAC25-151-60.B.1.b).</u> DEQ should revise the proposal for an existing owner with individual coverage for industrial stormwater discharges to submit a registration statement for GP coverage at least 240 days prior to the expiration of the individual permit. The requirement is currently 30 days, and should be increased to no more than 180 days.</p>	<p>This change was based on comments received from the Office of the Attorney General on other GPs recently reissued, and the advice from our regional storm water permit staff. The 240-day time period allows DEQ time to determine if the owner is eligible for general permit coverage, and if they are not eligible, the permittee still has sufficient time to submit an individual permit application within the required 180 day period before the individual permit expires.</p>
<p>10. Brooks M. Smith and Andrea W. Wortzel, Counsel to the VMA Water Subcommittee, Troutman Sanders LLP, 1001 Haxall Point, Richmond, VA 23219</p>	<p>a. <u>Changes Related to the Bay TMDL.</u>  (1) <u>Applicability of Bay TMDL Requirements to "Expanded" Facilities.</u>  Definition of "Expanded" Facility. The amendments to the General Permit require permittees to demonstrate that the waste loads from any expansion do not exceed the nutrient and sediment loadings discharged from the expanded portion of the land prior to the land being developed for industrial activity. The term "expansion" is not defined. VMA's representative on the RAP pointed out that, left undefined, any action taken by an industrial discharger that expands either its volume of production or the size of its facility could be deemed to trigger these requirements. This is far too broad. The</p>	<p>Based upon public comments, we have modified this requirement to specify that expansion is any industrial activity area expansions (i.e., construction activities, including clearing, grading and excavation activities) that commence on or after July 1, 2014 (the effective date of this permit). Any land disturbance that is exempt from permitting under the VPDES construction stormwater general permit regulation (9VAC25-880) is exempt from this requirement.</p>

	<p>"expansion" provisions should only apply to changes at a facility that have the potential to impact or increase the stormwater discharge from the site. So, for example, if a company adds additional stories to an existing facility, the expansion provisions should not be triggered. Likewise, if a facility "expands" production within its existing footprint without adding impervious cover or affecting stormwater pathways, loadings or volumes, then the expansion provisions should not be triggered. We urge DEQ to define "expansion" in a manner that avoids unintended and inappropriate consequences at industrial facilities.</p>	
	<p>Phosphorus Loading Limit. As an alternative to the waste load demonstration referenced above, the General Permit provides that expanding facilities subject to the Bay TMDL may be subject to a criteria loading limit for phosphorus of 0.41 pounds per acre per year. During the RAP, DEQ described the 0.41 pound per acre limit as an "engineered calculation." However, DEQ has not provided - and does not appear to have - any actual monitoring data to support the calculation, and DEQ has not provided interested stakeholders, like VMA, with any technical record in support of the proposed loading limit. Absent anything in the administrative record to support the limit, VMA urges DEQ to withdraw it from the final permit.</p>	<p>The special condition requires the permittee to document the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded land area prior to the land being developed, and the measures and controls that were employed to meet the no net increase of storm water nutrient and sediment load as a result of the expansion of the industrial activity. The permittee can use site specific information to meet this requirement, or as an alternative, can use the VSMP water quality design criteria. This is not a ISWGP permit limit, per se, but is a way for the permittee to easily meet the SC requirement, especially if the expansion is required to be permitted under a VPDES construction permit.</p> <p>No additional changes are proposed for this section.</p>
	<p>Purpose of Phosphorus Loading Limit. Setting aside the lack of a technical record for the limit itself, VMA is concerned that the General Permit does not provide adequate detail on how the limit (if retained) will be applied. Many questions about implementation were raised during the RAP process without any clear or satisfactory answers. How will compliance with the limit be assessed? How will "baseline" be calculated for purposes of demonstrating any required load reduction? Will permittees be eligible for offsets? We respectfully submit</p>	<p>We will be providing implementation guidance as a companion to the reissued permit to describe how permittees can calculate the baseline values, as well as how to determine compliance with the requirements.</p>

	<p>that these questions need to be answered and clearly communicated to stakeholders before the permit is issued. Otherwise, permittees will be faced with uncertain regulatory requirements without any direction about how to implement or comply with them.</p>	
	<p>(2) <u>Incorporation of MS4 Permitting Requirements.</u> Part I.B.7 states that permittees with discharges through a municipal separate storm sewer system ("MS4") regulated under the Virginia Stormwater Management Program ("VSMP") to receiving waters subject to the Bay TMDL must incorporate measures and controls into their Storm Water Pollution Prevention Plan ("SWPPP") to comply with local ordinances implemented to meet the Bay TMDL. But superimposing local requirements onto the state permit is inappropriate. All dischargers within the Bay watershed are subject to some form of requirements, and all bear their share to implement the ones applicable to them. Industrial permittees under the General Permit and MS4 permittees under the VSMP bear their own independent obligations. Allowing MS4s to allocate some or all of those obligations to industrial permittees within their service areas through the General Permit is simply not equitable or appropriate.</p> <p>Any local requirements should stay at the local level, through relevant and appropriate local codes or ordinances. Elevating them into the General Permit would create inherent confusion because instead of a general permit with uniformly applicable requirements across the watershed, industrial permittees would be subject to varying requirements depending on where they operate and what kinds of disparate local ordinances apply. VMA also has concerns about potential conflicts between MS4 requirements and the provisions of the General Permit. Such conflicts would create confusion about which provisions control.</p> <p>Incorporating MS4 requirements into the General Permit as proposed would deprive industrial permittees of the notice-and-comment safeguards in place for all other permit terms and conditions. Worst of all,</p>	<p>Based on public comments, the section has been modified to read: "<i>In addition to the requirements of this permit, any facility with industrial activity discharges through a regulated MS4 that is notified by the MS4 operator that the locality has adopted ordinances to meet the Chesapeake Bay TMDL shall incorporate measures and controls into their SWPPP to comply with applicable local TMDL ordinance requirements.</i>"</p> <p>Permittees are already required to comply with any other applicable federal, state, or local statute, ordinance, or regulation (see regulation Section 50 E. This was also added to the permit as SC #6), so this special condition just notifies them that their locality may adopt special Chesapeake Bay TMDL ordinances that would apply to them as well.</p> <p>No additional changes are proposed.</p>

	<p>this proposal would make local requirements enforceable by EPA, DEQ or even third party environmental groups by virtue of being in the General Permit. This is flatly unacceptable.</p>	
	<p>b. <u>Other Substantive Changes.</u></p> <p>(1) <u>Addition of Sectors.</u> During the RAP process, DEQ indicated that it may seek to add new sectors to the General Permit. This idea was subsequently abandoned, but it highlights the need for objective decision criteria for any future expansion of the General Permit. First, unless and until EPA redefines the categories of "industrial activity" subject to stormwater permitting, we submit that it would be premature and inappropriate for DEQ to do so. Second, even if EPA elects to redefine its categories in the future, it is still incumbent on DEQ to determine - at that time - if similar changes would be appropriate in Virginia. EPA's regulations and MSGP serve as a model, but they are not inviolate. It is essential that DEQ retain its primary authority to determine which sectors of industrial activity should be covered by the General Permit. And, without question, no sector should be added without an appropriate and defensible supporting rationale.</p>	<p>One of the main functions of the TAC is to determine changes that should be made to the GP regulation. Based upon a TAC member suggestion, we proposed to add an activity to one of the existing industrial sectors. Based on TAC discussion, it was decided not to add the activity to the sector, but to cover the activity under Sector AD if we decided to permit a particular site.</p> <p>EPA's MSGP serves as a model, but Virginia determines what will be included in the ISWGP. We permit storm water discharges associated with industrial activity from the eleven categories in EPA's storm water regulation, and storm water discharges that are designated for permitting under the provisions of the VPDES Permit Regulation (9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2)), based upon water quality considerations.</p>
	<p>(2) <u>Annual Training.</u> The General Permit adds a requirement that training must be provided for new hires. See Part III.B.4(6). Previously, the General Permit required that a permittee develop a training program to ensure employees working in areas where materials or activities are exposed to stormwater on the contents of the SWPPP. The requirement for training of all new employees is overly broad, and should be narrowed to apply only to new employees with stormwater responsibilities. Additionally, the provision states that employee training must take place at least once per year. A permittee should be able to evaluate and establish an appropriate training schedule based on its own site needs and limitations. In some cases, it may make sense to establish a training schedule that recurs less frequently than annually (e.g., at smaller sites</p>	<p>This was originally added based on a suggestion from the TAC. Based upon public comments, we have decided to delete those sentences.</p>

	<p>or sites with dedicated staff and low turn-over). No evaluation of the cost involved in increasing the training versus the benefit achieved was provided. Additional regulatory burdens should not be imposed on permittees without some demonstration of the need for the change.</p>	
	<p>(3) Increase of Benchmark Monitoring from Annual to Semi-Annual. DEQ has proposed to revise Parts I.A.1.b and I.A.2.d of the General Permit to increase the frequency of benchmark monitoring from once per year to twice per year. DEQ's Agency Background Document states that this change was made "to allow better tracking of compliance with the monitoring requirements," as well as to more quickly identify which facilities are having storm water quality issues. During the RAP, DEQ stated that these changes were needed due to the way its enforcement Point Assessment Criteria work; more monitoring is needed so that more points can be accumulated by non-compliant facilities and an enforcement action could be triggered sooner.</p> <p>There is no record to support DEQ's proposed revisions. The General Permit program was designed so that general requirements could be established for similarly situated facilities. Facilities subject to the General Permit are largely self regulating. There are monitoring requirements for benchmarks, but benchmarks are not directly enforceable as permit limits. Instead, they serve as a point of comparison for evaluating the adequacy and efficiency of a site's stormwater management practices. Moreover, monitoring is not the only measure of compliance. Permittees are required to implement a broad range of other stormwater management practices, including inspections, training, best management practices and annual site reviews. All of this information is available to DEQ to review at any time. One additional data point per year will not meaningfully advance the water quality goals of the program.</p> <p>Moreover, as raised during the RAP meetings, such a change places an unfair burden on facilities that are already working</p>	<p>For this reissuance we have changed the Benchmark Monitoring, Effluent Limitation Monitoring and Impaired Waters Monitoring from annual to semi-annual. This will allow the permittee to see more quickly when they have and exceedance of a benchmark concentration or an effluent limitation, and will improve water quality by having SWPPP modifications, control measure adjustments and corrective actions taken sooner in the process. Having all the permit monitoring on the same semi-annual basis will also allow the Department to better track compliance with the permit monitoring requirements, and allow us to see more quickly which facilities are having storm water quality issues so that inspections can be targeted to the facilities that need more attention. Also, having all the monitoring on the same semi-annual basis will take the confusion out of the reporting requirements for the permittee.</p> <p>The permit still allows facilities to qualify for benchmark waivers, and for this reissuance we are allowing facilities to use the data from the last two monitoring periods from the previous permit term as part of their waiver submittal. We are also allowing them to average the sampling results to qualify for the benchmark waiver. We believe that benchmark monitoring waivers are the incentive for facilities to minimize the pollutants in their storm water discharges to the maximum extent practicable.</p> <p>No change is proposed for this monitoring.</p>

	<p>to achieve compliance and participate in the program. The larger issue from a compliance and water quality standpoint is facilities that are subject to stormwater requirements but are not participating in the program. Rather than targeting facilities that have implemented BMPs and are providing data, DEQ's enforcement efforts should be focused on identifying and addressing the facilities that have failed to obtain a permit or institute measures to achieve compliance with the requirements of the stormwater permitting program.</p>	
<p>11. Adrienne F. Kotula, Policy Specialist, James River Association, 9 South 12th Street, Richmond, VA 23219</p>	<p>a. <u>Addressing the Chesapeake Bay TMDL.</u>  The proposed permit fails to appropriately address the pollution reductions in the Chesapeake Bay TMDL and Virginia's Phase I Watershed Implementation Plan (WIP) by merely requiring facilities to monitor their discharges of Total Nitrogen (TN), Total Phosphorus (TP) and Total Suspended Solids (TSS). By failing to address the TMDL and WIP, this permit is in direct conflict with the requirements of Virginia's State Water Control Law and regulations, as well as the Clean Water Act - all of which require that this permit be consistent with TMDL waste load allocations (WLAs). See 9VAC25-151-70 and 40 CFR 122.44(d)(1)(vii)(B), 130.12(a); Water Quality Planning and Management, Final Rule, 50 Fed. Reg. 1774, 1778 (Jan.11, 1985).</p> <p>The WIP requires pollution reductions of all sectors and considers industrial stormwater to be a part of the regulated urban sector, which must achieve pollution reductions to "L2" (See WIP, Page 91). The WIP specifically states that aggregate loadings for industrial stormwater VPDES permits will be included as part of the local load allocation for regulated MS4s (See WIP, Page 22). Unfortunately, Virginia has not included industrial loadings within their already issued MS4 General Permit or the Arlington County Phase I MS4 Permit. Accordingly, the pollution reductions must be required within this permit in the form of a WLA.</p> <p>This can be achieved by applying the same methodology for pollution reductions which</p>	<p>The industrial storm water loads that were developed for the Phase I WIP were an aggregate. Aggregate loads were appropriate because actual facility data was not used to develop the entire individual facility loading, and these industrial storm water discharges have low nutrient and sediment loadings. Aggregate loadings for VPDES ISWGP facilities were included as part of the local load allocation for regulated MS4s. These loads were included in EPA's TMDL under the "regulated stormwater" category for each sub-watershed. No further breakdown or actual facility WLAs were included in the TMDL.</p> <p>In the Phase I WIP, the aggregate TN and TP wasteload allocations for non-significant industries were considered to be conservative "placeholders". The WIP stated that DEQ would adopt procedures to add nutrient reporting requirements to non-significant industrial permits to establish better estimates of these loads over the coming years. Once better estimates of these loads are generated, the WIP may be adjusted accordingly.</p> <p>Consistent with this commitment, we added nutrient and sediment sampling requirements for Chesapeake Bay watershed facilities to the ISWGP to characterize the loadings from these facilities.</p> <p>The GP does not assign a Bay TMDL WLA to any permittee because we do not</p>

	<p>is contained in Virginia’s new MS4 permits. The Special Condition for the Chesapeake Bay TMDL contained within these permits provides a clear path forward for permittees to address 5% of their pollution reductions within this permit term and additionally requires that they develop an action plan detailing these actions and submit a plan to achieve 35% of pollution reductions in the next permit term as a part of their reapplication package.</p> <p>Given that industrial stormwater pollution rates in the Bay TMDL and the WIP are based largely on assumptions, JRA also believes that it is important for this permit to require permittees to accurately capture the levels of TN, TP and TSS pollution coming from their sites so that future permits and the Phase III WIP can accurately account for this. Accordingly, we believe that the twice-yearly monitoring currently proposed for the first two years of the permit should be extended to the entire length of the permit term and should be required at greater intervals. This increase in monitoring will result in more accurate data moving forward. Failure to perform this monitoring should constitute a violation of the permit.</p> <p>JRA believes that this approach of beginning pollution reductions tied with five years of monitoring and the potential for additional future pollution reductions will adequately address the Bay TMDL and Virginia’s WIP.</p>	<p>have any actual facility data to base a WLA on.</p> <p>In response to this comment and other similar comments, we have modified the permit Special Condition 7 b (Facilities in the Chesapeake Bay watershed), and added subsection (3) to address Chesapeake Bay TMDL waste load allocations and Chesapeake Bay TMDL action plans. This new section requires facilities to analyze the nutrient and sediment data collected for the Chesapeake Bay TMDL. The data must be compared to the loading values that were submitted to EPA for the Phase I WIP, and where the data is above the loading values, the permittee must develop a TMDL action plan to reduce the facility loading down to the target value by 2024. The action plan must be submitted to the Department for approval within 90 days following the end of the permit’s second monitoring year, and annual reports describing the progress in meeting the required reductions must be submitted by June 30<sup>th</sup> of each year.</p> <p>We initially proposed CB TMDL sampling for the entire 5 year permit term, but the ISWGP TAC felt that 2 years of data would be adequate to characterize the nutrient and sediment contributions for facilities in the CB watershed.</p> <p>As described above, the permittees will have to analyze their sampling data to determine if they need to develop a TMDL action plan to reduce their nutrient and sediment loadings.</p> <p>We are not proposing additional CB TMDL sampling in this permit term. Facilities may include this sampling in their action plans as the means to demonstrate adequate progress towards meeting required reductions, but we are not proposing this sampling across the board at this time. After the third year of this permit term, we will convene a TAC to assist the Department with the reissuance of this GP. We will analyze</p>
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		<p>the statewide CB data, and with the TAC's input, we will develop appropriate monitoring requirements for the next permit term based on that analysis.</p>
	<p>b. <u>Nutrient Trading</u>. Special Condition #8, Subsection d should be removed given that a WLA for compliance with the Bay TMDL has not been established within this permit. Per §62.1-44.19:21, they may not acquire, use or transfer any credits without a WLA. Should the permit be revised to contain an appropriate WLA, this subsection should be revised to state that credits may only be acquired to meet the assigned WLA, not to meet "no-net increase" requirements, as currently stated.</p>	<p>The intent of the language in the permit is to allow the permittee to use nutrient credits or offsets, if these are allowed by applicable regulations, to satisfy the no net increase permit requirements for newly constructed or expanded facilities in the Chesapeake Bay watershed.</p> <p>The permit has been amended to reword the references to nutrient credits or offsets to those that are allowed for the facility by applicable regulations.</p>
<p>12. Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion Resources Services, Inc., 5000 Dominion Boulevard, Glen Allen, VA 23060</p>	<p>Our comments pertain to the following two sections of the proposed amendments to the General Permit as they relate to the total phosphorus total maximum daily load (TMDL).</p> <p><u>9VAC25-151-60, Registration Statement and Storm Water Pollution Prevention Plan (SWPPP), Section C.13.</u> A question was added to the Registration Statement for newly constructed facilities in the Chesapeake Bay watershed. To be eligible for permit coverage newly constructed facilities must submit documentation that they have either installed measures and controls to meet the "no net increase" of nutrients and sediment from the site prior to their developing the land for the industrial activity, or that they have purchased nutrient credits.</p> <p><u>9VAC25-151-70, General Permit Special Conditions, Part I.B.8.</u> Requires that after November 29, 2010 (the date of Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan), the waste loads from any expansion of an existing permitted facility discharging storm water in the Chesapeake Bay watershed cannot exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the industrial activity. The permittee has to document in the SWPPP the information and calculations used to determine the nutrient</p>	<p>The registration statement requirement and the special condition both require the permittee to document the information and calculations used to determine the nutrient and sediment loadings discharged from the new/expanded land area prior to the land being developed, and the measures and controls that were employed to meet the no net increase of storm water nutrient and sediment load as a result of the expansion of the industrial activity. The permittee can use site specific information to meet this requirement, or as an alternative, can use the VSMP water quality design criteria. This is not a ISWGP permit limit, per se, but is a way for the permittee to easily meet the SC requirement, especially if the expansion is required to be permitted under a VPDES construction permit.</p> <p>We will be providing implementation guidance as a companion to the reissued permit to describe how permittees can calculate the baseline values, as well as how to determine compliance with the requirements.</p>

and sediment loadings discharged from the expanded portion of the land prior to the land being developed, and the measures and controls that are being employed to meet the no net increase of storm water nutrient and sediment load as a result of the expansion of the industrial activity. Alternatively, the facility owner may acquire nutrient credits to meet the no net increase requirement in accordance with applicable regulations.

The issue of concern is the language in both of the above citations of the proposed draft regulation that makes "new" or "expanding" facilities subject to the Chesapeake Bay TMDL also subject to meeting the "no net increase" requirement for nutrient and sediment loadings. The permittee must provide documentation demonstrating that the total phosphorus load does not exceed the greater of the total phosphorus load that was discharged from the site prior to the land being developed or from the expanded portion of the land prior to the land being developed or the VSMP water quality design criteria loading limit of 0.41 pound per acre per year.

We request that DEQ clarify how to demonstrate the "no net increase" requirement and also how to calculate the VSMP water quality design criteria loading limit of 0.41 pound per acre per year. During the Technical Advisory Committee (TAC), questions were raised regarding how or what method the permittee should use to demonstrate compliance with the phosphorus limit. The regulation should clearly explain how compliance can be demonstrated for each of the proposed methods.

It is our understanding that the 0.41 pound per acre limit is an engineered calculation. We respectfully request that DEQ provide the detailed background data for establishing the 0.41 lb/acre limit. The TAC was not able to come to consensus on the basis for a lb/acre limit. In fact, with a few exceptions, most parties on the TAC agreed that it should not be set at *this limit* or *any other limit* until an appropriate number could be set that was supported by the science. For all of the

	<p>reasons stated above, we respectfully request removal of the proposed phosphorus provisions for both new and expanded sources.</p>	
<p>13. Christine H. Porter, Director for Regional Environmental Coordination, Department of the Navy, Navy Region Mid-Atlantic, 1510 Gilbert St., Norfolk, VA 23511</p>	<p>a. <u>9VAC25-151-50. Authorization to Discharge, Part B.4, pg 9.</u> The discharge is not consistent with the assumptions and requirements of an approved TMDL. Note: Virginia's Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010) requires that waste loads for new facilities in the Chesapeake Bay watershed with industrial stormwater discharges not exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the industrial activity. For purposes of this permit regulation, facilities constructed after November 29, 2010, must be consistent with this requirement to be eligible for coverage under this general permit.</p> <p>Comment: This permit only references Virginia's Phase I WIP which required federal facilities to meet the L3 scoping reductions. The Phase II WIP revised federal facility nutrient and sediment reductions to L2.</p> <p>Recommendation: Reference both the Phase I and Phase II WIPs.</p>	<p>Reference to the Phase II WIP is not needed here. The reference to the Phase I WIP is relevant to the "no net increase" requirement, and does not relate to the L3 scoping reductions.</p>
	<p>b. <u>General Permit No. VAR05. 9VAC25-151-70 to 9VAC25-151-360</u></p> <p>(1) <u>Part I.A.1(2), pg 24:</u> For the quarterly visual monitoring the permit requires "Where practicable, the same individual shall carry out the collection and examination of discharges for the entire permit term."</p> <p>Comment: It is impractical and highly unlikely for large facilities with multiple outfalls that the same individual would conduct the visual monitoring of all outfalls over the five year permit term. As long as the facility makes an effort to minimize differences in visual interpretation by different individuals through training the intent of this requirement should be met.</p> <p>Recommendation: Change the requirement from "shall" to "should" and note that training in visual monitoring can result in more consistent interpretation of discharge quality</p>	<p>Note that EPA removed this sentence from their 2008 MSGP. As such, we have deleted the sentence from this GP.</p>

	and determination of potential issues.	
	<p>(2) <u>Part I.B.6.b, pg 40</u>: Owners of facilities in the Chesapeake Bay watershed must monitor stormwater discharges for TSS, TN, and TP. Samples must be collected during each of the first four monitoring periods.</p> <p>Comment: If the facility has already conducted monitoring for any of these parameters that data could be substituted for the characterization monitoring required in this section. Rationale would be similar to that in Part I.A.1.b(2)(a) regarding benchmark monitoring.</p> <p>Recommendation: Allow facilities that were covered under the 2009 industrial storm water general permit to use sampling data from the last two monitoring periods of that permit and the first two monitoring periods of this permit to satisfy the four consecutive monitoring period requirement.</p>	We agree and have added this allowance.
	<p>(3) <u>Part I.B.8, pg 41</u>: a. "After November 29, 2010, (the date of Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan), the waste loads from any expansion of an existing permitted facility discharging storm water in the Chesapeake Bay watershed cannot exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the industrial activity."</p> <p>b. "The permittee shall document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded portion of the land prior to the land being developed and the measures and controls that were employed to meet the no net increase of storm water nutrient and sediment load as a result of the expansion of the industrial activity."</p> <p>c. "The permittee may use the VSMP water quality design criteria to meet the requirements of subdivisions a. and b. of this subsection. Under this criteria, the total phosphorus load shall not exceed the greater of: (i) the total phosphorus load that was discharged from the expanded portion of the</p>	<p>You are correct that meeting VSMP water quality design criteria will satisfy the requirement for no net increase of storm water nutrient and sediment load as a result of the expansion of the industrial activity.</p> <p>We have also added that any land disturbance that is exempt from permitting under the VPDES construction stormwater general permit regulation (9VAC25-880) is exempt from this requirement.</p> <p>We have also modified the nutrient credits/offsets section to state: "<i>If nutrient credits or offsets are allowed for the facility by applicable regulations, the permittee may use these to meet the no net increase requirement.</i>"</p>

	<p>land prior to the land being developed for the industrial activity or (ii) 0.41 pounds per acre per year. Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another equivalent methodology approved by the board."</p> <p>d. "The facility owner may acquire nutrient credits to meet the no net increase requirement in accordance with applicable regulations."</p> <p>Comment: As we read c. above, meeting VSMP water quality design criteria will satisfy the requirement for no net increase of storm water nutrient and sediment load as a result of the expansion of the industrial activity.</p> <p>Recommendation: If this interpretation is not correct additional discussion/clarification will be necessary.</p> <p>Comment: For facilities subject to the Chesapeake Bay Preservation Act and Regulation the VSMP water quality design criteria only apply to construction projects greater than 2500 square feet vice any size land disturbance.</p> <p>Recommendation: Clarify that an expansion which would trigger the no net increase requirement under this permit must exceed the minimum land disturbance required by the Virginia General Permit authorizing stormwater discharge from construction activities.</p> <p>Comment: A facility should be allowed to offset an increase in phosphorus load from an expansion on one portion of its property with an equivalent phosphorus load reduction on another portion of its property or a different property under the same ownership if located within the same HUC code (appropriate digit).</p> <p>Recommendation: Allow offsets as well as credits to meet the "no net increase" criteria.</p>	
	<p>(4) <u>Part III.D.2.a, pg 57</u>: "The SWPPP shall include documentation that all outfalls have been evaluated annually for the presence of unauthorized discharges".</p>	<p>We have clarified the section to indicate that it applies to storm water outfalls associated with industrial activity.</p>

	<p>Comment: Federal facilities may have outfalls that are not industrial even though the facility itself is covered under this permit. The requirement in this section should only apply to industrial outfalls.</p> <p>Recommendation: Clarify that the annual outfall evaluation only applies to the industrial stormwater outfalls rather than all outfalls at the facility.</p>	
	<p>(5) <u>Part IV, Sector N, A, pg 92</u>: "The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities that are engaged in the processing, reclaiming and wholesale distribution of scrap and waste materials ... Separate permit requirements have been established for recycling facilities that only receive source separated recyclable materials primarily from nonindustrial and residential sources ..."</p> <p>Comment: It is unclear what is considered "processing" at areas receiving source separated recyclables. A facility may have an area(s) where source separated materials are collected and staged for recycling but any additional separation or processing is not performed on the facility.</p> <p>Recommendation: Clarify what is considered "processing" at areas receiving source separated recyclables.</p>	<p>"Processing" is a facility specific definition, and depends on what the facility is designed to do. We believe it is more appropriate to let the facility owner determine what "processing" is for his particular facility. No change is proposed for this comment.</p>
	<p>(6) <u>Part IV, Sector N, Table 210, footnote 1, pg 99</u>: "Metals monitoring is only required at source-separated facilities if metals are received at the facility."</p> <p>Comment: It is unclear whether monitoring for all metals listed is required if any metal is received. For example, if the only metal collected is aluminum cans, will the facility be allowed to monitor for aluminum only?</p> <p>Recommendation: Only require metals monitoring for metals actually collected.</p>	<p>We have revised the footnote in the Table 210 Benchmark Monitoring to only require metals monitoring for metals actually collected.</p>
	<p>(7) <u>Part IV, Sector Q, C.2.a(1), pg 106</u>: "As defined by this permit, process wastewater related to hull work at water transportation facilities shall be any water used on a vessel's hull for any purpose, regardless of application pressure, including but not limited to the</p>	<p>With this change we have defined pressure washing and hull washing activities as process wastewater that need separate VPDES permits (and are not authorized discharges under this permit). This definition is from individual permits</p>

	<p>activities of removing marine salts ..."</p> <p>Comment: Low pressure rinsing of marine salts back into a marine environment has minimal/no impact and does not appear to meet the definition of process wastewater. This section of the permit is not consistent with EPA MSGP.</p> <p>Recommendation: This section should be consistent with the EPA MSGP, or at a minimum, not apply to removal of marine salts only.</p>	<p>the Board has issued to similar facilities in Virginia, and was included here to be consistent with those permits.</p>
	<p>(8) <u>Part IV, Sector Q, D, Table 240, pg 108:</u> The Cu benchmark of 18ug/l is set at twice the acute criteria.</p> <p>Comment: Provisions should exist for the benchmark to be adjusted where site specific criteria exist (e.g., Elizabeth River and Hampton Roads Harbor). Since site specific acute criteria there is 16.3 ug/l, the benchmark would be 32 ug/l rather than 18 ug/l.</p> <p>Recommendation: Allow the benchmark for a metal to be adjusted where site specific criteria exist.</p>	<p>Benchmarks are not effluent limitations, but exist for the permittee to use to determine the overall effectiveness of the SWPPP in controlling the discharge of pollutants to receiving waters. Exceedance of a benchmark concentration does not constitute a violation of this permit and does not indicate that violation of a water quality standard has occurred; however, it does signal that modifications to the SWPPP are necessary, unless justification is provided in the comprehensive site compliance evaluation.</p>
	<p>(9) <u>Part IV, Sector R, C.2.a (1), pg 109:</u> "As defined by this permit, process wastewater related to hull work at ship and boat building or repair yard facilities shall be any water used on a vessel's hull for any purpose, regardless of application pressure, including but not limited to the activities of removing marine salts.</p> <p>Comment: Low pressure rinsing of marine salts back into a marine environment has minimal/no impact and does not appear to meet the definition of process wastewater. This section of the permit is not consistent with EPA MSGP.</p> <p>Recommendation: This section should be consistent with the EPA MSGP, or at a minimum, not apply to removal of marine salts only.</p>	<p>See the response to #13 b (7) above.</p>
	<p>(10) <u>Part IV, Sector R, D, Table 250, pg 110:</u> The Cu benchmark of 18ug/l is set at twice the acute criteria.</p> <p>Comment: Provisions should exist for the</p>	<p>See the response to #13 b (8) above.</p>

	<p>benchmark to be adjusted where site specific criteria exist (e.g., Elizabeth River and Hampton Roads Harbor). Since site specific acute criteria there is 16.3 ug/l, the benchmark would be 32 ug/l rather than 18 ug/l.</p> <p>Recommendation: Allow the benchmark for a metal to be adjusted where site specific criteria exist.</p>	
	<p>(11) <u>Part IV, Sector S, D.1.c, pg 112</u>: "The SWPPP shall define the average seasonal timeframe during which deicing activities typically occur at the facility. Implementation of BMPs, facility inspections, and effluent limitation monitoring shall be conducted ..."</p> <p>Comment: Effluent limitations related to deicing operations only apply to primary airports meeting the annual jet departure threshold.</p> <p>Recommendation: Recommend inserting ", if applicable," after effluent limitation monitoring.</p>	<p>We do not believe the suggested change is necessary. The purpose of this section is to require the permittee to define the average deicing period in the SWPPP. The effluent limitations section clearly defines which facilities are subject to the effluent limitations.</p>
	<p>(12) <u>Part IV, Sector S, E.1, pg 115</u>: "Existing and new primary airports with at least 1,000 annual jet departures (non-propeller aircraft) that have discharges associated with airport pavement deicing comingled with storm water shall either use airfield deicing products that do not contain urea or alternatively, airfield pavement discharges at every discharge point shall achieve the numeric limitations for ammonia in Table 260-1, prior to any dilution or commingling with any non-deicing discharge."</p> <p>Comment: It is not clear whether military airfields meet the definition of primary airport in 49 USC § 47102. In addition, it is not clear whether jet departures include "touch and go" practice used to train pilots for carrier landings.</p> <p>Recommendation: Need to clarify whether requirements in this section apply to military airports. In addition, "touch and go" practice used to train pilots for carrier landings should not be considered departures.</p>	<p>From 49 USC § 47102:</p> <p>"Primary airport" means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.</p> <p>"Commercial service airport" means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.</p> <p>Based on these definitions, military airfields would not fit under the definition of a primary airport.</p>
14. Denise	The draft general permit up for comment only	See response #11a.

<p>Mosca, 6977 Ark Road, Gloucester, VA 23061</p>	<p>provides for nutrient monitoring in the beginning two years of the permit for existing facilities. This monitoring will provide DEQ staff the information to evaluate the need for nutrient provisions in the permit to be reissued 5 years from now. It is my understanding that this nutrient load is expected to be low, but staff has no data at this time to document this assumption.</p> <p>Because there is no currently proposed provision for nutrient removal for existing facilities, the industrial storm water general permit fails to address this wasteload allocation in the Watershed Implementation Plan (WIP). Without documentation that the contribution is of a de minimus nature, the general permit does not fulfill the requirements of the Chesapeake Bay TMDL, and therefore is not in compliance with State Water Control Law and the Clean Water Act.</p> <p>Localities have been required to put plans in place to address nutrient contributions to storm water on a relatively fast track. Industries should also be addressing their storm water nutrient wasteload allocation at this time through requirements in this general permit to submit nutrient reduction plans to DEQ if necessary based on their nutrient monitoring.</p>	
<p>15. Kate Bennett, Fairfax County Stormwater Planning Division</p>	<p>a. <u>9VAC25-151-60, Registration Statement and Stormwater Pollution Prevention Plan (SWPPP), C.5.</u> Not all permit applicants will know if they will discharge to an MS4, or to which MS4. Prospective applicants should be given some assistance by DEQ in determining if they will discharge to an MS4 along with a list of appropriate local government contacts.</p> <p>b. <u>9VAC25-151-70, General Permit</u> <u>(1) Part I.A.1.c.4, Facilities discharging to an impaired water without an approved TMDL wasteload allocation.</u> It is unreasonable to require monitoring without knowing what pollutant must be monitored. We recommend changing the heading and text in this section to read: "Facilities discharging to an impaired water without an approved TMDL wasteload allocation for which there is an identified pollutant responsible for the impairment."</p>	<p>See response #1a.</p> <p>We have added an opening paragraph to the section that states: "<i>Owners of facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved prior to the term of this permit will be notified as such by the Department when they are approved for coverage under the general permit.</i>"</p>

	<p>(2) <u>Part I.B.7, Discharges through a Virginia Stormwater Management Program (VSMP) regulated MS4 to waters subject to the Chesapeake Bay TMDL.</u> This section inappropriately attempts to shift responsibility for requiring compliance with the Chesapeake Bay TMDL from the state to MS4s. Industrial stormwater permits, like MS4 permits, are a form of regulated stormwater, and as such, they should have to achieve the same reductions that are being required of MS4s. These reductions are clearly defined in Virginia’s Phase II WIP: "an average reduction of 9 percent of nitrogen loads, 16 percent of phosphorus loads, and 20 percent of sediment loads from impervious regulated acres and 6 percent of nitrogen loads, 7.25 percent of phosphorus loads and 8.75 percent sediment loads beyond 2009 progress loads for pervious regulated acreage," and are to be achieved over three permit cycles.</p>	<p>See response #10 a (2), and #11 a.</p>
	<p>(3) <u>Part I.B.8, Expansion of facilities that discharge to waters subject to the Chesapeake Bay TMDL.</u> The use of “expansion” is not defined. It is unclear whether it applies to expansion of operations or construction activities at a permitted facility. If expansion is intended to signify expansion of operations, this should be defined in the regulation. If it is intended to signify construction activities, compliance with the VSMP Permit Regulations (4VAC50-60) should constitute compliance with a “no net increase” requirement.</p>	<p>See response #10 a (1).</p>
	<p>c. <u>9VAC25-151-80, Storm Water Pollution Prevention Plans, Part III.B.4.a.</u> A permitted facility should not be held responsible for pollutants running onto their site from an adjacent site. There is, however, value in a facility being aware of runoff to their site and of how their industrial materials or activities may be exposed to it. Pollutants identified in runoff to a site should be reported to DEQ.</p>	<p>See response #9 c.</p>
<p>16. Jason Papacosma, Arlington County</p>	<p>Arlington County's comments come from our perspective as a regulated MS4 with a Chesapeake Bay TMDL wasteload allocation (WLA). Arlington's Phase I permit, as well as the new Small MS4 permits, contain a loading table to determine the specific Bay</p>	<p>See response # 8 a and #8 b (1). Regarding the MS4 being involved in reviewing the permit, it is not clear what is meant by this. Registration statements are posted for public review prior to permit coverage being granted, but there</p>

<p>TMDL load reductions required during this permit cycle. The input into this loading table is the permittee's MS4 service area. A key element of the MS4 service area computation is excluding lands covered under separate VPDES stormwater permits.</p> <p>This is a fundamental aspect of how the Clean Water Act (CWA) regulates point sources governed by a TMDL: each point source is responsible for its own discharges and is assigned a WLA for which it is responsible. VPDES-permitted industrial stormwater facilities are not an exception, yet the draft permit does not include a Bay TMDL WLA. This is inconsistent with the CWA, especially when considering that the Act applies a less stringent regulatory standard to MS4s than to industrial stormwater dischargers. In short, if MS4s have a Bay TMDL WLA, then industrial stormwater discharges must also be assigned a Bay TMDL WLA.</p> <p>EPA's Bay TMDL reinforces this basic legal and regulatory principle by highlighting in numerous places the category of industrial stormwater discharges as distinct from MS4 discharges. The document also specifically states that the TMDL includes a separate category of loads for industrial stormwater facilities: <i>The contribution from industrial stormwater discharges subject to NPDES permits has been estimated on the basis of data submitted by jurisdictions in their Phase I WIPs, including the number of industrial stormwater permits per county and the number of urban acres regulated by industrial stormwater permits. For the Bay TMDL, the permitted industrial stormwater load is subtracted from the MS4 load when applicable.</i></p> <p>"When applicable" clearly applies in Virginia, with MS4s being assigned separate WLAs and having no regulatory authority over permitted industrial stormwater discharges. Part 1.A.1.b of Arlington's MS4 permit states that VPDES permitted industrial stormwater discharges are automatically authorized to our MS4. This highlights two critical points: 1) that MS4s have no regulatory authority over these discharges, and 2) that DEQ must</p>	<p>is no "permit review" per se. Facility SWPPPs are also not submitted for review.</p> <p>The permit contains a special condition requiring the permittee to notify the MS4 owner that they are discharging through an MS4, and copy DEQ with the notification. The Department tracks this information in the agency permitting database. We are happy to share this information with any MS4 owner.</p> <p>DEQ will be developing a table of MS4 localities and program administrator contact information for the registration statement, and will post this information on-line as well.</p>
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	<p>exercise its clear authority over permitted industrial stormwater dischargers to ensure compliance with the Bay TMDL and other TMDLs.</p> <p>The draft permit's definitions section is also very clear that all point source dischargers are assigned a WLA: <i>"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations."</i></p> <p>If industrial stormwater facilities are not assigned a WLA, this load will go unaccounted for and will slow down the progress towards Bay restoration that we are all working hard to achieve.</p> <p>Finally, the draft permit regulation (9VAC25-151-60.C.5) requires that the permittee identify whether the facilities discharge or will discharge to an MS4. The MS4 must be involved in reviewing the permit if their location is within the corporate boundary. For example, several currently permitted industrial stormwater dischargers in Arlington County discharge into VDOT's MS4 and then into Arlington County's MS4. Without the MS4s being included in the permit review process, it is unlikely that both would be identified on the permit.</p>	
<p>17. Leslie Mitchell, Executive Director, Friends of the North Fork of the Shenandoah River, P.O. Box 746, Woodstock, VA 22664</p>	<p>Localities, states and the Federal government have spent millions of dollars in their efforts to restore the Chesapeake Bay and our local streams and rivers. The renewed general storm water permit for industrial activity must maintain that progress. The permit must include specific and enforceable limits on nutrient and sediment pollution for progress to continue. If local governments must reduce nutrient and sediment pollution, industrial activities must also be required to reduce their nutrient and sediment pollution by five percent during the five-year term of</p>	<p>See response # 8 a and #8 b (1).</p>

	the permit term. These revisions to the general storm water permit would support Virginia's efforts to restore the Chesapeake Bay and improve water quality in Virginia.	
18. Joseph Valentine, Onancock, VA	The new general permit should address the issue of nutrient and sediment loads associated with the industrial activity. It should require each permittee to initiate an action plan, consistent with the commitments made by permitted municipalities in Virginia's Blueprint, to reduce pollution from their facility during the last three years of the permit. The burden for these pollutants should not be ignored and left to the local municipalities for correction. Each industrial permittee should be required by their permit to reduce their polluted storm water runoff of nutrients and sediments to restore it to a level that ensures effective treatment of the storm water leaving the facility.	See response # 8 a and #8 b (1).
19. Clay Coupland, 6401 Eleanor Ct., Norfolk, VA 23508	Subject permit needs to be more specific and hold industrial facilities accountable for their storm water loads just as other localities, municipalities, etc. are required. Under the current permit industrial facilities have no requirement to monitor their load or address their individual waste load allocations. The new general permit must address the issue of nutrient and sediment loads for industry if it is to be an integral part of Virginia's Chesapeake Bay Clean Water Blueprint.	See response # 8 a and #8 b (1).
20. Judith Warrington, 4211 Springhill Ave, Richmond, VA 23225	As a member of the James River Association I feel that we must do everything possible - - to go above and beyond the requirements of nutrient and sediment limitations if need be - - to protect water quality and wildlife habitat in the James River and other VA tributaries of the Chesapeake Bay. I support Virginia's efforts to restore the Chesapeake Bay and believe my recommended revisions would further the state's efforts to improve water quality.	See response # 8 a and #8 b (1).
21. Sheryl Smith, 14229 Trails End Dr., Montpelier, VA 23192	Please make sure that the general permit includes very specific, enforceable limits on nutrient and sediment pollution. I support clean water for Virginia! We are starting to make progress. Please do not backslide.	See response # 8 a and #8 b (1).
22. Grace	I understand that DEQ is in the process of	See response # 8 a and #8 b (1).

<p>Moran, 2225 Roanoke Ave, Unit 1, Virginia Beach, VA 23455</p>	<p>setting standards for industrial facilities related to discharge and run-off. Or maybe not. Virginia, as well as the other Chesapeake Bay states, has a long way to go in restoring the health of our waters. We need, through your actions, to set limits on how much negative activity we can safely allow. I presume that TMDL measurements would accomplish this, and ought to be included in your permitting process. That goes for industrial activities, as well as local governments. They need to be required to reduce their nutrient and sediment pollution by five percent during the five-year permit term. I thank you for your efforts to restore the Chesapeake Bay and believe my recommended revisions would further the state's efforts to improve water quality.</p>	
<p>23. Susi Cora, 1501 Wake Forest Dr., Alexandria, VA 22307</p>	<p>The updated general permit must maintain progress in restoring the Chesapeake Bay and our local streams and rivers. I recommend that the general permit include specific and enforceable limits on nutrient and sediment pollution. I also recommend that INDUSTRIAL ACTIVITIES, FARMING OPERATIONS, AND LIMITS ON BIOSOLID SPREADING IN WATERSHEDS be required to reduce their nutrient and sediment pollution during the five-year permit term. I support Virginia's efforts to restore the Chesapeake Bay and believe my recommended revisions would further the state's efforts to improve water quality.</p>	<p>See response # 8 a and #8 b (1).  Regarding the farming operations, and limits on biosolid spreading in watersheds, that is beyond the scope of this industrial storm water GP regulatory action.</p>
<p>24. Priscilla &amp; Leonard Bashinski, 92 Cardinal Ct., Heathsville, VA 22473</p>	<p>Please do not take two steps back by not allowing the general permit to include specific and enforceable limits on nutrient and sediment pollution. And please continue to require industrial activities to reduce their nutrient and sediment pollution by at least five percent during the five-year permit term. Let's continue to improve the Chesapeake Bay's water quality not add to its demise!</p>	<p>See response # 8 a and #8 b (1).</p>
<p>25. Alan Partin, 10806 Branberry Ct., Henrico, VA 23233</p>	<p>Our stewardship as a society in sustaining world habitation quality must not be diminished in priority for sake of future generation occupants. I call upon you to see that quantitative objective metrics are instated to curtail further slippage in degradation of</p>	<p>See response # 8 a and #8 b (1).</p>

	natural resources that will hopefully lead to revival of atmosphere, land, and water quality. Recognition of loss of quality has occurred. We must continue affirmative action to reverse damage so a reasonably clean world is passed on to promote a higher quality of life free of exposure to unsafe environmental pollutants.	
26. Tom Kennedy, 216 Sparrow Rd., Chesapeake, VA 23325	The five percent nutrient and sediment reduction recommendation being encouraged by CBF and the like are necessary progress. Sensible regulations create a level playing field between the industries that want to do the best, and the scofflaws who will try to get away with anything. The reductions must be enforceable. PLEASE, revise and strengthen the proposed legislation.	See response # 8 a and #8 b (1). However, there is no legislation involved with this permit reissuance.
27. Maynard Hines, 206 Aspen Blvd., Yorktown, VA 23692	"Save the Bay" has become a world renowned phrase and highly responsive "Call to Action" which reflects Virginian's sense of responsibility and stewardship for the Chesapeake Bay and it's many waters. The beautiful bay and rivers have a dazzling impact on travellers as they approach Virginia's shores. The "Bay" and the rivers that flow into the "Bay" are the subject of history and lore, of natural beauty, and Virginian pride. The Potomac, the Rapidan, the Rappahannock, the York, the James, the Elizabeth, the Appomattox are all steeped in cultural and historical lore. "Save the Bay" is also a battle cry to continue the "Good Fight" to save the bay from centuries of unfortunate neglect, from abusive farming, from damaging urban and industrial discharges, and from lack of knowledge of the damages that we as a people have caused. It's a seems a poor reflection on us, but we are charged as Gods good stewards of the earth to correct our wrongs into rights. Now we know, we the people have caused the damage. And now we know what has to be done to correct our centuries of neglect. And now I urge you to continue the "Good Fight" for God, for country, and for Virginians. Support the Chesapeake Bay Foundation in this effort for an enforceable and responsible permitting process with five percent reduction goals. To me that seems a modest request.	See response # 8 a and #8 b (1).

<p>28. Shereen Hughes, 103 Holly Rd., Williamsburg, VA 23185</p>	<p>The industrial stormwater general permit should require industrial facilities to calculate their own individual WLA for nitrogen, phosphorus, and sediment using the same method required of regulated municipalities. That method includes calculating the number of impervious and pervious acres and incorporating required 5-percent reductions for nitrogen, phosphorus, and sediment. The industrial WLA should be incorporated into the general permit. This step will foster transparency and accountability and is a requirement for any of the permitted industries that seek to purchase or sell nutrient credits. Future permit terms should seek further reductions in nutrient and sediment pollution consistent with the procedures and schedule followed by localities.</p>	<p>See response # 8 a and #8 b (1).</p>
<p>29. Cindy Smith, 9901 Alydar Ct., Nokesville, VA 20181</p>	<p>I teach undergraduate students who want to become Elementary School teachers. This week we spent a few hours examining the aquatic life in the picturesque pond on the GMU campus. Most students were surprised to find out this pond is a mandatory stormwater control, and shocked at the amount of toxins &amp; sediment that flows from roads, roof tops &amp; parking lots into this pond. I am spending a great deal of time educating folks, who will teach our next generation to be good stewards of our waterways. I urge you to do even better in maintaining progress in Bay cleanup efforts by including enforceable limits on nutrient and sediment pollution across the Commonwealth.</p> <p>I recommend that the general VPDES General Permit for Discharges of Storm Water Associated with Industrial Activity (ISWGP) 9VAC25-151 permit include specific and enforceable limits on nutrient and sediment pollution such that industry be required to reduce their nutrient and sediment pollution by five percent during the five-year permit term. I am doing my part by training pre-service teachers, my grad students AND 18,000 kids/year with our environmental ed watershed programs. If all stakeholders do their part, we can improve water quality even if it costs more.</p>	<p>See response # 8 a and #8 b (1).</p>

<p>30. Kirby Hutto, 3198 Red Hill Rd., North Garden, VA 22959</p> <p><b>Also submitting the same comments:</b></p> <p>(See the list of 617 individuals at the end of this section)</p>	<p>The updated general permit must maintain progress in restoring the Chesapeake Bay and our local streams and rivers. I recommend that the general permit include specific and enforceable limits on nutrient and sediment pollution. I also recommend that industrial activities, much like local governments, be required to reduce their nutrient and sediment pollution by five percent during the five-year permit term. I support Virginia's efforts to restore the Chesapeake Bay and believe my recommended revisions would further the state's efforts to improve water quality.</p>	<p>See response # 8 a and #8 b (1).</p>
<p><b>Public Hearing Speakers (Verbal and Written Comments)</b></p>		
<p>31. (PH1) John Fowler, Chesapeake Bay Foundation (CBF) (Written Comments)</p>	<p>We applaud the hard work and many achievements of the DEQ staff and other stakeholders in connection with the preparation of this draft permit, but we must oppose the draft in its current form as inconsistent with the commitments of Virginia's Watershed Implementation Plan (WIP) and applicable law.</p> <p>The industrial stormwater general permit authorizes covered industrial facilities to discharge polluted stormwater to local streams and rivers. A waste load allocation (WLA) for this industrial stormwater sector is included in the Bay TMDL, and the Virginia Watershed Implementation Plan (WIP) committed to meet the industrial stormwater WLA. However, the draft permit falls regrettably short of important requirements, the most important of which are these:</p> <p>First, the proposed permit fails to assign to the covered facilities a specific WLA for nutrients and sediment or otherwise require these facilities to address the aggregate WLA assigned to the industrial sector by the Bay TMDL. If this permit is approved in its current form, therefore, no entity would be responsible for Virginia's industrial stormwater WLA, contrary to the Clean Water Act and to the State Water Control Law. (While the WIP said the industrial stormwater WLA is assigned to regulated MS4s, as I'll discuss further in a moment, the Phase II general MS4 permit and the Arlington County Phase I permit are silent on</p>	<p>See response # 8 a and #8 b (1).</p>

	the issue).	
	<p>The second striking problem with the draft permit is that it improperly states that permittees may use nutrient credits to meet VSMP water quality design criteria when expanding. This provision contradicts Virginia law which specifies that nonpoint sources of runoff pollution may meet water quality design criteria through use of nutrient credits. This is a possibility that is not available for runoff pollution from regulated point sources. Industrial stormwater facilities are regulated point sources, and under Virginia's trading law, they are allowed to engage in nutrient trading only for compliance with a WLA assigned in a VPDES permit. As drafted, this draft NPDES permit assigns no WLA to permittees, so the permit would preclude permittees from engaging in nutrient trading.</p>	See response #8 c.
	<p>CBF urges the Board to require changes to this permit consistent with the WIP and underlying law: The permit should be revised to require each permittee within the first two years of the permit period to calculate its own WLA and to develop and submit to DEQ for approval an action plan for reducing its load by the end of the permit period in the manner currently applicable to MS4s.</p> <p>The WLA should be developed using the formula prescribed by the WIP for MS4s (based on a facility's impervious and pervious acreage) and the action plan should require reductions of 5% of the total WLA, as is required for MS4s. Requiring permittees to follow the methodology applicable to MS4s is appropriate for several reasons: (1) The WIP stated it assigned the industrial stormwater load to MS4s; and (2) many industrial stormwater permittees discharge into MS4s service areas, such that the accounting and reduction methodology should be consistent.</p> <p>This suggested change would also correct the current permit's misapplication of Virginia's trading law. Thus, once DEQ approves an industrial stormwater permittee's developed WLA, a permittee otherwise in compliance with law should be a candidate for participation in nutrient trading. The draft</p>	See response #8 b (1) and #8 c.

	industrial stormwater permit should be modified as outlined here today and as further indicated in our written comments consistent with law and with the commitments made in Virginia's WIP.	
32. (PH2) John Roland, Asphalt Industry (Verbal Comments)	Only issue that the Asphalt Industry has is with the nutrient sampling. There is no reason to believe there are any nutrients in storm water associated with asphalt facilities. They would like DEQ to look at the requirement for specific SIC classifications/permit sectors and exempt them from nutrient sampling.	See response #3.
33. (PH3) Faye Bailey, Private Citizen (Verbal Comments)	Citizen concerned about the Bay. Would like the regulation to address the Bay TMDL WLAs for industrial facilities.	See response # 8 a and #8 b (1).
34. (PH4) Jacob Powell, Virginia Conservation Network (Verbal Comments)	Concern is that WLAs are not addressed in the permit. Recommends that WLAs be included for industries in the Chesapeake Bay.	See response # 8 a and #8 b (1).
35. (PH5) Robin Broder, Potomac Riverkeeper (Verbal Comments)	Localities should not have to be the only ones to reduce nutrients. WLAs should be included for industries in the general permit.	See response # 8 a and #8 b (1).

**Also submitting the same comments as Comment #30:**

Kirby Hutto, North Garden; Rebecca Bryant, Alexandria; Constance Birch, Staunton; Jeffrey Fasceski, Burke; Therese Dyer-Caplan, McLean; Blair Hansford, Seaford; Neal Furgurson, New Kent; Sarah Behan Crespo, Alexandria; Burton Bostwick, Arlington; Judith Runion, Charlottesville; Lou Ferraro, Virginia Beach; Jennifer Haney, Cascade; Larry Wingo, Virginia Beach; Ray Legge, Boyce; Marisa Reilly, Woodbridge; William Greer, Roanoke; Daniel Sude, Falls Church; Russell Hutchison, Virginia Beach; Mark Zimmerman, Winchester; Nicholas Neagle, Fredericksburg; Matthew McMurtry, Arlington; Joe King, Radford; Martha Taylor, Burkeville; Daniel Gibson, Virginia Beach; Catherine Rothman, Norfolk; Katie O'Neill, Arlington; Enrique Sanchez-Armass, Arlington; John Ragosta, Rixeyville; Elizabeth Barnes, Norfolk; Greg Battaglia, Virginia Beach, Amy Gould, Annandale; David Wood, Charlottesville; Ellen Shelton, Chesterfield; Courtney James, Quinby; Hazle W Edens, The Plains; Philip Maisel, Reston; Ronald Fox, Hopewell; Sarah Lanzman, Dyke; William Tuck, Midlothian; Lorelee Clark, Williamsburg; Carla Witt, Falls Church; Catherine Winsor, McLean; Derek Meyer, Alexandria; Mandy DeVine, Alexandria; Elise Cleva, Arlington; John Mayeux, Luray; Douglas Beckmann, Norfolk; Lauren Tabor, Verona; Beverly Pettway, Chesterfield; William Martin, Springfield; Steven Carter-Lovejoy, Chesterfield; Casey Pehrson, Burke; Kirsten Grish, Reston; Laurie Roberts, Tazewell; Robert Whaley, Charlottesville; Greg Singleton, Springfield; Alan Sheeler, Poquoson; Charles Comer, Mount Jackson;

Errol Plata, Chesapeake; Michael Britt, Alexandria; Ronald Shamaskin, Midlothian; Calvin Fowler, Henrico; Margaret Ballard, Alexandria; Liesl Stark, Wachapreague; William Corlett, Williamsburg; Robert Starkweather, Stafford; Brenda Wesley, Leesburg; Leonardo Varela, Alexandria; Barbara Muir, Fredericksburg; Elizabeth Essenmacher, Norfolk; Frederick Rosebrook, Harrisonburg; Brandy Bergenstock, Newport News; Betty Stewart, Newport News; Frederick Fisher, Charles City; Mark Alexander, Fredericksburg; Phillip Latham, Alexandria; Tom Obenschain, Richmond; Dean Amel, Arlington; Burton Avery, Barboursville; Glen Thomason, Montross; Lee Waggoner, Fairfax; Linda Jennings, Midlothian; Ayesha Babar, Fairfax; Timothy Ferring, Norfolk; John Reiter, Exmore; Robert Leggett, Great Falls; Leslie Low, Warrenton; Judith A Goodwin, Virginia Beach; Marta Layseca, Arlington; Nanette Myers, Alexandria; Arielle Wildman, Leesburg; Jo Chamberlain, Lancaster; John Andersen, Norfolk; Edward Monroe, Chesterfield; Cheryl Scher, Atlantic; Mark Owens, Virginia Beach; Lindsay Robinson, Mechanicsville; Eugenia Kroplin, Stuart; Todd Sumser, Midlothian; Lisa Walthers, Arlington; George Carneal, McLean; Jeanette Stewart, Falls Church; Joseph Reid, Falls Church; Terry Medhurst, Stafford; John Tolleris, Alexandria; Betty H. Weatherley, Alexandria; Kristin Irani, King George; Dave Parsons, Oakton; Lynn Mace, Floyd; Sarah S, Alexandria; Pat Murphy, Norfolk; Jeff Deem, Lorton; Judith Kator, Williamsburg; Carol Cox, Fredericksburg; Pam McMillie, Mine Run; Lehner Craig, Richmond; Jan Van Deventer, Falls Church; Jacob Hostetter, Williamsburg; David Peyton, Falls Church; Marilyn Sue Rainey, Charlottesville; Brian Parr, Annandale; Lee Neese, Virginia Beach; Gene Moser, Hampton; Caryl Sawyer, Sandston; Richard Lovell, Falls Church; David Coker, Alexandria; C. Robert Clauer, Newport News; Theresa McFadden, Alexandria; Amy Biggs, Virginia Beach; James Barber, Chesapeake; Jody Turner, Yorktown; Sarah Munroe, Oakton; Ronald Blade, Hampton; Charles Tyus Jr, Dunnsville; Elise Balcom, Virginia Beach; Blaine Blackthorne, Galax; James Miller, Earlysville; C Lemon, Eagle Rock; Helen Moulis, Virginia Beach; Cecelia Soscia, Virginia Beach; Karen Cifranick, Norfolk; Richard Carpenter, Virginia Beach; Carol Summerlyn, Portsmouth; Becky Daiss, Arlington; Pete Hangen, Virginia Beach; Virginia Paul, Harrisonburg; Harold Diggs, Topping; Carson Rector Jr., Glen Allen; Richard Pope, Heathsville; Lindsay Keiter, Williamsburg; Jenny Nowlen, Charlottesville; Susan Matheson, Leesburg; Jane B Dickson, Yorktown; Marianne Arnold, Union Hall; Janet McEvoy Price, Falls Church; Thomas Armstrong, Reedville; Mark Winslow, Springfield; Joshua Stone, Hayes; Horace McNeal, Virginia Beach; Pamela deRoy, Suffolk; Carla Earnest, Norfolk; Derek Young, Charlottesville; Sally Faulkner, Kents Store; John Cannon, Front Royal; James Strawn II, Williamsburg; Marjorie Runge, Springfield; William Stewart, Arlington; Sara Noren, Virginia Beach; Natalie Zuckerman, Stanley; Beverly Battelle, Richmond; Robert Samuelson, McLean; Kristin Brown, Springfield; Rita Marlier, Norfolk; Sam Proctor, Richmond; Maria Gimenez, McLean; Irwiin Sacks, Virginia Beach; Frank DeBolt, Charles City; John Tippet, Fredericksburg; Mark Ross, Fairfax; Nicholas Ferriter, Mollusk; Joshua Evans, Virginia Beach; Kimberly Elkins, Weyers Cave; John Walker, Chesapeake; Michael Jackson, Deltaville; Shannon Welch, Madison; Wyndham Price, Richmond; Fred Hean, Charlottesville; Adrienne Hall-Bodie, Lexington; Donald J Dixon, Virginia Beach; Robert Agee, Alexandria; Robert McDermott, Montross; Martha Cusick, Richmond; Isabelle D'Achille, Reston; James Tapp, Great Falls; Ellen Shuler, Richmond; Mary Blackwell, Vienna; Paul Nancarrow, Staunton; Christie Lum, Lorton; Kristin Carter, Keswick; Leslie Calambro, Henrico; David Lewis, Annandale; Steve Tuttle, Alexandria; Sherry Eborn-Fovel, Charlottesville; Cynthia Bowen, Salem; Catherine Volz, Arlington; Janet Rash, Newport News; Patricia Wharry, Hampton; Lawrence Jacksina, Charlottesville; Charles J Whittle Jr, Dugspur; Beth Konopnicki, Yorktown; Charles Jos Biviano, Richmond; Paul Malcolm, Gloucester; Adam D'Onofrio, Petersburg; Raymond Smith, Fairfax; Theodore Hansion, Williamsburg; Alexander Krupp, Fairfax; Laura Blackburn, Mechanicsville; Otto Gutenson, Lovettsville; Bruce Roberts, Alexandria; Kimberly Abe, Heathsville; P. Becker, Arlington; Megan Krout, Arlington; Martha Buhler, Falls Church; David Vespa, Arlington; Emelia Beltran, Arlington; Brenda Yu, McLean; Keir Sterling, Richmond; Jordan Westenhaver, Williamsburg; Sandi Wurtz, Alexandria; Philip Coulling, Lexington; Louis Reginato Jr, Chesapeake; Dale Schutt, Christiansburg; Sara Upchurch, Norfolk; Caroline Kemper, Alexandria; Bruce Ladino, Fairfax; William Whiteside, Williamsburg; Denise Moclair, Hampton; Elizabeth Danforth, Richmond; Robert and Ginny Bonometti, Winchester; Stanley Rodia, Centreville; Shannon Cowett, Chantilly; Carol Warren, Chesapeake; Meghan Mannarino, Charlottesville; Dian Tublin, Herndon; David Rabadan, Annandale; Laura Berry, Blacksburg; Dianne Jordan, Gloucester; Margy Ohring, Round Hill; Kathy Batkin, Portsmouth; Jay Henderson, Midlothian; Fung Chen, Fairfax; Alex Landry,

Alexandria; Ellen Kent, Winchester; Cheryl Reed, Alexandria; Richard Tororella, Centreville; Jacqueline Dussia, Chesapeake; Lucile Miller, Henrico; Nadia Burns, Williamsburg; Nicholas Kellas, Norfolk; Lisa McWhorter, Suffolk; Monica Schultz, Winchester; Benita Crow, Chesapeake; Dona Malvin, Williamsburg; John Decker, Christiansburg; Lisa Becouvarakis, Gum Spring; Michael Duffy, Arlington; Jackie Davis, Christiansburg; Sebastian Kuhn, Norfolk; Ann Williams, Richmond; Warren Mountcastle, Providence Forge; Robert Forster, Fairfax; Sue Gier, Singers Glen; Patricia Remacle, Reston; James Mosey, Midlothian; David Buchanan, Charlottesville; Linda Even, Newport News; Ronald Goldstein, Williamsburg; Douglas Throp, Norfolk; Diana Parker, Chesterfield; Kennneth Henson, Warrenton; Angier Brock, Yorktown; Robin Whitmore, Arlington; John Evans, Alexandria; David Woodson, Henrico; Gregory Osteen, Virginia Beach; Robert Hawkins, Mechanicsville; Roy Hock, Williamsburg; Kathleen Taimi, Arlington; JoEllen Daniel, Glen Allen; Debbie Belote, Machipongo; Brian Moores, Doswell; Abner Hassell, Suffolk; Gina Paige, Glen Allen; Shirley Millican, Springfield; Stephanie Hundemer, Virginia Beach; Alan Chadwick, Dulles; John Light, Arlington; George Anderson, Alexandria; Ken Russell, Midlothian; Eric King, Vienna; Lareta Finger, Harrisonburg; Diane Clark, Woolwine; Jean Tunstall, Clifton; Kirkland Clarkson, Norfolk; Beverly Mann, Norfolk; Sharon Burtner, Oakton; Benjamin Tuck, Oakton; William Toms, Herndon; John Dronzek, Virginia Beach; Adolph Strobel, Glen Allen; Gail Herмосilla, Cross Junction; Peggy Gilges, Charlottesville; Eliza Berkley, Norfolk; John Berkley, Norfolk; Sylvia Bocskor, Vienna; Courtney Siegenthaler, Burke; Mary Picardi, Virginia Beach; Kannan Sundaramoorthy, Fairfax; Nicole Pierce, Newport News; Kristen Firestone, Norfolk; Mary Barhydt, Norfolk; Patti Rucker, Stephens City; Doug Small, Onancock; Walter Nicklin, Alexandria; Patricia Edson, Richmond; Cary Gibson, Eastville; Jo Ann Hersh, Alexandria; Claire Gorman, Norfolk; William Young, Lynchburg; Judith Dabney, Yorktown; Paul Burke, Virginia Beach; Polly Ransone, Onancock; Ellen Radday, Arlington; Michael Broder, Arlington; Virginia Barber, Crozet; Frank Kearney III, Hampton; Thomas Kopko, Haymarket; John L. Knight, Henrico; Robert Veltkamp, Alexandria; Wesley Jargowsky, Troutville; Marya Fitzgerald, Alexandria; John Overton, Arlington; Darrell Schwalm, Staunton; Mimi Hodsoll, Falls Church; Jo Wampler, Bridgewater; Lucas Pickett, Blacksburg; Philip Case, Staunton; Cary Adams, Richmond; Drew Landman, Norfolk; William Napolitano, Williamsburg; Rob Jennings, Shipman; Meghan Cooke, Tappahannock; Victoria Humphreys, Virginia Beach; Katherine Landman, Norfolk; Thomas Mainor, Williamsburg; Megan Fink, Virginia Beach; Donna Robson, Alexandria; Gerry Fuller, Arlington; Bryan Trumble, Fredericksburg; Mark Heinicke, Ruckersville; Chris Koeritz, Scottsville; Paul Kava, Bohannon; Donna Hapner, Stafford; Robert Bracken, Heathsville; Peter Friend, Williamsburg; Ronald W. Tuttle, Winchester; Nancy Gercke, Charlottesville; H. Talmage Day, Alexandria; Thomas Banko, Virginia Beach; Gwendolyn Kennedy, Annandale; Mark Miller, Alexandria; Elaine Becker, Roanoke; Martha Kent, Richmond; Teena MacKellar, Hampton; George Edmonds, Chesterfield; Leslie Fellows, Aylett; Dana Horton, Poquoson; Linda Cox, Midlothian; Wayland Marks, Fredericksburg; Marcus Walther, Virginia Beach; Greg Gentry, Ruckersville; Murphy Thibodeau, Barboursville; Ralph Eaton, Roanoke; Elizabeth Outka, Midlothian; Rodney Carlson, Virginia Beach; Jack Middour, Middleburg; Christopher Wynkoop, Madison; Marisa Schmidt, Fairfax Station; William Dent, Harrisonburg; Hale Thomas, Deltaville; Christopher Spiel, Norfolk; Sherry Harris, Chesterfield; Elizabeth Scott, Harrisonburg; Martin Kilmer, Vienna; John Skeelee, McLean; Chris Maggio, Arlington; Tom Miller, Harrisonburg; Lynn Chapman, Richmond; Betsy Blair, Richmond; Raymond Maloney, Stafford; Chris Eliades, Hampton; Bruce Wiljanen, Arlington; Art Daniels Sr, Falls Church; Ronald Rocheleau, Gloucester; Jane Smith, Linville; John Jacobs, Fairfax; Ted Hochstadt, Falls Church; Allen Witherington, Palmyra; William VonOhlen, Newport News; Bruce Waldrop, Henrico; Hylah Boyd, Richmond; Andrew Cohen, Virginia Beach; Fay Stewart, Zuni; Blane Chocklett, Troutville; John Underwood, Arlington; Kathleen Hoeck, Heathsville; Alexander Schiffelbian, Virginia Beach; Judy Bryan, Alexandria; Theo Giesy, Norfolk; Kathleen Lambiasi, Haymarket; Christopher E Robin, Burke; Mary Lynne Lacy, Richmond; Mariana Lawrence, Lorton; Joan Chapman, Charlottesville; Christine Woods, Hampton; Joseph Smith, Richmond; Cindy Dalton, Henrico; Lucius Kellam, Cape Charles; Eric Gilchrist, Charlottesville; Dorothy Johnson, Centreville; Doris Siewert, Chesterfield; Kitty Cox, King William; Kenneth Robertson, Chester; Sherri Irving, Fairfax; Julia Balsley, Falls Church; Thomas Ellis, Hampton; Joseph Coxe, Newport News; Dan Driscoll, Newport News; Gray Puryear, Norfolk; Lynn Krem, Stephenson; Jewel Thomas, Hallieford; Ron Gilliland, Herndon; David Partington, Charlottesville; Deborah Meadows, Virginia Beach; Ann Violi, Harborton; Virginia Britton,

Alexandria; Ari Daniels, Keswick; Jay Green, Richmond; Nydra Jones, Virginia Beach; Leslee Eldard, Burke; David Bernard, Richmond; Thane Harpole, Hayes; Stephen Walker, Manassas; Elizabeth Yeapanis, Fairfax; Delores Eddins, Newport News; Kelly Place, Williamsburg; Dennis Woodruff, Charlottesville; George E. Goode, Mathews; Terry Moody, Kents Store; Bruce Oliver, Christiansburg; Sabrina Powell, Yorktown; Molly Chapman, Winchester; John Hobart, Hampton; Anne Walters, Springfield; Bob Sipe, Richmond; Mary Ann Parr, Charlottesville; Oliver Guichard, Partlow; Johanna Osborn, Waynesboro; George Beeler, Hampton; Sara Bebout, Blacksburg; Janet Boland, Burke; Meredith Kearns, Lanexa; Jason Walker, Charlottesville; Jason Halbert, Charlottesville; Bryan Hofmann, Fredericksburg; Randall Houff, Stuarts Draft; Anita Gomez, Portsmouth; David Laux, Annandale; Glenda Kohlhafer-Regan, Chesapeake; Paul Henderson, Alexandria; Jordan Sears, Rockville; Jerry Green, Charles City; Gale Bryant, Chesapeake; John Woodruff, Charlottesville; Bob Meyers, Vienna; Michelle-Marie Scott, Newport News; Dave Hoffman, Orange; Teri Owen, Richmond; Anika Williams, Portsmouth; David Guillaudeu, Vienna; Robert Gardiner, Sterling; Margaret deButts, Arlington; Rick Cerza, Chesapeake; Charles Weigand, Virginia Beach; Ernest Rotramel Jr, Falls Church; Andrea King, Spotsylvania; Mary Krantz, Norfolk; Margaret Lung, Reston; Carol Comstock, Leesburg; Georgia Terwilliger, Mechanicsville; Jean Flynn, Machipongo; George Freeman, Jr, Richmond; Betty Milligan, Chesapeake; Brent Hepner, Norfolk; Dorothy Edwards, Chesterfield; Charlene Qualk, Harrisonburg; MK Floor Plantation, Callao; Donna Feirtag, Arlington; Mary Wingard, Gainesville; Amy St Clair, Alexandria; Joseph Mullee, Ashburn; Annette Perez, Henrico; Kevin Williams, Reston; Michael Niebling, Falls Church; Salvatore Luiso, Williamsburg; Victoria Moore, North Garden; Joshua Van Deventer, Goodview; Jan Ward, Virginia Beach; Ann Miller, Roanoke; Kristy Halterman, Verona; Darryl Dawson, Boyce; Joyce Mendel, Belle Haven; David Page, Alexandria; Sue Madeyski, Virginia Beach; Chris Monahan, Springfield; Patricia E. Dolan, Virginia Beach; Nanette Smith, Reedville; Ruth Carlone, Stafford; Sara Hall, Ashburn; Mallory Horton, Ashburn; Patricia O'Neill, Falls Church; Polk Kellam, Belle Haven; Abbie Tomba, Spotsylvania; Bryan Pinckney, Norfolk; Nancy C. Stone, Bealeton; Rick Small, Waynesboro; Sandra Moore, Williamsburg; Walter Moore, Williamsburg; Mallory Spencer, Williamsburg; Frank Yodie, Leesburg; Roseann Xytakis, Richmond; Larry Olson, Montpelier; Christina Hwang, Charlottesville; William Sprinkel, Port Republic; Hugh McElwain, Chesterfield; Annemarie Collat, Falls Church; Don Faulkner, Lexington; Franklin Lundy, Virginia Beach; P Sherron Marquina, Richmond; Carlyle Gravely, Newport News; Nils Bahringer, Virginia Beach; Sarah Wolters, Staunton; Elisabeth Pethybridge, Virginia Beach; Lynn Wilson, Sandston; Mary Villa, Newport News; Rayanne Pirozzi, Springfield; Tim Lank, Springfield; Cortez Cooper, Vienna; Stanley Woodruff, Charlottesville; Molly Woodruff, Charlottesville; Susan Tate, Alexandria; Diane Bostic, Virginia Beach; James Gleason, Clifton; Steven Kranowski, Blacksburg; Jess Winstanley, Fairfax; Elaine Fischer, Roanoke; Megan Longfellow, Manassas; Cristina Lewandowski, Herndon; Stacy Schnetzka, Richmond; Robin Puryear, Chesterfield; Lori Smith, Newport News; Stewart Powell, Richmond; Jessica Pretty, Norfolk; Sara Smith, Onancock; Jen Natyzak, Charlottesville; Erin Eberstein, North Garden; Ragen Buttis, Richmond; Kyra Hadjinlian, Virginia Beach; Patricia Meyerson, Yorktown; Sabine Jacobson, Poquoson; Morgan Snyder, Virginia Beach; Beverley Dorton, Newport News; Michelle Morawski, Alexandria; Kristin Harding, Fredericksburg; Irwin Flashman, Reston; Mike Blackburn, Vienna; Phyllis Mollen, Richmond; Brooke Edwards, Chesapeake; Mike Shushan, Williamsburg; Karen Hitchcock-Mort, Virginia Beach; John Short, Yorktown; Elizabeth Dunlap, King William; Brian Siff, Hanover; Michael East, Danville; Lee Archard, Weems; Kenneth Hopson, Richmond; Sandra Hood, Yorktown; Benjamin Oxley, Arlington; David Rosmer, Norfolk; Kimberly Fordyce, Virginia Beach; Michael Jacobson, Poquoson; Betty Ford, Midlothian; Ken Gigliello, Centreville; Kathryn Brown, Lorton; Patricia Brashears, Midlothian; Marilyn Martucci, Roanoke; Thomas Shull, Newport News; George Wigfall, Virginia Beach; John Reeves, Harrisonburg; Carol Litchfield, Manassas; Janet Rochester, Onancock; Kimberly Marsho, Reedville; Bud Watson, Ashland; Amy Ayers, Clifton Forge; Marshall Waring, Henrico; Helen Sanders, Fredericksburg; Rogard Ross, Chesapeake; Heather Hollowell, Portsmouth

### **All changes made in this regulatory action**

Please detail all changes that are being proposed and the consequences of the proposed changes.

Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Definitions	<p>Added definitions for "Board", "closed landfill", "Department", "Director", "measurable storm event", "minimize", "MS4", "primary industrial activity", "site", and "Virginia Environmental Excellence Program (VEEP)" to clarify these terms in the regulation.</p> <p>Deleted the definitions of "inactive landfill", "large and medium municipal storm sewer system", "section 313 water priority chemicals", and "small municipal separate storm sewer system" because these terms are not used in the regulation.</p> <p>Modified the definitions of "best management practices", "co-located industrial activity", "industrial storm water", and "storm water discharge associated with industrial activity" for consistency with EPA definitions.</p> <p>Modified the definition of "industrial activity", subsection 5 (landfills) to replace the reference to DCR VSMP with VPDES, since the referenced permits are now VPDES permits.</p>
	15	None	<p>Added a section on "Applicability of incorporated references based on the dates that they became effective" to define the applicable date of EPA 40 CFR references used in the regulation.</p>
20		Purpose	<p>Clarified that the regulation governs storm water discharges from facilities in any of the defined industrial activity categories, and storm water discharges designated by the Board under the provisions of 9VAC25-31-120 A 1 c, or 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.</p>
40		Effective date of the permit	<p>Changed the effective date to July 1, 2014 and the expiration date to June 30, 2019 to correspond to the new general permit dates.</p>
50 A, B	50 A, B, C	Authorization to discharge	<p>Reformatted this section to match the structure of other general permits being issued by the Board at this time. Added an opening paragraph to clarify</p>

			<p>which facilities are eligible to discharge under the permit.</p> <p>Added two reasons why a facility's discharge would not be eligible for coverage under the permit: (1) if the discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30, and (2) if the discharge is not consistent with the assumptions and requirements of an approved TMDL. These restrictions on coverage are being added to all general permits as they are reissued.</p> <p>Noted in this section that Virginia's Phase I Chesapeake Bay TMDL WIP states that waste loads for future growth for new facilities in the Chesapeake Bay watershed with industrial storm water discharges cannot exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the new industrial activity. For purposes of this permit regulation, facilities that commence construction after June 30, 2014, must be consistent with this requirement to be eligible for coverage under this general permit.</p> <p>Modified the C. 4. Authorized Nonstorm Water Discharges to match EPA's 2008 MSGP.</p>
50 C	50 D	Conditional exclusion for no exposure	Reworded this section to clarify when the "no exposure certification" may be submitted, that permit requirements no longer apply, and that the certification must be resubmitted every 5 years.
50 D	50 E	Compliance with this general permit	Added that " <i>Compliance with this general permit constitutes compliance with the Clean Water Act, the State Water Control Law, and applicable regulations under either, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation.</i> " This was added in response to comments from the Office of the Attorney General on other general permits recently reissued to recognize there are some exceptions to compliance with the Clean Water Act as stated in the permit regulation.
	50 F	None	Continuation of permit coverage. Added language to allow for administrative continuance of coverage under the expiring general permit until the new permit is issued by the Board, and facility coverage is either granted or denied. To be eligible, the permittee must submit a timely registration statement and be in compliance with the terms of the expiring permit. This language is being added to all general permits as they are reissued so

			<p>permittees can discharge legally if the permit reissuance process is delayed.</p>
60 A, B		Registration statement	<p>Reformatted this section to match the structure of other recently reissued general permits.</p> <p>The registration deadline for owners of existing facilities was revised to May 2, 2014, which is 60 days prior to expiration. New facilities must also submit a registration statement at least 60 days prior to commencement of industrial activity. Previously it was 30 days prior. These new deadlines meet both agency and permittee needs.</p> <p>Revised the deadline for existing individually permitted facilities to notify DEQ and submit a registration for general permit coverage to 240 days prior to expiration of the individual permit. This time period allows DEQ time to determine if the owner is eligible for general permit coverage, and if they are not eligible, the permittee still has sufficient time to submit an individual permit application within the required 180 day period before the individual permit expires.</p> <p>Revised the Late Registration subsection, which allows existing permittees to register after June 30, 2014, but states that authorization to discharge will not be retroactive. Existing permittees may be provided administrative continuance of permit coverage if a complete registration statement is submitted before July 1, 2014.</p> <p>Moved the notification for facilities discharging through an MS4 to the registration statement contents subsection (section 60 C).</p>
60 C		Registration statement contents	<p>Removed C 1 c, the "responsible party" question (which was confusing), and now only ask for the Facility Owner name, and the Operator Name (if different than the owner).</p> <p>Modified the RS to ask for a FAX number for the facility; the nature of the business; for new facilities, whether the SWPPP has been prepared; facility area information on total facility area, area of industrial activity, the impervious area of the industrial activity, and the area draining to each industrial activity outfall. Added three questions from the 2009 RS form regarding a facility's discharges, and added new questions for scrap recycling/waste recycling facilities and primary airports. These questions help the Department to determine the monitoring requirements and</p>

			<p>appropriate DMRs to send to the owner with the permit. Changed the map requirement to require just a general location map and a site map showing property boundaries, industrial activity areas, outfalls and all receiving waters.</p> <p>Added a question for newly constructed facilities in the Chesapeake Bay watershed. Consistent with Virginia's Phase I WIP, to be eligible for permit coverage, new facilities that commence construction after June 30, 2014, must submit documentation that they have either installed measures and controls to meet the "no net increase" of nutrients and sediment from the site prior to their developing the land for the industrial activity, or that they are using nutrient credits or offsets to meet the requirement.</p>
60 E, F		Registration statement submittal and web posting	<p>In Section 60 E, specified that the RS may be delivered to the Department by postal mail or electronically.</p> <p>In Section 60 F, deleted the provision that a facility's RS be posted to the Department's public website for 30 days prior to the Board granting the facility general permit coverage. It was decided to remove the provision from the regulation itself and develop a web-based method to make the RS's available for public review.</p>
65		Termination of permit coverage	Repealed this section and moved the "Termination of Permit Coverage" into to the permit itself in Section 70, Part I B, Special Condition #14.
70		General Permit	Updated the permit effective date to July 1, 2014 and the expiration date to June 30, 2019.
70, Part I A 1		Types of monitoring requirements and limitations	<p>Changed the Benchmark Monitoring, Effluent Limitation Monitoring and Impaired Waters Monitoring from annual to semi-annual. This will allow the permittee to see more quickly when they have benchmark or effluent limitation exceedances, and will improve water quality by having SWPPP modifications, control measure adjustments and corrective actions taken sooner in the process. This will also allow the Department to better track compliance with the monitoring requirements, and to see more quickly which facilities are having storm water quality issues so that inspections can be targeted to the facilities that need more attention. Having all the monitoring on the same semi-annual basis will also take the confusion out of the reporting requirements for the permittee.</p>

70, Part I A 1 a		Quarterly visual monitoring	<p>Removed the requirement that visual examinations be made during daylight hours to allow facilities more flexibility in their operations.</p> <p>Consolidated all the sampling requirements and the representative outfalls allowance into Part I A 2, and the inactive/unstaffed sites provision into Part I A 4.</p>
70, Part I A 1 b		Benchmark monitoring	<p>Noted that monitoring commences with the first full monitoring period after the owner is granted coverage under the permit.</p> <p>Changed the benchmark waivers to four consecutive monitoring periods, and now allow the four samples to be averaged to qualify for the waiver. Allow facilities to use the last two monitoring periods from the previous permit to satisfy part of the waiver sampling requirement.</p> <p>Moved the monitoring periods information and the representative outfalls allowance into Part I A 2, and the inactive/unstaffed sites provision into Part I A 4.</p>
70, Part I A 1 b (2) (c) (and throughout sections 70 to 370, as appropriate)		BMPs	<p>Changed "BMPs" to "control measures" throughout the general permit (Sections 70 to 370, as appropriate) to be consistent with EPA's 2008 MSGP.</p>
70, Part I A 1 c (1) & (2)		Compliance monitoring – Effluent Limitations	<p>Noted that monitoring commences with the first full monitoring period after the owner is granted coverage under the permit, and moved the monitoring periods information into Part I A 2.</p>
70, Part I A 1 c (3) & (4)		Compliance monitoring – TMDL monitoring and Impaired Waters monitoring	<p>Added an opening paragraph to c (3) specifying that facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved prior to the term of this permit will be notified as such by the Department when they are approved for coverage under the general permit. Also added an opening paragraph to c (4) specifying that facilities that discharge to waters listed as impaired in the 2010 Final 305(b)/303(d) Water Quality Assessment Integrated Report, and for which a TMDL wasteload allocation has not been approved prior to the term of this permit, will be notified as such by the Department when they are approved for coverage under the general permit.</p> <p>Noted that monitoring commences with the first full</p>

			<p>monitoring period after the owner is granted coverage under the permit, and moved the monitoring periods information into Part I A 2.</p> <p>Specified that the permittee may apply for a waiver from either the TMDL monitoring or the Impaired Waters monitoring if the DMR data shows that their discharges are below the "quantitation level". The laboratory certificate of analysis has to be submitted with their waiver request. This was done to eliminate the confusion as to what "not present" and "not detected" meant in the previous permit.</p> <p>Added an allowance so that permittees that were covered under the 2009 industrial storm water general permit that requested and were approved to discontinue specific TMDL sampling or impaired waters sampling are not required to redo that sampling for this permit reissuance.</p> <p>Specified that representative outfall sampling is allowed for these monitoring types, consistent with EPA's 2008 MSGP.</p>
70, Part I A 2 a, b, c, d	70, Part I A 2 d (old "d" became "e")	Monitoring instructions	<p>Specified in 2(b) that for discharges from a storm water management structure, the monitoring shall be performed at a time when a measurable discharge occurs from the structure.</p> <p>Specified all the permit monitoring periods in subsection 2d.</p>
70, Part I A 1 a (5) and Part I A 1 b (5)	70, Part I A 2 f	Representative outfalls	<p>Moved this provision from the quarterly visual monitoring and benchmark monitoring sections. Deleted the requirement that the permittee include an estimate of the runoff coefficient of the drainage areas because the data are not needed.</p>
70, Part I A 1 a (4) and Part I A 1 b (4)	70, Part I A 4	Inactive and unstaffed sites	<p>Moved this allowance from the quarterly visual monitoring and benchmark monitoring sections. Added a waiver of the quarterly visual assessments, routine facility inspections, and monitoring requirements (including benchmark, effluent limitation, and impaired waters monitoring) provision for inactive and unstaffed sites. Annual comprehensive site inspections are still required. The waiver must be submitted for approval, and if the facility becomes either active or staffed, the permittee has to notify the Department, and all quarterly visual assessments, routine facility inspections, and monitoring requirements have to be resumed immediately.</p>
70, Part I A 4	70, Part I A 5	Reporting monitoring results	<p>Changed this section to require all semi-annual monitoring to be submitted by January 10 and by</p>

			July 10. Also specified that for representative outfalls, the sampled outfall will be reported on the DMR, and the outfalls that are representative of the sampled outfall will be listed in the comment section of the DMR. Signed DMRs are not required for each of the outfalls that are representative of the sampled outfall.
70, Part I A 5	70, Part I A 6	Corrective actions	Removed the follow-up monitoring required by the current permit (in A 6 c) for an exceedance of an effluent limit or a TMDL waste load allocation. The follow-up monitoring in the existing permit was very difficult for the Department to track, and confusing for the permittees to implement. Often, the follow-up monitoring had to be conducted during the next monitoring period (because many permittees only do their sampling at the end of the monitoring period), which led to confusion as to whether the follow-up sampling qualified as the permittee's normal sampling for that monitoring period as well. The revised permit now requires the permittee to take corrective action and submit a corrective action report to the Department whenever effluent limits or TMDL waste load allocations are exceeded. This change will allow the Department to see quickly when a facility is having a storm water quality issue, and what measures the permittee is taking to correct the problem. With the sampling periods now changed to semi-annual for all monitoring types, the permittee will know exactly when sampling is required, and the Department will be able to track compliance with the monitoring requirement as well.
70, Part I B 1		Special Conditions - Allowable nonstorm water discharges	Modified this special condition (SC) to make the list of these discharges consistent with EPA's 2008 MSGP.
70, Part I B 5		Special Conditions – Discharge of floating solids	Modified this SC to make the list of these discharges consistent with EPA's 2008 MSGP.
70, Part I B 6		Special Conditions – Salt storage plies	Replaced the existing "Salt Storage Piles" SC with: <i>"Approval for coverage under this general permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation."</i> This condition comes from the regulation Section 50 E, and is being added to the SC section of general permits as they are reissued. It was felt that it needed to be in the permit itself, and not just in the regulation section. The "salt storage pile" section was moved to the SWPPP section of the permit

			(Part III B 4 b (5)).
70, Part I B 7	70, Part I B 7 a, b	Special Conditions – Discharges to TMDL waters	<p>Made the existing TMDL SC subsection "a"; added new subsection "b" for facilities in the Chesapeake Bay watershed.</p> <p>Subsection "b" requires facilities in the Chesapeake Bay watershed to monitor their discharges for sediment and nutrients semi-annually for the first two years of permit coverage (four samples) to characterize the contributions from their facility's specific industrial sector for these parameters.</p> <p>Virginia estimated the loadings from industrial storm water facilities in Virginia's Phase I Chesapeake Bay TMDL WIP. Actual facility area information, and the TP, TN and TSS data collected for this permit reissuance will be used by the Board to quantify the nutrient and sediment loads from VPDES permitted industrial storm water facilities, and will be submitted to EPA to aid them in further refinements to their Chesapeake Bay TMDL model. The loading information will also be used by the Board to determine any additional load reductions needed for industrial storm water facilities for the next reissuance of this permit in 2019.</p> <p>Added an allowance for facilities that were covered under the 2009 general permit, and that sampled for TSS, TN or TP, to use applicable sampling data from the last two monitoring periods of that permit and the first two monitoring periods of this permit to satisfy the four consecutive monitoring periods requirement.</p> <p>Permittees must analyze the collected nutrient and sediment data, and develop TMDL action plans where necessary. The data collected at the facility for each of the pollutants of concern (e.g., TP, TN and TSS) has to be averaged, and the results compared to the loading values for TP, TN and TSS that Virginia used for the Phase I WIP.</p> <p>If the calculated facility loading value for TP or TN or TSS is above the loading values for TP or TN or TSS, then the permittee has to develop and submit to the Board for review and approval a Chesapeake Bay TMDL Action Plan. The plan must be submitted within 90 days from the end of the second year's monitoring period (by September 28, 2016). The permittee must implement the approved plan over the remaining term of the permit to achieve all the necessary reductions by June 30, 2024.</p>

			Permittees required to develop and implement a Chesapeake Bay TMDL Action Plan must submit an annual report to the Department by June 30 <sup>th</sup> of each year describing the progress in meeting the required reductions.
	70, Part I B 8	Special Conditions	Discharges through a regulated MS4 to Chesapeake Bay TMDL waters. Added this SC which requires facilities discharging through a regulated MS4 to waters subject to the Chesapeake Bay TMDL to incorporate measures and controls into their SWPPP to comply with the local ordinances if the facility is notified by the MS4 operator that the locality has adopted ordinances to meet the Chesapeake Bay TMDL. Permittees are already required to comply with any other applicable federal, state, or local statute, ordinance, or regulation (see regulation Section 50 E, and permit SC #6), so this SC just notifies them that their locality may adopt special Chesapeake Bay TMDL ordinances that would apply to them as well.
	70, Part I B 9	Special Conditions	<p>Expansion of facilities that discharge to Chesapeake Bay TMDL waters. Virginia's Phase I Chesapeake Bay TMDL WIP states that the waste loads from any expansion of an existing permitted facility discharging storm water in the Chesapeake Bay watershed can't exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the industrial activity.</p> <p>Added this SC to require the permittee to document in the SWPPP, for any industrial activity area expansions (i.e., construction activities, including clearing, grading and excavation activities) that commence on or after July 1, 2014, the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded land area prior to the land being developed, and the measures and controls that were employed to meet the "no net increase" of storm water nutrient and sediment load as a result of the expansion of the industrial activity. Any land disturbance that is exempt from permitting under the VPDES construction stormwater general permit regulation (9VAC25-880) is exempt from this requirement.</p> <p>If nutrient credits or offsets are allowed for the facility by applicable regulations, the permittee may use these to meet the "no net increase" requirement.</p>
70, Part I B	70, Part I B	Special Conditions –	Modified this SC extensively. The language that

8	10	Water quality protection	was retained is consistent with EPA's final 2008 MSGP. The language that was removed was not from EPA's MSGP, but was added per a suggestion by the 2009 general permit TAC. For this reissuance, it was decided to remove this language because the 2014 TAC felt it was not necessary for the SC. The Corrective Action section of the permit tells the permittee what to do if they exceed an effluent limit, TMDLWLA concentration or a water quality standard, and the SWPPP describes what the permittee must do to document the selection, design, and installation of control measures, including BMPs, to eliminate or reduce the pollutants in all storm water discharges from the facility.
	70, Part I B 13	Special Conditions	Discharges through an MS4. Added this SC that requires permittees that discharge to surface waters through an MS4 to notify the owner of the MS4 in writing of the existence of the discharge within 30 days of coverage under this general permit. The permittee has to copy the Department with the notification. This special condition is being added to all general permits as they are reissued.
	70, Part I B 14	Special Conditions	Termination of permit coverage. Moved the termination of permit coverage from the regulation itself to this SC so that the permittee will have the requirements in the permit itself, and not just in the regulation. This was done because the permittee usually will not have a copy of the full regulation, only the permit.
	70, Part II A 4	Monitoring	Added this subsection to clarify that samples taken as required by the permit must be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories. This is being added to all general permits as they are reissued.
70, Part II I		Reports of noncompliance	Added the provision for online reporting at: <a href="http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx">http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx</a> .
70, Part II Y		Transfer of permits	Ownership transfers via permit modification has been deleted because this activity isn't appropriate for general permits.  Automatic transfer of ownership may occur when the Board is notified within 30 days of the proposed transfer, unless permission for a later date has been granted by the Board. This change makes this condition consistent with Section 60 B 3 ("new

			owners" section of the Registration Statement).
80, Part III A 1		SWPPP - Deadlines for plan preparation and compliance	For permittees that are continuing coverage for this reissuance, changed the deadline for updating and implementing revisions to the Storm Water Pollution Prevention Plan (SWPPP) to " <i>within 90 days of the Board granting coverage under this permit</i> ".
80, Part III B 2 c		Contents of the plan - Site map	Modified the site map requirements to be consistent with EPA's 2008 MSGP.
80, Part III B 4		Storm water controls	Edited the storm water controls section to conform to edits EPA made to these requirements in their 2008 MSGP.
80, Part III B 4 a		Control measures	Consistent with EPA's 2008 MSGP, added " <i>Regulated storm water discharges from the facility include storm water runoff that commingles with storm water discharges associated with industrial activity at the facility.</i> "
70, Part I B 6	80, Part III B 4 b (5)	Salt storage piles	Moved this section from permit Special Conditions (was SC #6) to this section of the SWPPP, consistent with EPA's 2008 MSGP.
80, Part III B 4 b (5)	80, Part III B 5	Routine facility inspections	Moved this section under the "Contents of the Plan" subsection, and added the inspection documentation list from EPA's 2008 MSGP.
	80, Part III B 4 b (9)	None	Dust suppression. Added this subsection to specify the requirements for dust suppression/control on site. The permittee may use collected storm water, well water or reuse water for dust suppression, but there can be no direct discharge to surface waters from dust suppression activities.
80, Part III		Maintenance	Rearranged this section slightly, and added that the control measures (BMPs) must be observed annually to ensure that they are functioning correctly.
80, Part III D 1		Non-Storm Water Discharges	For consistency with EPA's 2008 MSGP, removed the additional nonstorm water information that needed to be included in the SWPPP. Specified that all other nonstorm water discharges are not authorized and must either be eliminated or covered under a separate VPDES permit.
80, Part III D 2		Mist from cooling towers	Deleted the "Mist from cooling towers" requirement, consistent with EPA's 2008 MSGP. Moved the "Annual outfall evaluation" from Section 80, Part III E 1 h (the Comprehensive Site Compliance Evaluation section). The annual outfall evaluation did not really fit under the Comprehensive Site Compliance Evaluation, so it

			was moved back to the Non-storm Water Discharges section, where it was in the 2004 general permit. The requirements did not change.
80, Part III E 1 h		Annual outfall evaluation	Moved the annual outfall evaluation to Section 80, Part III D 2, and changed this section to require the permittee to include a summary of the evaluation.
80, Part III F 2, 3		Signature and plan review – 2. Availability; 3. Required modifications	Modified F2 to require that the SWPPP be retained at the facility, and be immediately available to the department, EPA, or the operator of an MS4 receiving discharges from the site at the time of an on-site inspection or upon request.  Added to F3 that the permittee has to modify the SWPPP whenever necessary to address all corrective actions required by Part I A 6 a (Data exceeding benchmark concentration values) or Part I A 6 b (Corrective actions). Changes to the SWPPP have to be made in accordance with the corrective action deadlines in Part I A 6 a and Part I A 6 b, and signed and dated in accordance with Part III F 1.
90, Part IV, Sector A	90, Part IV, Sector A, A 2	Timber products facilities	Added subsection A 2 to specify that that SIC 2499-1303 (Mulch, Wood and Bark Facilities) is covered under the permit in this sector. This SIC has been covered all along, but until recently the Department was not aware that mulch operations were classified under that SIC code.  Specified in B 1 that the discharge of wet dye drippings from mulch dyeing operations is prohibited.  In C 2, added a requirement that facilities that dye mulch must address specific control measures to prevent the discharge of wet dye drippings and to prevent seepage of pollutants to groundwater.  Deleted D 2, which required the permittee to provide an estimate of the total volume (in gallons) of the discharge sampled. EPA deleted this requirement in their 2000 MSGP. This should have been removed from this permit for the 2004 reissuance.  Added benchmark monitoring for mulch operations and mulch dyeing operations; included a waiver provision for mulch dyeing operations that can demonstrate that the benchmark parameters are not contained in the facility's storm water discharges.
110, Part IV, Sector		Chemical and allied products	Specified in A 7 that SIC 2875 (Composting Facilities) are covered under the permit in this sector. This SIC has been covered all along, but

C		manufacturing	<p>there was still some confusion over where exactly they belonged in the permit. Also added benchmark monitoring requirements for composting facilities.</p> <p>Deleted subsection C (Storm water pollution prevention plan requirements) to be consistent with EPA's 2008 MSGP.</p>
120, Part IV, Sector D		Asphalt paving and roofing materials and lubricant manufacturers	<p>In B 1, clarified that storm water discharges from petroleum refining facilities, including those that manufacture asphalt or asphalt products, that are subject to effluent limitation guidelines for the Petroleum Refining Point Source Category (40 CFR 419) are not authorized by this section of the permit.</p> <p>Deleted subsection C (Storm water pollution prevention plan requirements) to be consistent with EPA's 2008 MSGP.</p>
130, Part IV, Sector E		Glass, clay, cement, concrete, and gypsum products	Deleted subsections B 2 b (routine facility inspections) and B 2 c (certification of outfall evaluation for unauthorized discharges) to be consistent with EPA's 2008 MSGP.
140, Part IV, Sector F		Primary metals	Modified the language in subsection B 2 a to require implementation of control measures, not just the consideration of these measures.
150, Part IV, Sector G	150, Part IV, Sector G, subsection H	Metal mining (ore mining and dressing)	<p>Modified subsection D (Special definitions) to conform to EPA's definitions.</p> <p>Modified subsections E, F and G extensively to be consistent with the changes EPA made to their 2008 MSGP. There were no new requirements for these facilities, but EPA cleaned up the language and deleted a lot of requirements that were not necessary for this sector.</p> <p>Added subsection H, which is the "inactive and unstaffed sites" waiver condition from EPA's 2008 MSGP. This provision tells facilities how they can qualify for a waiver from the quarterly visual assessments and routine facility inspections for inactive and unstaffed sites.</p>
160, Part IV, Sector H	160, Part IV, Sector H, subsection D	Coal mines and coal mining-related facilities	<p>Modified subsection C (SWPPP requirements) to be consistent with the changes EPA made to their 2008 MSGP.</p> <p>Added subsection D, which is the "inactive and unstaffed sites" waiver condition from EPA's 2008 MSGP. This provision tells facilities how they can qualify for a waiver from the quarterly visual assessments and routine facility inspections for inactive and unstaffed sites.</p>

170, Part IV, Sector I		Oil and gas extraction and refining	Modified subsection C 2 (Storm water controls) to bring it in line with the changes EPA made to their 2008 MSGP.
180, Part IV, Sector K		Hazardous waste treatment, storage, or disposal facilities	Deleted definitions of "land treatment facility", "pile", and "surface impoundment" in subsection C (Definitions) to be consistent with the changes EPA made to their 2008 MSGP  Added "Total recoverable magnesium" to the Table 180-2 benchmark monitoring to be consistent with EPA's 2008 MSGP.
190, Part IV, Sector L		Landfills, land application sites and open dumps	Added this change in subsection A: <i>"This permit does not cover discharges from landfills that receive only municipal wastes. Landfills (including landfills in "post-closure care") that have been properly closed and capped in accordance with 9VAC20-81-160 and 9VAC20-81-170 and have no significant materials exposed to storm water do not require this permit. Landfills closed in accordance with regulations or permits in effect prior to December 21, 1988, do not require this permit, unless significant materials are exposed to storm water."</i>  The "landfills that receive only municipal waste" provision has been part of the storm water regulations all along, but it was added here to make it clear in the permit, and for consistency with EPA's 2008 MSGP.  The exclusion of landfills that have been properly closed and capped in accordance with the Waste permitting regulations is new for this reissuance. These facilities pose little (or no) environmental risk, and continuing to permit them under this permit was determined to be unnecessary.  In subsection C, added the definition for "open dumps" from the Waste permitting regulations.  Deleted subsection D 2 b (Good housekeeping measures) to be consistent with EPA's 2008 MSGP.  Deleted the "Total Recoverable Iron" benchmark monitoring from Table 190-2. This was a recommendation from the 2014 ISWGP TAC. High iron concentrations are prevalent in the soils throughout Virginia, and having these facilities continue to monitor for it is no longer useful or necessary for this industrial sector.
200, Part IV, Sector		Automobile salvage yards	Modified subsection B 2 d to require the permittee to implement control measures, rather than just

M			"consider" them.
210, Part IV, Sector N		Scrap recycling and waste recycling facilities	<p>In subsection C, deleted the sentence: <i>"Selection or deselection of a particular BMP or approach is up to the best professional judgment of the permittee, as long as the objective of the requirement is met."</i> This was removed based on a comment received that there is no way to evaluate a permittee's best professional judgment.</p> <p>Added benchmark monitoring for source-separated facilities to Table 210. These facilities are very similar to the non-source separated facilities, and those already had benchmark monitoring requirements. Made the monitoring parameters the same for both. Specified in the table footnote that metals monitoring is only required at source-separated facilities for the specific metals listed in the table that are received at the facility.</p>
220, Part IV, Sector O		Steam electric generating facilities	Deleted subsections C 2 a (14) (Vehicle maintenance activities) and C 2 a (15) (Material storage areas) to be consistent with EPA's 2008 MSGP.
230, Part IV, Sector P		Land transportation and warehousing	Corrected the TPH footnote for Table 230 to state that: <i>"(TPH) is the sum of individual gasoline range organics and diesel range organics (TPH-GRO and TPH-DRO) to be measured by EPA SW 846 Method 8015 for gasoline and diesel range organics, or by EPA SW 846 Methods 8260 Extended and 8270 Extended."</i>
240, Part IV, Sector Q		Water transportation	<p>In subsection C 2 a (1), replaced the pressure washing area requirement with the following: <i>"As defined by this permit, process wastewater related to hull work at water transportation facilities shall be any water used on a vessel's hull for any purpose, regardless of application pressure, including but not limited to the activities of removing marine salts, sediments, marine growth and paint, or other hull, weather deck, or superstructure cleaning activities using water, such as preparing those areas for inspection or work (cutting, welding, grinding, coating, etc.). The discharge water shall be permitted as a process wastewater by a separate VPDES permit."</i> This basically defines pressure washing and hull washing activities as process wastewater that need separate VPDES permits (and are not authorized discharges under this permit). This definition is from individual permits the Board has issued to similar facilities in Virginia, and was included here to be</p>

			<p>consistent with those permits.</p> <p>Deleted subsection C 2 e (Comprehensive site compliance evaluation) to be consistent with EPA's 2008 MSGP.</p> <p>Modified the benchmark monitoring parameters in Table 240 to make them the same as those for Sector R (Ship and boat building or repair yards). These two sectors are very similar in their storm water discharge characteristics. Based on DEQ individual permitting experience with these kinds of facilities, made the required parameters: TSS, Cu and Zn, deleted Al and Fe.</p>
250, Part IV, Sector R		Ship and boat building or repair yards	<p>In subsection C 2 a (1), replaced the pressure washing area requirement with the following: "<i>As defined by this permit, process wastewater related to hull work at water transportation facilities shall be any water used on a vessel's hull for any purpose, regardless of application pressure, including but not limited to the activities of removing marine salts, sediments, marine growth and paint, or other hull, weather deck, or superstructure cleaning activities using water, such as preparing those areas for inspection or work (cutting, welding, grinding, coating, etc.). The discharge water shall be permitted as a process wastewater by a separate VPDES permit.</i>" This basically defines pressure washing and hull washing activities as process wastewater that need separate VPDES permits (and are not authorized discharges under this permit). This definition is from individual permits the Board has issued to similar facilities in Virginia, and was included here to be consistent with those permits.</p> <p>Deleted subsection C 2 e (Comprehensive site compliance evaluation) to be consistent with EPA's 2008 MSGP.</p> <p>Modified the benchmark monitoring parameters in Table 250 to make them the same as those for Sector Q (Water transportation). These two sectors are very similar in their storm water discharge characteristics. Based on DEQ individual permitting experience with these kinds of facilities, made the required parameters: TSS, Cu and Zn.</p>
260, Part IV, Sector S		Air transportation	<p>In subsection B, added special definitions from EPA's Airport Deicing ELG for the following: "Aircraft deicing fluid" or "ADF", "Airfield pavement", "Airside", "Annual non-propeller aircraft departures", "Available ADF", "Collection</p>

			<p>requirement", "Defrosting", "Deicing", "Normalized Type I or Type IV aircraft deicing fluid", and "Primary airport".</p> <p>Deleted subsection C 2 (Releases of reportable quantities of hazardous substances and oil) to be consistent with EPA's 2008 MSGP. (This was subsection B 2 in the old permit).</p> <p>Edited subsection D 2 (old C 2) (Storm water controls) to reflect the revised wording EPA used for this part of Sector S in the 2008 MSGP.</p> <p>In subsection D 2 e (old C 2 e) (Routine facility inspections), deleted the last part of the paragraph (beginning with: "Also, if significantly or deleteriously large quantities of deicing chemicals ...") to be consistent with EPA's MSGP.</p> <p>Deleted old subsection D (Benchmark monitoring and reporting requirements). This benchmark monitoring applied to airports that use more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis. Due to the relatively mild climate in Virginia, deicing is not performed often enough to trigger the monitoring requirement for the airports covered under the general permit. The airports that do most of the deicing in Virginia are covered under individual permits. Therefore, it was decided to replace the deicing benchmark requirements with new benchmark requirements for storm water discharges from those portions of air transportation facilities where vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), and equipment cleaning is performed. See subsection F.</p>
	260, Part IV, Sector S, subsection E	Air transportation	<p>Added numeric effluent limitations and requirements from EPA's Airport Deicing ELG (2012) for airfield pavement deicing and aircraft deicing. The airfield pavement deicing applies to existing primary airports and primary airports meeting the definition of a new source (new primary airports) with at least 1,000 annual jet departures (non-propeller aircraft) that discharge wastewater associated with airport pavement deicing comingled with storm water. The aircraft deicing applies to airports meeting the definition of a new source (new airports) with 10,000 annual departures, and located in cold climate zones.</p> <p>Airports subject to the ELG also have separate monitoring, reporting, and recordkeeping</p>

			requirements, which are detailed in subsection E 3.
	260, Part IV, Sector S, subsection F	Air transportation	Added benchmark monitoring requirements for storm water discharges from those portions of air transportation facilities where vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), and equipment cleaning is performed. These activities are common to all airports, and pose much more of an environmental risk at these facilities than do deicing activities. The Department believes that the pollutants of concern should be similar to those from Sector P (Land transportation and warehousing). Therefore, the benchmark monitoring parameters were made identical to those in Sector P (i.e., TSS and TPH).
290, Part IV, Sector V		Textile mills, apparel, and other fabric products	Deleted subsection C 2 d (Comprehensive site compliance evaluation) to be consistent with EPA's 2008 MSGP.
310, Part IV, Sector X		Printing and publishing	Deleted subsection B 1 a (Site map) to be consistent with EPA's 2008 MSGP.
320, Part IV, Sector Y		Rubber, miscellaneous plastic products, and miscellaneous manufacturing industries	Edited subsection B 2 a (Storm water controls), subparts (1) through (5), to reflect the revised wording EPA used for this part of Sector Y in the 2008 MSGP.
330, Part IV, Sector Z		Leather tanning and finishing	Edited subsection B 1 a (Site map) and B 1 b (Summary of potential pollutant sources) to reflect the revised wording EPA used for this part of Sector Z in the 2008 MSGP.
340, Part IV, Sector AA		Fabricated metal products	Deleted subsection B 2 a (3) and (4) to be consistent with EPA's 2008 MSGP.  Edited subsection B 2 a (5) (old B 2 a (7)) to reflect the revised wording EPA used for this part of Sector AA in the 2008 MSGP.
350, Part IV, Sector AB		Transportation equipment, industrial, or commercial machinery	Deleted subsection B 2 (Storm water controls) to be consistent with EPA's 2008 MSGP.  Added subsection C (Benchmark monitoring and reporting requirements). This section will require benchmark monitoring for TSS, TPH, Cu and Zn. The Department has data that shows problems with this sector, and the data will help to get a better understanding of the specific facilities with issues.
370, Part IV, Sector AD		Nonclassified facilities/storm water discharges designated	Modified subsection A (Discharges covered under this section) to clarify the VPDES Permit Regulation citations under which a facility can be

		by the Board as requiring permits	designated by the Board for storm water permitting.
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**Final Exempt Action: Amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31):** This final exempt regulatory action is being taken to implement changes to federal regulations and state law. This memo provides the Board with background information and the substance of the amendments to the regulations. These are final amendments to the existing regulation. Staff intends to ask the Board for adoption of the amendments to the VPDES permit regulation pertaining to storm water discharges, adoption by reference of two new federal effluent guidelines, and changes to permit public hearing requirements.

The VPDES permit regulation governs the authorization to manage pollutants from various sources. The State Water Control Board has the authority to administer the federal National Pollutant Discharge Elimination System (NPDES) program within the Commonwealth, and as such, the program is called the Virginia Pollutant Discharge Elimination System (VPDES). Operations currently covered under these regulations are required to be covered under the VPDES permit regulation (9VAC25-31) if they discharge to state waters.

The existing Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) has been amended, where applicable, to reflect changes to federal regulations 40 CFR 122.26, 40 CFR Parts 449 and 451, and to reflect changes to §§ 62.1-44.5 and 62.1-44.15:02 and of the Code of Virginia. These amendments update the regulation to prohibit storm water discharges without a permit, to incorporate new federal effluent guidelines, and to correct outdated references.

#### AMENDMENTS OF SUBSTANCE AND CHANGES

**A new definition of "municipal separate storm sewer:** A definition of "municipal separate storm sewer" is added to the terms defined in 9VAC25-31-10. The new definition is necessary because discharges from these systems are conditionally prohibited by amendments to 9VAC25-31-50 A 3. Except for the usual substitutions, the new definition is identical to the federal definition in 40 CFR 122.26 (b) (8).

**Update documents incorporated by reference:** 9VAC25-31-25 specifies the CFR publication date for documents (effluent guidelines for point source categories and other referenced federal regulations) incorporated by reference. That date is updated for the most recent CFR publication date (July 1, 2013). Additionally, a publication date in the past for effluent guidelines for the Concentrated Animal Feeding Operations (CAFO) Point Source Category (referred to by topic as Feedlots, Part 412) is deleted so that the most recent CFR publication date in 9VAC25-31-25 applies.

**Additional point source categories:** Two additional federal effluent guidelines are incorporated by reference into 9VAC25-31-30; 40 CFR Part 449 Airport Deicing Point Source Category (77 FR 29203, May 16, 2012) and 40 CFR Part 451 Concentrated Aquatic Animal Production Point Source Category (69 FR 51927, August 23, 2004).

**Prohibition of Storm Water Discharges to State Waters:** With the transfer of authority for regulating storm water systems from the Department of Conservation and Recreation to DEQ, the 2013 session of the General Assembly also passed language (Senate Bill 1279, Chapter 793, approved on April 3, 2013) prohibiting discharges of storm water to state waters without a permit (§ 62.1-44.5 A of the Code of Virginia). The statutory language also included a provision that the permits may be issued by entities authorized by the board. 9VAC25-31-50 subsection A is amended to incorporate those changes in VPDES regulation.

Correction of a reference to 18VAC160-20: The regulation governing licensure of wastewater works operators was amended in 2009 to add requirements for onsite sewage system professionals (Virginia Register Volume 25, Issue 19, May 25, 2009). In that action, the title of the regulation was revised to "Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations". A reference to the title of that regulation in 9VAC25-31-200 C 1 is amended accordingly as a technical correction.

Information requirements for requests for public hearing: In 2008, the General Assembly passed new public participation requirements applicable to the State Water Control Board (House Bill 1332, Chapter 557, approved March 11, 2008). § 62.1-44.15:02 B of the Code of Virginia now contains information requirements necessary for all requests for public hearings for permits before the board and supersedes the board's procedural rule. 9VAC25-31-300 is amended to substitute a reference to the statutory requirements in place of the reference to the board's procedural rule.

Procedures for public hearings: As part of the new public participation requirements applicable to the State Water Control Board, the 2008 General Assembly also provided procedures, proceedings, and decisions for public hearings in § 62.1-44.15:02 of the Code of Virginia, which supersedes the board's procedural rule on this subject. Subsections A and D of 9VAC25-31-310 are amended to substitute a reference to the statutory requirements in place of the reference to the board's procedural rule.

**Certification of Nonpoint Source Nutrient Credits, 9VAC25-900 - Proposed Regulation:** The proposed regulation, Certification of Nonpoint Source Nutrient Credits, is presented to the Board for your consideration. The Department developed this new regulation as required pursuant to § 62.1-44.19:20 of the State Water Control Law. The regulation establishes the process for the certification of nonpoint source nitrogen and phosphorus nutrient credits and assures the generation of those credits. Nonpoint source nutrient credits must be certified by the Department prior to release, placement on the registry and exchange. Nonpoint credits may include credits generated from agricultural and urban stormwater best management practices, management of animal feeding operations, land use conversion, stream or wetlands restoration, shellfish aquaculture, and other established or innovative methods of nutrient control or removal.

The proposed regulation includes application procedures, baseline requirements, credit calculation procedures, release and registration of credits, compliance and reporting requirements for nutrient credit-generating entities, enforcement requirements, application fees, and financial assurance requirements. As part of the development of the regulation, a Regulatory Advisory Panel (RAP) was convened and ten public meetings of the RAP were held. For the most part, the proposed requirements reflect issues discussed and agreed to by the RAP; however, topics of concern were noted.

A Notice of Intended Regulatory Action (NOIRA) for this regulation was published in the Virginia Register on September 10, 2012. The comment period ended on October 10, 2012. There were 23 submittals in total and all included requests to serve on the Regulatory Advisory Panel. Of the 23 submittals, five (5) submittals provided comment on the NOIRA in addition to a request to serve on the Regulatory Advisory Panel. The comments submitted were in support of the intended regulatory action.

**Detail of changes:** As part of the development of the regulation, a Regulatory Advisory Panel (RAP) was convened and ten public meetings of the RAP were held. During the meetings, the RAP discussed the various requirements for this regulation. For the most part, the proposed requirements reflect issues discussed and agreed to by the RAP; however, topics of concern were noted and those topics are highlighted in the table below with further discussion following.

Section number 9VAC25-900-	Proposed requirements	Intent and likely impact of proposed requirements
<b>Part I</b>		
10	Definitions	Definitions for terms used in the regulation are provided in this section. The definitions explain meanings of relevant terms as these terms are used in the proposed regulation. In a number of instances, the definitions reflect specific decisions debated and recommended by the RAP; however, the term "management area" was an issue of non-consensus for the RAP. Further discussion on this topic is provided in #1 below.
<b>PART II</b>		
20	Authority and delegation of authority.	Section 20 provides the statutory authority for this regulation and the delegation of authority for implementation of the regulation and its requirements.
30	Purpose and applicability	Section 30 explains the purpose of the regulations and when the regulatory requirements apply.
40	Relationship to other laws and regulations	Section 40 explains the relationship of this regulation to other regulations; mainly, it provides a list of those that may use the credits as allowed under § 62.1-44.19:21. The intent is to provide a more comprehensive view of the nutrient trading program of which the certification process is a component, and to provide the limitations of the regulation.
50	Appeal process	Section 50 details the appeal process pursuant to § 62.1-44.19:23.
60	Limitations, liability, and prohibitions	Section 60 section explains the limitations and the prohibitions for nutrient credit certification.
70	Documents and internet resources	Section 70 lists the documents referenced as information sources within the regulation and provides the URL address for the internet available resources.
<b>PART III</b>		
80	Procedure for application for certification of nutrient credits	Section 80 explains the application requirements and what information is needed for submittal of an application for certification of nutrient credits. The requirements of this section reflect issues discussed and recommended by the RAP; however, the requirements for public notification, site visits and the conditions for convening of a Technical Advisory Committee (TAC) were issues of non-consensus for the RAP. Further discussions on these specific issues are provided in #2 and #3 below.
90	Nutrient credit release and registration	Section 90 provides the criteria for the retirement of credits, the release schedule for credits, and registration. Additionally, the provisos for exchange of credits and to insure local water quality is not contravened are contained in this section. The RAP requested further clarification regarding the retirement of credits and the conditions on exchanges to ensure compliance with local water quality requirements. This was an issue of non-consensus for the RAP. Further discussions on this specific issue are provided in #4 and #5 below.
100	Establishing baseline	Section 100 details the requirements necessary to establish baseline within the management area. The RAP had many discussions

Section number 9VAC25-900-	Proposed requirements	Intent and likely impact of proposed requirements
		regarding the requirements of this section; however, consensus was not reached on the agricultural baseline requirements. Additionally, the RAP requested further explanation of the urban baseline requirements. These issues are discussed in #6 through #8 below.
110	Credit calculation procedures	Section 110 provides the parameters for calculating the number of nutrient credits a proposed nutrient credit-generating entity will produce. The parameters are specific to the type of practices implemented such as agricultural, urban, etc.
120	Implementation plan	Section 120 provides requirements for the Implementation Plan which details how the nutrient credit-generating entity will generate credits for the term of the credits.
130	Signature requirements	Section 130 provides the criteria for who should sign the application for nutrient credit certification.
<b>PART IV</b>		
140	Inspections and information to be furnished	Section 140 provides the requirements under which the nutrient credit-generating entity shall be subject to inspections by the Department. Some on the RAP requested that Section 140 contain much more detailed information regarding the inspection criteria and frequency. The RAP agreed to majority of Part IV; however, there was no consensus on the issue of how to provide assurances for certified credits when baseline/regulatory changes are made. Further discussion on these issues is provided in #9 and #10 below.
150	Recordkeeping and reporting	Section 150 explains the requirements for recordkeeping and what information shall be reported to the Department.
160	Enforcement and penalties	Section 160 states that all applicable procedures under State Water Control Law may be used to enforce the regulation.
170	Suspension of credit exchange	Section 170 provides the causes for suspension of the ability to exchange credits on the registry and the process for such suspension.
180	Nutrient credit certification transfer, modification, revocation and recertification, expiration and termination	Section 180 allows for the nutrient credit certification to be modified, revoked and reissued, or terminated either at the request of the party holding the certification or upon the department's initiative for cause the causes for modification, revocation and recertification, or termination by the Department . Some members of the RAP expressed concern that these provisions caused uncertainty and could deter investment in nonpoint nutrient trading banks.
<b>PART V</b>		
190	Purpose and applicability of fees	Section 190 provides the basis for the fees.
200	Determination of application fee amount	Section 200 details how to determine the appropriate fee amount to be submitted.
210	Payment of application fees	Section 210 provides instructions on how to pay the fee.
220	Application fee schedule	Section 220 is a table that lists the base fee and the supplementary fee amounts for the various types of credits.
<b>PART VI</b>		

Section number 9VAC25-900-	Proposed requirements	Intent and likely impact of proposed requirements
230	Financial assurance applicability	Section 230 provides the information on what types of nutrient credit-generating entities are required to have financial assurance in accordance with Part VI. The RAP did not agree to the overall concept of requiring financial assurance as many noted the financial assurance costs to be too restrictive for structural BMPs and providing for financial assurance would not make credit generation a cost effective option for these types of practices. Further discussion of this issue is noted in #11 below.
240	Suspension of nutrient credit exchange	Section 240 details that in cases where the financial assurance is not maintained in accordance with this part, the Department may take appropriate enforcement action.
250	Cost estimates for perpetual and term credit nutrient credit-generating entities	Section 250 provides the criteria to be used in development of the cost estimate for structural BMPs.
260	Financial assurance requirements for term credits	Section 260 provides the requirement for using financial assurance mechanisms for those structural BMPs that generate term credits
270	Financial assurance requirements for perpetual credits	Section 270 provides the criteria for using financial assurance mechanism for those structural BMPs that generate perpetual credits. It should be noted that this section requires that financial assurance obligations be met using non-insurance mechanisms once all perpetual credits are sold. This was deemed necessary as the "cash" mechanism would be available into the future if needed and it does not rely on continual payment of premiums into perpetuity.
280	Allowable financial mechanisms	Section 280 provides that more than one type of mechanism may be used to meet financial assurance obligations.
290	Trust	Section 290 provides the requirements for using a "Trust" as a financial assurance mechanism.
300	Surety bond	Section 300 provides the requirements for using a "Surety Bond" as a financial assurance mechanism.
310	Letter of credit	Section 310 provides the requirements for using a "Letter of Credit" as a financial assurance mechanism.
320	Certificate of deposit	Section 320 provides the requirements for using a "Certificate of Deposit" as a financial assurance mechanism.
330	Insurance	Section 330 provides the requirements for using "Insurance" to provide financial assurance.
340	Incapacity of financial providers or owners	Section 340 provides assurances that the Department will be notified of any event, such as bankruptcy, that may cause the financial mechanism to be invalid.
350	Wording of the financial assurance mechanism	Provides the specific language necessary for the different types of financial mechanisms that may be used.

The following is a list of topics which are areas of concern or non-consensus by the RAP. The issues are provided along with the Department response and reasoning for requirements contained in the proposed regulation.

1. Management Area (9VAC25-900-10)

The RAP did not reach consensus on this term. Many in the nutrient banking community felt that this term was too prescriptive and would deter participation by larger farms as the entire management area is required to meet baseline. Some bankers indicated that some may attempt to transfer ownership of individual fields to minimize the management area. The "management area" definition was supported by the environmental community.

The Department has considered the issues. The use of "management area" and the definition as stated in the proposed regulation is necessary. The "management area" definition is based on and somewhat consistent with current practice. Currently, the baseline is applied to the entire FSA tract and this has not led to properties being subdivided to avoid baseline requirements. The application of baseline throughout the management area is necessary in order to help address the larger broad-based concerns of leakage. For example, leakage can occur when cropland is converted to forest to generate credits if the landowner also clears forest elsewhere to make up for the loss of cropland. Requiring the entire management area (i.e., the whole farm) to implement the necessary practices for establishing baseline will minimize leakage and ensure that any TMDL required reductions are provided prior to credits being generated.

2. Public Notification (9VAC25-900-80.C)

The RAP did not reach consensus on the public notification requirements. Many in the environmental community preferred the public notification to be a public comment period like the APA-type public notice and comment process. As the statute requires public notification of a proposed nutrient credit-generating entity and does not stipulate a public comment process, the language as stated in Subsection 80.C of the proposed regulation meets the statutory requirements. As proposed, this language will allow any interested parties to know of a proposed nutrient credit-generating entity and will also provide contact information for those needing additional information without adding a time-consuming formalized commenting process for every application. As there are many types of nutrient credit-generating entities, flexibility in the public notification procedures is a common-sense solution and does not prohibit the Department from requesting comments if needed or desired.

3. Site Visit and Convening a Technical Advisory Committee (9VAC25-900-80.D)

The RAP did not reach consensus on the flexibility provided for the Department to decide when a site visit may need to occur or a Technical Advisory Committee (TAC) may need to be convened. Many on the RAP prefer that a site visit always be required and that for any new practice the Department be required to convene a TAC.

The Department has considered the issues regarding when to perform a site visit and when to choose to convene a TAC. In regards to site visits, the Department regularly performs site visits and by guidance will ensure that any new nutrient credit-generating entity will have a site visit prior to approval of the certification. However, as technology advances and nutrient credit-generating entities apply for recertification, there may be no need for a site visit prior to approval of the certification if nothing at the site has changed. Additionally, flexibility for convening a TAC is necessary as the Department is developing the process for approval of new/innovative BMPs for inclusion in the clearinghouse and it is likely that convening a TAC under this regulation will be a duplicative step and will impede the process that is being developed. As this program matures, it is likely that the staff will have sufficient background and knowledge to process nutrient credit certification applications minimizing the need for technical advisors.

4. 5% Retirement for Phased Release (9VAC25-900-90.A)

The RAP had concerns about the "retirement of credits" when the schedule of release requires phased release of credits. As required by the proposed regulation, the Department will establish a schedule of release for each nutrient credit-generating entity and as part of that process will also provide details on the number of credits to be retired in conjunction with the number of credits released in phases.

5. Local Water Quality Compliance (9VAC25-900-90.C.2)

The RAP did not reach consensus on the requirements to ensure compliance with local water quality requirements. Some considered the proposed requirements to be too overreaching while others said the language did not provide enough assurances for the protection of local water quality. Additionally, there was also a request to establish a de minimis threshold below which trades could occur such as the informal 1% rule commonly applied to TMDL modeling. However, such a de minimis threshold was determined to be too site specific and to develop that threshold would be very resource intensive.

The proposed language provides for a workable methodology for exchanging credits when local water quality requirements are an issue. Per the statute, these regulations shall provide that "the option to acquire nutrient credits for compliance purposes shall not eliminate any requirement to comply with local water quality requirements". In order to meet the statutory requirements, the exchange of credits where local water quality requirements apply is addressed in the proposed regulation of 9VAC25-900-90.C.2 and provides necessary conditions to ensure exchanges comply with and do not contravene local water quality requirements.

6. Agricultural Lands Baseline (9VAC25-900-100.B)

The RAP did not reach consensus on the agricultural baseline requirements. Some on the RAP wanted additional practices beyond those required by the Resource Management Plan (RMP) such as riparian buffer for pasture lands. Others on the RAP preferred only a non-practice based approach (i.e. modeling) to establishing baseline.

The Department has considered the issue. Those persons that proactively chose to apply for and receive a Certificate of Resource Management Plan Implementation in accordance with 4VAC50-70 should not be required to meet additional criteria to meet the baseline requirements. These people have shown the necessary motivation to provide protection of water quality. Requiring additional criteria beyond the RMP does not provide incentives for either the RMP or nutrient certification process. The current language provides flexibility and clarity for the baseline requirements by allowing baseline to be met by one of three possible ways with each obtaining the goal of meeting the WIP or approved TMDL. Additionally, to insure appropriate consideration of environmental concerns, the calculation procedure for land conversions has been revised to note that no credits shall be generated within 35 feet of a water body with perennial water flow. This change does not require a 35 foot buffer on pasture but eliminates the ability to manipulate the baseline provisions and generate credits for land conversions within 35 feet of a stream.

7. Animal Feeding Operations (AFO) Baseline (9VAC25-900-100.C)

Some on the RAP noted a concern with the use of a VPDES or VPA permit to meet baseline for an AFO and preferred just the practice-based criteria of Subsection C.2; however, the Department believes that a valid VPDES or VPA permit is an appropriate mechanism of establishing baseline. AFOs that are required to hold a valid VPDES or VPA permit meet the baseline criteria for minimizing nutrient load impacts from the AFO's operation as that is the purpose of the permitting process. Requiring only a practice-based approach is duplicative of the effort and review that is part of the permitting process and is, therefore, unnecessary when a permit has been issued to an AFO. Additionally, most AFOs are also adjacent to other agricultural lands under common ownership and subject to other baseline requirements if included in the definition of "management area".

8. Urban Baseline (9VAC25-900-100.D)

The RAP requested further clarification of the urban baseline requirements. Some noted the difference in new development and redevelopment as compared to the use of the WIP or TMDL for retrofits and wanted to see further clarification. The urban baseline language in this section has been clarified as has the limitation for generation of nutrient credits for practices previously implemented to meet provisions of a permit or law under 9VAC25-900-60.I. In regards to the issue of new development, redevelopment and retrofits, the requirements of the proposed regulation meet the statutory provision for urban baseline which states: "baselines for urban practices from new development and redevelopment, which shall be in compliance with postconstruction nutrient loading requirements of the Virginia Stormwater Management Program regulations" and "baselines for all other existing development shall be at a level necessary to achieve the reductions assigned in the urban sector in the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs". The proposed regulatory language adheres to the statutory requirement for urban baseline.

9. Future Validity of Credit Certification (Part IV of 9VAC25-900)

The RAP agreed to majority of Part IV; however, there was no consensus on the issue of how to provide assurances for certified credits when baseline/regulatory changes are made and a few on the RAP want to see further requirements regarding the Department's inspection scheduling and criteria.

Through this process assurances regarding the validity of the certification have been made; however, that level of site specific criteria is best addressed as part of the certification process and as condition of the nutrient credit certification as credit quantities are established at the time of certification using the best available scientific and technical information as required pursuant to the statute.

10. Department Inspection Criteria (9VAC25-900-140)

The RAP did not agree to the compliance and enforcement criteria as there was a request by some to provide greater detail regarding the inspection criteria and frequency to be used by the Department.

The proposed regulation does not provide that level of detail as inspection checklists and frequency are to be provided in Department guidance as is current practice in other programs.

11. Financial Assurance (Part VI of 9VAC25-900)

The RAP did not agree to the overall concept of requiring financial assurance as many noted the financial assurance costs to be too restrictive for structural BMPs and providing for financial assurance would not make it cost effective for credit generation.

In accordance with the statutory provisions, the regulations are to "establish requirements to reasonably assure the generation of the credit depending on the nature of the credit-generating activity and use, such as legal instruments for perpetual credits, operation and maintenance requirements, and associated financial assurance requirements. Financial assurance requirements may include letters of credit, escrows, surety bonds, insurance, and where the credits are used or

generated by a locality, authority, utility, sanitation district, or permittee operating an MS4 or a point source permitted under this article, its existing tax or rate authority". Financial assurance for structural BMPs was deemed the most appropriate type of practice to require financials assurance. These practices require continued operation and maintenance. If a structural BMP is damaged or destroyed, there will need to be some type of financial assurance available in order to assure the continued generation of the credit.

**Report on Facilities in Significant Noncompliance:** One permittee was reported to EPA on the Quarterly Noncompliance Report (QNCR) as being in significant noncompliance (SNC) for the quarter ending June 30, 2013. The permittee, the facility and the reported instances of noncompliance are as follows:

1. Permittee/Facility: **Dupont Teijin Films Wastewater Treatment Plant**  
Type of Noncompliance: **Failure to Meet Interim Effluent Limits (Biochemical Oxygen Demand)**  
City/County: Hopewell, Virginia  
Receiving Water: James River  
Impaired Water: The James River is impaired because of inadequate submerged aquatic vegetation, low dissolved oxygen, high chlorophyll a, high E. coli and the presence of PCBs in fish tissue. The source of the impairments is listed variously as contaminated sediment, nonpoint source discharges and unknown.  
River Basin: James River Basin  
Dates of Noncompliance: December 2012 and March and April 2013  
Requirements Contained In: Consent Order  
DEQ Region: Piedmont Regional Office

A consent special order, with an administrative penalty of \$31,175.00 has been drafted by staff of the Piedmont Regional Office and is expected to be executed by the company within the month. Dupont has indicated that the December violation was the result of over-chlorination to eradicate filamentous growth in the treatment plant aeration basins. The March and April violations Dupont attributed to a plant upset which was addressed through the addition of microorganisms to the basins. Because the treatment issues appear to have been addressed the order does not propose corrective action but only the collection of a penalty.

**FY 2014 Virginia Clean Water Revolving Loan Fund Authorizations:** Title IV of the Clean Water Act requires the yearly submission of a Project Priority List and Intended Use Plan in conjunction with Virginia's Clean Water Revolving Loan Fund Capitalization Grant application. Section 62.1-229 of Chapter 22, Code of Virginia, authorizes the Board to establish to whom loans are made, the loan amounts, and repayment terms. The next step in this yearly process is for the Board to set the loan terms and authorize the execution of the loan agreements.

At its September 2013 meeting, the Board targeted 21 projects totaling \$139,358,338 in loan assistance from available and anticipated FY 2014 resources and authorized the staff to present the proposed funding list for public comment. A public meeting was convened on November 14th. Notice of the meeting was posted on the Virginia Regulatory Town Hall, the DEQ public calendar, and DEQ's Clean Water Financing and Assistance Program websites as well as being mailed to all loan applicants. No adverse comments were received during the public review/comment period.

The staff has conducted initial meetings with the FY 2014 targeted recipients and has finalized the recommended interest rates and loan terms in accordance with the Board's guidelines. The only difference from the previously approved list is a change in the applicant name for the Natural Bridge land conservation project from The Trust for Public Land (TPL) to another non-profit organization named Kissito, at TPL's request. Therefore, the 2014 funding list remains at 21 projects being recommended for final authorization at a total amount of \$139,358,338.

The loan terms listed below are submitted for Board consideration. In accordance with Board guidelines, a residential user charge impact analysis was conducted for each wastewater and stormwater project. This analysis determines the anticipated user charges as a result of the project relative to the affordable rate as a percentage of the applicant's median household income. Projects involving higher user charges relative to community income generally receive lower interest rates than those with relatively lower user charges. In accordance with Board guidelines, the interest rate for land conservation projects with 10 year terms is 3% below the prime rate, which is currently 3.25%, resulting in an interest rate of 0.25%.

Once approved, this information will be forwarded to the Virginia Resources Authority (VRA) for their concurrence and recommendation. VRA will prepare the credit summaries and financial capability analyses on the recipients authorized for FY 2014 funding, looking at their repayment capability and individual loan security requirements. The program sets its VCWRLF ceiling rate on wastewater loans at 1% below the current municipal bond market rate. Based on discussions with VRA, we are recommending that the interest rate for each ceiling rate project be set based on VRA's evaluation of the market conditions that exist the month prior to each loan closing.

Since the Board's September meeting, Congress has still not finalized the federal SRF appropriation for FY 2014. As such, we are unsure as to whether the appropriation bill will include requirements similar to those established in FY 2013 regarding principal forgiveness and green reserve project funding. Staff believes that the stormwater and land conservation projects already included on this list will satisfy the green project reserve requirement that might be included, and at the same time are worthwhile projects to go forward that meet our program criteria. The staff has also analyzed the projects with regard to the program's hardship criteria and will be prepared to work with the Director on providing principal forgiveness to some projects as allowed by previous delegations if it is included in the appropriation language.

#### FY 2014 Proposed Interest Rates and Loan Authorizations

	<i>Locality</i>	<i>Loan Amount</i>	<i>Rates &amp; Loan Terms</i>
1	Town of Front Royal	\$50,000,000	0%, 20 years
2	Town of Clifton Forge	\$750,000	0%, 20 years
3	City of Norfolk	\$10,000,000	0%, 20 years
4	Town of Saltville	\$971,290	CR, 20 years
5	Rivanna WSA	\$37,262,000	CR, 20 years
6	City of Waynesboro	\$1,658,989	0%, 20 years
7	Dickenson County PSA	\$499,400	0%, 20 years
8	Wise County PSA	\$1,038,234	0%, 30 years
9	Castlewood WSA	\$4,682,800	0%, 20 years
10	Washington County SA	\$884,895	0%, 20 years
11	Town of Stuart	\$1,280,600	0%, 20 years
12	Town of Boones Mill	\$856,295	0%, 20 years
13	Town of Independence	\$470,500	0%, 20 years
14	Town of Hillsville	\$149,000	0%, 20 years
15	Henry County PSA	\$1,773,200	0%, 20 years
16	Lee County PSA	\$1,032,785	0%, 20 years
17	Wythe County	\$2,103,600	CR, 20 years
18	Blacksburg-VPI SA	\$11,833,000	CR, 20 years
19	City of Waynesboro (Stormwater)	\$1,664,750	0%, 20 years
20	Kissito	\$10,000,000	0.25%, 10 years

21	Meadowview Bio Res Station	\$449,000	0.25%, 10 years
	<b>Total Request</b>	<b>\$139,358,338</b>	<b>CR= Ceiling Rate</b>

**General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities (9VAC25-880), Amendments to the Regulation and Reissuance of the General Permit (VAR10):** The State Water Control Board (Board) adopted regulations to implement Chapters 756 and 793 of the 2013 Acts of Assembly at the August 26-27, 2013 meeting. The primary purpose of the Board's action was to renumber the regulations, change statutory and regulatory citations, and change references to the Virginia Soil and Water Conservation Board/Department of Conservation and Recreation (DCR) to State Water Control Board/Department of Environmental Quality (DEQ). Also, at that meeting the Board authorized the regulatory action to reissue and amend, as necessary, the General Permit for Stormwater Discharges from Construction Activities (General Permit), 9VAC25-880. Amendments to the General Permit were previously proposed by the Virginia Soil and Water Conservation Board with a public comment period from April 8, 2013 through June 7, 2013, and three public hearings. Written comments were received from 550+ individuals.

Staff is bringing these final regulation amendments before the Board to request adoption of the regulation reissuing the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities, VAR10. The current General Permit will expire on June 30, 2014, and the regulation is being amended to reissue the General Permit for another five-year term. These amendments are a result of further review of the regulation and review of the proposed General Permit and the public comments received by the Virginia Soil and Water Conservation Board on the proposed General Permit. In addition, a public comment period on the proposed amendments ran from October 18, 2013 through November 20, 2013. Written comments were received from 470+ individuals. Changes have been made to the proposed amendments to address the public comments. The amended regulation and the list of comments received, along with the staff response are attached to this memorandum.

The following comments represent the vast majority of those received by the Department of Conservation and Recreation and DEQ during the two public comment periods.

COMMENT #1: Ms. Kate McAloon (Alexandria, VA) and others.

*I understand that you're considering removing existing public access to a developer's SWPPP from the new Construction General Permit. This is the wrong direction to take. SWPPPs enable me to review what a developer must do under the permit and to alert my locality if the contractor isn't meeting his permit requirements. Please reconsider and revise the language in the new Construction General Permit to enable citizen review of contractor SWPPPs.*

AGENCY RESPONSE #1: Thank you for your comment. The department has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

COMMENT #2: Ms. Sharyn Lowry (Richmond, VA) and others.

*I want to express my appreciation for DEQ reinstating the public access to the SWPPP in the Construction General Permit and ask that it remain in the final draft.*

AGENCY RESPONSE #2: Thank you for your comment. This amendment has been carried forward in the proposed final regulation for consideration by the State Water Control Board.

COMMENT #3: Mr. George Rhodes (Manassas, VA) and others.

*Restore the 0.25 inch rainfall or greater over a 24 hour period language in the definition of "measurable storm event" in 9VAC25-880-1 of the General VPDES Permit for Discharges of Stormwater from Construction Activities.*

AGENCY RESPONSE #3: Thank you for your comment. The department has chosen not to move forward with the proposed amendment to the definition of “measurable storm event.” The definition previously proposed by the Regulatory Advisory Panel (RAP) has been reinstated.

COMMENT #4: Mr. George Rhodes (Manassas, VA) and others.

*Clarify that in determining the frequency of inspections in the General VPDES Permit for Discharges of Stormwater from Construction Activities, days should be defined as “normal working days” which would be Monday through Friday and excluding holidays.*

AGENCY RESPONSE #4: Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of “business days.” In addition, the term “business day” has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.

COMMENT #5: Mr. George Rhodes (Manassas, VA) and others.

*Move forward with the changes to the VSMP Regulation that eliminates the requirement for land disturbances of less than one (1) acre in a plan of development with stormwater facilities in place, from acquiring a VSMP Permit and paying a VSMP Permit fee.*

AGENCY RESPONSE #5: Thank you for your comment. This amendment has been carried forward in the proposed final regulation for consideration by the State Water Control Board.

COMMENT #6: Mr. Craig Havenner (Oakton, VA) and others.

*Please reinstate the timing of the SWPPP requirement to prior to land disturbance activities as opposed to prior to project registration.*

AGENCY RESPONSE #6: Thank you for your comment. This proposed revision to the general permit has been made in order to resolve one of EPA’s specific objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.

#### Summary of Changes Since Proposed

- Updated the title of the regulation from “General Permit for Discharges of Stormwater from Construction Activities” to “General VPDES Permit for Discharges of Stormwater from Construction Activities.”
- Updated all proposed references to Virginia Soil and Water Conservation Board/Department of Conservation and Recreation to State Water Control Board/Department of Environmental Quality.
- Updated all applicable references of permit “Section” to permit “Part.”
- Updated all applicable references of “state permit” to “general permit.”

#### *9VAC25-880-1. Definitions.*

- Updated the definition for “commence of construction”; revised to “commencement of land disturbance”.
- Updated the definition for “immediately”; changed “work day” to “business day”.
- Added a definition for “infeasible” consistent with EPA’s final 2012 construction general permit.

#### *9VAC25-880-10. Purpose.*

- Reinstated the following language, “Stormwater discharges associated with other types of industrial activity shall not have coverage under this general permit.”

*9VAC25-880-15. Applicability of incorporated references based on the dates that they became effective.*

- This section of the regulation was adopted by the Board after the proposed stage.
- Updated the applicable Code of Federal Regulation (CFR) references used in the general permit; now July 1, 2013.

*9VAC25-880-20. Effective date of general permit.*

- Updated the section title from “Effective date of the permit” to “Effective date of general permit”.

*9VAC25-880-30. Authorization to discharge.*

- Updated the regulation language for clarity and consistency with other general VPDES permits adopted by the Board.
- Deleted the impaired waters limitation due to redundancy.
- Updated the approved TMDL assumptions and requirements date from “July 1, 2014” to “prior to the term of this general permit.”
- Updated the continuation of general permit coverage deadline from 90 days prior to the effective date of the general permit to June 30, 2014.
- Expanded the continuation of general permit coverage language to include provisions if a construction activity operator is not in compliance with the 2009 general permit.

*9VAC25-880-40. Delegation of authorities to state and local programs.*

- No changes or revisions have been made to this section of the regulation.

*9VAC25-880-50. General permit application (registration statement).*

- Updated the regulation language for clarity and consistency with other general VPDES permits adopted by the Board.
- Deleted all references to an “available electronic database provided by the department.”
- Added registration statement provisions for new stormwater discharges from emergency-related construction activities. Added a registration statement waiver provision for single-family residences separately built, disturbing less than 1 acre and part of a larger common plan of development or sale.
- Updated the registration statement submission deadline for existing construction activities seeking continued coverage under this general permit; now June 1, 2014. Deleted the permit fee waiver provision for existing construction activities. Added a registration statement waiver provision for existing stormwater discharges from single-family residences, separately built disturbing less than 1 acre and part of a larger common plan of development or sale.
- Deleted the proposed amendment stating, “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 unauthorized discharge.”
- Added a registration statement requirement to provide an operator contact. Updated the registration statement requirements to provide the latitude and longitude of the construction activity in decimal degrees and the estimated area to be disturbed to the nearest one-hundredth of an acre. Deleted the registration statement requirements to provide information on impaired waters and applicable TMDL wasteload allocations; this information can be readily obtained by the department. Deleted the certification requirement pertaining to an “available electronic database provided by the department.”
- Reinstated the requirement for a stormwater pollution prevention plan (SWPPP) to be prepared prior to the submission of a registration statement in response to an EPA specific objection to the proposed general permit.

- Deleted the following statement due to redundancy, “Registration statements in the custody of the VSMP authority or the department are subject to requests made pursuant to the Virginia Freedom of Information Act (§2.2-3700 et seq. of the Code of Virginia.)”

*9VAC25-880-60. Termination of general permit coverage.*

- Updated the section title from “Termination of state permit coverage” to “Termination of general permit coverage”.
- Updated the regulation language for clarity and consistency with other general VPDES permits adopted by the Board.
- Deleted all references to an “electronic database provided by the department.”
- Added language to indicate that when applicable, long-term responsibility and maintenance requirements for permanent control measures shall be recorded in the local land records prior to the submission of a notice of termination.
- Included the authorization to discharge termination language adopted by the Board at its August 26-27, 2013 meeting.
- Reinstated the notice of termination requirements contained in the 2009 general permit with minor modifications. Added a notice of termination requirement to provide an operator contact. Updated the notice of termination requirements to provide the latitude and longitude of the construction activities, permanent control measures, and regional facilities in decimal degrees. Updated the notice of termination requirements to provide the total and impervious site acres treated by permanent control measures and regional facilities.
- Deleted the proposed notice of termination requirement to certify that any instrument recorded for the long-term maintenance of any permanent stormwater management facility has been submitted to the VSMP authority.

*9VAC25-880-70. General permit.*

*Part I – Discharge Authorization and Special Conditions*

- “Coverage under this general permit”, deleted the proposed amendments identifying new construction activities, previously covered construction activities, and emergency-related construction activities; these activities have been defined in Section 50 of the regulation.
- “Post-construction discharges”, deleted the proposed amendment indicating that general permit coverage must be terminated.
- “Discharges mixed with nonstormwater”, reinstated the discharges mixed with nonstormwater requirements contained in the 2009 general permit.
- “Impaired waters and TMDL limitation”, clarified that the general permit requirements apply to stormwater discharges to all surface waters identified as impaired or with an applicable TMDL wasteload allocation for (i) sediment or a sediment-related parameter or (ii) nutrients. Updated the permit requirements to indicate that nutrients can be applied in accordance with an approved nutrient management plan. Updated the inspection frequency requirements from calendar days to business days; the resulting inspection frequency is approximately equivalent.
- “Exceptional waters limitation”, updated the permit requirements to indicate that nutrients can be applied in accordance with an approved nutrient management plan. Updated the inspection frequency requirements from calendar days to business days; the resulting inspection frequency is approximately equivalent.
- “Commingled discharges”, updated the general permit language for clarity purposes.
- “Prohibition of nonstormwater discharges”, updated the general permit language for clarity and consistency with promulgated effluent limitation guidelines (ELGs) for the Construction and Development Point Source Category (40 CFR Part 450).

- “Authorized nonstormwater discharges”, updated the general permit language for clarity and consistency with promulgated effluent limitation guidelines (ELGs) for the Construction and Development Point Source Category (40 CFR Part 450).
- “Termination of general permit coverage”, updated the subsection title from “Termination of state permit coverage” to “Termination of general permit coverage”. Expanded the regulation language for consistency with Section 60 of the regulation and other general VPDES permits adopted by the Board.
- “Water quality protection”, deleted the permit provision indicating that the Board can require an operator to cease discharges of pollutants from the construction activity if their discharges are causing or contributing to an excursion above any applicable water quality standard for consistency with 9VAC25-870-410 of the VSMP regulation.

#### *Part II – Stormwater Pollution Prevention Plan*

- Reinstated the requirement for a stormwater pollution prevention plan (SWPPP) to be prepared prior to the submission of a registration statement in response to an EPA specific objection to the proposed general permit.
- Added a provision requiring SWPPP updates 60 days after general permit coverage for existing construction activities.
- “Stormwater pollution prevention plan contents”, extended the SWPPP update requirement from 30 days to 60 days for existing construction activities, updated the erosion and sediment control ELGs for clarity and consistency with 9VAC25-870-54 F of the VSMP regulation. Updated the stormwater management plan requirements for clarity and consistency with the VSMP regulation; stormwater management plans for new construction activities must be approved or prepared in accordance with department-approved annual standards and specifications. Added a stormwater management plan provision for existing construction activities; the plan shall continue to comply with the Part II C stormwater management technical criteria of the VSMP regulation. Updated the pollution prevention plan requires for clarity and consistency with 9VAC25-870-56 of the VSMP regulation. Relocated the applicable state or local program provision to the beginning of Part II. Updated the permit requirements to indicate that nutrients can be applied in accordance with an approved nutrient management plan for discharges to impaired waters, surface waters with an approved TMDL, or exceptional waters.
- “SWPPP amendments, modification, and updates”, updated the title of this subsection from “SWPPP modification, updates, and records” to “SWPPP amendments, modification, and updates.” Deleted the proposed amendment which indicated that SWPPP revisions were not required to be certified in accordance with Part III K of the general permit. Deleted the proposed amendment which indicated that SWPPP updates were necessary to reflect any revisions to applicable, federal, state, or local requirements that affect the control measures implemented at the site.
- “Public notification”, reorganized and updated the general permit language for clarity.
- “SWPPP availability”, reinstated the SWPPP public availability requirement included in the 2009 general permit. Updated the general permit language to recognize that the SWPPP may be provided to the public in electronic or hard copy format; deleted the requirement for it to be provided via the internet.
- “SWPPP implementation”, updated the general permit language for clarity. Added a provision enabling VSMP authorities to establish a correct action compliance period longer than 7 days as necessary; it is anticipated that a small percentage of corrections actions may potentially take longer than 7 days to implement and/or complete.
- “SWPPP inspections”, updated the title of this subsection from “Inspections” to “SWPPP inspections.” Reorganized and updated the general permit language for clarity. Updated the baseline inspection frequency from calendar days to business days (the resulting inspection frequency is equivalent to that included in the 2009 general permit). Updated the inspection report requirements for clarity and for consistency with other changes proposed in the general permit and EPA’s final 2012 construction general permit.

- “Corrective actions”, added a provision enabling VSMP authorities to establish a corrective action compliance period longer than 7 days as necessary; it is anticipated that a small percentage of corrections actions may potentially take longer than 7 days to implement and/or complete.

*Part III – Conditions Applicable to All VPDES Permits*

- Updated the title of this Part from “Conditions Applicable to All State Permits” to “Conditions Applicable to All VPDES Permits”.
- “Monitoring”, added a provision to the general permit requiring compliance with regulations adopted by the Department of General Services (1VAC30-45 or 1VAC30-46) for all analyses performed according to test procedures approved under 40 CFR Part 136.
- “Duty to mitigate”, deleted the word “reasonable” from the general permit. The term “minimize” has been defined to mean “to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable.” Since practicability has been included in the definition of minimize it is no longer necessary to include a reasonableness qualification.

*9VAC25-880-80. (Repealed.)*

- No changes or revisions have been made to this section of the regulation.

*9VAC25-880-82. (Repealed.)*

- No changes or revisions have been made to this section of the regulation.

*9VAC25-880-84. (Repealed.)*

- No changes or revisions have been made to this section of the regulation.

*9VAC25-880-86. (Repealed.)*

- No changes or revisions have been made to this section of the regulation.

*9VAC25-880-88. (Repealed.)*

- No changes or revisions have been made to this section of the regulation.

*9VAC25-880-90. (Repealed.)*

- No changes or revisions have been made to this section of the regulation.

*9VAC25-880-100. Delegation of authority.*

- This section of the regulation was adopted by the Board after the proposed stage; no changes or revisions have been made to this section of the regulation.

**Public Comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

**COMMENTS ON CHAPTER 880 (Comment Period – April 8<sup>th</sup> – June 7<sup>th</sup>, 2013)**

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Reinstate Public Review of SWPPPs Now – Commenters – Listed At End of Table	I understand that you're considering removing existing public access to a developer's SWPPP from the new Construction General Permit. This is the wrong direction to take. SWPPPs enable me to review what a developer must do under the permit and to alert my locality if the contractor isn't meeting his permit requirements. Please reconsider and revise the language in the new Construction General Permit to enable citizen review of contractor SWPPPs.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Dennis Woodruff, Realtor, Charlottesville	Public access to runoff prevention plans (SWPPP) is critical to holding builders and developers accountable.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Mary Ann Moxon	There needs to be input and oversight from the public regarding construction runoff (SWPPP). Transparency is a goal for more governmental agencies and this case is no different.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
John Blair Reeves – Citizen – Rockingham County	Object to the new "secrecy provision" in the proposed Virginia runoff permit – Insist that Virginia protect the public's waterways; in this case, by maintaining public access to builders' runoff prevention plans (SWPPP).	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Kimberly Abe	This proposal to shield components of stormwater plans from public review puts communities and the protection of the bay at a tremendous disadvantage. SWPPP) Stormwater development applications must be publicly accessible.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Lynn P. Wilson	Absolutely unacceptable to shield development plans from public review! There needs to transparency in the SWPPP.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Jane Koontz	Keep the regulations regarding construction site runoff (SWPPP) open for citizen review!	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

L.J. Tromater	Public access to construction permits should be a part of the regulations (SWPPP).	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Frederick S. Fisher	All permits and plans (SWPPP) required to protect water quality should be open to citizen review.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Catharine W. Tucker	Stormwater runoff appears to be the greatest single contributor to degradation of surface water in Virginia. I'm appalled at the lack of transparency proposed for the next General Permit (SWPPP) & the "fox guarding the henhouse" aspects of the inspection/reporting procedure. The public must be able to review such documents in order to remain aware of what's being done, how, and where.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Ken Goldsmith	I support stronger conditions that require contractors to develop and follow a runoff prevention plan (SWPPP) with tough pollution reduction controls, including prompt stabilization of denuded areas and more frequent site inspections to identify and fix runoff problems. However, as a citizen of Virginia I strongly oppose provisions in the proposed new permit that would allow contractors to keep their pollution prevention plans out of public view and secret. This lack of transparency is a serious step backward and is an unwarranted departure from existing law. Public access to runoff prevention plans is critical to holding builders and developers accountable. Please revise the proposed permit to assure unrestricted public access to all runoff prevention plans.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Paul O'Hearn	I oppose the newly proposed secrecy that would be allowed for builders regarding their pollution runoff plans (SWPPP) for building sites. The public must continue to have access to these runoff plans in order to hold builders accountable for following their own plans.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Rogard Ross	For transparency, accountability, and maintaining public trust, Pollution and Run-off Prevention Plans (SWPPP) for Permits should be readily available for public review. Preferably these should be posted online.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

Jane Myers	I was astounded to learn that proposed changes to regulations shield development plans from public review! There is a need for transparency in the SWPPP process!	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Richard Street – Spotsylvania County	There needs to be a training and certification program for BMP vegetation installers/maintainers.	The Board thanks you for your comment. However, training and certification for best management practice installation and/or maintenance is outside of the scope of this regulatory action.  The Board will, however, take into consideration your comments during future VSMP regulatory actions.
Copeland Casati	Make runoff data for SWPPP transparent.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Leah Page	Keep pollution prevention (SWPPP) efforts accessible to the public.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Christine Llewellyn, M.D.	It is essential that an important issue such as pollution controls (SWPPP) remain transparent and readily available to the public.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Ed Knight, Old Dominion Smallmouth Club	I strongly protect the proposed changes in development regulations that would allow the Virginia development community to eliminate public accessibility to various stormwater applications. All development applications, zoning applications, building applications, grading applications, and the like must remain accessible to the public for public review. I urge you to retain the public's ability to review proposed Stormwater Pollution Prevention Plans (SWPPPs), and to allow the public input into these decisions.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Charles W. Parrish, Parrish Project Management	Currently the RLD inspection is every 14 days or within 48 hours of a measurable rain event. The new requirement would be every 4 or 7 days plus within 48 hours of a measured rain event. The amount of fuel to be spent to be in compliance with this requirement would be unbearable not only to the RLD, but the environment itself. This type of proposal damages the integrity of the branch of government which proposes it. The inspection period should remain at 14 days or within 48 hours of a measurable rain event. The rainfall amount should stay at 0.50. 0.25 should not require an inspection.	Thank you for your comment. In general, traditional erosion and sediment controls are employed to minimize the discharge of pollutants from construction activities. However, it is anticipated that the more frequent inspection requirements will enhance an operator's ability to find and correct problems before a discharge of pollutants to impaired or exceptional waters occurs.  Also, all operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.

		For this general permit a “measurable storm event” is defined as a rainfall event producing 0.25 inches of rain or greater over 24 hours. EPA believes that storm events 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. Furthermore, EPA also believes that storm events in this size range may compromise stormwater controls on the construction site.
Christina Daniel, James River Association	Reinstate the public's right to access construction stormwater runoff management plans (SWPPP).	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Amber Ellis	Prevent the concealment of pollution requirements (SWPPP) from the public.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Tee Clarkson, Virginia Fishing Adventures/Virginia Outside	We must incorporate Stormwater Management Plans (SWPPP).	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Will Dean	Make certain that stormwater pollution prevention plans (SWPPPs) remain open records and available to the public at all times.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Hank Helmen, Concerned Citizen	Request for Virginia Stormwater Pollution Prevention Plans (SWPPPs) to remain publicly accessible.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Rich Marino, James River Association Member	Disabling the public's ability to know and respond appropriately to water quality threats in their own community is not in the best interest of improved Virginia water quality. Keep the permits (SWPPP) and construction activity transparent to the public.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Abigail Cola	Keep transparency for runoff regulations (SWPPP).	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Bill Smith	Please act responsibly to the public's needs and interests.	The Board thanks you for your comment.
Chris Little	Please allow free and public access to stormwater runoff plans (SWPPPs).	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans

		(SWPPPs) available for public review; please see Part II D 3 of the general permit.
Justin Doyle, James River Association; Joe Crane, Richmond	For the past three years – permitted construction sites in Virginia have been required to make publicly accessible Stormwater Pollution Prevention Plans (SWPPPs) – a working document of construction site water quality assurances and strategies – informed citizens play a critical role in making sure SWPPPs are followed. In this scheduled renewal process the state is under pressure to permanently extinguish the public's right to access these plans – disabling the public's ability to know and respond appropriately to water quality threats in their own community is not in the best interest of improved James River water quality.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
David Warriner	I concur with the deletion of allowing the public to come to the construction site to look at the SWPPP. Safety issues and disruption of construction are not in the best interest of anybody. 80% of the items in the SWPPP are in construction plans that are public record and available for review at local government offices. The remaining 20% of issues in the SWPPP are provided by the contractor – the contractor could be required to fill out a form that covers those 20% and how they plan to prevent pollution – it could be a requirement to receive the land disturbance permit – that form could then be included with the construction plans for people to review at the local government offices.	The Board thanks you for your comment. However, the Board has included a provision in the proposed construction general permit to make SWPPPs available for public review in response to an overwhelming number of comments received by the Department of Conservation and Recreation; please see Part II D 3 of the general permit.
Steve Barnes, Tennessee Valley Authority (TVA)	4VAC50-60-1130. Authorization to discharge – Paragraph A: Review Period: The review period should be limited, e.g., 30 days, which would authorize construction following a defined time period after a complete registration statement is submitted – this would allow time to effectively manage projects and construction activities.	Thank you for your comment. Please note that VSMP authorities, including the Board, are afforded 60 days to act on a complete permit application (which includes a state VSMP permit registration statement) in accordance with §62.1-44.15:34 A of State Water Control Law. This timeframe is further reduced to 30 days for state agency projects in accordance with 9VAC25-870-180 of the VSMP regulation; this reduced timeframe assumes that the project documentation has been prepared in accordance with department-approved annual standards and specifications.  For private construction projects it is anticipated that the Board will continue to issue general permit coverage within 15 business days of receipt of a complete registration statement from the local VSMP authority.
Steve Barnes, Tennessee Valley Authority (TVA)	4VAC50-60-1130. Authorization to discharge – Paragraph A.1.c: Clarify that minor maintenance activities would not be considered "Discharge of stormwater associated with construction activities, including stormwater associated with	Thank you for your comment. Please note that the existing definition of "large construction activity" and "small construction activity" included in the VSMP regulation, 9VAC25-870-10, excludes routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose

	emergency-related construction related activities." Suggested additional wording: "Maintenance performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site would not be considered construction, e.g., re-clearing, minor excavation performed around an existing structure necessary for maintenance or repair, and repaving of an existing road, is not considered a construction activity for the purpose of this permit."	of the facility. As a result, routine maintenance operations meeting the above definition are not governed by the proposed general permit.
Steve Barnes, Tennessee Valley Authority (TVA)	4VAC50-60-1170. General permit. Section II.A.2.b(4) – Paragraph (g): The intent about preserving topsoil should be clarified by rewording to "...preserve topsoil in place and/or preserve for reuse elsewhere on the project where feasible;"	Thank you for your comment. Please note that the proposed general permit language is consistent with 9VAC25-870-54 F 7 of the VSMP regulation; no additional amendments to the general permit have been made at this time.
Steve Barnes, Tennessee Valley Authority (TVA)	4VAC50-60-1170. General permit. Section II.A.2.b (4) – Paragraph (h): Similar to Section I.B.4.c for inspections, there should be an exception for snow cover or frozen ground conditions for stabilization. Additionally, there should be an exception for adverse soggy ground conditions which would also preclude immediate initiation of stabilization measures. Suggest rewording paragraph (h) to read "...but will remain dormant for longer than 14 days, except where the initiation of stabilization measures is precluded by weather conditions. In those cases, stabilization measures shall be initiated as soon as practicable."	The Board acknowledges your concerns. The Board believes that best professional judgment can be exercised by operators, local VSMP authorities, and the department during soggy ground conditions with regard to stabilization; therefore, additional regulatory amendments are unwarranted at this time.
Steve Barnes, Tennessee Valley Authority (TVA)	4VAC50-60-1170. General permit. Section II.A.2.b (4) – Paragraph (i): Currently reads: "Prohibits discharges from basins and other impoundments unless an outlet structure that withdraws water from the surface is utilized." 40 CFR 450.21 (f) provides "when discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible." For certain controls, EPA included "unless infeasible" to recognize that there may be some sites where a particular control measure cannot be implemented, thus allowing flexibility for permittees. TVA requests that the "unless infeasible" language be included.	Thank you for your comment. The requested revision has been incorporated into the general permit; please see Part II A 2 c (9).  In addition, a definition of infeasible has been added to the general permit regulation; please see 9VAC25-880-1.
Phil Riggan, Volunteer	Protect our rivers and waterways.	The Board thanks you for your comment.
Blake Puhak; Linda Jennings, Midlothian	Publicly accessible Stormwater Pollution Prevention Plans (SWPPPs) are vital to citizen involvement in protecting our creeks, streams, rivers, lakes and bays. I strongly encourage you to maintain your earlier decision to "require public accessibility of Stormwater Pollution Prevention Plans from construction sites upon request", and furthermore this requirement should be re-	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

	instated into the pending construction general permits.	
June Whitehurst, City of Norfolk Stormwater Management	The option of simply "every four days" for self-inspection was never discussed, nor endorsed by the RAP. The proposed language is suggested to state self-inspect "every four working days". Without this change, compliance with this requirement will be extremely difficult and burdensome on a majority of permittees, and enforcement at the local level will be equally difficult and burdensome, therefore settling both the permittee and municipality for non-compliance.	Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.
June Whitehurst, City of Norfolk Stormwater Management; Eric Martin, Director of Public Works, City of Chesapeake; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department	Line 38, the definition of "Immediately" (which defines the deadline for initiating stabilization measures) needs to include an exception for documented weather or emergency events.	The Board acknowledges your concerns. The Board believes that best professional judgment can be exercised by operators, local VSMP authorities, and the department during weather-related or emergency-related events with regard to stabilization; therefore, additional regulatory amendments are unwarranted at this time.
June Whitehurst, City of Norfolk Stormwater Management; Eric Martin, Director of Public Works, City of Chesapeake; Mark B. Taylor, County Attorney, County of Accomack; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department	4VAC50-60-1150 A.1 requires that permit coverage be obtained through the state's electronic database ("e-permitting"), but also that a complete (paper) registration statement be submitted to the VSMP authority. Since the VSMP authority is not technically issuing permit coverage, they should not be receiving paper registration statements. If a paper registration statement is required, it should be submitted to DEQ, not the VSMP authority program.	Thank you for your comment. Section 50 of the general permit has been reorganized and revised for added clarity.  Also, please note that 9VAC25-870-59 of the VSMP regulation requires operators to submit a complete and accurate registration statement to the VSMP authority, which includes an authority approved by the board after September 13, 2011 to operate a Virginia Stormwater Management Program
June Whitehurst, City of Norfolk Stormwater Management Eric Martin, Director of Public Works, City of Chesapeake; Mark B. Taylor, County Attorney, County of Accomack; Barbara Brumbaugh, Environmental	4VAC50-60-1150 A.3.a has conflicting language requiring that, in order to continue existing permit coverage, that all information be entered into the available electronic database 90 days prior to the effective date of this general permit, but then goes on to state that there is a June 1 reapplication date. 90 days would be some time around April 1. The deadline date (April 1 or June 1) needs to be resolved and the language corrected throughout the regulation.	Thank you for your comment. 9VAC25-880-50 A 2 a (1) of the general permit regulation has been updated to indicate that operators of existing construction activities must submit a complete and accurate registration statement on or before June 1, 2014 to obtain coverage under the 2014 general permit; these registration statements will be submitted to the department for processing.  The June 30, 2014 deadline provided in 9VAC25-880-30 H allows the Board to administratively continue coverage under the 2009 general permit until the Board grants coverage under the 2014 general permit.

<p>Quality Coordinator, City of Chesapeake Public Works Department</p>		
<p>June Whitehurst, City of Norfolk Stormwater Management; Eric Martin, Director of Public Works, City of Chesapeake; Mark B. Taylor, County Attorney, County of Accomack; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department</p>	<p>4VAC50-60-1160. Termination of state permit coverage has requirements that the operator electronically enter a significant amount of detailed information to the state database in order to terminate permit coverage. We strongly recommend that these requirements be simplified and that this detailed information be collected from the VSMP authority programs to maintain consistency and accuracy. Additionally, the requirement for both electronic and paper copies of the termination documents should not be necessary. Coordination between the VSMP Authority and DEQ through the state's electronic database should be able to satisfy the termination requirement.</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been reorganized and revised for added clarity and simplicity.</p>
<p>June Whitehurst, City of Norfolk Stormwater Management; Eric Martin, Director of Public Works, City of Chesapeake; Mark B. Taylor, County Attorney, County of Accomack; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department</p>	<p>4VAC60-1170.B.3. Limitations on coverage for discharges to impaired waters. Is DEQ going to provide a means for permittees to identify whether their sites are located within TMDL watersheds as well as the TMDLs which address "pollutants of concern"? There is a definite need for a statewide system or methodology to make these determinations with certainty and consistency. Our understanding is that the new electronic database ("e-permitting") was originally designed with this capability, but that the project has been scaled back and may not include GIS capabilities at this time.</p>	<p>Thank you for your comment. It is the department's intention to notify operators (and VSMP authorities) of additional SWPPP requirements if the construction activity discharges to an impaired water or an exceptional water, or is subject to an applicable TMDL wasteload allocation established and approved prior to the term of the general permit.</p>
<p>June Whitehurst, City of Norfolk Stormwater Management; Eric Martin, Director of Public Works, City of Chesapeake; Mark B. Taylor, County Attorney, County of Accomack; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department</p>	<p>The term "common plan of development" on lines 306 and 704 requires further definition and clarification. During the RAP process DCR staff referenced the EPA definition which is included in 4VAC50-60-10, however, this definition is vague and requirements have historically not been enforced consistently. This leaves the local program vulnerable to being burdened with many non-compliant lots on July 1, 2014. DCR committed to providing further guidance on this issue at some point in the future, but lacking this guidance the definition remains open to interpretation. As a result, each local VSMP authority program will, by necessity, develop guidance which meets the needs and intent of their program.</p>	<p>Thank you for your comment. Please note that "Common plan of development or sale" has been previously defined in the VSMP regulation; see 9VAC25-870-10. The department is currently in the process of developing a Frequently Asked Questions (FAQ) document which will discuss "common plan of development or sale" in addition to a number of other topics to assist VSMP authorities with program implementation.</p>

<p>June Whitehurst, City of Norfolk Stormwater Management; Eric Martin, Director of Public Works, City of Chesapeake; Mark B. Taylor, County Attorney, County of Accomack; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department</p>	<p>Which entity (DEQ or VSMP Authority) will be enforcing Construction General Permits which were issued or continued <u>prior to</u> July 1, 2014? This issue was not addressed in the VSMP Regulations. We are concerned about the current compliance status, the timely transition of these permits, and staffing levels to handle these additional inspections and the definition of common plan of development.</p>	<p>Thank you for your comment. It is the department's intention to provide additional direction and/or guidance outside of this regulatory action.</p>
<p>June Whitehurst, City of Norfolk Stormwater Management; Eric Martin, Director of Public Works, City of Chesapeake; Mark B. Taylor, County Attorney, County of Accomack; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department</p>	<p>How does DEQ plan to publicize the "e-permitting" system? Will there still be a means for an applicant to submit a paper registration statement only in order to obtain permit coverage? We are concerned that the burden of training system users and implementation of this system will fall to the VSMP authority (local) programs and that we will not have adequate staffing to handle this work load.</p>	<p>Thank you for your comment. It is the department's intention to provide additional direction and/or guidance outside of this regulatory action.</p>
<p>June Whitehurst, City of Norfolk Stormwater Management; Eric Martin, Director of Public Works, City of Chesapeake; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department</p>	<p>For construction activities &gt;2500 square feet, but &lt;1 acre located within a Chesapeake Bay Preservation Act area which are currently covered under a Construction General Permit, does DEQ plan to terminate coverage on or prior to July 1, 2014 since these activities will no longer require Construction General Permit coverage after July 1, 2014?</p>	<p>Thank you for your comment. General permit coverage for these construction activities will expire on June 30, 2014, and these construction activities will no longer be governed by the proposed general permit in accordance with §62.1-44.15:34 B of State Water Control Law.</p>
<p>June Whitehurst, City of Norfolk Stormwater Management</p>	<p>Training/Certification for the new regulation is only mandated for municipal staff that perform site plan review or inspection, why is the state not setting up an additional training session for contractors to train them on the requirements of the permits, similar to the RLD program?</p>	<p>The Board thanks you for your comment. However, contractor training and certification is outside of the scope of this regulatory action.</p> <p>The Board will, however, take into consideration your comments during future regulatory actions.</p>
<p>Diana Parker, Falls of the James Group Sierra Club</p>	<p>I object to neighbors and concerned environmental activists being denied access to a site wherein the plan for protection from</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans</p>

	stormwater damage should be posted with all environmental concerns relevant to that site.	(SWPPPs) available for public review; please see Part II D 3 of the general permit.
Jamison Forkenbrock; Gordon Culp	I am writing to urge you to reinstitute the public availability of SWPPPs. Transparent and available environmental information is the best path to keeping the public informed. The public has the right to know about decisions that will have a direct and substantial effect on the health of our environment, and therefore on our own personal health.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Dylan Cooper, Biological Systems Engineering Major, Virginia Tech	It is imperative for a builder to follow their Stormwater Pollution Prevention Plan (SWPPP) in order to reduce the effects that sediment, nutrients, and other possible pollutants can have on streams. It is also important for builders to have to make these documents available to the public so that we may be sure that proper care is being used in protecting our environment. I urge you to put the provision back in the permit which allows citizens to obtain SWPPPs for construction sites.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Melissa McCoy	Reinstate public availability of SWPPPs in Virginia's Construction General Permit. Removing this prevents Virginias from being able to keep corporations accountable when they pollute our waters. Put back the provision into the permit which allows citizens to obtain SWPPPs for construction sites.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Charlie Loudermilk	Please reinstitute the public availability of SWPPPs.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
J. Seth Coffman, Edinburg	Reinstitute the public availability of developers' and builders' Stormwater Pollution Prevention Plans (SWPPPs). Having these plans available is paramount to ensuring everyone is playing by the book and gives the public the opportunity to play a role in keeping the waters of their rivers and streams clean and free from unnecessary wanton destruction.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Dunn Family – Michael E. Dunn	I urge you to reinstitute public availability of SWPPPs. We need total transparency so the pursuit of short term profit does not involve long term damage to the beautiful environs of our great state or put its citizens at risk.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Philip Latasa, Fredericksburg, Virginia	I urge that the proposed regulation be changed to clarify concerned citizens groups and individuals role in ensuring that erosion and sediment controls are up to par: "1. Operators with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for use by those as	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

	having responsibilities under the SWPPP <u>or concerned members of the public</u> whenever they are on the construction site. <u>The documents should also be posted and indexed online.</u>	
Kris Unger, Primary Conservator, Friends of Accotink Creek	Reinstitute the public availability of Stormwater Pollution Prevention Plans (SWPPPs) in the Construction General Permit. The officers of the Commonwealth, while providing critical technical review, cannot perfectly monitor compliance of all construction sites with filed SWPPPs. Concerned citizens groups and members of the public have a legitimate role in ensuring that erosion and sediment controls and stormwater management measures incorporated into a SWPPP are implemented and maintained in accordance with the plan. We urge that the proposed regulation be changes to reflect this role: "1. Operators with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for use by those identified as having responsibilities under the SWPPP or concerned members of the public whenever they are on the construction site. The documents shall also be posted and indexed online."	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Karen Moran, Annandale, Virginia	I request that the requirement for onsite availability of the SWPPP not be dropped as a requirement in construction areas. Please put the provision back in the permit which allows citizens to obtain SWPPPs for construction sites.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Julie Locascio, Washington, DC	I am writing in support of reinstating public availability of SWPPPs. Please put the provision back in the permit so that citizens can obtain SWPPPs from construction sites.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Robert England, Winchester, VA	I am in favor of continuing the Stormwater Pollution Prevention Plan (SWPPP). It is essential to protecting our natural resources.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
John Langknecht, Manassas, VA; John M. Langknecht, Manassas	I am writing to ask that you reinstate the requirement that developers make their Stormwater Pollution Prevention Plan, SWPPP, available for public viewing as has previously been the case. Since the developers must submit such a plan, making it available for public viewing seems only reasonable. I believe that comments and recommendations that may be forthcoming from broad review of such plans will, over time improve the quality of these plans and enhance the protection of our streams,	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

	rivers and bays.	
Ned Stone, Alexandria, VA	Please maintain the provision in the development permitting process that allows free public access to Stormwater Pollution Prevention Plans (SWPPPs). This will help keep Virginia rivers clean and wholesome and will also contribute to openness in government.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams	The proposed regulation fails to meet Clean Water Act and Virginia law in a number of very serious respects. Therefore, we assert that the State Water Control Board has a duty to reject this proposal in its present form, require significant modifications, and open a new draft of the permit to public notice and comment.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams	The record assembled to support the regulation and general permit contains neither evidence nor analysis to show that the permit's conditions will uphold Virginia's water quality standards. To determine whether the technology-based limits in Virginia's construction stormwater permit can fully uphold the state's water quality standards, the permitting officials would have first needed to determine the quality of effluent that would be produced by the treatment systems required under the proposed permit – this has not been done.	The proposed general permit follows the requirements for protection of water quality contained in the EPA final 2012 construction general permit published in the federal register on February 29, 2012. As currently written, the general permit requires construction activity operators to implement erosion and sediment controls and pollution prevention practices to address the narrative technology-based effluent limitations contained in 40 CFR Part 450. In addition, the general permit requires operators to select, install, implement, and maintain control measures at the construction site that minimize (i.e., reduce or eliminate) pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard. Also, 9VAC25-870-460.I of the VSMP regulation allows for the use of best management practices to control or abate the discharge of pollutants from stormwater discharges and when numeric effluent limitations are infeasible. The Board believes that the proposed general permit establishes the requirements necessary to protect water quality standards.
Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams	Virginia officials have ignored the abundant evidence available to them which proves that the general permit's technology-based limits have not and cannot uphold water quality standards, under many circumstances and at locations across Virginia and failed in their duty to ensure that activities will not be covered under the general permit unless water quality standards are met.	Thank you for your comment. Please see the Board's response above.
Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams	The lack of adequate application requirements, together with the flawed process through which coverage under the general permit may be granted, constitutes an illegal system of self-regulation for operators of land-disturbing activities who seek coverage under the general permit. Because of the failure of DCR and the Soil	Development of the proposed general permit regulation, 9VAC25-880 included public participation. The Board believes the requirements for public participation have been fulfilled during the development of the proposed general permit regulation.  This general permit does not govern stormwater

	and Water Conservation Board to provide for full public participation in this process, I ask that the following documents be incorporated by-reference into the record for this rulemaking: "Virginia's General VPDES Permit for Discharges of Storm Water Associated with Industrial Activity (9VAC25-151) (the Virginia DEQ amended this general permit in 2009 to incorporate a public notice and comment procedure into the permit, to allow citizens to help shape the permit limitations contained in SWPPPs for industrial sites.)" and "Centner, Terence J., Challenging NPDES Permits Granted without Public Participation, Boston College Environmental Affairs Law Review, Volume 38, Issue 1, 4/1/2011."	discharges from industrial facilities. Therefore, the incorporation of permitting requirements from the Industrial Stormwater General Permit is inappropriate. The proposed general permit regulates stormwater discharges from construction activities, and the Board believes that the general permit establishes the requirements necessary to protect water quality standards.
Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams	Citizens are deprived of the right to notice and comment procedures required by the Clean Water Act and state law, because they are given no opportunity to review and comment upon Registration Statements and Stormwater Pollution Prevention Plans (SWPPPs) prior to coverage of activities under the general permit.	Development of the proposed general permit regulation, 9VAC25-880 included public participation. The Board believes the requirements for public participation have been fulfilled during the development of the proposed general permit regulation. As noted above, the Board believes that the proposed general permit establishes the requirements necessary to protect water quality standards.
Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams	Citizens are deprived of the right to review of SWPPPs that are revised during the period of permit coverage, thus hindering their right to pursue citizen enforcement of the regulation. Based upon the same reasoning and legal assertion mentioned above, we assert that the failure to provide access to SWPPPs during the permit period deprives citizens of a legal right to be involved in the permitting and enforcement processes.	Thank you for your comment. The department has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams	For land-disturbing projects operated by entities of Virginia state government, citizens will be subject to deprivation of property without due process of law, in violation of the Fourteenth Amendment to the United States Constitution. By approving the general permit regulation and coverage of individual projects under the permit, without providing for public notice and an opportunity to be heard, the state violates the constitutional protection against depriving persons of property without due process.	Development of the proposed general permit regulation, 9VAC25-880 included public participation. The Board believes the requirements for public participation have been fulfilled during the development of the proposed general permit regulation. As noted above, the Board believes that the proposed general permit establishes the requirements necessary to protect water quality standards.
Ms. Donna Phillips, Winchester	I understand that you're considering removing existing public access to a developer's SWPPP from the new Construction General Permit. This is the wrong direction to take. SWPPPs enable me to review what a developer must do under the permit and to alert my locality if the contractor isn't meeting his permit requirements. Please reconsider and revise the language in the new Construction General Permit to enable citizen review of	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

	contractor SWPPPs. Never remove language that requires more checking to see if people are preventing pollution like they are supposed to in construction or whatever!	
Ms. Hope Andruss, McLean	I understand that you're considering removing existing public access to a developer's SWPPP from the new Construction General Permit. This is the wrong direction to take. SWPPPs enable me to review what a developer must do under the permit and to alert my locality if the contractor isn't meeting his permit requirements. Please reconsider and revise the language in the new Construction General Permit to enable citizen review of contractor SWPPPs. We want more openness in government not less. If they are doing the right thing by the people and the environment developers should be proud to make public their SWPPPs.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Paul Bukaveckas, Mechanicsville; Jennifer Fielsted, Richmond; J. Wilson Folochs, Hopewell; Amy Romero, Midlothian; Miguel Romero, Midlothian; Edward Crawford, Henrico; Robert E. Hazelton, Henrico; Dan Patrick, Midlothian; Justin Doyle, Richmond; Robert Clarkson, Glen Allen; Ryan Corrigan, Midlothian	Please reinstate the public's right to access construction Stormwater runoff management plans (SWPPPs).	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Mark B. Taylor, County Attorney, County of Accomack	Accomack County appreciates particularly the difficulty of attempting to write regulations applicable throughout the Commonwealth. Our primary concern about the proposed Construction General Permit Regulations is that fundamental parameters of the proposed Regulations seem potentially out of place here. In consideration of the unique circumstances of the Eastern Shore, we must ask you to consider some change to the definition of "Measurable storm event" (lines 53-54) or modification of that concept for that portion of the Commonwealth lying east of the Chesapeake Bay. We would respectfully suggest that, as an alternative to "Measurable storm event", the Board should consider borrowing the "Runoff producing storm event" concept used in the erosion and sediment control regulations as the threshold event in these regulations. In the alternative, a "Measurable storm event"	Thank you for your comment. For this general permit a "measurable storm event" is defined as a rainfall event producing 0.25 inches of rain or greater over 24 hours; please see 9VAC25-880-1. EPA believes that storm events 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. Furthermore, EPA also believes that storm events in this size range may compromise stormwater controls on the construction site.

	<p>should be defined east of the Chesapeake Bay as a rainfall event producing 3.25 inches of rain in 24 hours or 0.50 inches of rain in five minutes. If the definition of “Measurable storm event” is adopted as drafted, the resulting burden of required inspections will be far greater than Accomack County will be able to meet. A storm event producing 0.25 inches of rain in 24 hours disappears into the ground here; it does not produce runoff. A quarter-inch of rain in a day on the Eastern Shore leaves no trace of ever having fallen here. It is excessively burdensome and patently wasteful to require inspections on the Eastern Shore in reaction to such trivial and inconsequential weather events.</p>	
<p>Mark B. Taylor, County Attorney, County of Accomack</p>	<p>In consideration of both our natural conditions here on the Eastern Shore and our limited human and economic resources, we would respectfully ask the Board to reconsider the unduly burdensome requirement of inspections every 4 days. It seems incongruous to us, first of all, that this 4-day periodic schedule is being established to regulate Stormwater discharges, while the erosion and sediment control regulations prescribe inspections once every 2 weeks. Maintaining concurrent compliance with both inspection schedules will be unduly burdensome for Accomack County. With the 2 inconsistent inspection schedules required by the separate-but-related regulations, Accomack County and other small localities are doomed to be over-burdened.</p>	<p>Thank you for your comment. Please note that the SWPPP inspection requirements of the general permit govern construction activity operators and not the soon to be established VSMP authorities.</p>
<p>Mark B. Taylor, County Attorney, County of Accomack</p>	<p>Accomack County is concerned about the high frequency of required inspections regardless of how a “working day” may (or may not) be defined in the regulations. We respectfully suggest that a basic term such as “work day” ought to be left to its common and ordinary meaning.</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of “business days.” In addition, the term “business day” has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>
<p>Mark B. Taylor, County Attorney, County of Accomack</p>	<p>Accomack County is concerned by the potential confusion and/or inconsistency caused by having such basic terms as “immediately” defined in the General Permit for Construction and not defined in the Erosion and Sediment Control regulations. We respectfully suggest that a basic term such as “immediately” ought to be left to its common and ordinary meaning.</p>	<p>The Board thanks you for your comment. For this general permit the term “immediately” has been defined in the regulation in order to ensure consistency with EPA’s final 2012 construction general permit; please see 9VAC25-880-1.</p>
<p>Mark B. Taylor, County Attorney, County of Accomack</p>	<p>Water quality regulation will not and cannot be “unified” so long as it proceeds under varying sets of definitions in the realms of Stormwater and E&amp;S control.</p>	<p>The Board acknowledges your concerns and will take them into consideration when proposing future regulatory actions.</p>
<p>Eric Martin, Director of Public Works, City of Chesapeake; Barbara Brumbaugh,</p>	<p>Self-inspection requirements for construction activities within TMDL watersheds should be “every four working days” not “every four days” as currently proposed. Without this change, compliance with this requirement will be extremely difficult and burdensome</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of “business days.” In addition, the term “business day” has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>

Environmental Quality Coordinator, City of Chesapeake Public Works Department	on a majority of permittees (likely most or all of the permittees in Chesapeake), and enforcement at the local level will be equally difficult and burdensome.	
Christine H. Porter, Director for Regional Environmental Coordination, Department of the Navy	Section I. B. 3.a (2): The impairment listings and fact sheets in the 2012 305 (b)/303 (d) Water Quality Assessment Integrated Report rarely list a source and a word search for “construction” and “land disturbance” did not find any hits. In addition, although an obvious pollutant of concern like “sediment” may be listed in a description it may not be associated with construction activities at all, but with farms or stream bank erosion, and still not listed as a source within the terminology of the Integrated Report. Recommend that the term “applicable observed sources” be defined with clarifying examples provided.	Thank you for your comment. Part I B 4 of the general permit regulation has been revised for added clarity.  In addition, it is the department's intention to notify operators of additional SWPPP requirements if the construction activity discharges to an impaired water or an exceptional water, or is subject to an applicable TMDL wasteload allocation established and approved prior to the term of the general permit.
Christine H. Porter, Director for Regional Environmental Coordination, Department of the Navy	Section I.E.c: Reads: “Waters used to wash vehicles where detergents <u>have not been are not used and the wash water has been treated;</u> ” In other items in this section, they use the phrase “filtered, settled, or similarly treated” to describe acceptable treatment. Recommend that the “acceptable treatment for vehicles wash water” be described in the regulations.	Thank you for your comment. Part I E 3 of the general permit has been revised for added clarity.
Christine H. Porter, Director for Regional Environmental Coordination, Department of the Navy	Section II. A.2.b. (1): Existing language in the line 6 – “...or adopts department approved...” might be read to mean that even with department approved annual standards and specification, erosion and sediment control plans must be submitted to the department for review and approval. We do not believe this is the intent of the department. Recommend that the wording in line 6 be changed to “...or to adopt department approved...”	Thank you for your comment. Part II A 2 a of the general permit has been revised for added clarity.
Christine H. Porter, Director for Regional Environmental Coordination, Department of the Navy	Section I.F: “Termination of state permit coverage.” 4VAC50-60-1160 requires provisions for long-term responsibility and maintenance of Stormwater management facilities and those such provisions be set forth in an instrument recorded in local land records prior to state permit termination. The DoD lacks the authority to place certain restrictions on DoD property. Under the Federal Property and Administrative Services Act of 1949, as amended (Property Act), the General Services Administration was given the exclusive authority to manage the utilization of real property (40U.S.C §§ 471 et. Seq.). A discussion with the department is requested to determine how DoD might comply with the intent of this section and 4VAC50-60-1160.	Thank you for your comment. Section 60 of the general permit regulation has been revised to clarify that this requirement may not be applicable to all construction activity operators (i.e., local, state and federal facilities).
Larry Pankey, A Master Gardener	Monitoring is one of the cornerstones of sound, modern adaptive management. Without monitoring, there is no way to	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans

	<p>evaluate whether management actions are effective, how actions should be modified, or when often-expensive actions could be scaled back or eliminated. Does it seem reasonable to trust that a contractor will incur the costs of storm fencing to prevent erosion when no rain is expected/forecasted within the time expected to complete the project. Without monitoring, this will not happen. Consider the weather changing, consider unexpected project events such as during excavation encountering a giant boulder, municipal sewage pipes found where not expected, a wild fire, resources either human or machines not available when expected, etc., etc., etc. Instead of less monitoring (increasing a contractors profit by reducing the costs of erosion prevention), we the public should require access and some level review of the entire project plan including the SWPPP before any work is permitted to begin and during the project's life cycle including changes. We should have access to detail budget plans and changes since this is about costs for contractors and tax payers. We, the concerned public would also need more access to the local, regional, and national building code requirements addressing erosion protection for removal of trees, grading and building projects.</p>	<p>(SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Patrick L. Calvert, Upper James Riverkeeper, James River Association</p>	<p>The resulting proposed regulations largely provide a step forward in effective management of construction Stormwater pollution prevention and control. However, the ultimate measure of the adequacy of the proposed regulations will be the health of the Commonwealth's waterways in the face of renewed construction and development pressures, and it will therefore be imperative to review and assess the effectiveness of the regulations in the coming years. Ensuring strong implementation of the regulations, as well as appropriate inspection and enforcement activities, will be critical moving forward. James River Association supports these proposed regulations as a critical step towards fulfilling the Commonwealth's obligation under its constitution to provide clean water to all Virginians.</p>	<p>The Board thanks you for your support.</p>
<p>Patrick L. Calvert, Upper James Riverkeeper, James River Association</p>	<p>Citizen review is a critical tool in water quality protection. For the past three years – and with no documented or reported complaints from regulated community members during this time – construction permittees in Virginia have been required to make publicly accessible upon request Stormwater Pollution Prevention Plans (SWPPPs). As currently proposed the regulation language would extinguish public</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>

	access to SWPPPs. JRA believes that denying the public's ability to know and respond appropriately to water quality threats in their own community is contrary to the best interest of improved water quality. JRA requests that the Board require in the construction general permit public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request.	
David James, Member James River Association and Nansemond River Preservation Alliance	Support maintaining efforts and standards with respect to water quality and regulations attached to construction sites – Require public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Alan R. Wood, P.E., Director, Water & Ecological Resource Services, American Electric Power	Appalachian Power Company (APCo) and American Electric Power Service Corporation (AEPSC) – (the Companies) appreciate this well-considered effort to clarify and update these regulations. In particular, the Companies appreciate the continuation and recognition of annual standards and specifications for linear projects, and the inclusion of emergency provisions in Section I.A.1.	The Board thanks you for your support.
Alan R. Wood, P.E., Director, Water & Ecological Resource Services, American Electric Power	4VAC50-60-1150: It is unclear to what the referenced “electronic database” is referring. Is this a database applicants will be responsible for inputting, or the VSMP authority? If the applicant, when will the database become available? The Companies suggest “when available” be inserted after “electronic database” throughout.	Thank you for your comment. All verbiage pertaining to an “electronic database” has been deleted from Sections 50 and 60 of the general permit regulation.
Alan R. Wood, P.E., Director, Water & Ecological Resource Services, American Electric Power	Section I.B.3.a (4) (a) and (c): The Companies respectfully request that linear projects be exempted from these requirements. Linear transmission line projects occasionally disturb 20 acres or greater and frequently disturb 5 acres or greater; however, the earth disturbances are typically spread over several miles. In general, earth disturbances from these projects are confined to a 10 to 20 feet wide access road, and ¼ acre disturbance at a tower location. Access roads and towers are often thousands of feet apart, with runoff draining to different receiving streams.	The Board acknowledges your concerns. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Alan R. Wood, P.E., Director, Water & Ecological Resource Services, American Electric Power	Sections II.C.3 and II.E: The Companies suggest that references to termination of permit coverage be clarified to indicate that permit coverage ends with submittal of a Notice of Termination.	Thank you for your comment. Parts II C and II E of the general permit have been revised to reference Part I F of the general permit for added clarity.
David S. Nunnally, Senior Environmental Planner, Caroline County	1100 – Definitions: Recommend that the threshold for permit coverage include both area and duration (ex/ more than “X” days). This could encourage short duration and quick stabilization, both of which provide environmental benefits over long, drawn out	Thank you for your comment. Please note that this concept is currently inconsistent with EPA’s final 2012 construction general permit. No additional amendments to the general permit have been made at this time.

	activities.	
David S. Nunnally, Senior Environmental Planner, Caroline County	1100 – Definitions: Final stabilization: there is no need for additional criteria for residential sites. Localities already have processes and procedures for this. The proposed criteria for residential sites is inconsistent with the E&S program. It is also less stringent and would be less effective than the stabilization requirement in our local E&S program currently.	The Board acknowledges your concerns. However, the Board believes that additional regulatory revisions are unwarranted at this time.
David S. Nunnally, Senior Environmental Planner, Caroline County	1100- Definitions: Measurable storm event: 0.25” per 24 hours, as the trigger for site inspections, is too small. If this criteria is adopted, it should be noted that it refers to a <u>rainfall</u> event, not a <u>runoff</u> producing event that triggers inspections by the locality (per E&S Regs.).	For this general permit a “measurable storm event” is defined as a rainfall event producing 0.25 inches of rain or greater over 24 hours. EPA believes that storm events 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. Furthermore, EPA also believes that storm events in this size range may compromise stormwater controls on the construction site.
David S. Nunnally, Senior Environmental Planner, Caroline County	4VAC50-60-1130 A 4: Items “c” through “k” refer to some type of treatment or filtering prior to discharge, but no specifics. Can the local authority determine the appropriate treatment or will that be specified (required) by subsequent guidance documents?	Thank you for your comment. At this time, it is not the department’s intention to issue additional guidance. As written, flexibility has been provided to the VSMP authorities for compliance determination purposes.
David S. Nunnally, Senior Environmental Planner, Caroline County	4VAC50-60-1160: Termination of state permit coverage: B 5 a (4) and b (3): For clarity, consider replacing “construction activity” with “development activity”, as these sections refer to permanent BMPs on the developed site, not construction site controls.	Thank you for your comment. Section 60 of the general permit has been revised for added clarity.
David S. Nunnally, Senior Environmental Planner, Caroline County	Inspections (numerous sections): Recommend a simplified schedule, 2 weeks for low risk sites; weekly for high risk sites (includes sites greater than 3 acres, sites in CBPA RMA and similar characteristics, and impaired watersheds, etc.). Four days, while analytically valid, is quite unusual. I think once/week would be better received and implemented.	Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of “business days.” In addition, the term “business day” has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.
David S. Nunnally, Senior Environmental Planner, Caroline County	Inspections (numerous sections): It should be noted that the ‘more stringent’ inspection requirement impacts sites regardless of site conditions, controls, etc. There is no incentive to utilize better control measures, achieve better performance, etc. <u>At best, more frequent inspections can only achieve compliance, not better overall performance.</u> I think this could be improved. The CBPA Program provides a host of appropriate ‘more stringent’ measures for sites in impaired waters, etc.	The Board thanks you for your comments. However, the Board believes that additional regulatory revisions are unwarranted at this time.
David S. Nunnally, Senior Environmental	Inspections: “Winter conditions” is a questionable provision. In Virginia, rarely do temperatures stay below freezing all day, for	Thank you for your comment. Part II F 2 b of the general permit has been revised for added clarity.

Planner, Caroline County	30 days. The regulation would be much more effective if it encouraged and incentivized site controls that reduced the likelihood of runoff and discharge, in all types of weather. I recommend an incentive based approach to encourage low runoff and better performance.	
David S. Nunnally, Senior Environmental Planner, Caroline County	Prohibition of non-stormwater discharges: It is not clear as to the proper disposal of these liquids. Recommend simply stating that these liquids cannot be discharged onto impervious surfaces, into stormwater conveyances, or surface waters.	Thank you for your comment. These wastes must be disposed of in accordance with all applicable laws and regulations and shall not be discharged to surface waters unless covered under another state or VPDES permit.
David S. Nunnally, Senior Environmental Planner, Caroline County	Section II A 2 a (5) (b): Is this item necessary? By definition, land disturbing activity is not allowed outside the limits of disturbance. As proposed, steep slopes and natural buffers, located outside the limits, would have to be identified and shown on the plan.	Thank you for your comment. However, the Board believes that it is important for construction activity operators to identify the steep slopes and natural buffers that are not to be disturbed. This exercise will enable operators to readily identify "critical" areas of the site in which inadvertent land disturbance may have a significant impact on water quality.
David S. Nunnally, Senior Environmental Planner, Caroline County	Section II A 2 b: Erosion and Sediment Control Plan: Recommend including a provision for a land disturbing permit (local option, E&S program) be maintained in good standing. This can be an important enforcement item. Permits can be revoked.	Thank you for your comment. However, the Board believes that the proposed revision is unwarranted at this time.
David S. Nunnally, Senior Environmental Planner, Caroline County	Section II A 2 d (5) (e): Concrete washout: Why is hardened [waste] concrete a concern in this regulation?	Thank you for your comment. 40 CFR Part 450 (i.e., the Construction and Point Source Federal Effluent Limitation Guidelines) speak to the minimization of exposure of construction wastes to precipitation and stormwater.
David S. Nunnally, Senior Environmental Planner, Caroline County	Section II A 2 f (2) (a): Applying permanent or temporary stabilization: Recommend revising to 'any significant portion of the site'. As written, even a tiny area would have to be treated.	Thank you for your comment. However, the proposed revision is inconsistent with Minimum Standard #1 of the Erosion and Sediment Control Regulation, 9VAC25-840.
David S. Nunnally, Senior Environmental Planner, Caroline County	Section II A 2 g: Inspections by qualified personnel: RLD (or eliminate it. \$115). I believe a provision that allowed, as a local option, a locality to establish a local certification program for inspections, both site and BMP inspections would be a significant improvement.	Thank you for your comment. However, the responsible land disturber certification is outside of the scope of this regulatory action. The Board will, however, take into consideration your comments during future regulatory actions.
David S. Nunnally, Senior Environmental Planner, Caroline County	Section II F 3 a (4) (b): Please clarify that soil stockpiles do not necessarily require separate control measures. Stockpile(s) may be part of a larger system of controls (ex/perimeter berm, dike and sediment basin). Otherwise, "soil stockpile" needs to be defined.	Thank you for your comment. Part II F 3 a (4) (b) of the general permit has been revised for added clarity.
David S. Nunnally, Senior Environmental Planner, Caroline County	Section II F 3 a (7): Evidence that the erosion plan is not working should include "repeated failures" of a control and location.	Thank you for your comment. Part II B 4 b of the general permit requires operators to document when periodic inspections or other information has indicated that control measures have been used inappropriately or incorrectly, which can include repeated failures of a particular control measure.
David S. Nunnally, Senior	Section II F 3 a (7) (a): Recommend deleting "concentrated" from (7) (a). All runoff must	Thank you for your comment. Part II F 3 a (7) (a) of the general permit has been revised for added clarity.

Environmental Planner, Caroline County	be treated prior to discharge, not just concentrated flows.	
Cindy Schulz, Field Supervisor, Virginia Ecological Services, U.S. Fish and Wildlife Service; Susan Lingenfelter, Fish and Wildlife Service; Katie Temple, Virginia Field Office, U.S. Fish and Wildlife Service	Based on our review of the draft general permit, fact sheet, and other supporting documents, it does not appear that projects authorized under the general permit address potential impacts to federally listed or proposed species. Given the number of federally listed and proposed aquatic species in Virginia and the number of river miles in which they occur, it is likely that some construction activities covered under this general permit as currently written and as it is proposed to be amended may discharge stormwater into rivers occupied by these species. Since stormwater may contain harmful concentrations of a variety of pollutants, it is also likely that some of these discharges may adversely affect listed and proposed species. To avoid adverse effects to listed and proposed species and ensure ESA compliance, the Service recommends that as part of the permit amendment, each discharge shall be evaluated for potential effects to listed and proposed species before it is authorized under the general permit. We recommend that a project review package (which is the end result of this eight-step process developed by the Virginia Ecological Services Office) be included as a necessary component of any application for coverage under the general permit for discharges of stormwater from construction activities. If it appears that any listed or proposed species will be adversely impacted, the project review package must be submitted to the Virginia Ecological Services office for review.	The proposed general permit follows the requirements for protection of water quality contained in the EPA final 2012 construction general permit published in the federal register on February 29, 2012. As currently written, the general permit requires construction activity operators to implement erosion and sediment controls and pollution prevention practices to address the narrative technology-based effluent limitations contained in 40 CFR Part 450. In addition, the general permit requires operators to select, install, implement, and maintain control measures at the construction site that minimize (i.e., reduce or eliminate) pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard. Also, 9VAC25-870-460.1 of the VSMP regulation allows for the use of best management practices to control or abate the discharge of pollutants from stormwater discharges and when numeric effluent limitations are infeasible. The Board believes that the proposed general permit establishes the requirements necessary to protect water quality standards.
William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach	We recommend that the state not use the proposed definition of "Measurable Storm Event" and instead retain and define the term "Runoff Producing Storm Event: as is currently used in VAR10. The stipulation of a discrete rainfall amount that triggers the need to conduct onsite inspections is inappropriate for the purposes of the permit. A given site may or may not discharge runoff from 0.25 inches of rainfall based on any combination of factors including the antecedent rainfall conditions, stage of construction, or rainfall intensity. The current permit language which specifies the performance of inspections after a "runoff producing storm event" is more appropriate and may, in fact, lead to increased or decreased frequency of inspections given the actual characteristics of both the site and rainfall event and therefore should be retained in lieu of a prescriptive standard.	Thank you for your comment. For this general permit a "measurable storm event" is defined as a rainfall event producing 0.25 inches of rain or greater over 24 hours. EPA believes that storm events 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. Furthermore, EPA also believes that storm events in this size range may compromise stormwater controls on the construction site.

<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>4VAC50-60-10: We request that the Commonwealth add the following to the definition for "Qualified Personnel": "Qualified personnel" means a person...For VSMP authorities <u>and for SWPPP inspections</u> this requires the use of a person who holds a certificate of competency from the board..."</p>	<p>Thank you for your comment. However, VSMP authority qualified personnel certifications are outside of the scope of this regulatory action. The Board will, however, take into consideration your comments during future regulatory actions.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>4VAC50-60-1150 - Lines 249-252: We recommend requiring permit extension filing be required at no more than forty-five (45) days prior to June 30, 2014 instead of the currently proposed 90 days. Projects nearing completion may, in fact, achieve final stabilization within the spring [good season for planting grasses in new areas or overseeding temporary stabilization (annual rye grass) to permanent (fescue)] prior to the expiration of the existing permit and would not need to be covered under the new permit. An owner would be in a better position to know whether the site would need coverage beyond June 30, 2014 in mid-May then in early April.</p>	<p>Thank you for your comment. 9VAC25-880-50 A 2 a (1) of the general permit regulation has been updated to indicate that operators of existing construction activities must submit a complete and accurate registration statement on or before June 1, 2014 to obtain coverage under the 2014 general permit.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>4VAC50-60-1160 2 B: We are not sure that the submittal of information with the Notice of Termination will be helpful to us or the Commonwealth. As the permit maintenance fees are optional, there is no real impetus for operators to terminate their permits and no consequences for not submitting Notices of Termination in a timely manner or for submitting incomplete or inaccurate notices of termination. All of the information required for inclusion in the Notice of Termination will have already been captured by the City during plan review and the requirement that it be resubmitted could lead to errors or duplication of information. We believe the current information in the Notice of Termination should be retained.</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been reorganized and revised for added clarity and simplicity.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>4VAC50-60-1160 B 6: We recommend that the proposed addition in this section be eliminated. Any required legal instrument governing long term responsibilities for stormwater facilities would be recorded prior to the issuance of our VSMP Authority permit after thorough review by the City Attorney for sufficiency.</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been revised to clarify that a recorded instrument is required prior to the termination of general permit coverage in accordance with 9VAC25-870-112 of the VSMP regulation.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>Inspection Frequency: We recommend removing the inspection option of once every four calendar days as it is doubtful anyone would inspect at this frequency.</p>	<p>Thank you for your comment. This provision has been carried forward at the recommendation of the Regulatory Advisory Panel established by the Virginia Soil and Water Conservation Board/Department of Conservation and Recreation.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>Triggering Rainfall Event: We recommend changing the triggering rainfall event from the prescriptive 0.25 inches to a rainfall event that actually produces runoff at the site in question which may be more or less than 0.25 inches.</p>	<p>Thank you for your comment. For this general permit a "measurable storm event" is defined as a rainfall event producing 0.25 inches of rain or greater over 24 hours. EPA believes that storm events 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,</p>

		particularly if stormwater controls are not functioning effectively. Furthermore, EPA also believes that storm events in this size range may compromise stormwater controls on the construction site.
William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach	Section I D 1-5 (Lines 611-622): We recommend that the language regarding those discharges prohibited by the permit be consistently dealt with throughout the permit. The discharges of soaps and solvents used in vehicle washing are prohibited while vehicle and equipment wash water pollutants must only be minimized through the use of controls. Absent the presence of visible foam, it will be impossible to tell if wash water being comingled with stormwater is free of solvents or soap.	Thank you for your comment. Parts I D and I E of the general permit have been revised for added clarity and consistency between special conditions.
William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach	Section I G 2 (Lines 679-690): We recommend that the language in this section be clarified to state that the VSMP Authority may also require additional measures to be employed that are protective of water quality.	Thank you for your comment. The Board believes that the proposed amendment is consistent with Section 410 of the VSMP regulation, 9VAC25-870, and that no additional regulatory amendments are warranted at this time.
William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach	Utility Projects (Lines 744-753): We request that the draft permit language be clarified to state that utility projects undertaken by a VSMP Authority that will be performed completely within pavement and therefore not subject to the requirements of the Virginia Erosion and Sediment Control Law and Regulations be allowed to have proposed erosion and sediment control measures review and approved by the local VESCP Authority instead of by the Department as currently stated.	Thank you for your comment. However, the proposed exception is inconsistent with 9VAC25-870-54 B of the VSMP regulation. The Board believes that additional regulatory amendments are unwarranted at this time.
William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach	Section II A 2 b (4) does not form a complete thought. Additional language is needed after II A 2 (6) b (4) (i).	Thank you for your comment. Part II A 2 of the general permit has been reorganized and revised for added clarity.
William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach	Section II A 2 d (6): We request that this section require VSMP permittees to maintain logs of employee training and provide copies of the training materials upon request to the VSMP Authority. Without documentation of training events having occurred, it will be impossible for our inspectors to verify compliance with this provision of the SWPPP. We request that section II A 2 d (6) be modified as written below to conform to the general requirements of 9VAC25-151-80 B 6 (6): <u>"The permittee shall implement a stormwater employee training program for the construction activity. The SWPPP shall include a schedule for all types of necessary training, and shall document all training sessions and the employees who received the training. Training shall be provided for all employees who work in areas where regulated land disturbing activities are</u>	Thank you for your comment. Due to the transient and/or short-term nature of construction activities, the Board has elected not to require construction activity operators to maintain employee training logs at this time.

	<u>exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., contractors, third parties, commercial vendors, etc.) The training shall cover the components and goals of the SWPPP, and include such topics as spill response, good housekeeping, material management practices, BMP operation and maintenance, etc. The SWPPP shall include a summary of any training performed."</u>	
William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach	Public Hearing: We request that the Commonwealth hold a public hearing on the proposed regulation in the Hampton Roads area prior to it becoming final. In order to do this and have adequate time to consider public input, we recommend that the comment period be extended for an additional 60 days beyond June 7, 2013.	The Board acknowledges your request and provided an additional public comment period from October 18, 2013 through November 20, 2013.
Adam Snyder	Please, reinstate/continue the requirement for SWPPP.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Mike Rolband, P.E., P.W.S., P.W.D., President, Wetland Studies and Solutions, Inc.; Eric Martin, Director of Public Works, City of Chesapeake; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department; Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia; Philip F. Abraham, Director and General Counsel, The Vectre Corporation – The Virginia Association for Commercial Real Estate (VACRE)	Section I B 3 a (3) (a) (i) – Line 541: Add the phrase "normal working" such that it reads: "At least once every four <u>normal working</u> days;" [This would mean that If the first inspection is on a Monday, the second inspection is on that next Friday, and the third inspection is on that next Thursday (assuming no holidays), If an inspection landed on a federal or state holiday, that would mean the defer the inspection to the first normal working day and subsequent inspections would follow four working days later.]	Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.

<p>Mike Rolband, P.E., P.W.S., P.W.D., President, Wetland Studies and Solutions, Inc.; Eric Martin, Director of Public Works, City of Chesapeake; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department; Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia; Philip F. Abraham, Director and General Counsel, The Vectre Corporation – The Virginia Association for Commercial Real Estate (VACRE)</p>	<p>Section I B 4 c (1) (a) – Line 595: Add the phrase "normal working" such that it reads: "At least once every four <u>normal working days</u>;" [This would mean that If the first inspection is on a Monday, the second inspection is on that next Friday, and the third inspection is on that next Thursday (assuming no holidays), If an inspection landed on a federal or state holiday, that would mean the defer the inspection to the first normal working day and subsequent inspections would follow four working days later.]</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>
<p>Mike Rolband, P.E., P.W.S., P.W.D., President, Wetland Studies and Solutions, Inc.; Eric Martin, Director of Public Works, City of Chesapeake; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department; Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia; Philip F. Abraham, Director</p>	<p>4VAC50-60-1100: Add the following definition of "Normal Working Days": "<u>Normal Working Days" means Monday through Friday, excluding state and federal holidays.</u>"</p>	<p>Thank you for your comment. The term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>

<p>and General Counsel, The Vectre Corporation – The Virginia Association for Commercial Real Estate (VACRE)</p>		
<p>Mike Rolband, P.E., P.W.S., P.W.D., President, Wetland Studies and Solutions, Inc.; Eric Martin, Director of Public Works, City of Chesapeake; Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department; Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia; Philip F. Abraham, Director and General Counsel, The Vectre Corporation – The Virginia Association for Commercial Real Estate (VACRE)</p>	<p>Section II F 2 a (2): In line 1070, replace "business day" with "working day" to maintain consistency.</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days."</p>
<p>Margaret L. (Peggy) Sanner, Virginia Senior Attorney, Chesapeake Bay Foundation</p>	<p>We remain deeply concerned about the draft Permit in several respects, however, notably including its proposed departure from Virginia's longstanding requirement that the Permit's Stormwater Pollution Prevention Plan ("SWPPP") provisions be publicly available. We believe public availability of the SWPPP is required by Virginia law, the federal Clean Water Act and by prudent public policy, especially in view of the challenges facing Virginia in meeting the Chesapeake Bay Total Maximum Daily Load for Nitrogen, Phosphorus and Sediment ("Bay TMDL") and Virginia's Watershed Implementation Plan ("WIP"). We strongly urge the Board to reinstate the requirement of public availability of the SWPPP.</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Margaret L. (Peggy) Sanner, Virginia Senior</p>	<p>As an integral part of the Permit, the SWPPP must be made publicly available. This is so because the Permit serves as a</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans</p>

<p>Attorney, Chesapeake Bay Foundation</p>	<p>federal Clean Water Act ("CWA") permit, albeit one issued by Virginia as the permitting authority to which the Environmental Protection Agency has delegated responsibility to administer Virginia's CWA stormwater permitting program. CWA permits issued by state permitting authorities pursuant to the CWA (and similar federal acts) must meet the requirements of the federal act, including the CWA requirement that "[a] copy of each permit application and each permit issued under [the NPDES permitting program] shall be available to the public." In Virginia, the permit includes the SWPPP; therefore, as a matter of law, the permit in its entirety, including the SWPPP, must be available for public review. To be sure, the Board and the Department have certain authorities to develop and modify stormwater regulations. If the Board decides that certain regulations are no longer appropriate, they may not just ignore them; rather, they must amend or rescind them pursuant to the Administrative Process Act (APA). In this case, if the Board somehow considers it appropriate to ensure that a contractor's SWPPP is hidden from public view, the Board may not simply ignore the current regulations that clarify the SWPPP is part of the permit and therefore required to be public. Rather, the Board would have to first amend the clarifying regulations to permit such a step. The Board has not, of course, taken such a step; accordingly, the Board is without authority to exempt the SWPPPs from public availability.</p>	<p>(SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Margaret L. (Peggy) Sanner, Virginia Senior Attorney, Chesapeake Bay Foundation</p>	<p>4VAC50-60-1140 - Board Authority: CBF noted throughout the RAP process the importance of ensuring that the Board (with the Department) continues to be, and to be recognized as, the paramount Virginia authority for administering and enforcing this CWA permit. The enhancement of the local VSMP authorities' administrative and enforcement responsibilities in this Permit have muddied the lines of ultimate authority; that situation should be rectified by amending this draft Permit as follows: "A board-approved VSMP authority is authorized to administer requirements of the general permit, including but not limited to (i) registration statement acceptance; (ii) fee collection, (iii) plan review and approval, and (iv) permit compliance and enforcement dependent upon conditions established as part of the board approval. <u>The board reserves its right to enforce the permit notwithstanding the delegation of any responsibilities to the department or the VSMP authority.</u>"</p>	<p>Thank you for your comment. However, the Board believes that the proposed amendment is unwarranted at this time.</p>

<p>Margaret L. (Peggy) Sanner, Virginia Senior Attorney, Chesapeake Bay Foundation</p>	<p>4VAC50-60-1170 Section I B 3 b (1) - Soil Stabilization for TMDL Watershed Discharges: The draft permit mandates a shorter time frame within which the contractor must ensure soil stabilization of denuded areas within a project site that discharges to surface waters located in a TMDL watershed where the pollutant(s) of concern is sediment or nutrients. It now states: "Permanent or temporary soil stabilization shall be applied to denuded areas within 7 days after final grade is reached on any portion of the site." To ensure that the receiving waters in a TMDL watershed are adequately protected, we believe additional language should be added, as follows: "Permanent or temporary soil stabilization shall be applied to denuded areas within 7 days after final grade is reached on any portion of the site, <u>or on which grading has temporarily ceased for a period of 7 days.</u>"</p>	<p>Thank you for your comment. However, the proposed revision is inconsistent with Minimum Standard #1 of the Erosion and Sediment Control Regulation, 9VAC25-840.</p>
<p>Margaret L. (Peggy) Sanner, Virginia Senior Attorney, Chesapeake Bay Foundation</p>	<p>4VAC50-60-1170, Section I B 3 A (3) (b) - Inspection Schedules: The draft Permit requires an enhanced schedule for inspections of project sites that discharge to TMDL watersheds, but permits the operator to inspect at a reduced frequency in frozen weather conditions. As drafted, the provision would also require the operator to resume the heightened inspection schedule if "unexpected weather conditions (such as above freezing temperature or rain or snow events) make discharges likely..." Because controls should be resumed when weather conditions, whether unexpected or expected, make discharges once again likely, the word "unexpected" should be eliminated from this part of the Permit.</p>	<p>Thank you for your comment. Part II F 2 b of the general permit has been revised for added clarity.</p>
<p>Margaret L. (Peggy) Sanner, Virginia Senior Attorney, Chesapeake Bay Foundation</p>	<p>4VAC50-60-1170, Section II G – Corrective Actions: The draft Permit specifies that the operator has an ongoing obligation to address any corrective actions identified pursuant to required site inspections. However, the Permit should also state that the operator may be required to do more where existing controls are not sufficient, especially in the context of impaired or TMDL waters. Proposed language as follows: "<u>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.</u>"</p>	<p>Thank you for your comment. However, the Board believes that additional regulatory revisions are unwarranted at this time.</p>

Jack E. Snell, PhD	As a PhD Civil Engineer with over 30 years experience in the Federal Government, I am acutely aware of the necessity for public comment and access to construction project proposals and plans especially in areas as sensitive as stormwater runoff mitigation. Therefore I am add my strong voice to those who urge you maintain your earlier decision to require public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites, and that you re-instate this requirement in the pending construction general permit.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Patricia Padgett, Edgewater Resident, Chesterfield County	It is very important to maintain the current status of allowing public access to Stormwater Pollution Protection Plans to ensure water quality is not diminished. Continued public scrutiny will help encourage developers and local politicians to do what's right and necessary for the protection of the Virginia watershed, in spite of the cost to do so. Without such pressure, our lakes used for the public water supply will become inadequate, shallow, silt-filled, eutrophicated basins of excess algae and water lilies...I urge you to <u>require</u> public accessibility of Stormwater Pollution Prevention Plans from construction sites upon request, and to re-instate this requirement into the pending construction general permit...I respectfully recommend reading and serious consideration of Charles Fishman's highly illuminating book, <u>THE BIG THRIST – The Secret Life and Turbulent Future of Water</u> . This timely and well-researched book is an excellent resource illustrating the complex nature of water shortages, and detailing ways for municipalities to wisely protect and manage this invaluable resource. This is NOT the time for citizens to be kept out of this process.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
John Bryant	Please do not eliminate the public's right to access and full disclosure of the current SWPPP. This is a vital part of ensuring we can keep improving the quality of our streams, rivers, and bays.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division	The formatting of the regulation is extremely difficult to follow without proper indentation and numbering for the various sections. It would be very beneficial if standard indentation formatting were used in the upcoming publication of this regulation.	Thank you for your comment. However, please note that the Virginia Registrar of Regulations has final authority over the formatting of the construction general permit regulation.
Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville,	Under the definitions, a measurable storm event is noted to be 0.25 inches or greater over a 24 hour period. It is recommended to add "that results in visible runoff" to the end	Thank you for your comment. For this general permit a "measurable storm event" is defined as a rainfall event producing 0.25 inches of rain or greater over 24 hours. EPA believes that storm events with rainfall

<p>Neighborhood Development Services Engineering Division</p>	<p>of the definition. A 1/4 inch of rainfall over 24 hours will produce negligible (if any) runoff, while a 1/4 inch of rainfall in a much shorter period could result in significant runoff.</p>	<p>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. Furthermore, EPA also believes that storm events in this size range may compromise stormwater controls on the construction site.</p>
<p>Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division</p>	<p>It is recommended that small and large construction sites be defined in the regulation as they are defined in the Fact Sheet.</p>	<p>Thank you for your comment. Please note that the terms "large construction activity" and "small construction activity" have been previously defined in the VSMP regulation, 9VAC25-870-10, and have been incorporated by reference.</p>
<p>Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division</p>	<p>Section II A 1 mentions a SWPPP template for developments that disturb less than one acre. It is requested that more detail on this template, its location, content, etc., be provided.</p>	<p>Thank you for your comment. It is the department's intention to provide additional direction and certainty regarding the SWPPP template outside of this regulatory action.</p>
<p>Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division</p>	<p>Section II A 2 b discusses control of stormwater discharges, including peak flow rates and total stormwater volume. This item would seem more appropriate later in the section under the stormwater management plan opposed to the section for the erosion and sediment control plan.</p>	<p>Thank you for your comment. Please note that Minimum Standard 19 of the Erosion and Sediment Control Regulation, 9VAC25-840, also speaks to the control of Stormwater discharges, including flow rate and volume.</p>
<p>Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division</p>	<p>Section II discussed qualified personnel. It is suggested to provide clarity on who these qualified personnel are (operator's or locality's or both) and what the required qualifications are. Perhaps qualified personnel could be added to the definitions for clarity.</p>	<p>Please note that the term "qualified personnel" has been previously defined in the VSMP regulation, 9VAC25-870-10, and has been incorporated by reference.</p>
<p>Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion; Dennis Slade, Environmental Consultant, Dominion – Environmental Policy</p>	<p>As the regulated entity subject to innumerable federal and state rules, we want to encourage the alignment of proposed federal and state rules, where possible, to prevent disparate or duplicative requirements.</p>	<p>The Board acknowledges your concern and will take into consideration your comment during future regulatory actions.</p>
<p>Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion; Dennis Slade,</p>	<p>On April 1, 2013, after the Department of Conservation and Recreation (the Department), Soil and Water Conservation Board issued its Proposed Rule, the EPA issued proposed changes to the effluent limitations guidelines and standards for the</p>	<p>Thank you for your comment. EPA's proposed amendments to the Construction and Development Point Source Effluent Limitation Guidelines (ELGs) have not been promulgated to date. Consequently, no additional amendments to the general permit regulation have been made at this time.</p>

<p>Environmental Consultant, Dominion – Environmental Policy</p>	<p>Construction and Development Point Source Category. To ensure consistency between the federal and state proposed changes, we recommend that the Department revise the Proposed Rule to incorporate the proposed amendments to the federal guidelines and re-issue the revised Proposed Rule to provide the public an opportunity to comment once the federal rule changes have been incorporated.</p>	<p>The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the general permit regulation.</p>
<p>Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion; Dennis Slade, Environmental Consultant, Dominion – Environmental Policy</p>	<p>4VAC50-60-1170. General permit. Section II A 2 b (4) (b) (Erosion Control): To align with the revision being proposed in 40 CFR 40.21 (a) (2) in the federal rule, the language here should be revised to read: "Controls stormwater discharges, including both peak flow rates and total stormwater volume, to minimize <u>channel and streambank erosion in the immediate vicinity of discharge points at outlets and to minimize downstream channel and stream bank erosion.</u>" As EPA notes, this revision appropriately distinguishes that permittees should only be responsible for addressing erosion occurring in the immediate vicinity of permitted outfalls.</p>	<p>Thank you for your comment. EPA's proposed amendments to the Construction and Development Point Source Effluent Limitation Guidelines (ELGs) have not been promulgated to date. Consequently, no additional amendments to the general permit regulation have been made at this time.</p> <p>The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the general permit regulation.</p>
<p>Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion; Dennis Slade, Environmental Consultant, Dominion – Environmental Policy</p>	<p>4VAC50-60-1170. General Permit. Section II A 2 b (4) (g) (Soil Compaction and Preservation of Topsoil): The proposed language in this section should also be altered to be consistent with revisions being proposed by EPA related to soil compaction and preservation of topsoil. The current language in the proposed Virginia rule states: "Minimizes soil compaction and preserves topsoil where feasible." In the draft federal rule, EPA separates the requirements for soil compaction and topsoil preservation in its proposed language in 40 CFR 450.21 (a) (7), which states: - "Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted. – Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed." With this language EPA recognizes that soil compaction may be required, for example, in cases where roads, foundations, or other similar structures are to be built. With regard to preservation of topsoil, EPA states that the preservation of topsoil is not required, even if it may be feasible, where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed. We recommend the adoption of the language in the proposed federal rule. With this revision the Department would acknowledge that a comprehensive</p>	<p>Thank you for your comment. EPA's proposed amendments to the Construction and Development Point Source Effluent Limitation Guidelines (ELGs) have not been promulgated to date. Consequently, no additional amendments to the general permit regulation have been made at this time.</p> <p>The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the general permit regulation.</p>

	Sediment and Control Plan should account for situations where certain erosion controls are not feasible or necessary and may even be counter to the function of a particular area or activity.	
Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion; Dennis Slade, Environmental Consultant, Dominion – Environmental Policy	4VAC50-60-1170 (Stabilization of Disturbed Areas): Virginia should also follow EPA's approach with regard to stabilization of disturbed areas. Several requirements related to the stabilization of disturbed areas are detailed in the draft general permit language, including stabilization measures required as part of the Discharge Authorization and Stormwater Pollution Prevention Plan. We recommend that the Department incorporate in its final rule EPA's language at 40 CFR 450.21 (b), which states that "In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed." While there are limited cases where a disturbed area would not require stabilization and remain disturbed, EPA believes permitting authorities should have the flexibility to evaluate these individual circumstances on a case-by-case basis.	Thank you for your comment. EPA's proposed amendments to the Construction and Development Point Source Effluent Limitation Guidelines (ELGs) have not been promulgated to date. Consequently, no additional amendments to the general permit regulation have been made at this time.  The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the general permit regulation.
Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion; Dennis Slade, Environmental Consultant, Dominion – Environmental Policy	We respectfully request that the Department consider incorporating EPA's proposed revisions to the Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category into the Virginia Proposed Rule and re-issue for public comment. As an alternative, the Department could wait to complete its proposed rule until the federal rule is final to ensure proper alignment of the two rules.	Thank you for your comment. EPA's proposed amendments to the Construction and Development Point Source Effluent Limitation Guidelines (ELGs) have not been promulgated to date. Consequently, no additional amendments to the general permit regulation have been made at this time.  The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the general permit regulation.
Patricia VonOhlen, Newport News	I am writing to urge you to maintain the earlier decision to "require public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request" and I also encourage you to re-instate this requirement into the pending construction general permit. Allowing the public access to plans and ability to comment on stormwater management of construction projects will help state regulators to protect water quality in Virginia.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code	4VAC50-60-1130 A 1 b: "The operator of any land-disturbing activity that is not required to obtain stormwater management plan approval from a VSMP authority..." Please clarify the circumstances under which stormwater management plan approval from the VSMP Authority would not be required. Is this only referring to State and Federal projects?	Thank you for your comment. These construction activities would include state projects, federal projects, and linear utility projects prepared in accordance with department-approved annual standards and specifications.

Development and Compliance Division, County of Fairfax		
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1130 A 2 and 4VAC50-60-1170 C: "Discharges authorized by a separate state or a VPDES permit may be commingled with discharges authorized by this state permit so long as all such discharges comply with all applicable state permit requirements." It is not clear what VPDES permits this would apply to. For consistency with 4VAC50-60-1130 A 4 it would seem to only apply to other stormwater discharges since 4VAC50-60-1130 A 4 lists the non-stormwater discharges that are authorized, none of which require separate permits. Also, page 8 of the fact sheet says that "All discharges covered by this general permit shall be composed entirely of stormwater associated with construction activities," which seems to contradict commingling of anything except stormwater discharges.	Thank you for your comment. Parts I C and I D of the general permit have been revised for added clarity.  Please note that other VPDES permits include individual and general permits issued under the Virginia Pollutant Discharge Elimination System regulation, 9VAC25-31.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1130 B 2: "The operator is proposing discharges to surface waters specifically named in other State Water Control Board or Virginia Soil and Water Conservation Board regulations that prohibit such discharges". Does this refer to a type or class of surface waters or specific individual water bodies that are named within the state regulations?	Thank you for your comment. In general, this permit verbiage refers to the specific surface waters named in the Virginia Water Quality Standards, 9VAC25-260.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1130 F: "Continuation of permit coverage. Any operator that was authorized to discharge under the general permit issued in 2009 under 4VAC50-60-1170 Section III M and that submits a complete registration statement that is stamped as received by the department or postmarked 90 days prior to the effective date of this general permit is authorized to continue to discharge under the terms of the 2009 general permit until such time as the board either: Issues coverage to the operator under this general permit or Notifies the operator that the discharge is not eligible for coverage under this general permit." This transition from the existing permit to the new permit will be problematic. When local VSMP Authorities assume responsibility for the program they should not be required to take on responsibility for existing permits that were issued by DCR. Some of the related issues include:	Thank you for your comment. It is the department's intention to provide additional direction and/or guidance outside of this regulatory action.

	<ul style="list-style-type: none"> <li>a. Localities will not have received a fee for inspection, enforcement and administration of the permit.</li> <li>b. The existing/renewed permits may have on-going violations about which the locality has no history. Localities should not be expected to continue enforcement actions initiated while the program was being administered by DCR.</li> <li>c. There could be many outstanding permits that were never closed out by the Operator, even though there is no construction activity. The localities should not be responsible for researching and tracking down Operators that did not close out their VSMP permit.</li> <li>d. There could be many projects that never obtained a VSMP permit and were required to, whether deliberately or unknowingly. Localities should not be expected to inherent these violations, which could be cause for action against the locality for not properly administering the program.</li> <li>e. As a minimum, the state should close out any open permits where construction activity has been completed and stabilization achieved and continue to administer any permits that have either a history of violations or on-going enforcement actions.</li> </ul>	
<p>Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax</p>	<p>4VAC50-60-1150 A 5: "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 unauthorized discharge." Please verify that as an unauthorized discharge, discharges without permit coverage would be subject to enforcement action per 4VAC50-60-116.</p>	<p>Thank you for your comment. Please note that this language has been removed from the proposed general permit.</p>
<p>Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code</p>	<p>4VAC50-60-1150 B 5: "Name of the receiving water(s) and HUC." Should this specify which order map (e.g. 4<sup>th</sup> Order, 8-digit HUC map)?</p>	<p>Thank you for your comment. Please note that the term "hydrologic unit code" or "HUC" has been previously defined in the VSMP regulation, 9VAC25-870-10, and has been incorporated by reference.</p>

Development and Compliance Division, County of Fairfax		
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1150 D: "The registration statement shall be submitted to the VSMP authority as the administering entity for the board." It should be clarified that the applicant submits the Registration Statement using the state's electronic database, not a paper form submitted directly to the VSMP Authority. While this is stated elsewhere in 4VAC50-60-1150, it could be misunderstood that the Operator must make a separate submission to the VSMP authority.	Thank you for your comment. Section 50 of the general permit regulation has been revised for added clarity.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1160 A: "The notice of termination should be submitted within 30 days of one of the above conditions being met." Should this be "within 30 days after...".	Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1160 A: "Authorization to discharge terminated at midnight on the date that the notice of termination is submitted unless otherwise notified by the VSMP Authority or the department." It is not clear how the local VSMP Authority is involved in the Termination procedure. Authorization to discharge terminates when notice is submitted. How can the locality be informed of this action? Is this only after final inspections? Is it anticipated that the VSMP Authority would notify the Operator that authority to discharge has not terminated after the fact, once the notice has been submitted? Does this create a confusing situation and potential for enforcement action? This process and the role of the local VSMP authority needs to be clarified.	Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research	4VAC50-60-1160 A 1: "Termination of state permit coverage. Necessary postconstruction control measures included in the SWPPP for the site are in place and functioning effectively and final stabilization has been achieved on all portions of the site for which the operator is responsible." Clarify whether the determination that controls are functioning effectively and final	Thank you for your comment. It is the department's intention to provide additional direction and certainty outside of this regulatory action. No additional amendments have been made to the general permit regulation at this time.

and Development Branch, Code Development and Compliance Division, County of Fairfax	stabilization has been achieved is made by only the Operator, the VSMP Authority, or jointly.	
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1160 B 5: "Where applicable, a list of the permanent control measures (both structural and nonstructural) that were installed or employed to meet the post-development stormwater quality criteria at the construction site." How is "where applicable" defined? Is it specified where permanent control measures are required?	Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1160 B 5 a (3): "Construction activity acres treated onsite (to the nearest one-tenth of an acre);" Clarify how an Operator would report offsite acres draining from adjacent property that would be treated by an onsite permanent control measure.	Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1160 B 5 a (4): "Construction activity nutrient reductions achieved onsite (lbs. per acre per year);" Clarify which nutrients are to be addressed (i.e., Total Phosphorus, Nitrogen, etc.)	Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development	4VAC50-60-1160 B 5 a (3) and (4) , b (1) and (3): Should "construction activity" be "developed" or "post-construction" since control measures must continue to function after cessation of the construction activity and termination of the permit?	Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.

Branch, Code Development and Compliance Division, County of Fairfax		
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1170 I A 1 c (1): "The Operator advises the VSMP authority of the construction activity within seven days of commencing land disturbance." What constitutes having "advised" the VSMP Authority (i.e., telephone, email, written correspondence, filing a plan)?	Thank you for your comment. Please note that this proposed language has been removed from the general permit.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1170 I B 2: "Discharges covered by another state permit. This state permit does not authorize stormwater discharges associated with construction activity that have been covered under an individual permit or are required to obtain coverage under an alternative general permit." An alternative general permit is not defined or used elsewhere in the text. Define or clarify what would be an alternative general permit.	Thank you for your comment. An alternative general permit would be one that also authorizes stormwater discharges from construction activities.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1170 I B 3 a (3) (a): Please clarify the inspection frequency of at least once every four days or at least once every 7 days and no later than 48 hours after a storm event. Does this mean the Operator can either inspect once every 4 days, regardless of weather, or reduce the frequency to once every 7 days accounting for weather?	Thank you for your comment. Your interpretation is correct.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code	4VAC50-60-1170 I D: "Prohibition of nonstormwater discharges. Except as provided in Sections I A 2, I C and I E, all discharges covered by this state permit shall be composed entirely of stormwater associated with construction activity." This section is confusing. Although the permit authorizes only stormwater discharges exceptions are referenced, one of which is "commingled discharges" in paragraph I C. It is unclear whether some of the commingled	Thank you for your comment. Please note that this general permit authorizes stormwater discharges from construction activities (Part I A 1), stormwater discharges from support activities (Part I A 2), commingled discharges (Part I C), and specific nonstormwater discharges (Part I E).  Part I D of the general permit prohibits all nonstormwater discharges except those that are authorized/identified under Parts I A 2, I C, and I E.

Development and Compliance Division, County of Fairfax	discharge could be non-stormwater in addition to the non-stormwater discharges authorized under I E.	
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1170 II A 1: The Department needs to provide further guidance on the meaning of "Common plan of development" including examples of how it applies in determining applicability of the permit regulations.	The Board acknowledges your comment.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1170 II F: What constitutes "qualified personnel" as used in this section? It does not appear to be defined or necessary qualifications stated in the text.	Thank you for your comment. Please note that the term "qualified personnel" has been previously defined in the VSMP regulation, 9VAC25-870-10, and has been incorporated by reference.
Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax	4VAC50-60-1170 II G 2: "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 impacts. The operator shall notify the department and obtain all applicable federal, state, and local authorizations, approvals, and permits prior to the removal of sediments accumulated in surface waters including wetlands." This should include notification of the VSMP Authority too.	Thank you for our comment. Part II G 2 of the general permit has been revised as recommended.
J.C. McCord, N. Chesterfield;	Please note my desire to require public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request, and to re-instate this requirement into the pending construction general permit.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1130 A 1 b: Could an agreement in lieu of a plan be submitted for stormwater management plans? Single Family Homes, Private Driveways and Farm Buildings that are constructed as part of a small construction activity could be covered	Thank you for your comment. As currently written the VSMP regulations, 9VAC25-870, do not provide for the submission of an agreement in lieu of a stormwater management plan.

	under an in lieu agreement with a template of stormwater management practices.	
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1150 B 11: Who reviews stormwater pollution prevention plans? A quality control process (aka plan review process) is needed to ensure that the SWPPP addresses all the needed areas of the permit. Quality assurance is performed by the site inspector. There may be a heavy workload implied on the site inspector if the SWPPP has not gone through a formal review process then additional corrective actions must be enforced.	In accordance with 9VAC25-870-54 of the VSMP regulation, a SWPPP must include an erosion and sediment control plan reviewed and approved by the local VESCP authority and a stormwater management plan reviewed and approved by the local VSMP authority.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1150 D: I thought the registration statements will be submitted electronically for the VSMP authority and state review.	Thank you for your comment. It is the department's intention to develop and implement an online construction general permitting system for use by local VSMP authorities; to obtain general permit coverage an operator will be required to submit a paper registration statement to the local VSMP authority for processing.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1150 D: When is permit coverage issued? Does it occur upon registration or with VSMP authority permit issuance?	Thank you for your comment. General permit coverage is traditionally issued after the Board receives a complete and accurate registration statement and the operator pays any applicable permit fees.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1160 B 5 a: Is it possible that the list of permanent control measures required for permit termination be double counted? The VSMP authority is supposed to review and approve a stormwater management plan which includes reporting permanent control measures.	The Board acknowledges your concern. It is the department's intention to provide additional direction and/or guidance outside of this regulatory action in order to minimize the potential for duplicative reporting.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1160 B 5 a: Will the reporting of nutrient reductions achieved onsite be in compliance with the Chesapeake Bay TMDL reporting protocol? It would help to be consistent across the state.	Thank you for your comment. This Notice of Termination requirement has been deleted from Section 60 of the general permit regulation.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section I B 3: How will an operator know if they are discharging into impaired waters with an approved TMDL? Could the list of approved TMDLs be incorporated by reference? Will the local VSMP authority be expected to enforce these more stringent requirements?	Thank you for your comment. It is the department's intention to notify operators (and VSMP authorities) of additional SWPPP requirements if the construction activity discharges to an impaired water or an exceptional water, or is subject to an applicable TMDL wasteload allocation established and approved prior to the term of the general permit.  In addition, local VSMP authorities are responsible for adopting and enforcing a VSMP that is consistent with the construction general permit.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II A 2 a (2): Who issues the notice of coverage? Does the local VSMP authority make that issuance? Is this the same notice of coverage required by the Local VSMP authority permit?	Thank you for your comment. The State Water Control Board issues coverage under the general permit.  VSMP authorities are required to issue a consolidated stormwater management and erosion and sediment control permit in accordance with §62.1-44.15:27 I of State Water Control Law.

Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II A 2 b (4): Language needs revision: "Evidence" of what? Is this for noncompliance, erosion, etc.? "...annual standards and specifications approved by the department <u>shall adequately address the following</u> :"	Thank you for your comment. Part II A 2 c of the general permit has been revised for clarity.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II A 2 b (4): If the E&S Plan is intended to satisfy the Effluent Limitation Guidelines (ELG) then why is it not stated as such?	Thank you for your comment. As currently written, Part II A 2 c of the general permit provides consistency with 9VAC25-870-54 F of the VSMP regulation.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II A 2 b (4) (a) through (i): Is there a standard or specification for (a) through (i)? Could the minimum standards be incorporated by reference?	Thank you for your comment. As currently written, Part II A 2 c of the general permit provides consistency with 9VAC25-870-54 F of the VSMP regulation, which have been adapted from the Construction and Development Point Source ELGs (40 CFR Part 450).
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II A 2 b (4) (c): Reference the definition of "steep slopes" or "critical slopes". This is typically 15% or greater in some County ordinances. Should there be a statement that addresses slope design? There are many side-slopes or cut banks at 4:1 or 3:1 which is 25-33% slopes and should be kept to a minimum length or height with adequate measures employed.	Thank you for your comment. As currently written, the Board believes the general permit provides maximum flexibility to the local VSMP authorities for ongoing program development and implementation.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II A 2 b (4) (e): (e) addresses sediment discharges, should this be equated to a sediment yield? The Revised Universal Soil Loss Equation predicts and quantifies a sediment load from a treated slope. Other states have used the RUSLE in the design and implementation of Erosion and Sediment Control Measures.	Thank you for your comment. As currently written, the Board believes the general permit provides maximum flexibility to the local VSMP authorities for ongoing program development and implementation.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II A 2 b (4) (g): How is soil compaction minimized? Some construction specifications require a certain level compaction. There are no specifications in the VESCH that covers soil aeration.	Thank you for your comment. Please note that EPA has proposed a further clarification to the ELG in question. EPA's proposed rulemaking states, "Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted."
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II A 2 c: Language needs revision. "An <u>approved</u> stormwater management plan from..." With the integration bill all VSMP authorities are required to have a stormwater management plan review and approval process. Why would an operator not be required to obtain approval?	Thank you for your comment. Part II A 3 of the general permit has been revised for added clarity.
Richard Jacobs, Culpeper Soil and Water Conservation District	4VAC50-60-1170 Section II F 4: Language needs revision: "...the report shall contain a certification that the facility is in compliance..." What is meant by "facility"? Should this be the "construction activity" or "site"? If the intention is for "facility" to mean "control measure" then "control measures" should be used.	Thank you for your comment. Part II F of the general permit has been revised for added clarity.
William Gayle, Bedford County,	The Soil & Water Conservation Board should be encouraged to maintain its earlier	Thank you for your comment. The Board has included a provision in the proposed general permit to

<p>Sam Jones; Celeste Cooper; Melissa Damiano; Ann F. Schatzle; Anne Donovan Larson, Member Catoctin Creek Scenic River Advisory Board</p>	<p>decision to "require public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request", and should be further encouraged to "re-instate this requirement into the pending construction general permit".</p>	<p>make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Peter Solomon, Richmond</p>	<p>I am writing to ask that you keep the public's right to review Stormwater Pollution Prevention Plans (SWPPPs) for Virginia Construction sites. It seems to me to be an important environmental and economic issue, as a clean river shed is important to tourism in the area, but primarily my concern is with the health of our rivers. I don't see that making SWPPPs available for the public for review hampers the ability of developers to see through their projects. It just enables local communities to have a stake in the health of the river to ensure that these businesses are observing environmental regulations.</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>VDOT recommends that active construction projects that have received coverage under the 2009 Construction Permit have the conditions of the 2009 permit administratively continued for those projects for a period of one year (i.e., until June 30, 2015) or until permit termination, whichever comes first (it is believed that this decretory authority exists based on the proposed language in 4VAC50-60-1130 Section F). This would allow VDOT time to complete those activities under the current permit and contract conditions where updating the SWPPP would have little or no measurable benefit and would allow sufficient time to updated construction contracts and budgets to account for revising the SWPPP for those other projects that would not be completed within the one year window.</p>	<p>The Board acknowledges your concern. However, the Board believes that this proposal is outside the scope of this regulatory action.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>The proposed requirement to update SWPPPs to include any changes to Federal, State, or local requirements for control measures during the permit cycle is neither practicable nor feasible for permitted projects under active construction. Compliance issues could arise if DCR does not have a clear and definable method of communicating the need to update the SWPPP. Also, depending upon the number and magnitude of the changes, such a requirement could lead to costly time delays and budget overruns.</p>	<p>Thank you for your comment. This requirement has been deleted from the general permit.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia</p>	<p>4VAC50-60-1100. Definitions: "Commencement of construction" Lines 18-20 – Recommend changing verbiage for clarification and consistency to read: "Commencement of construction <u>or</u></p>	<p>Thank you for your comment. The Board, however, has retained the definitional language as proposed, which is commensurate with EPA's definition of "Commencement of Earth-Disturbing Activities" included in the final 2012 CGP.</p>

Department of Transportation	<u>commencement of land disturbing activities or commencement of land disturbance means... (e.g., stockpiling of fill material or installation of erosion and sediment control devices)".</u>	
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1130. Authorization to discharge. Section A Lines 76 and 77: Specifically calling out emergency related construction activities and referencing 4VAC50-60-700 and 1150 implies that a registration statement and permit fees will be submitted prior to commencement of land disturbance. Emergency related construction activities have up to 30 days after commencement of land disturbance to file a registration statement (see Virginia Code 10.1-603.8 and proposed 4VAC50-60-1170 Section I A 1 c) and pay the appropriate permit fees. For clarification recommend that the specific reference to emergency related construction activities be removed from lines 76 and 77.	Thank you for your comment. 9VAC25-880-30, 9VAC25-880-50 and 9VAC25-880-70 of the general permit regulation have been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1130 Section A 1 a: Change the word "board" to "department" for clarification and consistency.	Thank you for your comment. The proposed recommendation has been incorporated into the general permit regulation.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1130 Section A 1 b: After 4VAC50-60 recommend adding " <u>or prepares the stormwater management plan in accordance with annual standards and specifications approved by the department.</u> " This language would be consistent with that in Section A 1 a on lines 95 and 96.	Thank you for your comment. The proposed recommendation has been incorporated into the general permit regulation.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1130 Sections A 2, 3 & 4: These sections do not appear worded properly to follow the verbiage on line 84 (i.e., "...and provided that:"). Recommend that verbiage be revised or the sections be re-labeled as B, C, D, etc for clarification.	Thank you for your comment. Section 30 of the general permit regulation has been reorganized and revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1130 – Section C 2: Recommend changing verbiage to read " <u>completion of the last construction project it supports</u> ". This would be consistent with verbiage in 4VAC50-60-1170 Section I A 2 b (2).	Thank you for your comment. 9VAC25-880-30 C 3 of the general permit regulation has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1130 – Section C 3: Recommend changing verbiage for clarification to read "The support activity is identified in the registration statement <u>or is located within the land development area identified in the registration statement</u> at the time of state permit coverage." Support activities for VDOT projects are most often identified by the contractor and such identification typically occurs after the project has received permit coverage.	The Board acknowledges your concern. However, the Board believes that additional regulatory amendments are unwarranted at this time.

	<p>Provided such support areas are located within the identified land development area on the registration statement for the construction project and provided the addition of the support areas does not change the fees previously paid for permit coverage, they should be allowed to be added to the SWPPP for the construction project and be covered under the permit coverage obtained for the construction project.</p>	
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1130 – Section F: Concerned that the e-permitting system will not be deployed in a manner to provide sufficient time to input data and submit new registration statements for some 400-500 VDOT ongoing construction activities by the required 90 days prior to 7/1/14. Recommend that the 90 day limitation be changed to 30 days.</p>	<p>Thank you for your comment. 9VAC25-880-50 A 2 a (1) of the general permit regulation has been updated to indicate that operators of existing construction activities must submit a complete and accurate registration statement on or before June 1, 2014 to obtain coverage under the 2014 general permit.</p> <p>The June 30, 2014 deadline provided in 9VAC25-880-30 H allows the Board to administratively continue coverage under the 2009 general permit until the Board grants coverage under the 2014 general permit.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1150. State permit application (registration statement) – Section A 1: Delete verbiage in parentheses as it will not be needed assuming the definition of commencement of construction is revised to include commencement of land disturbing activities as previously recommended above.</p>	<p>Thank you for your comment. The proposed recommendation has been incorporated into the general permit regulation.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1150 – Section 3 a: See previous comments and recommendation regarding the 90 day timeline. Also, understand the need for new permit fees for those activities where responsibility for plan reviews and inspections are being transferred to localities. However, since VDOT's program will still continue to be administered by DCR and will operate under DCR approved Annual Standards and Specifications and since VDOT performs all its plan reviews and inspections, what additional costs will DCR be incurring for re-permitting VDOT projects to justify paying additional permit fees? Recommend that any VDOT activity that had previously paid the permit fee for coverage under the 2009 permit be exempt from paying fees to obtain continued coverage under the 2014 permit. VDOT could incur a cost of approximately \$275,000 in re-permitting fees if this language is left as proposed.</p>	<p>The Board acknowledges your concern. However, the Board believes that this proposal is outside the scope of this regulatory action.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1150 – Section 3 b: 30 days is not sufficient time to update SWPPPs for permitted activities, especially those under active construction. Ninety (90) days would be more reasonable. However, updating SWPPPs for projects under active construction is not practicable or feasible,</p>	<p>Thank you for your comment. Section 50 of the general permit regulation has been revised to provide existing construction activity operators with 60 days to update their SWPPPs to comply with the terms of the 2014 general permit.</p>

	<p>regardless of the time frame. Doing so can result in work orders and time delays with little, if any, measurable or definable benefit. VDOT could have as many as 500 active construction projects whose SWPPPs would have to be updated to incorporate and implement new permit requirements for such things as inspection schedules and pollution prevention practices and training. Using a minimal cost of \$20,000 per project, this requirement could cost VDOT up to 10 million dollars to implement. It is recommended that, for all active construction activities with coverage under the current construction permit (issued 7/1/09), the conditions of the current permit be administratively continued for those projects for a period of one year (until 6/30/15) or until permit termination, whichever comes first. In doing so, it is estimated that the number of active VDOT construction projects that would need to have their SWPPP updated would decrease by approximately 70%.</p>	
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1150 – Section A 46: Recommend changing verbiage for consistency to read "...statements after <u>commencement of land disturbing activities.</u> "	Thank you for our comment. 9VAC25-880-50 A 4 of the general permit regulation has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1150 – Section B 5: For consistency change the words "receiving water(s)" to " <u>surface water(s).</u> "	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1150 – Section B 6: For clarification recommend changing verbiage to read "...operator of the <u>MS4.</u> "	Thank you for your comment. 9VAC25-880-50 B 6 of the general permit regulation has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1150 – Section B 10: For consistency, recommend changing verbiage to read "...prior to <u>commencement of land disturbance.</u> "	Thank you for your comment. 9VAC25-880-50 B 10 and B 11 of the general permit regulation have been reorganized and revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1150 – Section B 11: For consistency, recommend changing verbiage to read "...prior to <u>commencement of land disturbance.</u> "	Thank you for your comment. 9VAC25-880-50 B 10 and B 11 of the general permit regulation have been reorganized and revised for added clarity.

Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1150 – Section B 5 c: Grammatical correction – Change the word "offsets" to "offset".	Thank you for your comment. This requirement has been deleted from the general permit regulation.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1150 – Section B 6: For clarification, recommend changing verbiage to read " <u>Documentation that any instrument...</u> "	Thank you for your comment. This requirement has been deleted from the general permit regulation.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170. General permit. Section I A 1: For clarification, recommend revising verbiage to read " <u>state permit's expiration date or date of termination of state permit coverage, whichever occurs first, the operator...</u> "	Thank you for your comment. As currently written, a construction activity operator covered under the general permit is authorized to discharge until the general permit's expiration date, unless the operator submits a notice of termination in accordance with Part I F of the general permit. This language is consistent with other general permits adopted by the board.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section I A 1 a: For clarification, recommend deleting all verbiage beginning with "or construction activities...". This section deals with new construction activities. Previously covered construction activities are covered in Section I A 1 b and the recommended language to be deleted in Section I A 1 a is contained in Section I A 1 b.	Thank you for your comment. Part I A of the general permit regulation has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section I A 2 c: Recommend revising verbiage to read " <u>...the registration statement or is located within the land development area identified in the registration statement at the time of state permit coverage.</u> " This is consistent with the recommended change at 4VAC50-60-1130 Section C 3.	The Board acknowledges your concern. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section I B 2: Grammatical correction – Change words "construction activity" to " <u>construction activities</u> ".	Thank you for your comment. Part I B of the general permit regulation has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section I B 3 a (3) (a) ii: For clarification recommend changing verbiage to read " <u>In the event that the end of a measurable storm event occurs...</u> " Since the inspection takes place following the measurable storm event, the normal time between working days should be referenced from the end of the rainfall event.	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of	4VAC50-60-1170 – Section I B 3 b (2): For clarification, recommend revising verbiage to read " <u>manufacturer's recommendations or a State approved nutrient management plan...</u> "	Thank you for your comment. The proposed revision has been incorporated into Parts I B 4 c and I B 5 c of the general permit.

Transportation		
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section I B 4 c (1) (b): For clarification, recommend changing verbiage to read "In the event that <u>the end of</u> a measurable storm event occurs..." Since the inspection takes place following the measurable storm event, the normal time between working days should be referenced from the end of the rainfall event.	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section I B 5: Why is this verbiage here? It appears out of place here. It appears more related to the pollution prevention plan requirements. For clarification, recommend relocating this verbiage to that section.	Thank you for your comment. This verbiage has been relocated to Part I B 6 of the general permit. Please note that there shall be no discharge of floating solids or visible foam in other than trace amounts in order to eligible for general permit coverage, which is a specified limitation.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section I G 1: Would appear that "discharge" is referring to "stormwater discharge". If so, for clarification, add the word " <u>stormwater</u> " prior to the word discharge as discharge without qualification refers to the discharge of a pollutant (see 4VAC50-60-10).	Thank you for your comment. Please note that the general permit authorizes both stormwater and non-stormwater discharges. Consequently, the term "discharge" has been employed in Part I G 1 of the general permit accordingly.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section I G 2: See comment above regarding clarification of what discharge is being referenced.	Thank you for your comment. Please note that the general permit authorizes both stormwater and non-stormwater discharges. Consequently, the term "discharge" has been employed in Part I G 2 of the general permit accordingly.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 1: For clarification recommend revising verbiage to read "...prior to <u>commencement of</u> land disturbance..."	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 a (5) (c): For clarification recommend changing the word "treat" to " <u>remove</u> " as the noted control measures are not intended to treat the sediment but to remove it (the stormwater is what is being treated to remove sediment).	Thank you for your comment. Part II A 1 e (3) of the general permit has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 a (6): See previous comments concerning the 30 day timeline and updating the SWPPP for active construction projects that received permit coverage under the 2009 permit.	Thank you for your comment. Part II of the general permit has been revised to provide existing construction activity operators with 60 days to update their SWPPPs to comply with the terms of the 2014 general permit.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 b (1): For clarification, recommend changing the verbiage to read "...prior to <u>commencement of</u> land disturbance..."	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.

Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 b (2): For clarification, recommend changing the verbiage to read "...borrow or fill areas <u>included in the permit coverage for the construction activity</u> , all required..." The construction activity's erosion and sediment control plan should not be required to address off site support areas not included in the permit coverage for the construction activity.	The Board acknowledges your concern. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 b (5): See previous comments concerning the 30 day timeline and updating the plans for active construction projects that received permit coverage under the 2009 permit.	Thank you for your comment. Part II of the general permit has been revised to provide existing construction activity operators with 60 days to update their SWPPPs to comply with the terms of the 2014 general permit.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 c: Recommend changing verbiage to read "A stormwater management plan, <u>as defined in 4VAC50-60, approved by a board-approved VSMP authority or, where appropriate, a stormwater management plan designed in accordance with annual standards and specifications approved by the department.</u> " This provides consistency with the language in Section II A 2 b (1).	Thank you for our comment. Part II A 3 of the general permit regulation has been reorganized and revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 c: For consistency, recommend changing verbiage to read "...prior to <u>commencement of land disturbance</u> ..."	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 d: For clarification, recommend changing verbiage to read "...from both on-site and off-site <del>support</del> <u>support activities (including support activities)</u> covered under the general permit <u>for the construction activity that may...</u> "	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 d (1): For consistency, recommend changing verbiage to read "...for on-site and off-site activities <u>(including support activities)</u> covered under the general permit <u>for the construction activity</u> ;"	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 d (4): Recommend changing the word "person" to " <u>contractor(s)</u> " to be consistent with Section II B 4 Line 1221 and delete verbiage " <del>(if other than the person listed as the qualified personnel)</del> ". People can change on a daily basis but the contractor would, typically, remain the same. Also, the definition of "qualified personnel" in 4VAC50-60-10 only speaks to knowledge and skills related to erosion and sediment control and not to pollution prevention knowledge and skills.	The Board acknowledges your concerns. However, the Board believes that additional regulatory amendments are unwarranted at this time.

Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 d (5) c: For consistency, recommend changing the verbiage to read "...with stormwater; <u>or (iii) other similar effective...</u> "	Thank you for your comment. Part II A 4 e (3) of the general permit has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 d (7): See previous comments concerning the 30 day timeline and updating the plans for active construction projects that received permit coverage under the 2009 permit.	Thank you for your comment. Part II of the general permit has been revised to provide existing construction activity operators with 60 days to update their SWPPPs to comply with the terms of the 2014 general permit.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II A 2 f (2) b: For clarification, recommend changing verbiage to read "...manufacturer's recommendations <u>or a State approved nutrient management plan and shall not be applied during rainfall events, when applicable</u> ; and..." This language would be consistent with that in Section I B 3 b (2) – Line 578 (currently and as proposed in previous comments).	Thank you for your comment. The proposed revision has been incorporated into Part II A 5 a (2) of the general permit.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II B 5 – Line 1227: For clarification, change Section reference from III K to <u>III K 2</u> .	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II B 5 b: Grammatical correction – Change word "where" to " <u>were</u> ".	Thank you for your comment. The proposed revision has been incorporated into the general permit.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II B 5 h: This verbiage leaves the whole permit open ended to the point that any changes during the permit cycle to Federal, State, and local requirements for control measures would require updating the SWPPP to include such, even for those activities with permit coverage and under active construction. Based on the potential number of changes to federal, state, and local requirements during a given permit cycle, SWPPPs could be under constant change, even for those activities with permit coverage and under active construction. In addition, how would the operator know of changes occurring in Federal, State, or local requirements that would trigger an update of the SWPPP? This provision is unacceptable as it adds too much uncertainty into the process. Permit conditions for a proposed activity should be set based on the conditions within the General Permit as of its effective date and activities receiving coverage under the General Permit should only be required to	Thank you for your comment. This requirement has been deleted from the general permit.

	address those conditions.	
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II D 2: Would appear that "discharges" is referring to "stormwater discharges". If so, for clarification, add the word " <u>stormwater</u> " prior to the word "discharges" as discharge without qualification refers to the discharge of a pollutant (see 4VAC50-60-10).	Thank you for your comment. Please note that the general permit authorizes both stormwater and non-stormwater discharges. Consequently, the term "discharge" has been employed accordingly.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 2 a (2): For clarification, recommend changing verbiage to read "In the event that <u>the end of a measurable storm event occurs...</u> " Since inspection takes place following the measurable storm event, the normal time between working days should be referenced from the end of the measurable storm event.	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 2 c (1): For clarification, appears verbiage should read "...Where vehicle access <del>may</del> <u>will not</u> compromise..."	Thank you for your comment. Part II F 2 c of the general permit has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 3 a (1): Question the need to document the amount of cumulative rainfall since the last inspection. What value does this information add to the inspection process? If the requirement must remain, it should only apply to those inspection schedules not tied to a measurable storm event (i.e., the once every four or seven day inspection schedule). Otherwise, you are doing inspections after any measurable storm event anyway. A more important piece of information would be the total amount of rainfall of the measurable storm event that triggers an inspection (as is currently required).	Thank you for your comment. Part II F 3 of the general permit has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 3 a (4): For clarification, recommend changing verbiage to read "...sediment control plan, <u>identification of any maintenance needs, and evaluation of effectiveness in...</u> "	Thank you for your comment. The proposed revisions have been incorporated into the general permit.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 3 a (7) (a): For clarification, recommend changing verbiage to read "...concentrated flows of stormwater <u>in conveyances</u> such as rills, rivulets or channels..." Rills, rivulets and channels are stormwater conveyances and not the stormwater itself.	Thank you for your comment. The proposed revision has been incorporated into the general permit.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 3 a (7) (f): For clarification, recommend changing verbiage to read "...dewatering device <u>or</u> allowing for <u>stormwater</u> discharge..."	Thank you for your comment. Parts II F 3 a (7) (f) and II F 3 a (7) (g) of the general permit have been revised for added clarity.

Transportation		
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 3 a (7) (g): For clarification, recommend changing verbiage to read "...wet and dry storage <u>area</u> and without restricted <u>stormwater</u> discharge from the <del>drawdown</del> of dry storage portion..."	Thank you for your comment. Parts II F 3 a (7) (f) and II F 3 a (7) (g) of the general permit have been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 4: Is there a need to add a requirement for documentation of the total rainfall amount of the measurable storm event triggering an inspection (see previous comment on this issue)?	Thank you for your comment. Part II F 4 of the general permit has been revised for added clarity.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 4 c-i: For clarification, recommend changing verbiage to add " <u>if any</u> " at the end of each section (c-i).	Thank you for your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 4 e: For clarification recommend changing the verbiage to read "...inadequate <u>or</u> <u>inappropriate</u> for a ..."	Thank you for your comment. The proposed revision has been incorporated into Part II F 4 e of the general permit.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 4 k: This verbiage appears somewhat unrelated to sections 4 a – j. For clarification, recommend a separate section number (i.e., II F 5) be assigned to this verbiage.	Thank you for your comment. Part II F 4 k of the general permit regulation has been relocated under Part II F 4.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II F 4 k: In this section, the reference to "Section III K" should be to "Section III K 2".	Thank you for your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	4VAC50-60-1170 – Section II G 1: For clarification, recommend changing verbiage to read "If approval <u>of a corrective action is necessary by a regulatory authority (e.g., VSMP authority, VESCP authority),</u> additional control..."	Thank you for your comment. Part II G 1 of the general permit regulation has been revised as requested.
Adrian Bruns	Keep SWPPP Public.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Thomas N. Innes, Principal Broker, RE/MAX	Please maintain the existing regulations in terms of Public Access to the Storm Water Plans.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans

Commonwealth, Richmond		(SWPPPs) available for public review; please see Part II D 3 of the general permit.
Rich Miller, Midlothian; Sherry Minnicino, Virginia Cooperative Extension, Chesterfield; Joan Miller, Midlothian	It is imperative that you NOT remove public SWPPP accessibility to permits. There are not enough inspectors and it is the concerned INFORMED public who can assist w/ compliance of construction sites. Informed citizens play a critical role in making sure SWPPPs are followed. I am speaking on behalf of my local streams and rivers and want to prevent the concealment of pollution requirements from the public.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Craig Metcalfe	I believe the Soil & Water Conservation Board should be encouraged to maintain its earlier decisions to "require public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request", and should further be encourage to "re-instate this requirement into the pending construction general permit."	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Louie Schweickert, Howardsville	The modest improvements we have seen on our local streams and rivers over the last 40 years are a result of both education and the ongoing cooperation between government, business and the public. The Soil and Water Conservation should maintain the requirement of public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request. I would also encourage this requirement be re-instated into the pending construction "general permit".	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Rick McCormick, N Chesterfield; Pam Lepper, Chesterfield	Please encourage (strongly urge) the Soil & Water Conservation Board to maintain its earlier decision to "require public accessibility of Stormwater Pollution Prevention Plans from construction sites upon request", and it should further be encouraged to "re-instate this requirement into the pending construction general permit".	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia	HBAV believes that the aspect of the Proposed Regulation requiring that home builders building new homes on lots less than one (1) acre of land disturbance within a plan of development both acquire a VSMP and prepare a Stormwater Pollution Prevention Plan (SWPPP) to be <u>completely duplicative</u> of requirements under <u>current</u> Erosion and Sediment (E&S) Control regulations, which are effectively administered and enforced by local governments across the Commonwealth in conjunction with the construction of new housing. Imposition of such duplicative requirements will significantly increase the cost of regulatory compliance (and, thereby, home ownership) without corresponding improvements to water quality.	The Board acknowledges your concerns. Section 50 of the general permit regulation has been amended to indicate that any operator with a stormwater discharge associated with the construction of a single-family residence separately built, disturbing less than one acre and part of a larger common plan of development or sale is authorized to discharge under the general permit and is not required to submit a registration statement or the department portion of the permit fee, provided that the stormwater management plan for the larger common plan of development or sale provides permanent control measures (i.e., stormwater management facilities) encompassing the single family residence.

<p>Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia</p>	<p>During the RAP process, HBAV was told repeatedly that this new requirement is mandated by the federal Environmental Protection Agency ("EPA") and that without its inclusion in the Proposed Regulation, the Regulation will not be approved by EPA. If this information is accurate, the Board should use its existing authority to avoid unnecessarily increased costs by removing any current requirements that will become duplicative of requirements in the Proposed Regulation. Specifically, it is the understanding of the HBAV that local E&amp;S Control permits are not required by the EPA. As such, on or before July 1, 2014, the Board should suspend or repeal the current requirement that home builders building on lots with a land disturbance of less than one (1) acre within a plan of development acquire a local E&amp;S Control permit in order to preclude the costly duplication outlined above. In addition to avoiding increased cost to builders and home owners, such action would also relieve local governments of current E&amp;S local administration and enforcement responsibility – thus allowing them to dedicate current local E&amp;S staff resources to the administration and enforcement of the VSMP program when local governments (or their designees) assume full responsibility of the VSMP program on July 1, 2014.</p>	<p>The Board acknowledges your concerns. However, the repeal or suspension of current Erosion and Sediment Control Regulations is outside the scope of this regulatory action.</p>
<p>Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia</p>	<p>HBAV supports the adoption of those changes to the Proposed Regulations submitted by Mike Rolband of Wetland Studies and Solutions, Inc. regarding frequency of inspection options, Inspections should be limited to "normal working days" and the same should be defined as Monday through Friday, excluding state and federal holidays. This recommendation will not only encourage more frequent inspections, but will also encourage preventative inspections before problems develop with a rainfall event.</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>
<p>Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia</p>	<p>HBAV supports that aspect of the Proposed Regulation regarding public access to individual SWPPPs. The Proposed Regulation properly requires operators throughout Virginia to make their SWPPPs and all updates thereto available for inspection by the Department, the VSMP authority (local government), the EPA, or the operator of a municipal separate storm sewer system receiving discharges from a construction activity. Importantly, there is no public enforcement responsibility under the Proposed Regulation – and providing public access to SWPPPs and their updates, which will be located on private property, would place an unwarranted and costly burden on</p>	<p>The Board thanks you for your comment. However, the Board has included a provision in the proposed construction general permit to make SWPPPs available for public review in response to an overwhelming number of comments received by the Department of Conservation and Recreation; please see Part II D 3 of the general permit.</p>

	<p>operators. Specifically, in conjunction with the effective date of the Proposed Regulation, local governments or their designees (rather than the Department or the EPA) will assume responsibility for VSMP and SWPPP administration and enforcement. <u>This significant change in the administration and enforcement for the VSMP program and SWPPPs will bring thousands of new local enforcement staff to this state program, eliminating any need for the Department and its limited staff to rely on the public to conduct SWPPP inspections.</u></p>	
<p>Michael J. Sims, Midlothian</p>	<p>I would like to voice my desire as a citizen of the Commonwealth and avid user of our rivers for retention of the publicly accessible Stormwater Pollution Prevention Plans now required of construction operations. Please re-instate this requirement into the pending construction general permit.</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Marcia P. Harrigan, PhD, Chesterfield County</p>	<p>I write to encourage you to continue the regulation that allows public accessibility of Stormwater Pollution Prevention Plans from construction sites upon request.</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Robin C. Ruth, Richmond</p>	<p>Informed citizens play a critical role in making sure Stormwater Pollution Prevention Plans (SWPPPs) for permitted construction sites are followed. The general permit for construction in Virginia is now up for scheduled renewal. The state is under pressure to permanently extinguish the public's right to access these plans. This seems almost inconceivable. I agree with the James River Association that disabling the public's ability to know and respond appropriately to water quality threats in their own community is not in the best interest of improved James River water quality. The Soil &amp; Water Conservation Board should be encouraged to maintain its earlier decision to "require public accessibility of Stormwater Pollution Prevention Plans from construction sites upon request," and should further be encouraged to "re-instate this requirement into the pending construction general permit."</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Eileen Kinahan</p>	<p>I was shocked to learn that there is a possibility that the general public may soon be unable to access information regarding developers' disclosures on stormwater pollution prevention plans. Please note that as a citizen of this Commonwealth, this is unacceptable to me and my family. Please vote to continue allowing public access to this valuable information.</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Mr. and Mrs. Ernest Skinner, Richmond</p>	<p>As our water is compromised more and more by both natural and human events, it is more important than ever to safeguard these</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans</p>

	resources. Construction sites in our state have had to make publicly accessible Stormwater Pollution Prevention Plans (SWPPPs) and the Soil & Water Conservation Board should stick with its decision to maintain this requirement and reinstate it into the pending construction general permit.	(SWPPPs) available for public review; please see Part II D 3 of the general permit.
Vivian Bruzzese, Richmond; Michael Schlosser, N. Chesterfield	I encourage the Soil and Water Conservation Board to maintain its earlier decision to "require public accessibility of Stormwater Pollution Prevention Plans from construction sites upon request, and to "re-instate this requirement into the pending construction general permit." In addition to providing the appearance of accountability and transparency, this might allow conservation groups with oversight to improve the quality of our streams.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Capt. Mike Ostrander, Discover the James	Protecting the rivers, lakes and streams of Virginia from any further damage from stormwater runoff is something that should demand the highest degree of protection...it is a choice that does not need debate...BMPs regarding stormwater runoff should be mandatory...Anything you can do to help protect the bottom of the James River and all the other lakes, rivers and streams in Virginia is something we must do for the future of our Commonwealth. There is a lot of money to go around in construction and development. Certainly enough for developers and contractors to offer the BMP when it comes to their trade/job/business.	The Board thanks you for your comment.
John Gillum, Lynchburg	I am in support of requiring public accessibility of Stormwater Pollution Prevention Plans from construction sites upon request.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Barbara Franko, Charlottesville	I sincerely hope that you will reconsider the change that has been proposed for the VSMP permit regulations. The public (the citizens of Virginia) should be allowed access to the Stormwater Pollution Prevention Plans from construction sites upon request. Also please re-instate this requirement into the pending construction general permit. Our Commonwealth and our nation are formed "by the people for the people". Please do not limit the oversight that is allowed to our residents.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Gem Bingol, Loudoun & Clarke Field Officer, Piedmont Environmental Council	I strongly urge that the Virginia Soil and Water Conservation Board reinstate the requirement for public access to Stormwater Pollution Prevention Plans for construction sites upon request. This feature helps informed citizens to play a role in ensuring that regulations are being followed when the health of our streams is at risk. This	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

	<p>requirement has not proven to be a hardship for construction operations over the last three years – the public hasn't been hounding these operations. But still, the requirement has been instrumental in some key citizen efforts to keep our streams clean. Construction sites can be a mess when it rains, and it's important to be able to check to see if and how procedures are being followed. Citizens should be able to be involved when our community's natural resources are being degraded. With recent improvements to state stormwater regulations, and the requirement we have to further reduce our contribution of pollution to the Bay, now is not the time to take a step backwards.</p>	
<p>Philip F. Abraham, Director and General Counsel, The Vectre Corporation – The Virginia Association for Commercial Real Estate (VACRE)</p>	<p>VACRE concurs with and supports adoption of the changes proposed by Mike Rolband of Wetlands Studies and Solutions, Inc. regarding inspection frequency requirements.</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of “business days.” In addition, the term “business day” has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>
<p>Philip F. Abraham, Director and General Counsel, The Vectre Corporation – The Virginia Association for Commercial Real Estate (VACRE)</p>	<p>VACRE supports the regulations as proposed regarding public access to individual Stormwater Pollution Prevention Plans (SWPPPs). The regulations properly require that operators make their SWPPPs and all updates available upon request of the Department, the VSMP authority, the EPA, VESCP authorities, local government officials, or the operator of a municipal separate storm sewer system receiving discharges from construction activity. This provides the regulators with access to the SWPPP to meet the enforcement responsibilities with which they are charged under state and federal law. Placing the burden of providing public access to the SWPPP on the permit holder would place a significant burden on operators with little benefit to the environment. The public has no enforcement responsibility or powers under the general permit and does not need access to the SWPPP to bring concerns to the attention of regulatory authorities. If a member of the public has a concern with runoff from a construction site, they can bring this concern to the attention of the state, federal, or local authorities that have responsibility to bring enforcement action. It is highly unusual for a private entity to have responsibility for providing public access to state regulatory documents, yet this is precisely the burden that would be imposed upon entities if they were required to provide public access to their SWPPPs. If the Board desires for the public to have increased</p>	<p>The Board thanks you for your comment. However, the Board has included a provision in the proposed construction general permit to make SWPPPs available for public review in response to an overwhelming number of comments received by the Department of Conservation and Recreation; please see Part II D 3 of the general permit.</p>

	access to SWPPPs, that access should be provided through request to the state or local regulators and not from the private operator. We believe the regulations as proposed on this subject strike a proper balance and allow access to the SWPPPs by those who are charged with their enforcement.	
Shannon Brennan, Lynchburg	I am shocked to learn that the Virginia Soil & Water Conservation Board is considering removing the public's right to see Stormwater Pollution Prevention Plans (SWPPPs). Developers tend to flaunt stormwater regulations as it is, and the public must be actively involved into trying to help government officials prevent further degradation of our waterways. Hiding SWPPPs from the public will not help in the effort to restore clean water to the Commonwealth.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
St. George B. Pinckney, Richmond	Plans and permits must continue to be available to the public. There is no moral or legal justification for keeping the public in the dark.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Mr. and Mrs. Hugh Radcliffe & Joan Rockwell	We strongly encourage the Soil and Water Conservation Board to maintain its earlier decision to require public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request, and we further encourage them to re-instate this requirement into the pending construction general permit. We were very startled to learn that the Board was even considering lessening these requirements. Folks need to be accountable for actions which affect others.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Chris Jones	I am writing to request that the Soil and Water Conservation Board continue to require public accessibility of Stormwater Pollution Prevention Plans (SWPPPs) from construction sites upon request, and that it re-instate this requirement into the pending construction general permit.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
David Bernard, Richmond	I want the Commonwealth to protect Virginia waters from pollution caused by developers. SWPPPs should be public information and posted on a state website.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
David Bernard, Richmond	The new regs were vague about streamside buffers and steep slopes. No soil disturbance should take place in 100 year floodplains or within 100 feet of the riverbank. How are steep slopes to be protected? The typical construction practice is to remove all vegetation and topsoil on a construction site.	Thank you for your comment. As currently written, the Board believes the general permit provides maximum flexibility to the local VSMP authorities for the continued protection of steep slopes and natural buffers around surface waters.

Erik Allen, Watershed Consulting, PLLC, Richmond	Section 4VAC50-60-1150 A 3 b states that in order to continue state permit coverage, operators of ongoing construction activity projects that received authorization to discharge for those projects under construction stormwater general permits issued in 2009 must "Update their stormwater pollution prevention plan to comply with requirements of this general permit". My understanding of the stormwater regulations and Section 4VAC50-60-1130 F of this draft permit is that existing construction projects would operate under the requirements of the 2009 permit. Therefore, I recommend removing Section 4VAC50-60-1150 A 3 b.	Thank you for your comment. This general permit regulation includes a number of new permitting requirements, including effluent limitation guidelines. Therefore, no change has been made at this time.
Lance Courtright, Woodstock	Please amend and reissue the general permit for discharge of Stormwater so that the citizens have access to the plans. Public access is critical to holding builders and developers accountable.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Cindy Smith, PhD, K-12 Education Director, George Mason University	It appears that under the new proposed permit regs, stormwater runoff prevention plans on construction sites will not be available for citizen review. I disagree with this. Allow citizen review of Discharge of Stormwater permits from Construction Activities.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Kathryn Kobe, Arlington	I am writing in support of maintaining public access to construction companies' Stormwater Pollution Prevention Plans (SWPPPs) for construction sites. I understand that in the current draft of the Construction General Permit that the access by citizens to this document has been removed. The public access provision for the SWPPP is a straightforward method of allowing citizens to check on construction site that may not be following best practices. Please reconsider and continue to allow public access to construction site SWPPPs.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Robert Benson, PhD, Fort Valley	I am writing to ask you to reinstitute the public availability of SWPPPs as part of Construction General Permits. These SWPPPs are needed to assist citizens working to clean up the most serious construction site pollution problems in Virginia.	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.

**Reinstate Public Review of SWPPPs Now – Commenters:** Ms. Kate McAloon, Alexandria; Mr. Tom Long, Mount Solon; Mrs. Jolynn Loftus, Falls Church; Mr. Robert Samuelson, McLean; Dr. Ann Williams, Richmond; Mrs. Susan Wyckoff, Virginia Beach; Ms. Margy Ohring, Round Hill; Mr. Steve Pahn, Virginia Beach; Mrs. Martha Taylor, Burkeville; Dr. Jennifer Hoffman, Alexandria; Mrs. Gina Paige, Glen Allen; Ms. Marny Malin, Woodbridge; Ms. BG Kenley, Mechanicsville; Mr. Kyle Wimbrough, Virginia Beach; Mrs. Elfriede R. Heidelberg; Mr. Scott Burger, Richmond; Mrs. Kathryn Null, Roanoke; Mr. Chip Jackson, Virginia Beach; Ms. Elizabeth Mehok, Chesapeake; Mr. Warren R. Spaeth, Jr., Arlington; Ms. Gwen Holt, Rescue; Mr. Frank DeBolt, Charles City; Ms. Kimberly Duncan, Roanoke; Mr. William Stewart, Arlington; Mr. David Coker, Alexandria; Master David Price, Jr., Norfolk; Mr. John Epling, Purcellville; Mr. Ted Hochstadt, Falls Church; Ms. Clara Eder, Vienna; Mr. J. Michael Henrietta, Charlottesville; Mrs. Helen Kattwinkel, Virginia Beach; Ms. Ellen O'Connor, Arlington; Mrs. Nancy Decker, Ashburn; Mrs. Mary Knight, Ashland; Mr. Mark Whiting, Triangle; Dr. Fred Worth, Ashland; Ms. Anne Edwards, Newport News; Dr. Harold Diggs, Topping; Ms. Dawn

Bodinski, Virginia Beach; Mrs. Betty Ware, Richmond; Dr. Glenn Carwell, Virginia Beach; Mr. Paul Muench, Leesburg; Ms. Beth Corrigan, Vienna; Ms. Elizabeth McMahon, Alexandria; Mrs. Kimberly Richer, Centreville; Mr. Adam Lees, Charlottesville; Ms. Martha Goodwin, Reston; Mr. Eugene Dwyer, Springfield; Mr. Jonathan Meade, Burke; Mr. Richard Spencer, Williamsburg; Mr. Carl Morrison, Hampton; Mr. Jackson Endicott, Alexandria; Mrs. Linda Atkinson, Norfolk; Ms. Jane Maliszewski, Alexandria; Mr. David Shreve, Suffolk; Mr. Peter Friend, Williamsburg; Mr. Michael Mastropalo, Falls Church; Ms. Peggy Gilges, Charlottesville; Ms. Suzanne Dee, Manassas; Mr. Michael Eads, Pearisburg; Mrs. Virginia Britton, Alexandria; Ms. Claire Gorman, Norfolk; Mr. Charles R. Barlow, Jr., Mineral; Ms. Erin Pfoutz, Arlington; Mr. John Adams, Chesapeake; SSG Michelle Acton, Alexandria; Ms. Barbara Murphy, Virginia Beach; Mrs. Colleen Prosser, Williamsburg; Mr. Larry Soergel, Manassas; Mr. Dean Amel, Arlington; Ms. Marilyn Drucker, Fairfax; Mrs. Laura Hargis Baxter, Hayes; Ms. Yvonne Allen, Manassas; Mrs. Martha Sewell, Falls Church; Ms. Cindy Dalton, Henrico; Lt. Col. (Ret.) Ariane DeSaussure, Springfield; Ms. Sue Ann B. Giacinto, Vienna; Ms. Diane Fields, Williamsburg; Dr. Eric Anderson, Clifton; Ms. Renee Nester, Christiansburg; Mr. Thomas Layman, Richmond; Mrs. Cynthia Bowen, Virginia Beach; Ms. Joan Chapman, Charlottesville; Dr. Frederick Monroe, Arlington; Mr. Winston Bibee, Virginia Beach; Mr. Lou Ferraro, Virginia Beach; Mrs. Maria Sotomayor, Arlington; Mr. David Henderson, Alexandria; Dr. Robert and Ginny Bonometti, Winchester; Mr. Mark Metcalfe, Mount Sidney; Dr. William Corlett, Williamsburg; Dr. Cynthia Sloan, Alexandria; Ms. Jasmin Green, Henrico; Ms. Joanne Thiele, Norfolk; Mr. Randy Shannon, Portsmouth; Mr. Dan Nimershiem, Norfolk; Mr. Lawrence Cromwell, Woodbridge; Mr. Fred Belen, Oak Hill; Mrs. Katherine Moore, Norfolk; Ms. Susan Crawford, Alexandria; Ms. Christina Condon, Norfolk; Mrs. Barbara Fleming, Gloucester; Mrs. Patricia VonOhlen, Newport News; Ms. Marion Ekpuk, Alexandria; Mr. Jesse Suter, Edinburg; Ms. Dorie Southern, Cape Charles; Mrs. Barbara Vanderbilt, Manassas; Mrs. Elisa Sachs, Arlington; Mrs. Camille Grabb, Virginia Beach; Mrs. Donna Josaitis, Culpeper; Mrs. Dale Brittle, Bowling Green; MSgt, USAF, Ret. Duane Elliott, Virginia Beach; Mrs. Marisa Schmidt, Fairfax Station; Mrs. Bethany Cardone, Burke; Mr. Clyde Sunberg, Norfolk; Dr. Hal Hostetler, Portsmouth; Mr. Niels Petersen, Midlothian; Mr. James Trimm, Falls Church; Mrs. Nanette Myers, Alexandria; Ms. Fay Woolwine, Manassas; Ms. Audrey Lassiter, Portsmouth; Mr. Louis Reginato, Jr., Chesapeake; Mr. Adams Barnes, Blacksburg; Mr. Lee Archard, Weems; Mrs. Heidi Baird, Roanoke; Miss Caroline Ballowe, Virginia Beach; Mrs. Mary Barhydt, Norfolk; Ms. Clara Vaughn, Onley; Mr. James Tapp, Great Falls; Ms. Mary Saulsgiver, Alexandria; Mr. James Edwards, White Post; Mrs. Carol Warren, Chesapeake; Mrs. Delilah Nguyen, Virginia Beach; Mr. Harry Brown, Covington; Ms. Marilyn Martucci, Roanoke; Ms. Jo Chamberlain, Lancaster; Mr. Douglas Beckmann, Norfolk; Ms. Donna Rennick, Virginia Beach; Mr. James Powers, Springfield; Mrs. Victoria Humphreys, Virginia Beach; Mrs. Lisa Cumming, Williamsburg; Mrs. Elizabeth Lambert, Yorktown; Dr. Thomas Banko, Virginia Beach; Mrs. Lee Rich, Yorktown; Dr. Richard Stafford, The Plains; Mrs. Valerie Hubbard, Richmond; Ms. J. Weikert, Richmond; Mr. John Marinke, Gloucester Point; Ms. Leslie Magalis, Henrico; Mr. Greg Keefer, Purcellville; Mr. Carson Rector, Jr., Glen Allen; Ms. Julie Dodd, Portsmouth; Mr. Tom Quigley, Springfield; Mr. Nathan Shaw, Yorktown; Miss Maria Loughran, Richmond; Ms. Sarah Lanzman, Dyke; Mr. David Hacker, Falls Church; Mr. John McDaniel, Mechanicsville; Ms. Jenny Nowlen, Charlottesville; Mr. Jonathan Powers, Alexandria; Mrs. Catherine Czanowski, Virginia Beach; Mr. David George, Yorktown; Mr. Bob Sipe, Richmond; Ms. Maria Bergheim, Leesburg; Ms. Catherine Summers, Falls Church; Mr. Maxime Devilliers, Fredericksburg; Mr. Jeffrey H, Woodstock; Dr. Richard Hinkle, McLean; Mrs. Kristy Halterman, Verona; Homeowner S. Brown, Virginia Beach; Ms. Gail Hermosilla, Cross Junction; Mr. Daniel Schroppe, Virginia Beach; Mrs. Helen Sanders, Fredericksburg; Ms. Beverly Thompson, Craigsville; Dr. Steven Ligon, Sterling; Ms. Sandi Wurtz, Alexandria; Ms. Randie Trestrail, Poquoson; Ms. Liz Dyer, Alexandria; Mr. David Rosmer, Norfolk; Volunteer Mamie Lewis, Portsmouth; Mr. John Dronzek, Virginia Beach; Ms. Alicia Julienne, Fairfax; Mr. Robert Benson, Williamsburg; Mrs. Jacquelyn Calder, Richmond; Ms. Debbie Belote, Machipongo; Mrs. Caryl Sawyer, Sandston; Dr. Karen Rae Bone, Reston; Mrs. Cynthia Patterson, Southbridge; Dr. Erin Drnkwater, Virginia Beach; Ms. Mary Ann Beck, Fairfax; Ms. Lynne Oglesby, Newport News; Ms. Mandy DeVine, Alexandria; Mr. Larry Olson, Montpelier; Mrs. Patricia Liske, Falls Church; Ms. DeeDee Tostanoski, Alexandria; Dr. Duncan Porter, Blacksburg; Ms. Megan Wood, Gloucester Point; Mr. Christian Cool, Virginia Beach; Mr. Mark Alexander, Fredericksburg; Ms. Sue Gier, Singers Glen; Mrs. Andrea Moran, Yorktown; Mrs. Dawn Kinard, Newport News; Ms. Diane Collier, Staunton; Mr. Ronnie Gannon, Norfolk; Ms. Terry Gooding, Poquoson; Ms. Sara Roderer, Richmond; Ms. Stephanie Castellano, Arlington; Mr. Steve Garron, Arlington; Owner Bob Hartsell, Chesapeake; Mr. John Wass, Suffolk; Mr. Joseph Fink, Montross; Student Catherine Eskiril, Alexandria; Mr. Raymond A. Newlon, Virginia Beach; Ms. Ashley Davis, Midlothian; Mr. Kenneth De Jong, Annandale; Mr. Tim Lank, Springfield; Ms. Janet Rountree, Suffolk; Ms. Vanessa Olsen, Reston; Ms. Eleanor Lasky, Roanoke; Mrs. Rebecca Gemmill, Deltaville; Ms. Angela Vogel, King George; Alan Partin, Henrico

**Public Comment**

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

**COMMENTS ON CHAPTER 880 (Comment Period – October 18<sup>th</sup> – November 20<sup>th</sup>, 2013)**

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Ms. Sharyn Lowry, Richmond, and others provided in List #1 below.	I want to express my appreciation for DEQ reinstating the public access to the SWPPP in the Construction General Permit and ask that it remain in the final draft.	Thank you for your comment. This amendment has been carried forward in the proposed final regulation for consideration by the State Water Control Board.
Mr. George Rhodes, Manassas, and others provided in List #2 below.	Restore the 0.25 inch rainfall or greater over a 24 hour period language in the definition of "measurable storm event" in 9VAC25-880-1 of the General VPDES Permit for Discharges of Stormwater from Construction Activities.	Thank you for your comment. The Board has chosen not to move forward with the proposed amendment to the definition of "measurable storm event." The definition previously proposed by the Regulatory Advisory Panel (RAP) has been reinstated.
Mr. George Rhodes, Manassas, and others provided in List #3 below.	Clarify that in determining the frequency of inspections in the General VPDES Permit for Discharges of Stormwater from Construction Activities, days should be defined as "normal working days" which would be Monday through Friday and excluding holidays.	Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.
Mr. George Rhodes, Manassas, and others provided in List #4 below.	Move forward with the changes to the VSMP Regulation that eliminates the requirement for land disturbances of less than one (1) acre in a plan of development with stormwater facilities in place, from acquiring a VSMP Permit and paying a VSMP Permit fee.	Thank you for your comment. This amendment has been carried forward in the proposed final regulation for consideration by the State Water Control Board.
Mr. Craig Havenner, Oakton	Please reinstate the timing of the SWPPP requirement to prior to land disturbance activities as opposed to prior to project registration.	Thank you for your comment. This proposed revision to the general permit has been made in order to resolve one of EPA's specific objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.
Mr. Sherman Patrick, Jr., Prince William	I request that you consider very seriously the cost and benefit of some of the new standards and monitoring requirements being proposed. I am very concerned that State and Local governments do not have the resources necessary to implement some aspects of the new regulations, and in many cases, the proportionality of the cost of regulating certain aspects of development, will far outweigh the benefit of effort. Time delays are very costly to us all and those resources might be applied elsewhere to a much greater effort. Over-inspection, uncertainty associated with insufficient or untimely staff response will not benefit the environment and will ultimately negatively impact the economy which is always passed on to consumers in the form of higher prices	Thank you for your comment. Please note that the Board has reinstated the RAP's proposed definition for "measurable storm event," and all operator inspection frequencies specified in the general permit have been clarified in terms of "business days."

	or lower wages.	
Ms. Pamela C. Dodds, Montrose, WV	I highly commend DEQ for amending the 9VAC25-880 document to provide for public review of the SWPPP. I strongly recommend that the public be afforded the opportunity of public comment on the SWPPP because of potential impacts to stream quality and private property.	The Board thanks you for your comment. This amendment has been carried forward in the proposed final regulation for consideration by the State Water Control Board.
Ms. Pamela C. Dodds, Montrose, WV	The public comments are critical, given that sections “9VAC25-880-84. Water quality” and “9VAC25-880-86. Stream channel erosion” are shown on the amended document as being repealed. It is not specified in 9VAC25-880 that these repealed sections are now part of 9VAC25-870. For clarity, it would be prudent to specify that the details for the SWPPP development are provided in 9VAC25-870 and are part of the Virginia Stormwater Management Program review. Specifically, “9VAC25-880-84. Water quality” pertains to load calculations and BMP requirements and should be consistent with the Virginia Stormwater Management Handbook, which details the required calculations for determining the impact of impervious areas on the construction site as well as the Virginia Runoff Reduction method for green design. “9VAC25-880-86. Stream channel erosion”, is of great importance because even if the sediment is controlled by a stormwater discharge sediment erosion control structure, there will still be increased discharge to the receiving stream. The increased stormwater discharge will cause stream bank erosion downstream, thereby providing sediment to the downstream areas, which results in destruction of aquatic habitats.	Thank you for your comment. The repeal of these sections (i.e., stormwater management technical criteria) and their incorporation into the Virginia Stormwater Management Program (VSMP) regulation, 9VAC25-870, has been documented in the proposed final fact sheet for the general permit.
Mr. Bob Kerr, Virginia Beach	It appears that 9VAC25-880-50 as proposed negatively lengthens the processing time the Commonwealth currently has to review and approve VSMP Permit applications from 15 days, and complicates the process for new projects to secure approvals under the current stormwater regulations, which I oppose at this late date... Regardless, the timeline for approval should be no more than 15 business days, as all the stormwater computations will have been reviewed by the localities as part of the site plan and E&S approvals required before application for the VSMP, and the review of the VSMP application is very straightforward.	Thank you for your comment. Please note that VSMP authorities, including the Board, are afforded 60 days to act on a complete permit application (which includes a state VSMP permit registration statement) in accordance with §62.1-44.15:34 A of State Water Control Law. This timeframe is further reduced to 30 days for state agency projects in accordance with 9VAC25-870-180 of the VSMP regulation; this reduced timeframe assumes that the project documentation has been prepared in accordance with department-approved annual standards and specifications.  For private construction projects it is anticipated that the Board will continue to issue general permit coverage within 15 business days of receipt of a complete registration statement from the local VSMP authority.
Ms. Carolyn Howard, Blacksburg	9VAC25-880-40. Please provide guidance as to what the following means “...permit compliance and enforcement dependent	Section 40 of the general permit regulation authorizes a board-approved VSMP authority to assist in the administration of the general permit (i.e., registration

	upon conditions as established as part of the board approval.” Does this mean enforcement authority may vary from locality to locality?	statement acceptance, fee collection, plan review and approval, general permit compliance, and general permit enforcement) based upon any relevant conditions established as part of board approval of the VSMP.  Please note that the board shall approve a VSMP when it deems the program consistent with the Virginia Stormwater Management Act and the VSMP regulation, including the general permit, in accordance with §62.1-44.15:27 G of State Water Control Law.
Ms. Carolyn Howard, Blacksburg	9VAC25-880-50. The addition of this section was indication of the recent notification to local governments that the e-permitting system will not be available to “Permit Operators of their Agents.” It is assumed DEQ will provide an updated paper registration statement for use by applications and local governments – please confirm.	Thank you for your comment. Prior to filing the final regulation with the Virginia Register of Regulations, the department will be amending and/or updating the current registration statement for its use with the 2014 general permit.
Ms. Carolyn Howard, Blacksburg	9VAC25-880-50. The addition of this section eliminating the requirement of a registration statement and the department portion of the permit fee for single-family residences disturbing less than one acre and part of a common plan of development, only if “...the larger common plan of development of sale provides permanent control measures (i.e., stormwater management facilities) encompassing the single-family residence” is appropriate and greatly appreciated. However, clarification is need from DEQ as to whether the VSMP Authority can also waive the VSMP permit and Authority portion of the fee.	Thank you for your comment. Please note that land-disturbing activities that disturb less than 1 acre of land that are part of a larger common plan of development or sale that is 1 acre or greater of disturbance, including single-family residences, remain subject to all permitting requirements of the Virginia Stormwater Management Act, the VSMP regulation, and the general permit, except for the submission of a registration statement and department portion of the permit fee.  When establishing a VSMP, the VSMP authority shall assess the statewide fee schedule and shall have the authority to reduce or increase such fees in accordance with §62.1-44.15:28 A 5 b of State Water Control Law.
Ms. Carolyn Howard, Blacksburg	9VAC25-880-50. Clarification is requested as to whom is responsible for development of the registration statement form. “A form specified by the department” was removed from the text of the regulation.	Thank you for your comment. Prior to filing the final regulation with the Virginia Register of Regulations, the department will be amending and/or updating the current registration statement for its use with the 2014 general permit.
Ms. Carolyn Howard, Blacksburg	Conditions Application To All VPDES Permits, Section S, Duty to Mitigate. It is unreasonable to require the operator to take ALL “...steps to minimize or prevent any discharge...” We recommend the re-insertion of the word “reasonable” before steps.	Thank you for your comment. The term “minimize” means to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable; see 9VAC25-870-10. The reasonableness qualification has been removed from the regulation because practicability is already included in the definition of “minimize.”
Mr. Eric Martin, Chesapeake	9VAC25-880-30 H. We support the change to allow registration statements for continuation of permit coverage to be submitted on or before June 30, 2014. For consistency, 9VAC25-880-50 A 2 a (1) (which states that registration statements must be received by April 1, 2014 in order to continue permit coverage) needs to be updated with the June 30, 2014 date.	Thank you for your comment. 9VAC25-880-50 A 2 a (1) of the general permit regulation has been updated to indicate that operators of existing construction activities must submit a complete and accurate registration statement on or before June 1, 2014 to obtain coverage under the 2014 general permit; these registration statements will be submitted to the department for processing.  The June 30, 2014 deadline provided in 9VAC25-880-

		30 H allows the Board to administratively continue coverage under the 2009 general permit until the Board grants coverage under the 2014 general permit.
Mr. Eric Martin, Chesapeake	9VAC25-880-50 A 1 a and 9VAC25-880-50 B. We continue to emphasize that permit registration statements should be submitted to the Department as the permit issuing authority, rather than the VSMP Authority Program. Local programs do not have the authority to issue nor deny permit coverage.	Thank you for your comment. Please note that 9VAC25-870-59 of the VSMP regulation requires operators to submit a complete and accurate registration statement to the VSMP authority, which includes an authority approved by the board after September 13, 2011 to operate a Virginia Stormwater Management Program.
Mr. Eric Martin, Chesapeake	9VAC25-880-50 A 1 c and A 2 b. We fully support this change which incorporates automatic permit coverage (permit by rule) for single family residential construction within a common plan of development and disturbing less than 1 acre. This is a common sense approach which will help to relieve the administrative burden to local programs. We assume that permit coverage will terminate automatically a well, once the project is complete in accordance with 9VAC25-880-60 A 4.	Thank you for your comment. Please note that general permit coverage for these land-disturbing activities will terminate upon expiration of the general permit (proposed June 30, 2019), unless the construction activity operator submits a notice of termination to the VSMP authority in accordance with Part I F of the general permit.
Mr. Eric Martin, Chesapeake	9VAC25-880-50 B 10. We recommend that the language be retained which requires a SWPPP to be prepared prior to land disturbance rather than prior to submission of a registration statement, as the Construction GP RAP recommended.	Thank you for your comment. This proposed revision to the general permit has been made in order to resolve one of EPA's specific objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.
Mr. Eric Martin, Chesapeake	9VAC25-880-60 A and 9VAC25-880-70 I F 1. We continue to emphasize that permit termination requests should be submitted to the Department as the permit issuing authority, rather than the VSMP Authority Program. Local programs do not have the authority to terminate permit coverage.	Thank you for your comment. In accordance with §62.1-44.15:27 G of State Water Control Law, the board shall approve a VSMP when it deems the program consistent with the Virginia Stormwater Management Act and the VSMP regulation, including the general permit, which includes provisions for terminating general permit coverage.
Mr. Eric Martin, Chesapeake	9VAC25-880-70 I B 4 (1) and I B 5 (1). The City of Chesapeake was represented on the state Construction General Permit RAP. It was agreed upon by a majority of the RAP members that an option for self-inspections for permitted activities located within TMDL watersheds should be once every four normal working days, not every four days as was written into the draft regulation. We recommend that the regulation be updated to reflect the RAP's intent. Additionally, we recommend that a definition be added for "normal working day". We submit that "normal working day" means Monday through Friday excluding state holidays.	Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.
Mr. Eric Martin, Chesapeake	9VAC25-880-70 Part II. We fully support the provision allowing for a SWPPP template to be utilized for construction activities that are part of a larger common plan of development or sale and disturb less than one acre.	The Board thanks you for your support.
Mr. Eric Martin, Chesapeake	While we appreciate DEQ's efforts to provide clarity and improve these regulations which were recently transferred from DCR to DEQ, we are concerned about significant changes	Thank you for your comment. Due to numerous Virginia Stormwater Management Program rollout commitments the Board is currently not in a position to re-evaluate the statewide fee schedule previously

	<p>being made at this late stage in the implementation process. We are particularly concerned about proposed changes to the electronic permitting system which will potentially shift a significant, but unanticipated workload to the local level. Additionally, changes being made at this stage of the process may impact our ability to adopt local ordinances and other required program elements in a timely manner. The administrative workload shift to local programs necessitates that DEQ re-evaluate the state fee structure currently set for implementation on July 1, 2014. We again wish to emphasize that the City of Chesapeake is committed to the development of successful VSMP and Construction General Permit Regulations which will soon be enforced at the local level.</p>	<p>established by the Department of Conservation and Recreation through the Virginia Soil and Water Conservation Board.</p> <p>The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the VSMP regulation.</p>
<p>Mr. Randy Bartlett, Richmond</p>	<p>On a related issue, we understand that on November 19 and in subsequent workshops, DEQ will see input on its proposed e-permitting system. At this time, VAMSA's preliminary position is one of concern regarding DEQ's proposal to transfer the burden of data entry from the permit application to the locality (VSMP authority). This has the potential to be a significant workload issue for localities that was not previously anticipated and, if that assumption about workload is correct, this workload should not be shifted to localities, especially this late in the process. We wish to learn more about this DEQ proposal before submitting our views and recommendations.</p>	<p>Thank you for your comment. The proposed construction general permitting system is currently outside the scope of this regulatory action, and no additional changes to the general permit regulation have been made at this time.</p> <p>The Board will, however, take into consideration your comments while developing the construction general permitting system for deployment on July 1, 2014.</p>
<p>Mr. Randy Bartlett, Richmond</p>	<p>VAMSA appreciates DEQ's action to address the single family home/common plan of development problem, which we have previously brought to DEQ's attention as a VAMSA priority. VAMSA supports the following "permit-by-rule" approach proposed by DEQ for regulation, registration and permit fees, as a common sense approach to streamline the regulatory process in common plans of development that include stormwater controls... Similarly, VAMSA supports DEQ's proposed SWPPP template approach as another efficient method for addressing small sites within common plans of development... For consistency with the above proposals, please update the fee regulation to eliminate the obsolete state fee for sites addressed by this permit-by-rule approach.</p>	<p>Thank you for your support. The Board, however, has chosen not to update the VSMP regulation (9VAC25-870-820) at this time and recognizes that the general permit regulation exempts operators from paying the department portion of the permit fee for single-family residences separately built disturbing less than 1 acre and part of a larger common plan of development or sale.</p> <p>The Board will take into consideration your comments when proposing future regulatory actions associated with the VSMP regulation.</p>
<p>Mr. Randy Bartlett, Richmond</p>	<p>For TMDL waters, the current inspection frequency of (1) every seven calendar days or (2) once every 14 days and within 48 hours of runoff, is overridden by a more stringent requirement: (a) once every four days, or (b) once every seven days and 48 hours after a measurable storm event. See</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days."</p>

	proposed 9VAC25-880-70 B 4 d 1 and 9VAC25-880-70 B 5 d 1. VAMSA supports the RAP's recommendation of using four "normal working days".	
Mr. Randy Bartlett, Richmond	The phrase "normal working days" should be defined to avoid confusion. VAMSA recommends add the definition as "Normal Working Days means Monday through Friday excluding state holidays."	The term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.
Mr. Randy Bartlett, Richmond	We note with agreement the submittal deadline change to June 30, 2014 for use of the current GP for existing projects. This should be made consistent throughout the regulation (elsewhere April 1 is referenced, see 9VAC25-880-50 A 2 a (1).	Thank you for your comment. 9VAC25-880-50 A 2 a (1) of the general permit regulation has been updated to indicate that operators of existing construction activities must submit a complete and accurate registration statement on or before June 1, 2014 to obtain coverage under the 2014 general permit; these registration statements will be submitted to the department for processing.  The June 30, 2014 deadline provided in 9VAC25-880-30 H allows the Board to administratively continue coverage under the 2009 general permit until the Board grants coverage under the 2014 general permit.
Mr. Joseph M. DuRant, Newport News	The first of these is e-permitting. This is a system that does not currently exist, and is unlikely to be in fully operational form by July 1, 2014, the date when the City will be required to take over administration and enforcement. We are now told that we will have to take over the data processing required in this state generated system. This will result in significant additional work and opens the possibility that the City will be exposed to liability for its required use of a new and un-tested program.	Thank you for your comment. The proposed construction general permitting system is currently outside the scope of this regulatory action, and no additional changes to the general permit regulation have been made at this time.  The Board will, however, take into consideration your comments while developing the construction general permitting system for deployment on July 1, 2014.
Mr. Joseph M. DuRant, Newport News	In addition to the e-permitting issue, the proposed regulations essentially cut the previous intervals for inspection of TMDL waters by almost one half. This will have the effect of doubling the workload, this requiring a doubling of currently anticipated staff requirements. The City faces significant afford ability issues already because of substantial increases in amounts spent in order to comply with the Special Order Consent entered by the State Water Control Board in 2007 regarding the City's sanitary sewer system. This amount, compounded with the cost that would be imposed by the stormwater regulation in their current form will significantly impact the fiscal position of the City, Yet another significant increase this late in the game would be unworkable and unwarranted for the purposes of environmental improvement.	Thank you for your comment. Please note that all operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.
Ms. June Whitehurst, Norfolk	DEQ is seeking input into the new e-permitting program. The City of Norfolk requests that DEQ schedule an e-permitting public meeting in the Hampton Road area. The municipalities in Hampton Roads have been actively involved in the e-permitting	Thank you for your comment. The proposed construction general permitting system is currently outside the scope of this regulatory action, and no additional changes to the general permit regulation have been made at this time.

	<p>process since the beginning. The proposal to require the municipalities to input all registration data for the VSMP Construction General Permit into the new e-permitting process may be quite onerous on the municipalities that are not equipped nor planned to perform this function. Under the old e-permitting system, the owner would be responsible for this function; now the state is delegating this requirement to the municipalities. In development of budgets and staffing plans for the new program, municipalities did not take this requirement into account; nor did we take into account the requirement of collecting the state fees. It was proposed by DCR that the state fees would be collected through the e-permitting process; therefore the municipality has no intention of adopting the state fees nor the administrative overhead of processing them to the state.</p>	<p>The Board will, however, take into consideration your comments while developing the construction general permitting system for deployment on July 1, 2014.</p>
<p>Ms. June Whitehurst, Norfolk</p>	<p>The City of Norfolk supports the “permit by rule” requirement of the common plan of development provided by the storm water management plan for the larger plan of development include control measures encompassing the single-family residence within that common plan. We also support DEQ’s proposal to develop a SWPPP template for addressing small sites within a common plan of development. However, the City of Norfolk requests a more clear concise definition of “Common Plan of Development.” The federal definition does not clarify a cut-off date or standard to the end of the common plan of development; however, EPA Region 6 provided guidance on a more concise definition of “Common Plan of Development.” The City requests the state develop a clear definition or provide guidance on the expectations of a common plan of development project.</p>	<p>The Board thanks you for your support. Please note that “Common plan of development or sale” has been previously defined in the VSMP regulation; see 9VAC25-870-10, and no additional changes to the VSMP regulation have been proposed at this time.</p> <p>The department, however, is currently in the process of developing a Frequently Asked Questions (FAQ) document which will discuss “common plan of development or sale” in addition to a number of other topics to assist VSMP authorities with program implementation.</p>
<p>Mr. J. Michael Flagg, Hanover</p>	<p>In general, we are supportive of these proposed revisions, and we appreciated DEQ’s efforts in dealing constructively with the issues addressed in these proposed changes. The revised definition for “measurable storm event” provides for a better standard for more consistent compliance, inspection and enforcement.</p>	<p>Thank you for your comment. However, the Board has chosen not to move forward with the proposed amendment to the definition of “measurable storm event.” The definition previously proposed by the Regulatory Advisory Panel (RAP) has been reinstated; see 9VAC25-880-1.</p>
<p>Mr. J. Michael Flagg, Hanover</p>	<p>Providing for permit by rule coverage of single-family residence construction within a common plan of development or sale is a positive steps and provides more realistic expectations while preserving the environmental protection intent of the general permit. It removes duplicative fee and stormwater plan requirements while preserving the responsibility of the operator of the construction activity to comply with the permit discharge requirements.</p>	<p>The Board thanks you for your support.</p>

<p>Mr. James L. Perry, McLean</p>	<p>The frequency of inspections should remain at once every 7 calendar days or once every 14 days within 48 hours of runoff. More frequent inspections are not justified.</p>	<p>Thank you for your comment. In general, traditional erosion and sediment controls are employed to minimize the discharge of pollutants from construction activities. However, it is anticipated that the more frequent inspection requirements will enhance an operator's ability to find and correct problems before a discharge of pollutants to impaired or exceptional waters occurs.</p> <p>Also, all operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>
<p>Mr. James L. Perry, McLean</p>	<p>SWPPP requirements for sites in a TMDL and Impaired Waters need more clarity and definition. Current language puts an undefinable, ambiguous requirement of developers and on regulators who must enforce the regulations.</p>	<p>Thank you for your comment. Part I B 4 of the general permit requires an operator to develop, implement, and maintain a SWPPP that minimizes pollutants of concern (i.e., sediment or nutrients) when discharging to an applicable water body. In addition, the operator must apply soil stabilization to denuded areas within 7 days of reaching final grade, apply nutrients in accordance with specified recommendations and not during rainfall events, and perform more frequent site inspections.</p> <p>In general, traditional erosion and sediment controls are employed to minimize the discharge of pollutants from construction activities. However, it is anticipated that the more frequent inspection requirements will enhance an operator's ability to find and correct problems before a discharge of pollutants to impaired waters occurs. In addition, reducing the amount of time that exposed soil is left in an un-stabilized state is important for limiting the sediment or nutrient load to waters already degraded for pollutants associated with construction activities. The faster stabilization requirement for construction activities discharging to sediment or nutrient impaired waters is anticipated to minimize the erosion losses and downstream sedimentation issues that are associated with large, exposed areas.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>VDOT recommends the definition of "<i>Commencement of land-disturbance</i>" include installation of perimeter erosion and sediment control measures.</p>	<p>Thank you for your comment. The Board, however, has retained the definitional language as proposed, which is commensurate with EPA's definition of "Commencement of Earth-Disturbing Activities" included in the final 2012 CGP.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>From the RAP, VDOT understands the definition of "<i>infeasible</i>" to mean not technology possible or not economically practicable or achievable in light of best industry practices. The current proposed language states "...<i>economically practicable and achievable</i>..." VDOT recommends the language to read "<i>or</i>" instead of "<i>and</i>" as proposed.</p>	<p>Thank you for your comment. The Board, however, has retained the definition language as proposed, which is commensurate with EPA's definition of "infeasible" included in the final 2012 CGP.</p>

<p>Mr. Roy T. Mills, Richmond</p>	<p>The definition of "<i>measureable storm event</i>" was discussed at length during the RAP. A consensus was reached on the definition as "a rainfall event producing 0.25 inches of rain or greater over 24 hours". VDOT supports the definition as previously proposed by the Rap and the draft document. Also, in the currently proposed definition, the word "discharge" without qualification, means a discharge of pollutants. Is that what is meant here or is it meant to say "<i>stormwater discharge</i>"?</p>	<p>Thank you for your comment. The Board has chosen not to move forward with the proposed amendment to the definition of "measurable storm event." The definition previously proposed by the Regulatory Advisory Panel (RAP) has been reinstated.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>Under subsection A.2.a.(1) of this section, there is a conflict with subsection H.1 of 9VAC25-880-30 regarding the timing of the submittal of a registration statement for existing construction activities. VDOT supports the June 30, 2014 date.</p>	<p>Thank you for your comment. 9VAC25-880-50 A 2 a (1) of the general permit regulation has been updated to indicate that operators of existing construction activities must submit a complete and accurate registration statement on or before June 1, 2014 to obtain coverage under the 2014 general permit; these registration statements will be submitted to the department for processing.</p> <p>The June 30, 2014 deadline provided in 9VAC25-880-30 H allows the Board to administratively continue coverage under the 2009 general permit until the Board grants coverage under the 2014 general permit.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>Under subsection B.5 of this section, additional language should be included to clarify that the registration statement is to include the "...6<sup>th</sup> <u>Order HUC</u>".</p>	<p>Thank you for your comment. Please note that "Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6<sup>th</sup> Order National Boundary Dataset unless specifically identified as another order; see 9VAC25-870-10 of the VSMP regulation.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>Under subsection B.8 of this section, VDOT does not support the proposed language that requires the registration statement to include the estimated acreage of disturbance to the nearest "<i>one-hundredth of an acre</i>". Accuracy to this degree is not warranted nor supported. VDOT recommends the previous proposal to the nearest "<i>one-tenth of an acre</i>" be retained.</p>	<p>Thank you for your comment. Please note that on or after July 1, 2014, private construction activities and federal construction activities not subject to annual standards and specifications will be faced with significantly higher permitting fees based upon estimated land disturbance acreages. As a result, the Board has updated the registration statement provisions to require that estimated land disturbance acreages be reported to the nearest one-hundredth of an acre.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>Under subsection B.10 of this section, the proposed language has been revised to require the Stormwater Pollution Prevention Plan (SWPPP) to be prepared prior to registration statement submittal. This topic had been discussed during the RAP process, and consensus had been reached for the language to require that the SWPPP be developed "<i>prior to land-disturbance</i>". The "<i>prior to land-disturbance</i>" language also agrees with the language in subsections B, C and D of 9VAC25-870-54. VDOT recommends the "<i>prior to land-disturbance</i>" language be retained.</p>	<p>Thank you for your comment. This proposed revision to the general permit has been made in order to resolve one of EPA's specific objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.</p>

Mr. Roy T. Mills, Richmond	Under subsection A of this section, the draft language states <i>"the notice of termination shall be submitted no later than 30 days after one of the above conditions being met."</i> VDOT recommends that this language be revised to state the <i>"the notice of termination should be submitted no later than 30 days after one of the above conditions being met"</i> . The submittal of the termination notice will still be required as indicated by other language within this same subsection. VDOT understands the need to terminate permit coverage in a timely manner. However, changing the "shall" to a "should" will prevent the permittee from facing a potential non-compliance issue if the 30 day time limit is inadvertently overlooked.	Thank you for your comment. The proposed revision has been incorporated into Section 60 of the general permit regulation.
Mr. Roy T. Mills, Richmond	Under subsection B.6.c of this section, VDOT recommends the language be clarified to state the <i>"...number of construction activity acres accounted for in the regional facility..."</i>	Thank you for your comment. The language included in 9VAC25-880-60 B 6 c has been revised for clarity.
Mr. Roy T. Mills, Richmond	Under Part I.A.1 of the General Permit, language should be added to state that coverage lasts until <i>"expiration date or date of termination of Construction Permit coverage, whichever comes first"</i> .	Thank you for your comment. As currently written, a construction activity operator covered under the general permit is authorized to discharge until the general permit's expiration date, unless the operator submits a notice of termination in accordance with Part I F of the general permit. This language is consistent with other general permits adopted by the board.
Mr. Roy T. Mills, Richmond	Under Parts I.B.4.c and I.B.5.c of the General Permit, additional language should be included to state that <i>"...nutrients shall be applied in accordance with manufacturer's recommendations or a Department of Conservation and Recreation approved Nutrient Management Plan"</i> .	Thank you for your comment. The proposed revision has been incorporated into Parts I B 4 c and I B 5 c of the general permit.
Mr. Roy T. Mills, Richmond	Part I.B.6 of the General Permit (no discharge of floating solids) appears to be out of place within the document. It would appear to be better suited in the prohibitions section in Part I.D.	The Board thanks you for your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Mr. Roy T. Mills, Richmond	Under Part I.F.1 of the General Permit, the draft language states <i>"the notice of termination shall be submitted no later than 30 days after one of the above conditions being met."</i> Refer to previous comments and recommendations on this issue in 9VAC25-880-60.	Thank you for your comment. The proposed revision has been incorporated into Part I F 1 of the general permit.
Mr. Roy T. Mills, Richmond	Under Part I.G.1, language should be added to clarify the use of the term "discharge". Per the VSMP definitions, without qualification, the use of the term discharge refers to the discharge of pollutants. However, the use of discharge in this particular subsection	Thank you for your comment. Please note that the general permit authorizes both stormwater and non-stormwater discharges. Consequently, the term "discharge" has been employed in Part I G 1 of the general permit accordingly.

	appears to mean stormwater discharge. If so, clarifying language needs to be added.	
Mr. Roy T. Mills, Richmond	Under Part II of the General Permit, the proposed language has been revised to require that the SWPPP be prepared prior to registration statement submittal. Refer to previous comments and recommendations on this issue in 9VAC25-880-50.	Thank you for your comment. This proposed revision to the general permit has been made in order to resolve one of EPA's specific objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.
Mr. Roy T. Mills, Richmond	Under Part II of the General Permit, those projects receiving permit coverage under the 2009 General Construction Permit would have 30 days to update their SWPPPs after obtaining coverage under the 2013 permit. VDOT commented extensively on this issue in its June 7, 2013 public comment letter to DCR. Those comments and recommendations are still valid as they apply to the current proposed language.	Thank you for your comment. Part II of the general permit has been revised to provide existing construction activity operators with 60 days to update their SWPPPs to comply with the terms of the 2014 general permit.
Mr. Roy T. Mills, Richmond	Under Part II.A.4.c of the General Permit, VDOT recommends that additional language be included to state that the pollution prevention plans are to address " <i>...any applicable support activity</i> ."	Thank you for your comment. The proposed revision has been incorporated into Part II A 4 c of the general permit.
Mr. Roy T. Mills, Richmond	Under Part II.A.4.e.(5), VDOT recommends the language regarding discharge of concrete wash water be changed from " <i>...design so that no overflow can occur</i> " to " <i>...design to prevent overflow that could occur...</i> ".	Thank you for your comment. Part II A 4 e (5) of the general permit has been revised for clarity and consistency with EPA's final 2012 CGP.
Mr. Roy T. Mills, Richmond	Under Part II.A.5.a, a regulatory citation (e.g., 9VAC25-260-30.A.3) or additional information to assist in the identification of exceptional waters should be provided.	Thank you for your comment. The proposed revision has been incorporated into Part II A 5 a of the general permit.
Mr. Roy T. Mills, Richmond	Under Part II.A.5.a.(2) of the General Permit, additional language should be included to state that " <i>...nutrients shall be applied in accordance with manufacturer's recommendation or a <u>Department of Conservation and Recreation approved Nutrient Management Plan</u></i> ".	Thank you for your comment. The proposed revision has been incorporated into Part II A 5 a (2) of the general permit.
Mr. Roy T. Mills, Richmond	Under Part II.B.5 of the General Permit, it appears language has been added that requires amendments, modifications or updates to the SWPPP be signed in accordance with Part III K of the General Permit. VDOT can understand the intent of this requirement for verification and accountability purposes. However, the SWPPP is a dynamic document that undergoes many changes during the life of a construction activity. VDOT recommends this requirement be revised to require the date and the initials of the <i>qualified</i> person	Thank you for your comment. Please note that Part III K 2 of the general permit requires all reports, including SWPPPs, to be signed by a person described in Part III K 1 of the general permit or by a duly authorized representative of that person. No additional changes have been made to the general permit regulation at this time.

	approving any amendments, modifications or updates to the SWPPP.	
Mr. Roy T. Mills, Richmond	Under Part II.D.3 of the General Permit, the draft language has re-instituted the requirement to make the SWPPP available for public review. This topic had been discussed at length during the RAP process, and consensus had been reached for the language not to be included in the General Permit. VDOT supports the RAP decision and recommends the proposed language not be reinstated.	The Board thanks you for your comment. However, the Board has included a provision in the proposed construction general permit to make SWPPPs available for public review in response to an overwhelming number of comments received by the Department of Conservation and Recreation; please see Part II D 3 of the general permit.
Mr. Roy T. Mills, Richmond	Under Part II.F.3.a.(2) of the General Permit, language should be added to clarify the use of the term "discharge". Per the VSMP definitions, without qualification, the use of the term refers to the discharge of pollutants. However, the use of discharge in this particular subsection appears to mean stormwater discharge. If so, clarifying language needs to be added.	Thank you for your comment. Please note that the general permit authorizes both stormwater and non-stormwater discharges. Consequently, the term "discharge" has been employed in Part I F 3 a (2) of the general permit accordingly.
Mr. Roy T. Mills, Richmond	Under Part II.F.3.a.(7)(f) of the General Permit. VDOT recommends the following language regarding inspections of sediment basins. " <i>Sediment basins without adequate wet or dry <u>storage volume</u> or sediment basins that allow the discharge of stormwater from <u>below the surface of the wet storage portion of the trap basin</u></i> "	Thank you for your comment. The proposed revision has been incorporated into Part II F 3 a (7) (f) of the general permit.
Mr. Roy T. Mills, Richmond	Under Part II.F.3.a(7)(g) of the General Permit, VDOT recommends the following language regarding inspections of sediment traps. " <i>Sediment traps without adequate wet or dry <u>storage volume</u> or sediment traps that allow the discharge of stormwater from <u>below the surface of the wet storage portion of the trap, and</u></i> "	Thank you for your comment. The proposed revision has been incorporated into Part II F 3 a (7) (g) of the general permit.
Mr. Roy T. Mills, Richmond	Language in the last paragraph in Part II.F.4 of the General Permit, which requires the inspection " <i>report to be signed in accordance with Part III K</i> ", conflicts with the requirements of Part II.F.4.j, which states that <i>qualified personnel</i> shall sign the report. VDOT recommends that the conflicting language in the last paragraph in Part II.F.4 be removed.	Thank you for your comment. Please note that Part II F 4 j of the general permit also requires the operator or their duly authorized representative to sign the inspection report in addition to the qualified personnel performing the inspection. Consequently, no additional changes have been made to the general permit at this time.
Ms. Margaret L. (Peggy) Sanner, Richmond	We congratulate DEQ for reinserting the requirement that SWPPPs be available for public review. Public availability is a long-standing requirement of Virginia law; Virginia contractors and land disturbers are accustomed to the rule, which will not add any burden on development. Moreover, as CBF explained in its June 2013 public	Thank you for your comment. This amendment has been carried forward in the proposed final regulation for consideration by the State Water Control Board.

	<p>comments, ensuring that the SWPPP is publicly available is a matter of prudent public policy, because it will ensure that the public is informed about pertinent requirements and is able to communicate effectively with localities and contractors concerning possible problems on construction sites.</p>	
<p>Ms. Margaret L. (Peggy) Sanner, Richmond</p>	<p>The Revised Draft refines the definition of this term, which helps to clarify when weather conditions trigger the requirement of more frequent site inspections. Whereas the prior definition turned on a stated amount of rainfall (i.e., 0.25 inches), the definition in the Revised Draft requires inspections based on whether a storm event produces an "actual discharge." We believe that the new version much more effectively addresses the problem -- polluted <i>discharges</i> from construction sites—that a heightened inspection schedule is designed to address. Moreover, both standards are site-specific. Depending on the site at issue, a storm will produce differing amounts of rain and have a differing potential for causing a discharge. The Revised Draft version should, therefore, be no more burdensome to contractors than the former version.</p>	<p>Thank you for your comment. The Board has chosen not to move forward with the proposed amendment to the definition of "measurable storm event." The definition previously proposed by the Regulatory Advisory Panel (RAP) has been reinstated.</p>
<p>Ms. Margaret L. (Peggy) Sanner, Richmond</p>	<p>The Revised Draft, like its predecessor, requires a heightened inspection schedule for projects that discharge to TMDL and impaired waters. However, the Revised Draft more effectively ensures that inspections will timely occur after measurable rain events even over long holidays like Thanksgiving or Christmas.</p>	<p>Thank you for your comment. Please note that all operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>
<p>Ms. Margaret L. (Peggy) Sanner, Richmond</p>	<p>The Revised Draft provides improved language regarding suspended inspection schedules due to winter conditions. Thus, the provision now requires resumption of the regular schedule if "weather conditions (such as above freezing temperatures..." make discharges likely.</p>	<p>Thank you for your comment. Please note that Part II F 2 b of the general permit has been revised for added clarity.</p>
<p>Ms. Margaret L. (Peggy) Sanner, Richmond</p>	<p>The Revised Draft requires the operator to include with his registration statement a certification that he has <i>already</i> prepared a compliant SWPPP. The certification is a meaningful requirement, as it concerns a past event as to which the operator has direct knowledge. Moreover, the requirement of pre-filing preparation of a SWPPP is a part of existing law, so its retention here does not impose a new burden on operators.</p>	<p>Thank you for your comment. This proposed revision to the general permit has been made in order to resolve one of EPA's specific objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.</p>
<p>Ms. Margaret L. (Peggy) Sanner,</p>	<p>The Revised Draft requires the operator to minimize the discharge of pollutants such</p>	<p>Thank you for your comment. The Board believes that the proposed amendment is consistent with Section</p>

Richmond	that the discharge does not cause or contribute to an excursion above any applicable water quality standard. However, the Revised Draft removes an important enforcement option for the department — requiring the operator to cease discharges of the pollutants — in the event of such an excursion. To protect water quality, it is important for the department to retain such authority. The language in the prior version of 9VAC25-880-70 Part I.G.2.c should, therefore, be retained.	410 of the VSMP regulation, 9VAC25-870, and that no additional regulatory amendments are warranted at this time.
Ms. Margaret L. (Peggy) Sanner, Richmond	<p>The Revised Draft requires an operator to take necessary corrective actions identified as a result of an inspection within 7 days after discovery but allows the local VSMP authority to allow a longer compliance period. The Revised Draft provides no guidance as to what conditions should warrant an extended compliance period.</p> <p>The provision should be amended to limit the discretion of the VSMP authority in cases where the site discharges to a waterway that is impaired or subject to a TMDL. Specifically, the VSMP authority should not be permitted to extend the compliance period beyond 7 days in any case where the problem identified in the inspection would allow for an increase in the discharge of a pollutant of concern for the receiving water.</p>	Thank you for your comment. As written, it is anticipated that a small percentage of corrective actions may potentially take longer than 7 days to implement and/or complete. Consequently, the VSMP authority, which includes the department, has been provided the flexibility to establish a longer compliance period utilizing best professional judgment as necessary.
Ms. Margaret L. (Peggy) Sanner, Richmond	<p>The Current Version authorizes operators of single family residential projects of less than one acre in size to discharge "under this general permit," without providing a registration statement or the department portion of the general fee, provided that the project is part of a common plan of development that provides for permanent control measures (i.e., "stormwater management facilities").</p> <p>The presumed intent is that the operator of the small site must adhere to all of the permit requirements <i>except</i> the requirements to submit a registration statement and to pay the state's portion of the fee. To ensure there is no uncertainty, this and similar provisions should explicitly state that operators of such small projects must adhere to all of the other permit requirements, including the requirement of more frequent inspections and more rapid site stabilization for sites that discharge to TMDL and exceptional waters.</p>	Thank you for your comment. 9VAC25-880-30 A 3 of the general permit regulation indicates that any operator governed by the general permit is authorized to discharge to surface waters of the Commonwealth provided that the operator complies with the applicable requirements of 9VAC25-880-70 (i.e., the general permit). As a result, any operator exempted from submitting a registration statement or the department portion of the permit fee must comply with the applicable requirements of the general permit in order to be authorized to discharge stormwater from their construction activity.
Ms. Pamela F. Faggert, Glen Allen	<p>9VAC25-880. General Permit, Part II.A.2.c.(2) (Erosion Control)</p> <p>To align with the revision being proposed in</p>	Thank you for your comment. EPA's proposed amendments to the Construction and Development Point Source Effluent Limitation Guidelines (ELGs) have not been promulgated to date. Consequently, no

	<p>40 CFR 450.21(a)(2) in the federal guidelines, the language should be revised to read:</p> <p><i>Controls stormwater discharges, including peak flow rates and total stormwater volume, to minimize <u>channel and streambank erosion in the immediate vicinity of discharge points</u>;</i></p> <p>As EPA notes, this revision appropriately distinguishes that permittees should only be responsible for addressing erosion occurring in the immediate vicinity of permitted outfalls and not for addressing erosion that is caused by other sources.</p>	<p>additional amendments to the general permit regulation have been made at this time.</p> <p>The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the general permit regulation.</p>
<p>Ms. Pamela F. Faggert, Glen Allen</p>	<p>9VAC25-880. General Permit, Part II.A.2.c.(7) (Soil Compaction and Preservation of Topsoil)</p> <p>The proposed language in this section should be altered to be consistent with revisions being proposed by EPA in the federal guidelines related to soil compaction and preservation of topsoil. The current language in Virginia's Proposed Rule states: <i>minimizes soil compaction and, unless infeasible, preserves topsoil</i>. In the proposed federal guidelines, EPA separates the requirements for soil compaction and topsoil preservation in 40 CFR 450.21(a)(7), which states:</p> <p><i>Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted.</i></p> <p><i>Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed.</i></p> <p>With this language EPA recognizes that soil compaction may be required, for example, in cases where roads, foundations, or other similar structures are to be built. With regard to preservation of topsoil, EPA states that the preservation of topsoil is not required, even if it may be feasible, where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.</p> <p>We recommend the adoption of the language in the proposed federal guidelines. With these revisions, the Department would acknowledge that a comprehensive Erosion and Sediment Control Plan should account for situations where certain erosion controls are not feasible or necessary and may even</p>	<p>Thank you for your comment. EPA's proposed amendments to the Construction and Development Point Source Effluent Limitation Guidelines (ELGs) have not been promulgated to date. Consequently, no additional amendments to the general permit regulation have been made at this time.</p> <p>The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the general permit regulation.</p>

	<p>be counter to the function of a particular area or activity.</p>	
<p>Ms. Pamela F. Faggert, Glen Allen</p>	<p>9VAC25-880. General Permit (Stabilization of Disturbed Areas)</p> <p>Virginia should incorporate EPA's approach with regard to stabilization of disturbed areas. Several requirements related to the stabilization of disturbed areas are detailed in Virginia's Proposed Rule, including stabilization measures required as part of the Discharge Authorization and Stormwater Pollution Prevention Plan. We recommend that the Department incorporate in its final rule EPA's proposed language at 40 CFR 450.21(b), which states that "In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed." While there are limited cases where a disturbed area would not require stabilization and remain disturbed, EPA believes permitting authorities, should have flexibility to evaluate these individual circumstances on a case-by-case basis.</p>	<p>Thank you for your comment. EPA's proposed amendments to the Construction and Development Point Source Effluent Limitation Guidelines (ELGs) have not been promulgated to date. Consequently, no additional amendments to the general permit regulation have been made at this time.</p> <p>The Board will, however, take into consideration your comments when proposing future regulatory actions associated with the general permit regulation.</p>
<p>Mr. Michael L. Toalson, Richmond</p>	<p>HBAV applauds the proposal by DEQ to eliminate the requirement for land disturbances of less than one (1) acre in a plan of development with stormwater facilities in place, from acquiring a VSMP Permit and from paying a VSMP Permit fee (9VAC25-870-55). For the most part, the requirement for a VSMP Permit for single family lots in plans of development only duplicates the current E&amp;S Permit requirements or plan in lieu of requirements for small disturbances in plans of development. The additional fees will also unnecessarily increase the cost of housing.</p> <p>Furthermore, the proposed requirement for an additional VSMP permit and fee payment for land disturbances of less than one (1) acre in a plan of development will not increase water quality protection in Virginia. For the most part it only duplicates the water quality protections included in the current Virginia E&amp;S Program for such small land disturbances.</p> <p>Eliminating the requirement for VSMP Permits and fees for small disturbances in plans of development will eliminate a potential administrative "nightmare" for local governments in their administration and enforcement of the Virginia VSMP beginning on July 1, 2014. This change will also allow localities to dedicate appropriate levels of local enforcement staff to monitor much</p>	<p>Thank you for your comment. This amendment has been carried forward in the proposed final regulation for consideration by the State Water Control Board.</p>

	larger land disturbing activities in their localities.	
Mr. Michael L. Toalson, Richmond	HBAV would urge the DEQ and the Board to restore the requirement for SWPPP's to be prepared prior to land disturbance (9VAC25-880-50 B.10) rather than prior to registration. Such a requirement will create significant and unnecessary "up-front" costs for landowners and will not add to water quality protection in Virginia. To prepare a SWPPP requires an approved E&S Plan, a Stormwater Management Plan and significant design costs at a much earlier date in the construction planning process than the proposal approved unanimously by the RAP's recommended language.	Thank you for your comment. This proposed revision to the general permit has been made in order to resolve one of EPA's specific objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.
Mr. Michael L. Toalson, Richmond	HBAV would urge DEQ and the Board to restore rainfall trigger for inspections to 0.25 inches of rainfall in a 24 hour period (9VAC25-880-1), rather than any storm event that results in a discharge from a construction site. This is just a matter of efficient and compliant management for the regulated community. Otherwise, innocent regulatory victims will be created by the impossibility of managing inspections requirements on every construction site in the Commonwealth with practically event rain event, regardless of the amount of rainfall. 0.25 inches of rainfall is a measurable event that the regulated community can manage.	Thank you for your comment. The Board has chosen not to move forward with the proposed amendment to the definition of "measurable storm event." The definition previously proposed by the Regulatory Advisory Panel (RAP) has been reinstated.
Mr. Michael S. Rolband, Gainesville	<p>Rainfalls that trigger an inspection event were changed from a 0.25 inch/24 hour storm event to any "storm event" resulting in an actual discharge from the construction site (see 9VAC25-880.1 Definitions. "Measurable storm event").</p> <p>Historically, 0.50 inches was "unwritten policy." Many people on the RAP desired the certainty of a published standard versus an "unwritten policy." However, we were told that the United States Environmental Protection Agency (EPA) wanted tougher standards than 0.50 inches, so the RAP agreed to 0.25 inches. The proposed standard will become a local government enforcement and site owner's inspection nightmare because:</p> <p>a) The rainfall amount that causes a discharge varies with antecedent moisture condition (i.e., how wet the ground is before rainfall). For example, on Tuesday a one inch storm could have no discharge on a given site. On Wednesday a 0.10 inch storm on the same site could cause a discharge</p>	Thank you for your comment. The Board has chosen not to move forward with the proposed amendment to the definition of "measurable storm event." The definition previously proposed by the Regulatory Advisory Panel (RAP) has been reinstated.

	<p>because the ground is saturated and the BMPs are close to full.</p> <p>b) Every site is different.</p> <p>c) Individual discharge points on the same site will have different discharge characteristics.</p> <p>d) Every site's runoff characteristics will change over time as development is implemented.</p> <p>e) Paved subsheds could cause a discharge after just a few hundredths of an inch of rainfall.</p> <p>Unless someone is onsite 24/7, whether or not a discharge occurred could be debatable for many storms. I respectfully ask that you return to the definition of measurable storm event agreed to by the RAP.</p>	
<p>Mr. Michael S. Rolband, Gainesville</p>	<p>Inspection Frequency – In all Total Maximum Daily Load (TMDL) areas, as well as Exceptional and Impaired waters, the current standard of an inspection every seven calendar days or once every 14 days and within 48 hours of runoff will change to every four days, or once every seven days and 48 hours after a “measurable storm event” (9VAC25-880-70.B.4.d.1 and 9VAC25-880.70.B.5.d.1). This will cover the entire Chesapeake Bay Watershed area of Virginia plus many other areas in the Commonwealth – and thus the vast majority of all construction activity.</p> <p>The RAP had agreed to “four normal working days,” defined as Monday through Friday, less state holidays instead of four calendar days (see my March 18 comment letter, attached). You explained to me last week that you do not agree with this RAP recommendation because during the Thanksgiving and Christmas weeks it is likely only one inspection would occur.</p> <p>I suggest that even if an inspection occurred on such a holiday, it is extremely unlikely a contractor would respond to the inspection. The proposed language is simply unreasonable, and allowing an inspection every four normal working days is a substantial increase in inspection coverage relative to the current seven calendar days.</p> <p>Therefore, please change this requirement to four “normal working days” as defined above.</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of “business days.” In addition, the term “business day” has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>

<p>Mr. Michael S. Rolband, Gainesville</p>	<p>Normal working days – Inspection frequency uses the phrase “normal working days (9VAC25-880-70-B.4.d.(1), 9VAC25-880-70.B.5.d.(1), 9VAC25-880-Part II-F.2.a.(2)) for deciding when an inspection must occur. However, it is not defined. On some sites, one subcontractor or another could be on the site every calendar day – so a definition is needed.</p> <p>Please define “normal working days” as Monday through Friday except for state holidays.</p>	<p>Thank you for your comment. The term “business day” has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>
<p>Mr. Michael S. Rolband, Gainesville</p>	<p>Stormwater Pollution Prevention Plan (SWPPP) requirements for sites in a TMDL and Impaired Waters are “fuzzy” (9VAC25-880-70.B.4) – The proposed regulation says you must develop “...a SWPPP that minimizes the pollutants of concern... In addition, the operator shall implement...” the higher frequency inspections described in #4 above. The problem with this is twofold:</p> <p>a) Staff had assured the RAP that the only actions needed for construction activities in any impaired water, exceptional water, or TMDL would be the normal statewide stormwater and Erosion and Sediment Control requirements plus (i) faster soil stabilization (7 days) and (ii) more frequent inspections.</p> <p>b) The language provided does not provide a standard for “minimizes,” nor provide an easy tool to determine what the hundreds of TMDLs require the permittees to do. (The Chesapeake Bay TMDL is the largest – but several hundred others exist in Virginia.)</p> <p>This puts an indefinable requirement on the regulated public, as well as the local regulator who must now enforce this requirement. I assume you are aware that field DEQ staff have no idea what is required – so to “tag” local government and permittees with such an undefined requirement is unreasonable. Please revise the language to state specifically and clearly the assurance described above in 5(a).</p>	<p>Thank you for your comment. Part I B 4 of the general permit requires an operator to develop, implement, and maintain a SWPPP that minimizes pollutants of concern (i.e., sediment or nutrients) when discharging to an applicable water body. In addition, the operator must apply soil stabilization to denuded areas within 7 days of reaching final grade, apply nutrients in accordance with specified recommendations and not during rainfall events, and perform more frequent site inspections.</p> <p>In general, traditional erosion and sediment controls are employed to minimize the discharge of pollutants from construction activities. However, it is anticipated that the more frequent inspection requirements will enhance an operator’s ability to find and correct problems before a discharge of pollutants to impaired waters occurs. In addition, reducing the amount of time that exposed soil is left in an un-stabilized state is important for limiting the sediment or nutrient load to waters already degraded for pollutants associated with construction activities. The faster stabilization requirement for construction activities discharging to sediment or nutrient impaired waters is anticipated to minimize the erosion losses and downstream sedimentation issues that are associated with large, exposed areas.</p>
<p>Mr. Michael S. Rolband, Gainesville</p>	<p>A SWPPP is now required prior to registration, versus prior to land disturbance (9VAC25-880-50 B.10) – It is currently required prior to registration, but the draft approved by the RAP removed this requirement to reduce “up front” costs to permittees to promote economic development. This means that engineering work will now be needed earlier in the approval process to obtain your VPDES</p>	<p>Thank you for your comment. This proposed revision to the general permit has been made in order to resolve one of EPA’s specific objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.</p>

	<p>permit and gain protection for two permit cycles under 9VAC25-870-47 B. To prepare a SWPPP, you need Erosion and Sediment Control plans, Stormwater Management plans, etc. – so there will be a lot more design work at an earlier date versus the current proposal. Please restore the RAP's recommended language.</p>	
<p>Paul B. Johnson, Fairfax</p>	<p>Inspections should be set at easily determined intervals that are within the normal business week.</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of "business days." In addition, the term "business day" has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>
<p>Hope Babcock, Thomas M. Gremillion, Matthew Goetz, George University Law Center, Washington, DC</p>	<p>The proposed permit gives virtually no public notice of DEQ's decision to authorize a discharge and inadequate public access to permit documents. A revised proposed permit can remedy this conflict by requiring DEQ to post online an applicant's registration statement prior to the Board approving coverage under the permit. DEQ already takes this approach for registration statements filed under Virginia's general permit for industrial activity storm water discharges. Under that permit, DEQ must post "a facility's registration statement . . . to the department's public website for 30 days prior to the department granting the facility general permit coverage. This requirement gives the public an opportunity to request and review the permittee's application materials, including the SWPPP, and an opportunity to request a public hearing.</p>	<p>Development of the proposed general permit regulation, 9VAC25-880 included public participation. The Board believes the requirements for public participation have been fulfilled during the development of the proposed general permit regulation.</p> <p>This general permit does not govern stormwater discharges from industrial facilities. Therefore, the incorporation of permitting requirements from the Industrial Stormwater General Permit is inappropriate. The proposed general permit regulates stormwater discharges from construction activities, and the Board believes that the general permit establishes the requirements necessary to protect water quality standards.</p>
<p>Hope Babcock, Thomas M. Gremillion, Matthew Goetz, George University Law Center, Washington, DC</p>	<p>A revised general permit should require that an applicant actually submit a SWPPP to DEQ, rather than merely certify that it has completed one. See 9VAC25-880-50(B)(10) ("By signing the registration statement the operator certifies that the SWPPP has been prepared."). Particularly where the proposed discharge affects a large part of an impaired or outstanding water body's drainage area, DEQ needs to review the SWPPP to ensure compliance with the CWA.</p>	<p>The proposed general permit requires the preparation of SWPPP prior to the submission of a notice of intent (i.e., registration statement). Post June 30, 2014, the SWPPP must include a local VESCP authority reviewed and approved Erosion and Sediment Control Plan and a local VSMP authority reviewed and approved Stormwater Management Plan, pollution prevention practices, and the SWPPP must incorporate control measures specified in the general permit for discharges to impaired waters, surface waters with approved TMDLs, and exceptional (i.e., Tier III) waters. The Board believes that is it unnecessary for the department to review all SWPPPs since local VECSP and VSMP authorities will be performing substantially similar plan reviews on and after July 1, 2014.</p>
<p>Hope Babcock, Thomas M. Gremillion, Matthew Goetz, George University Law Center, Washington, DC</p>	<p>Even if a revised permit does not require all applicants to submit a SWPPP to DEQ, it should nevertheless charge the agency with responsibility for facilitating access to those plans, acting as a liaison between the public and applicants to "make available to the public" applications for coverage under the general permit, prior to the Board's</p>	<p>Thank you for your comment. Part II C 2 of the general permit requires an operator to make the SWPPP and all amendments available to the department, the VSMP authority, the VECSP authority, the EPA, local government officials, and any MS4 operator receiving discharges from the construction activity. Furthermore, Part II C 3 of the general permit requires an operator to make the SWPPP available for public review either in</p>

	<p>authorization of the associated discharge. Once an application is approved, DEQ should similarly facilitate requests for updated copies of SWPPPs, rather than sending citizens off to construction sites.</p>	<p>electronic format or in hard copy. The Board believes that these permit provisions will make SWPPPs readily available for public consumption.</p>
<p>Hope Babcock, Thomas M. Gremillion, Matthew Goetz, George University Law Center, Washington, DC</p>	<p>To satisfy the requirements of § 303(d), DEQ cannot exclusively rely on permittees themselves to assure that a SWPPP "is consistent" with an applicable TMDL. Rather, the agency should establish meaningful oversight mechanisms and establish enforceable, water quality based controls tailored to the magnitude of the discharge and load capacity of the impaired water. As a first step, DEQ could set a size limit on construction activities eligible for coverage under the General Permit.</p>	<p>The proposed general permit follows the requirements for protection of water quality contained in the EPA final 2012 construction general permit published in the federal register on February 29, 2012. As currently written, the general permit requires construction activity operators to implement erosion and sediment controls and pollution prevention practices to address the narrative technology-based effluent limitations contained in 40 CFR Part 450. In addition, the general permit requires operators to select, install, implement, and maintain control measures at the construction site that minimize (i.e., reduce or eliminate) pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard. For discharges to impaired waters, surface waters with an applicable TMDL wasteload allocation approved prior to the term of the permit, and to exceptional (i.e., Tier III) waters, the general permit requires operators to implement an increased inspection frequency, apply soil stabilization on a more aggressive time schedule, and to apply nutrients in accordance with manufacturer's recommendations or an approved management plan and not during rainfall events. Also, 9VAC25-870-460.1 of the VSMP regulation allows for the use of best management practices to control or abate the discharge of pollutants from stormwater discharges and when numeric effluent limitations are infeasible. The Board believes that the proposed general permit establishes the requirements necessary to protect water quality standards.</p>
<p>Hope Babcock, Thomas M. Gremillion, Matthew Goetz, George University Law Center, Washington, DC</p>	<p>For projects discharging into impaired waters that do not exceed such a size threshold, a revised general permit should impose specific, enforceable water quality-based controls. This necessarily would require applicants to submit SWPPPs to DEQ prior to land disturbing activities, so that DEQ, with the assistance of concerned members of the public, can evaluate the consistency of projected discharges with TMDLs and associated load allocations. Based on that review, DEQ can then impose appropriate mitigation measures.</p>	<p>Thank you for your comment. Please see the response above.</p>
<p>Hope Babcock, Thomas M. Gremillion, Matthew Goetz, George University Law Center, Washington, DC</p>	<p>To comply with federal law and its own anti-degradation policy, DEQ should categorically exclude coverage under the General Permit for discharges into outstanding Tier III waters, or at least require permittees proposing to discharge into a Tier III water to submit a SWPPP and provide for a 60-day public review period, as West Virginia does.</p>	<p>Thank you for your comment. Please see the response above.</p>

<p>Hope Babcock, Thomas M. Gremillion, Matthew Goetz, George University Law Center, Washington, DC</p>	<p>For Tier II waters, DEQ should review applicants SWPPPs to ensure that the authorized discharge will not lead to "degradation," and require additional controls where necessary. At the very least, DEQ should distinguish sensitive waters for higher protections. The proposed permit's failure to include such distinctions would needlessly undermine water quality in the Commonwealth.</p>	<p>Thank you for your comment. Please see the response above.</p>
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**List #1 – Commenters:** Mr. Alan Partin, Henrico; Mr. Paul Muench, Leesburg; Mr. Kimberly Marsho, Reedville; Ms. Ellis Carpenter, Arlington; Mr. Rick Web, Monterey; Mr. Lucile Miller, Richmond; Mr. Jean Stettler, Ms. Denise Mosca, Gloucester; Ms. Donna Morris, Charlottesville; Ms. Claire Gorman, Norfolk; Ms. Susan Smith, Harrisonburg; Mr. Paul Wilgus, Rural Retreat; Mr. Russell Randle, Arlington; Ms. Sarah S, Alexandria; Mr. Randall Houff, Stuarts Draft; Mr. Jeffrey Fasceski, Burke; Ms. Sara Roderer, Richmond; Mr. Timothy O’ Connell, Falls Church; Ms. Mary Picardi, Virginia Beach; Ms. Julia Younger, Hampton; Mr. Mark Perreault, Norfolk; Mr. Kevin Chaney, Madison Hts; Ms. Elizabeth Barnes, Norfolk; Mr. Adam D’Onofrio, North Dinwiddie; Mr. Carlisle Levine, Arlington; Mr. Dan Welch, Arlington; Mr. William Younger, Hampton; Ms. Kelly Garner, Newport News; Ms. Kim Murray, Oakton; Mr. Sean Moran, Seaford; Ms. Anne Hanger, Staunton; Ms. Rose Bono, Richmond; Ms. Sandra Derr, Ashburn; Mr. M Riner, Arlington; Mr. Geoffrey Rogers, Newport News; Mr. Bruce Roberts, Alexandria; Mr. Paul Bollinger, Alexandria; Ms. Marisa Reilly, Woodbridge; Ms. Carol Chewning, Virginia Beach; Mr. Robert Agee, Alexandria; Mr. Rograd Ross, Chesapeake; Mr. Todd Phillips, Middleburg; Mr. Gary Wagner, Vienna; Mr. Dale May, Arlington; Mr. Patrick Geary, Exmore; Ms. Betty Stewart, Newport News; Ms. Linda Even, Newport News; Mr. Frederick Benson, Lanexa; Ms. Diana Parker, North Chesterfield; Ms. Kristy Halterman, Verona; Mr. John Ragosta, Rixeyville; Ms. Wendy Diliberti, Falls Church; Ms. Kristine Lloyd, Lynchburg; Ms. Catherine Rothman, Norfolk; Ms. Sue Ann B. 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Young, Reston; Mr. Randy Brown, Reston; Ms. Ashley Hogan, Ashburn; Mr. Bob Kerr, Virginia Beach; Mr. James L. Perry, McLean;

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STATE WATER CONTROL BOARD

Amend and Reissue the General Permit for Discharges of Stormwater from Construction Activities

CHAPTER 880

GENERAL [ VPDES ] PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES

**9VAC25-880-1. Definitions.**

The words and terms used in this chapter shall have the meanings defined in the Virginia Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia), this chapter, and 9VAC25-870 unless the context clearly indicates otherwise, except as otherwise specified in this section. Terms not defined in the Act, this chapter, or 9VAC25-870 shall have the meaning attributed to them in the federal Clean Water Act (33 USC § 1251 et seq.) (CWA). For the purposes of this chapter:

[ "Business day" means Monday through Friday excluding state holidays. ]

"Commencement of [ construction and disturbance ]" means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g., stockpiling of fill material).

"Final stabilization" means that one of the following situations has occurred:

1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.
2. For individual lots in residential construction, final stabilization can occur by either:
  - a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or
  - b. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.
3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

~~"Minimize" means to prevent, reduce, or eliminate using practicable control measures to meet the conditions of this state permit.~~

"Immediately" means as soon as practicable, but no later than the end of the next [ workbusiness ] day, following the day when the [ earthland- ]disturbing activities have temporarily or permanently ceased. In the context of this [ general ] permit, "immediately" is used to define the deadline for initiating stabilization measures.

"Impaired waters" means surface waters identified as impaired on the 2012 § 305(b)/303(d) Water Quality Assessment Integrated Report.

[ "Infeasible" means not technologically possible or not economically practicable and achievable in light of best industry practices. ]

"Initiation of stabilization activities" means:

1. Prepping the soil for vegetative or nonvegetative stabilization;
2. Applying mulch or other nonvegetative product to the exposed area;
3. Seeding or planting the exposed area;
4. Starting any of the above activities on a portion of the area to be stabilized, but not on the entire area; or
5. Finalizing arrangements to have the stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

This list is not exhaustive.

"Measurable storm event" means a rainfall event producing 0.25 inches of rain or greater over 24 hours.

**9VAC25-880-10. Purpose.**

This general permit regulation [ authorizes/governs ] stormwater discharges from regulated construction activities. For the purposes of this chapter, these discharges are defined as stormwater discharges associated

with large construction activity, and stormwater discharges associated with small construction activity. [ Stormwater discharges associated with other types of industrial activity shall not have coverage under this general permit. ] This general permit covers only discharges through a point source to statesurface waters or through a municipal or nonmunicipal separate storm sewer system to statesurface waters. Stormwater discharges associated with industrial activity that originate from the site-~~[ after ]~~ construction activities that have been completed and the site has undergone final stabilization are not authorized by this [ stategeneral ] permit. The goal of this state permit is to minimize the discharge of stormwater pollutants from construction activity by requiring that the operator plan and implement appropriate control measures.

**9VAC25-880-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the United States set forth in the Code of Federal Regulations is referenced and incorporated herein, that regulation shall be as it exists and has been published in the [ July 1, 2009~~July 1, 2013~~ ], update.

**9VAC25-880-20. Effective date of [ general ] permit.**

This general permit is effective on July 1, 2009~~2014~~. The general permit will expire on June 30, 2014~~2019~~. This general permit is effective for any covered operator upon compliance [ ~~will~~with ] all provisions of [ 4VAC50-60-11309VAC25-880-30. ]

**9VAC25-880-30. Authorization to discharge.**

~~[ A. Any operator governed~~covered~~by this general permit is authorized to discharge to state stormwater associated with construction activities including stormwater associated with emergency related construction related activities to surface waters of the Commonwealth of Virginia in accordance with 9VAC25-880-50 A 4 provided that the operator has filed~~ submits ~~a complete and accurate registration statement in accordance with 9VAC25-880-50 and receives acceptance of the registration statement by the board,~~ submitted ~~submits any fees required by Part XIII of 9VAC25-870 (9VAC25-870-700 et seq.) unless exempted pursuant to 9VAC25-880-50 A 3 (a), complied with the requirements of 9VAC25-880-50, complies with the requirements of 9VAC25-880-80 through 9VAC25-880-90, and complies with the requirements of 4VAC50-60-11709VAC25-880-70 and provided that:~~

A. Any operator governed by this general permit is authorized to discharge to surface waters of the Commonwealth of Virginia provided that: ]

~~[ 1. Prior to commencing construction~~land-disturbing activities, ~~the operator shall obtain approval of an erosion and sediment control plan from the VESCP authority in the locality in which the construction activity is to occur unless the operator receives from the VESCP authority an "agreement in lieu of a plan" as defined in 9VAC25-840-10, or is exempt from the requirement to submit an erosion and sediment control plan by the Erosion and Sediment Control Law and Erosion and Sediment Control Regulations (9VAC25-840) obtains approval of:~~

~~a. An erosion and sediment control plan from the appropriate VESCP authority as authorized under the Virginia Erosion and Sediment Control Regulations, [ 4VAC50-309VAC25-840 ], unless the operator receives from the VESCP and "agreement in lieu of a plan" as defined in [ 4VAC50-30-109VAC25-840-10 ] or prepares the erosion and sediment control plan in accordance with annual standards and specifications approved by the board. The operator of any land-disturbing activity that is not required to obtain erosion and sediment control plan approval from a VESCP authority or is not required to adopt department 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~~

~~b. A stormwater management plan from the appropriate VSMP authority as authorized under the Virginia Stormwater Management Program Regulations, [ 4VAC50-609VAC25-870 ]. The operator of any land-disturbing activity that is not required to obtain stormwater management plan approval from a VSMP authority and is not required to adopt department approved annual standards and specifications shall submit the stormwater management plan to the department for review and approval prior to land disturbance.~~

~~Emergency related construction activities are not required to obtain the approvals specified in subdivision 1 a and b of this subsection prior to the commencement of land disturbance.~~

~~1. The operator submits a complete and accurate registration statement, if required to do so, in accordance with 9VAC25-880-50 and receives acceptance of the registration by the board; ]~~

~~2. [ The stormwater discharge~~ Discharges ~~authorized by this state permit may be combined commingled with other sources of stormwater that are not required to be covered under a state permit, so long as the combined commingled discharge is in compliance with this state permit. Any discharge~~

~~Discharges authorized by a different separate state or a VPDES permit may be commingled with discharges authorized by this state permit so long as all such discharges comply with all applicable state permits permit requirements. The operator submits any permit fees, if required to do so, in accordance with 9VAC25-870-700 et seq. ];~~

~~3. [ Discharges to impaired waters for which a "total maximum daily load" (TMDL) wasteload allocation has been established, including discharges to surface waters located within a TMDL watershed are not eligible for coverage under this general permit unless they are otherwise authorized in accordance with 9VAC25-880-70 Section II D 6 and the operator develops, implements, and maintains a stormwater pollution prevention plan that minimizes applicable observed sources identified in the 2012 §305(b)/303(d) Water Quality Assessment Integrated Report, minimizes pollutants of concern identified in a TMDL approved prior to July 1, 2014 and is consistent with the requirements and assumptions assumptions and requirements of the wasteload allocations in the TMDL, all applicable TMDL wasteload allocations. This only applies when construction activities discharge or are reasonable expected to discharge an applicable observed source identified in the 2012 §305(b)/303(d) Water Quality Assessment Report or a pollutant of concern identified in a TMDL approved prior to July 1, 2014.; and The operator complies with the applicable requirements of 9VAC25-880-70; ]~~

~~[ 4. Discharges to waters that have been identified as impaired in the 2008 § 305(b)/303(d) Water Quality Assessment Integrated Report are not eligible for coverage under this general permit unless they are otherwise authorized in accordance with 9VAC25-880-70 Section I H. Authorized nonstormwater discharges. The following nonstormwater discharges are authorized by this permit:~~

~~a. Discharges from fire fighting activities;~~

~~b. Fire hydrant flushings;~~

~~c. Water used to wash vehicles where detergents have not been used and the wash water has been treated;~~

~~d. Water used to control dust that has been filtered, settled, or similarly treated prior to discharge;~~

~~e. Potable water source, including uncontaminated waterline flushings;~~

~~f. Routine external building wash down that does not use detergents, solvents, or other wash chemicals and that have been filtered, settled, or similarly treated prior to discharge;~~

~~g. Pavement washwater where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled material has been removed prior to washing); where detergents, solvents, or other wash chemicals are not used; and where the washwater has been filtered, settled, or similarly treated prior to discharge;~~

~~h. Uncontaminated air conditioning or compressor condensate;~~

~~i. Uncontaminated groundwater or spring water;~~

~~j. Foundation or footing drains where flows are not contaminated with process materials such as solvents;~~

~~k. Uncontaminated excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and~~

~~l. Landscape irrigation. ]~~

~~[ 4. The operator obtains approval of:~~

~~a. An erosion and sediment control plan from the appropriate VESCP authority as authorized under the Virginia Erosion and Sediment Control Regulations [ 4VAC50-309VAC25-840 ] , unless the operator receives from the VESCP an "agreement in lieu of a plan" as defined in [ 4VAC50-30-409VAC25-840-10 ] 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 or is not required to adopt department-approved annual standards and specifications shall submit the erosion and sediment control plan to the department for review and approval; and~~

~~b. A stormwater management plan from the appropriate VSMP authority as authorized under the Virginia Stormwater Management Program Regulation, 9VAC25-870, unless the operator prepares the stormwater management 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 stormwater management plan approval from a VSMP authority or is not required to adopt department-approved annual standards and specifications shall submit the stormwater management plan to the department for review and approval.~~

5. The board has not notified the operator that the discharge is not eligible for coverage in accordance with subsection B of this section. ]

B. In addition to other prohibitions, the following discharges are not eligible for coverage under this general permit  
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:

1. Discharges for which the operator has been The operator is required to obtain an individual permit [ according to in accordance with ] 9VAC25-870-410 B;

2. Discharges The operator is proposing discharges to state surface waters specifically named in other board regulations or policies that prohibit such discharges; [ and ]

3. Stormwater discharges that the department in consultation with the State Water Control Board determines cause, may reasonably be expected to cause, or contribute to a violation of water quality standards (9VAC25-260). The [ discharges cause discharge causes ], may reasonably be expected to cause, or [ contributecontributes ] to a violation of water quality standards (9VAC25-260) [ as determined in consultation with the State Water Control Board ];

4. The [ discharges violatedischarge violates ] or would violate the antidegradation policy in the Virginia Water Quality Standards (9VAC25-260-30) [ as determined in consultation with the State Water Control Board ]; or

5. The [ discharges aredischarge is ] not consistent with the assumptions and requirements of [ an applicable ] TMDL approved prior to [ July 1, 2014the term of this general permit ] .

C. This [ stategeneral ] permit [ may ] also be used to [ authorizeauthorizes ] stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

1. The support activity is directly related to a construction site that is required to have state permit coverage for discharges of stormwater associated with construction activity [ applying for state permit coverage]that is required to have general permit coverage for discharges of stormwater from construction activities ];

2. The support activity is not a commercial operation [ , ] serving [ or nor ] does [ not it ] serve multiple unrelated construction [ projects activities ] by different operators [ , and does not operate beyond the completion of the construction activity at the last construction project it supports ]; and

3. [ The support activity does not operate beyond the completion of the last construction activity it supports;

4. ] The support activity is identified in the registration statement at the time of [ state-general ] permit coverage;

3. [ 4-5. ] Appropriate control measures [ that will be implemented to minimize pollutant discharges from the support activity are identified in a stormwater pollution prevention plan covering the discharges from the support activity areas are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity areas ]; and

[ 5-6. ] All applicable, state, federal, and local approvals are obtained for the support activity.

D. Support activities located off-site are not required to be covered under this general permit. Discharges of stormwater from off-site support activities may be authorized under another state or [ a ] VPDES permit. Where stormwater discharges from off-site support activities are not authorized under this general permit, the land area of the off-site support activity need not be included in determining the total land disturbance acreage of the construction activity seeking general permit coverage.

E. [ Discharges authorized by this general permit may be commingled with other sources of stormwater that are not required to be covered under a state permit, so long as the commingled discharge is in compliance with this general permit. Discharges authorized by a separate state or VPDES permit may be commingled with discharges authorized by this general permit so long as all such discharges comply with all applicable state and VPDES permit requirements;

F. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this general permit:

1. Discharges from fire fighting activities;

2. Fire hydrant flushings;

3. Water used to wash vehicles or equipment where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;

4. Water used to control dust that has been filtered, settled, or similarly treated prior to discharge;

5. Potable water source, including uncontaminated waterline flushings;
6. Routine external building wash down where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;
7. Pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled or leaked material has been removed prior to washing); where soaps, solvents, or detergents have not been used; and where the wash water has been filtered, settled, or similarly treated prior to discharge;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated groundwater or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
11. Uncontaminated, excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and
12. Landscape irrigations.

G.] Receipt of Approval for coverage under this general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

[ F. H.] The department may allow exceptions to technical criteria contained in the state permit in accordance with Part III of 9VAC25-870 (9VAC25-870-100 et seq.)-Continuation of [ general ] permit coverage.

[ 1.] Any operator that was authorized to discharge under the general permit issued in 2009 [ under 4VAC50-60-1170 Section III M ] and that submits a complete [ and accurate ] registration statement [ that is stamped as received by the department or postmarked 90 days prior to the effective date of this general permit on or before June 30, 2014, ] is authorized to continue to discharge under the terms of the 2009 general permit until such time as the board either:

[ 1.-a.] Issues coverage to the operator under this general permit or

[ 2.-b.] Notifies the operator that the discharge is not eligible for coverage under this general permit.

[ 2. When the operator is not in compliance with the conditions of the expiring or expired general permit the board may choose to do any or all of the following:

a. Initiate enforcement action based upon the 2009 general permit;

b. Issue a notice of intent to deny the new general permit. If the general permit is denied, the owner or operator would then be required to cease the activities authorized by the continued general permit or be subject to enforcement action for operating without a state permit;

c. Issue a new state permit with appropriate conditions; or

d. Take other actions authorized by the VSMP regulations (9VAC25-870) ]

**9VAC25-880-40. Virginia erosion and sediment control programs-Delegation of authorities to state and local programs.**

VESCP requirements may be incorporated by reference into the Stormwater Pollution Prevention Plan (SWPPP) required by 9VAC25-880-70 of this state permit. Where a VESCP does not include one or more of the elements in this section, then the operator must include those elements as part of the SWPPP required by 9VAC25-880-70 of this permit. A VESCP is one that is approved by the board, meets the requirements of 9VAC25-870-460 L and includes:

1. Requirements for construction site operators to implement appropriate erosion and sediment control measures;

2. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; and

3. Requirements for construction site operators to develop and implement a SWPPP in accordance with 9VAC25-880-70 Section II.

A board-approved VSMP authority is authorized to administer requirements of this general permit, including but not limited to: (i) registration statement acceptance; (ii) fee collection; (iii) [ stormwater management ] plan review and approval; and (iv) permit compliance and enforcement dependent upon conditions established as part of the board approval.

**9VAC25-880-50. [ StateGeneral ] permit application (registration statement).**

A. Deadlines for submitting registration statement. [ Any operator seeking coverage under this general permit, and who is required to submit a registration statement, shall submit a complete and accurate general

VPDES permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for discharges of stormwater from construction activities. ]

~~1. [ Except as provided in subdivision 3 of this subsection, operators must certify that all information required in subsection B of this section 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 (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).-New construction activities.~~

~~a. Any operator proposing a new stormwater discharge from construction activities shall submit a complete and accurate registration statement to the VSMP authority prior to the commencement of land disturbance.~~

~~b. Any operator proposing a new stormwater discharge from construction activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment is authorized to discharge under this general permit, provided that:~~

~~(1) The operator submits a complete and accurate registration statement to the VSMP authority no later than 30 days after commencing land disturbance; and~~

~~(2) Documentation to substantiate the occurrence of the public emergency is provided with the registration statement.~~

~~c. Any operator proposing a new stormwater discharge associated with the construction of a single-family residence separately built, disturbing less than one acre and part of a larger common plan of development or sale is authorized to discharge under this general permit and is not required to submit a registration statement or the department portion of the permit fee, provided that the stormwater management plan for the larger common plan of development or sale provides permanent control measures (i.e., stormwater management facilities) encompassing the single family residence. ]~~

~~2. [ Existing construction activities.~~

~~a. Any operator that was authorized to discharge under the general permit issued in 2009, and who intends to continue coverage under this general permit, shall:~~

~~(1) Submit a complete and accurate registration statement to the VSMP authority on or before June 1, 2014; and~~

~~(2) Update their stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.~~

~~b. Any operator with an existing stormwater discharge associated with the construction of a single-family residence separately built, disturbing less than one acre and part of a larger common plan of development or sale, and who intends to continue coverage under this general permit, is authorized to discharge under this general permit and is not required to submit a registration statement or the department portion of the permit fee, provided that:~~

~~(1) The stormwater management plan for the larger common plan of development or sale provides permanent control measures (i.e., stormwater management facilities) encompassing the single-family residence; and~~

~~(2) The operator updates their stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.~~

~~3. ] For stormwater discharges from construction activities where the operator changes, the new operator must [ certify that all information required in subsection B of this section has been entered completely and accurately into the available electronic database provided by the department and ] submit a complete [ and accurate ] registration statement or transfer [ agreement ] form [ to the VSMP authority ] prior to assuming operational control over site specifications or commencing work on-site~~

~~[ 3. In order to continue state permit coverage, operators of ongoing construction activity projects as of July 1, 2009-2014, that received authorization to discharge for those projects under the construction stormwater general permit issued in 2004-2009 must:~~

~~a. Submit/Certify that all information required in subsection B of this section has been entered completely and accurately into the available electronic database provided by the department and submit a complete and accurate registration statement by June 1, 2009 to the department 90 days~~

~~prior to the effective date of this general permit. Provided that a complete and accurate registration statement is submitted by the June 1 reapplication date at least 90 days before the expiration date of the existing state permit, the state permit application (registration statement) fee will be waived for land disturbing activities for which the department initially issued state permit coverage on or after July 1, 20082013; and~~

~~b. Update their stormwater pollution prevention plan to comply with the requirements of this general permit within no later than 30 days after the date of coverage under this general permit. ]~~

~~4. Effective date of state permit coverage. The operator of a construction activity is authorized to discharge stormwater under the terms and conditions of this state permit 15 business days following submission of a complete and accurate registration statement to the VSMP authority as the administering entity for the board unless notification of coverage is made by the department at an earlier time. For the purposes of this state permit, a registration statement that is mailed is considered to be submitted once it is postmarked. Operators are not authorized to discharge if the registration statement is incomplete or incorrect, or if the discharge(s) was not eligible for coverage under this state permit.~~

~~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 submitting the registration statement. By signing the registration statement the operator certifies that the SWPPP has been prepared.~~

~~5. 4. Late notifications. Operators are not prohibited from submitting registration statements after [ initiating clearing, grading, excavation activities, or other land disturbing activitiescommencing land disturbance ]. When a late registration statement is submitted, authorization for discharges shall not occur until coverage under the general permit is issued. The department VSMP authority, department, board, and the EPA reserves the right to take enforcement action for any unpermitted discharges that occur between the commencement of [ constructionland disturbance ] and discharge authorization.~~

~~[ 5. 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 unauthorized discharge. ]~~

~~B. Registration statement. The operator shall submit a registration statement [ onto the VSMP authority ] the official department form [ a form specified by the department ] that shall contain the following information:~~

~~1. Name, [ contact, ] mailing address, telephone number, and email address [ if available ] of the construction activity operator. No more than one operator may receive coverage under each registration statement.~~

~~NOTE: [ The stateGeneral ] permit [ coverage ] will be issued to this operator, and the certification in subdivision [ 4211 ] of this subsection must be signed by the appropriate person associated with this operator;~~

~~2. Name and location [ if available ] of the construction activity [ , including town, city, or county, and latitude and longitude (degrees, minutes, seconds), and all off-site support activities to be covered under the state permit. ] If a street address is unavailable, provide latitude and longitude [ and all off-site support activities to be covered under this general permit, including city or county, and latitude and longitude in decimal degrees ];~~

~~3. Status of the [ construction ] activity: federal, state, public, or private;~~

~~4. Nature of the construction activity (e.g., commercial, industrial, residential, agricultural, oil and gas, etc.);~~

~~5. Name of the receiving water(s) and HUC [ .Direct discharges to any receiving water identified as impaired on the 20082012 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL WLA has been established for stormwater discharges from a construction activity shall be noted ];~~

~~6. If the discharge is through a municipal separate storm sewer system (MS4), the name of the municipal [ separate storm sewer system ] operator [ of the storm sewer ];~~

~~7. Estimated project start date and completion date;~~

~~8. Total land area of development and estimated area to be disturbed by the construction activity (to the nearest [ one-tenthone-hundredth ] of an acre);~~

~~9. Whether the area to be disturbed by the construction activity is part of a larger common plan of development or sale;~~

~~10. An indication of whether nutrient offsets are intended to be acquired in accordance with § 62.1-44.15:35 of the Code of Virginia [ Certifications. All information required by 4VAC50-60-1150 B9VAC25-880-50 B has been entered into the electronic database provided by the department. By signing the registration statement, the operator certifies that all information has been entered completely and accurately. By signing the registration statement, the operator certifies that all necessary approvals required by the permit will be obtained prior to land disturbance;14. ] A stormwater pollution prevention plan (SWPPP) must be prepared in accordance with the requirements of the General [ VPDES ] Permit for Stormwater Discharges from Construction Activities prior to [ submitting the registration statement and disturbance ] . By signing the registration statement the operator certifies that the SWPPP [ has been will be ] prepared [ prior to land disturbance ]; and [ 12.11. ] The following certification: "I certify under penalty of law that I have read and understand this registration statement and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."~~

C. The registration statement shall be signed in accordance with 9VAC25-880-70, [ Section Part ] III K.

~~[ D. Where to submit. The registration statement shall be submitted to the VSMP authority as the administering entity for the board.~~

~~E. Registration statements in the custody of the VSMP authority or the department are subject to requests made pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia). ]~~

#### **9VAC25-880-60. Termination of [ stategeneral ] permit coverage.**

A. Requirements. The operator [ of the construction activity ] shall [ certify that all information required in subsection B of this section has been entered completely and accurately into the electronic database provided by the department and shall ] submit a notice of termination on the official department form [ on a form specified by the department to the VSMP authority ] after one or more of the following conditions have been met:

1. Necessary [ post-construction permanent ] control measures included in the SWPPP for the site are in place and functioning effectively and final stabilization has been achieved on all portions of the site for which the operator is responsible [ . When applicable, long-term responsibility and maintenance requirements for permanent control measures shall be recorded in the local land records prior to the submission of a notice of termination ];
2. Another operator has assumed control over all areas of the site that have not been finally stabilized and obtained coverage for the ongoing discharge;
3. Coverage under an alternative VPDES or state permit has been obtained; or
4. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

The notice of termination ~~must~~ should be submitted [ within no later than ] 30 days [ or after ] one of the above conditions being met. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions 2 through 4 of this subsection [ unless otherwise notified by the VSMP authority or the department ]. Termination of authorizations to discharge for the conditions set forth in subdivision 1 of this subsection shall be effective upon notification from the department that the provisions of subdivision 1 of this subsection have been met or 60 days after submittal of the notice of terminations, whichever occurs first.

B. Notice of termination. The notice of termination shall contain the following information:

1. Name, [ contact ] mailing address, telephone number, and email address [ if available ] of the construction activity operator.
2. Name and location [ if available ] of the construction activity [ covered under this general permit, including city or county, and latitude and longitude in decimal degrees. ] ~~. If a street address is unavailable, latitude and longitude shall be provided.~~
3. The stormwater-general permit registration number.
4. The basis for submission of the notice of termination, pursuant to subsection A of this section.
5. Where applicable, a list of the [ on-site and off-site ] permanent control measures (both structural and nonstructural) that were installed [ or employed to meet the post development stormwater quality ]

criteria at the construction activity site to comply with the stormwater management technical criteria. For each permanent control measure that was installed [ ~~or employed~~ ], the following information shall be included:

- a. [ ~~Where applicable, the following information related to onsite control measures:~~(1) ~~Type~~The type of [ ~~onsite~~ ] permanent control measure installed and the date that it became functional as a permanent control measure;
  - b. ~~Geographic location (county or city and Hydrologic Unit Code). [ (2) Latitude and longitude may additionally be included if available; (in degrees, minutes, and seconds to the nearest 15 seconds) of the permanent control measure outfall.~~The location if available of the permanent control measure, including city or county, and latitude and longitude in decimal degrees; ]
  - [ c. ] ~~Waterbody the control measure discharges into; and [ The receiving water of the permanent control measures; and~~
  - d. ] ~~Number [ The number of total and impervious acres treated by the permanent control measure (to the nearest one-tenth of an acre). ]~~
- [ ~~(3) Construction activity acres treated onsite (to the nearest one tenth of an acre); and~~
- [ ~~(4) Construction activity nutrient reductions achieved onsite (lbs. per acre per year).~~
6. ~~Where applicable, the following information related to participation in a regional stormwater management plan. For each regional stormwater management facility, the following information shall be included ]:~~

- [ ~~b. Where applicable, the following information related to offsite control measures:~~
- [ ~~(1) Type of offsite permanent control measure to which the construction activity contributes (e.g., a permanent control measure installed as part of a larger common plan of development or a permanent control measure installed in accordance with a comprehensive stormwater management plan adopted pursuant to 4VAC50-60-929VAC25-870-92);~~
- [ ~~(2) Approximate latitude and longitude (in degrees, minutes, and seconds to the nearest 15 seconds) of the offsite control measure; and~~
- [ ~~(3) Construction activity nutrient reductions achieved offsite (lbs. per acre per year).~~
- a. ] ~~Type [ The type of regional facility ] or facilities [ to which the site contributes;~~
  - b. ] ~~Geographic location of any regional facility to which the site contributes (county or city and Hydrologic Unit Code); [ The location if available of the regional facility, including city or county, and latitude and longitude in decimal degrees; and~~
  - c. ] ~~Geographic location of the site (county or city and Hydrologic Unit Code). Latitude and longitude may additionally be included if available; and [ The number of total and impervious site acres treated by the regional facility (to the nearest one-tenth of an acre). ]~~
  - d. ~~Number of acres treated by a regional facility.~~

[ ~~7.e.~~ ] ~~Where applicable, the following information related to perpetual nutrient [ ~~offsets~~credits ] that were acquired in accordance with § 62.1-44.15:35 of the Code of Virginia:~~

- [ ~~(1) Name of the nonpoint source nutrient bank from which nutrient credits were acquired.~~a. ~~The name of the nonpoint nutrient credit generating entity from which perpetual nutrient credits were acquired ] ; and~~
- [ ~~(2) Number-b. The number ] of [ ~~perpetual~~ ] nutrient credits acquired (lbs. per acre per year).~~
- a. ~~Name of the broker from which offsets were acquired;~~
  - b. ~~Geographic location (county or city and Hydrologic Unit Code) of the broker's offset-generating facility;~~
  - c. ~~Number of nutrient offsets acquired (lbs. per acre per year); and~~
  - d. ~~Nutrient reductions achieved on site (lbs. per acre per year).~~

[ ~~6. Any instrument recorded for the long term maintenance of any permanent stormwater management facilities, required pursuant to 9VAC25-870-112 has been submitted to the VSMP authority. ]~~

[ ~~8.z.~~ ] The following certification: "I certify under penalty of law that I have read and understand this notice of termination and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

C. The notice of termination shall be signed in accordance with 9VAC25-880-70 [ ~~SectionPart~~ ] III K.

D. [ ~~Where to submit. The notice of termination shall be submitted to the VSMP authority as the administering entity for the board. E. ] Termination by the [ department in coordination with the VSMP authorityboard ]. The department in coordination with the VSMP authority board may terminate coverage under this [ ~~stategeneral~~ ] permit during its term and require application for an individual permit or deny a [ ~~stategeneral~~ ] permit renewal application on its own initiative in accordance with the Act, this chapter, and [ ~~the VSMP regulation, ] 9VAC25-870.~~~~

#### **9VAC25-880-70. General permit.**

Any operator whose registration statement is accepted by the ~~department board [ or its designated authority ]~~ will receive the following [ ~~stategeneral~~ ] permit and shall comply with the requirements in it and be subject to all requirements of the Virginia Stormwater Management Act and the Virginia Stormwater Management Program (VSMP) Regulations (9VAC25-870) [ ~~contained~~ ] therein [ ~~and be subject to all requirements of 9VAC25-870~~ ] . [ ~~No more than one operator may receive coverage under each registration statement. ]~~

General Permit No.: VAR10

Effective Date: July 1, 20092014

Expiration Date: June 30, 20142019

### GENERAL [ VPDES ] PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES

#### AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the Virginia Stormwater Management Act and [ ~~attendant~~ ] regulations [ ~~adopted pursuant thereto~~ ], 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 regulations that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, [ ~~SectionPart~~ ] I - Discharge Authorization and Special Conditions, [ ~~SectionPart~~ ] II - Stormwater Pollution Prevention Plan, and [ ~~SectionPart~~ ] III - Conditions Applicable [ ~~to~~ ] All [ ~~State~~VPDES ] Permits as set forth herein.

#### [ ~~SECTIONPART~~ ] I

#### DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this [ ~~stategeneral~~ ] permit.

1. During the period beginning with the date of coverage under this general permit and lasting until the [ ~~stategeneral~~ ] permit's expiration date, the operator is authorized to discharge stormwater from [ ~~the following~~ ] construction activities [ ~~:~~ ]

~~a. New construction activities. Construction activities for which initial permit coverage is sought under this permit provided permit compliance is maintained or construction activities previously covered under the 2009 Virginia General Permit for Stormwater Discharges for Construction Activities and for which a registration statement was submitted in accordance with Section III M of the 2009 permit in order to maintain uninterrupted coverage.~~

~~b. Previously covered construction activities. Construction activities that have obtained VSMP permit coverage under the 2009 Construction Activities and submitted a registration statement in accordance with Section III M of the 2009 permit in order to maintain uninterrupted permit coverage.~~

~~c. Emergency related construction activities. Construction activities in response to a public emergency (e.g., natural disaster, disruption in essential public services), and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment. The operator shall have coverage under this permit in order to address these public emergencies provided that:~~

~~(1) The operator advises the VSMP authority of the construction activity within seven days of commencing land disturbance;~~

~~(2) State permit coverage is applied for within 30 days of commencing the land disturbing activity; and~~

~~(3) Documentation is provided with the registration statement to substantiate the occurrence of the public emergency. ]~~

2. This [~~state~~general] permit ~~may also authorize~~ authorizes stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

a. ~~The support activity is directly related to the construction site that is required to have activity [ applying for state that is required to have general ] permit coverage [ for discharges of stormwater ] associated with [ from construction activityactivities ];~~

b. ~~The support activity is not a commercial operation [ , ] serving [ or does not nor does it ] serve multiple unrelated construction [ projectsactivities ] by different operators [ , and does not operate beyond the completion of the construction activity at the last construction project it supports ]; and~~

c. ~~[ The support activity does not operate beyond the completion of the last construction activity it supports;~~

d. ] The support activity is identified in the registration statement at the time of [ general permit ] coverage;

[ d. e. ] Appropriate control measures are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity areas; and

[ e. f. ] All applicable state, federal, and local approvals are obtained for the support activity.

~~3. There shall be no discharge of floating solids or visible foam that contravenes established standards or interferes directly or indirectly with designated uses of surface waters.~~

B. ~~Limitation~~ Limitations on coverage.

1. ~~Post-construction discharges. This [ state ] permit does not authorize stormwater discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity [ sitesites ] covered under the [ general ] permit registration, has undergone final stabilization. Post-construction industrial stormwater discharges may need to be covered by a separate VPDES permit [ and permit coverage has been terminated ]. Post construction industrial stormwater discharges may need to be covered by a separate VPDES permit.~~

~~[ 2. Discharges mixed with nonstormwater. This general ] state [ permit does not authorize discharges that are mixed with sources of nonstormwater, other than those discharges that are identified in ] Section [ Part I E (Authorized nonstormwater discharges) ] I-D-2 (Exceptions to prohibition of nonstormwater discharges) and are in compliance with [ this general permit. ] Section II D-5 (Nonstormwater discharge management).~~

~~[ 3. ] Discharges covered by another state permit. This [ state ] permit does not authorize [ stormwater discharges associated with construction activity discharges of stormwater from construction activities ] that have been covered under an individual permit or required to obtain coverage under an alternative general permit.~~

~~4. TMDL limitation. Discharges to waters for which a wasteload allocation (WLA) for a pollutant has been established in an approved "total maximum daily load" (TMDL) that would apply to stormwater discharges from a construction activity are not eligible for coverage under this state permit unless the stormwater pollution prevention plan (SWPPP) developed by the operator is consistent with the requirements related to TMDLs contained in Section II D-6.~~

~~5. Impaired waters limitation. Discharges to waters that have been identified as impaired in the 2008 § 305(b)/303(d) Water Quality Assessment Integrated Report are not eligible for coverage under this state permit unless the operator implements strategies and control measures consistent with Sections I H and II D-7.~~

~~[ 3. Limitations on coverage for discharges to impaired waters. This only applies when construction activities discharge or are reasonably expected to discharge an applicable observed source identified in the 2012 § 305(b)/303(d) Water Quality Assessment Integrated Report or a pollutant of concern identified in a TMDL approved prior to July 1, 2014.~~

~~a. Discharges to impaired waters, including discharges to surface waters located within a TMDL watershed, are not eligible for coverage under this general permit unless the following requirements are implemented:~~

~~(1) The impaired water(s), associated impairment(s), TMDL name(s), and TMDL pollutant(s) of concern when applicable shall be identified in the registration statement and in the SWPPP;~~

~~(2) The operator shall develop, implement, and maintain a SWPPP that minimizes applicable observed sources identified in the 2012 § 305(b)/303(d) Water Quality Assessment Integrated Report, minimizes pollutants of concern identified in a TMDL approved prior to July 1, 2014, and is~~

consistent with the assumptions and requirements of all associated TMDL wasteload allocations when applicable; and

(3) The following modifications to the SWPPP inspection schedule shall be implemented:

(a) Inspections shall be conducted at a frequency of:

(i) At least once every four days; or

(ii) At least once every seven days and no later than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between normal working days, the inspection shall be conducted on the next working day.

(b) Where areas have been temporarily stabilized or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or continuous frozen ground exists), the inspection frequency may be reduced to once every 30 days. If unexpected weather conditions (such as above freezing temperature or rain or snow events) make discharges likely, the operator shall immediately resume the regular inspection frequency.

(c) Representative inspections utilized by utility line installation, pipeline construction, or other similar linear construction activities in Section II F 2 c shall also inspect all outfalls discharging directly to an impaired water.

(4) The requirements of Sections I B 3 a (1) through I B 3 a (3) shall be implemented for:

(a) All construction activities outside of Tidewater Virginia, as defined in § [10.1-210162.1-44.15:68] of the Code of Virginia, that discharge to a surface water in the Chesapeake Bay watershed and disturb greater than or equal to 20 acres;

(b) All construction activities inside of Tidewater Virginia, as defined in § [10.1-210162.1-44.15:68] of the Code of Virginia, that discharge to a surface water in the Chesapeake Bay watershed and disturb greater than or equal to 10 acres;

(c) All construction activities that discharge to a surface water located within a TMDL watershed other than the Chesapeake Bay watershed and disturb greater than or equal to five acres; and

(d) All construction activities that discharge directly to an impaired water. For the purposes of this permit, a construction activity will be considered a discharge directly to an impaired water if the first surface water to which it discharges has been identified in the 2012 § 305(b)/303(d) Water Quality Assessment Integrated Report as not meeting an applicable water quality standard. For discharges that enter a storm sewer system prior to discharge, the surface water to which the operator discharges is the first surface water that receives the stormwater discharge from the storm sewer system.

b. Discharges to impaired waters, including discharges to surface waters located within a TMDL watershed, where sediment, a sediment related parameter (e.g., total suspended solids or turbidity) or nutrients (e.g., nitrogen or phosphorus) are an applicable observed source identified in the 2012 § 305(b)/303(d) Water Quality Assessment Integrated Report or a pollutant of concern identified in a TMDL approved prior to July 1, 2014, shall also implement the following requirements:

(1) Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site; and

(2) Nutrients shall be applied in accordance with manufacturer's recommendations and shall not be applied during rainfall events.

4. Limitations on coverage for new discharges to exceptional waters identified in 9VAC25-260-30-A-3 c. Discharges from new construction activities to exceptional waters are not eligible for coverage under this general permit unless the following requirements are implemented:

a. The exceptional water shall be identified in the registration statement and in the SWPPP;

b. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;

c. The following modifications to the SWPPP inspection schedule shall be implemented:

(1) Inspections shall be conducted at a frequency of:

(a) At least once every four days; or

(b) At least once every seven days and no longer than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 40 hours between normal working days, the inspection shall be conducted on the next working day.

(c) Where areas have been temporary stabilized or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or continuous frozen ground exists), the inspection frequency

~~may be reduced to once every 30 days. If unexpected weather conditions (such as above freezing temperature or rain or snow events) make discharges likely, the operator shall immediately resume the regular inspection frequency.~~

~~(2) Representative inspections utilized by utility line installation, pipeline construction, or other similar linear construction activities in Section II F 2 c shall also inspect all outfalls discharging directly to an exceptional water.~~

~~5. There shall be no discharges of floating solids or visible foam in other than trace amounts.~~

~~4. Impaired waters and TMDL limitation. Discharges of stormwater from construction activities to surface waters identified as impaired in the 2012 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for (i) sediment or a sediment-related parameter (i.e., total suspended solids or turbidity) or (ii) nutrients (i.e., nitrogen or phosphorus) are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations. In addition, the operator shall implement the following items:~~

~~a. The impaired water(s), approved TMDL(s), and pollutant(s) of concern, when applicable, shall be identified in the SWPPP;~~

~~b. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;~~

~~c. Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events;~~

~~d. The applicable SWPPP inspection requirements specified in Part II F 2 shall be amended as follows:~~

~~(1) Inspections shall be conducted at a frequency of (i) at least once every four business days, or (ii) at least once every five business days and no later than 48 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day; and~~

~~(2) Representative inspections used by utility line installation, pipeline construction, or other similar linear construction activities shall inspect all outfalls discharging to surface waters identified as impaired or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit.~~

~~5. Exceptional waters limitation. Discharges of stormwater from construction activities not previously covered under the general permit issued in 2009 to exceptional waters identified in 9VAC25-260-60 A 3 c are not eligible for coverage under this general permit unless the operator implements the following:~~

~~a. The exceptional water(s) shall be identified in the SWPPP;~~

~~b. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;~~

~~c. Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events;~~

~~d. The applicable SWPPP inspection requirements specified in Part II F 2 shall be amended as follows:~~

~~(1) Inspections shall be conducted at a frequency of (i) at least once every four business days, or (ii) at least once every five business days and no later than 48 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day; and~~

~~(2) Representative inspections used by utility line installation, pipeline construction, or other similar linear construction activities shall inspect all outfalls discharging to exceptional waters.~~

~~6. There shall be no discharge of floating solids or visible foam in other than trace amounts. ]~~

~~C. Commingled discharges. Any discharge authorized by a different state or VPDES permit may be commingled with discharges authorized by this state permit. Discharges authorized by this [ general ] permit may be commingled [ with other sources of stormwater that are not required to be covered under a state permit, so long as the commingled discharge is in compliance with this general permit. ] Discharges authorized by a separate [ VSMP-state ] or VPDES permit may be commingled with discharges authorized by this [ general ] permit [ so long as all such discharges comply with all applicable state and VPDES permit requirements. ]~~

D. Prohibition of nonstormwater discharges. ~~4. Except as provided in Sections I A 2, I C and I D 2 [ Sections Parts ] I A 2, I C and I E, all discharges covered by this [ state general ] permit shall be composed entirely of stormwater associated with construction [ activity activities ]. All other discharges including the following are prohibited:~~

- ~~1. Wastewater from washout of concrete [ , unless managed by an appropriate control as described at Section II A 2 d (5) (e) ].~~
  - ~~2. Wastewater from [ the ] washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;~~
  - ~~3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;~~
  - ~~4. Oils, toxic substances, or hazardous substances from spills or other releases; and~~
  - ~~5. Soaps [ and, ] solvents [ , or detergents ] used in equipment and vehicle washing.~~
- ~~2. The following nonstormwater discharges from active construction sites are authorized by this state permit provided the nonstormwater component of the discharge is in compliance with Section II D 5 (Nonstormwater discharges):~~

E. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this [ general ] permit when discharged in compliance with this [ general ] permit:

- ~~a. 1. Discharges from firefighting activities;~~
- ~~b. 2. Fire hydrant flushings;~~
- ~~c. 3. Waters used to wash vehicles [ or equipment ] where [ soaps, solvents or ] detergents are not have not been used and the wash water has been [ filtered, settled, or similarly ] treated [ prior to discharge ];~~
- ~~d. 4. Water used to control dust that has been filtered, settled, or similarly treated prior to discharge;~~
- ~~e. 5. Potable water sources, including uncontaminated waterline flushings;~~
- ~~f. 6. Routine external building wash down [ which does not use detergents where soaps ], solvents or [ other wash chemicals and that have detergents have not been used and the wash water has ] been filtered, settled, or similarly treated prior to discharge;~~
- ~~g. 7. Pavement [ washwaters wash waters ] where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) (or where all spilled [ or leaked ] material has been removed [ prior to washing ] and; where [ soaps, solvents, or ] detergents [ , solvents, or other wash chemicals are have [ not [ been ] used, and where the [ washwater wash water ] has been filtered, settled, or similarly treated prior to discharge;~~
- ~~h. 8. Uncontaminated air conditioning or compressor condensate;~~
- ~~i. 9. Uncontaminated ground water or spring water;~~
- ~~j. 10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;~~
- ~~k. 11. Uncontaminated excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and~~
- ~~l. 12. Landscape irrigation.~~

~~E. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the stormwater discharges from the construction site shall be prevented or minimized in accordance with the stormwater pollution prevention plan for the site. This state permit does not relieve the state permittee of the reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 or § 62.1-44.34:19 of the Code of Virginia.~~

~~Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-44.34.19 of the Code of Virginia occurs during a 24-hour period:~~

- ~~1. The operator is required to notify the department and the VSMP authority in accordance with the requirements of Section III G as soon as he has knowledge of the discharge;~~
- ~~2. Where a release enters a municipal separate storm sewer system (MS4), the operator shall also notify the operator of the MS4; and~~
- ~~3. The stormwater pollution prevention plan required under Section II D of this state permit must be reviewed by the operator to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate within seven calendar days of knowledge of a release.~~

~~F. Spills. This state permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.~~

~~G.F. Termination of [ stategeneral ] permit coverage. [ Coverage under this state permit may be terminated in accordance with 9VAC25-880-60.~~

~~1. The operator of the construction activity shall submit a notice of termination in accordance with 9VAC25-880-60 to the VSMP authority after one or more of the following conditions have been met:~~

~~a. Necessary permanent control measures included in the SWPPP for the site are in place and functioning effectively and final stabilization has been achieved on all portions of the site for which the operator is responsible. When applicable, long term responsibility and maintenance requirements shall be recorded in the local land records prior to the submission of a notice of termination;~~

~~b. Another operator has assumed control over all areas of the site that have not been finally stabilized and obtained coverage for the ongoing discharge;~~

~~c. Coverage under an alternative VPDES or state permit has been obtained; or~~

~~d. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.~~

~~The notice of termination should be submitted no later than 30 days after one of the above conditions being met. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in 1 b through 1 d of this subsection. Termination of authorizations to discharge for the conditions set forth in 1 a of this subsection shall be effective upon notification from the department that the provisions of 1 a of this subsection has been met or 60 days after submittal of the notice of termination, whichever occurs first.~~

~~2. The notice of termination shall be signed in accordance with Part III K of this general permit. ]~~

~~H.G. Water quality protection.~~

~~1. The operator must select, install, implement and maintain control measures as identified in the SWPPP at the construction site that minimize pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard.~~

~~2. If it is determined by the department [ in consultation with the State Water Control Board ] at any time that the operator's [ stormwater ] discharges are causing, have reasonable potential to cause or contribute are contributing to an excursion above any applicable water quality standard, the department shall, in consultation with the VSMP authority, may take appropriate enforcement action and require the operator to:~~

~~a. Modify [ or implement additional ] control measures in accordance with [ SectionPart ] II GB to adequately address the identified water quality concerns;~~

~~b. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or~~

~~c. [ Cease discharges of pollutants from construction activity and submitSubmit ] an individual permit application [ according to in accordance with ] 9VAC25-870-410 B 3.~~

~~All written responses required under this chapter must include a signed certification consistent with [ SectionPart ] III K.~~

## ~~[ SECTIONPART ] II~~

### ~~STORMWATER POLLUTION PREVENTION PLAN~~

~~[ A stormwater pollution prevention plan (SWPPP) shall be developed prior to the submission of a registration statement and implemented for the construction activity, including any support activity, covered by this general permit. SWPPPs shall be prepared in accordance with good engineering practices. Construction activities that are part of a larger common plan of development or sale and disturb less than one acre may utilize a SWPPP template provided by the department and need not provide a separate stormwater management plan if one has been prepared and implemented for the larger common plan of development or sale.~~

~~The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other plans such as a spill prevention control and countermeasure (SPCC) plan developed for the site under § 311 of the federal Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Part II A. All plans incorporated by reference into the SWPPP become enforceable under this general permit. If a plan~~

incorporated by reference does not contain all of the required elements of the SWPPP, the operator must develop the missing elements and include them in the SWPPP.

Any operator that was authorized to discharge under the general permit issued in 2009, and who intends to continue coverage under this general permit, shall update their stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit. ]

A. Stormwater [ Pollution Prevention Plan ] Framework. [ pollution prevention plan contents. The SWPPP shall include the following items: ]

1. [ A stormwater pollution prevention plan (SWPPP) shall be developed prior to ] submission of a registration statement and implemented [ land disturbance for the construction activity covered by this state permit. SWPPPs shall be prepared in accordance with good engineering practices. 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 is one has been prepared and implemented for the planned development.

2. The SWPPP shall: ]

- a. Identify potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site;
- b. Describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site; and
- c. Comply with the terms and conditions of this state permit.

[ a. General Information:

(1) A copy of the Registration for Coverage under the General Permit for Discharges of Stormwater for Construction Activities signed in accordance with [ 4VAC50-60-3709VAC25-870-370 ];

(2) Upon receipt of coverage, a copy of the Notice of Coverage under the General Permit for Discharges of Stormwater from Construction Activities;

(3) A copy of the General Permit for Discharges of Stormwater from Construction Activities;

(4) A narrative description of the nature of the construction activity, including the function of the project (e.g., low density residential, shopping mall, highway, etc.);

(5) A legible site plan identifying:

(a) Directions of stormwater flow and approximate slopes anticipated after major grading activities;

(b) Limits of land disturbance including steep slopes and natural buffers around surface waters that will not be disturbed;

(c) Locations of major structural and nonstructural control measures including sediment basins and traps, perimeter dikes, sediment barriers, and other measures intended to filter or similarly treat sediment that will be installed between disturbed areas and the undisturbed vegetated areas, in order to increase sediment removal and maximize stormwater infiltration;

(d) Locations of surface waters;

(e) Locations where concentrated stormwater is discharged;

(f) Location of the on-site rain gauge, or a description of the methodology to identify measurable storm events established in consultation with the VSMP authority, used to identify a measurable storm event for inspection purposes; and

(g) Locations of on-site and off-site, when applicable and when required by the VSMP authority, support activities, including: (i) areas where equipment and vehicle washing, wheel wash water, and other wash water is to occur; (ii) storage areas for chemicals such as acids, fuels, fertilizers and other lawn care chemicals; (iii) concrete wash-out areas; (iv) vehicle fueling and maintenance areas; (v) sanitary waste facilities, including those temporarily placed on the construction site; and (vi) construction waste storage.

b. Erosion and Sediment Control Plan.

(1) An erosion and sediment control plan or an agreement in lieu of a plan, as defined in [ 4VAC50-30-109VAC25-840-10 ], approved by a board approved VESCP authority or, where appropriate, an erosion and sediment control plan designed 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 approval from a VESCP authority or adopts department approved annual standards and specifications shall submit the erosion and sediment control plan to

~~the department for review and approval prior to land disturbance. Plan approval prior to land disturbance does not apply to emergency related construction activities.~~

~~(2) For off-site support activities such as borrow or fill areas, all required erosion and sediment control plans approved by a VESCP authority or, where appropriate, an erosion and sediment control plan designed 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 or adopts department approved annual standards and specifications shall submit the erosion and sediment control plan to the department for review and approval prior to land disturbance.~~

~~(3) All erosion and sediment control plans shall include a statement describing the maintenance responsibilities required for the erosion and sediment controls utilized.~~

~~(4) Unless there is evidence as a result of an inspection as required under Section II F, an approved and properly implemented erosion and sediment control plan; an agreement in lieu of a plan approved by the VESCP authority without exception; or an erosion and sediment control plan designed and implemented in accordance with annual standards and specifications approved by the department that adequately:~~

~~(a) Controls the volume and velocity of stormwater runoff within the site to minimize soil erosion;~~

~~(b) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;~~

~~(c) Minimizes the disturbance of steep slopes;~~

~~(d) Minimizes the amount of soil exposed during construction activity;~~

~~(e) Minimizes sediment discharges from the site in a manner that addresses the amount, frequency, intensity, and duration of precipitation, the nature of resulting stormwater runoff and soil characteristics, including the range of soil particle sizes expected to be present on the site;~~

~~(f) Provides and maintains natural buffers around surface waters, directs stormwater to vegetated areas to increase sediment removal, and maximizes stormwater infiltration, unless infeasible;~~

~~(g) Minimizes soil compaction and preserves topsoil where feasible;~~

~~(h) Ensures that stabilization will begin immediately upon installation of earthen structures such as dams, dikes, and diversions and that stabilization of denuded areas shall be initiated immediately upon reaching final grade or for areas that may not be at final grade but will remain dormant for longer than 14 days. Temporary stabilization shall be installed within seven days of initiation; and~~

~~(i) Discharges stormwater from the surface of basins and other impoundments when the impoundment is designed to include wet storage and is designed to discharge above the permanent pool elevation.~~

~~(5) Previously covered construction activities, as identified in Section I A 1 b, shall implement the inspection requirements in Section II F and update their erosion and sediment control plan no later than 30 days following permit coverage to include the required modifications resulting from the inspection requirements.~~

~~c. Stormwater Management Plan. A stormwater management plan from the appropriate VSMP authority as authorized under the Virginia Stormwater Management Program Regulations, [4VAC50-609VAC25-870]. The operator of any land disturbing activity that is not required to obtain stormwater management plan approval from a VSMP authority or is not required to adopt department approved annual standards and specifications shall submit the stormwater management plan to the department for review and approval prior to land disturbance. Plan approval prior to land disturbance does not apply to emergency related construction activities.~~

~~d. Pollution Prevention Plan. A pollution prevention plan that addresses expected pollutant generating activities from both on-site and off-site support activities covered under the general permit that may reasonably be expected to affect the quality of stormwater discharges. In order to comply with [4VAC50-60-569VAC25-870-56], the pollution prevention plan shall:~~

~~(1) Identify the potential pollutant generating activities and the pollutant that is expected to be exposed to stormwater for on-site and off-site activities, including support activities;~~

~~(2) Describe the location where the pollutant generating activities will occur; or if identified on the site plan, reference to the site plan;~~

~~(3) Identify all nonstormwater discharges, as authorized in Section I E of this permit, that are or will be commingled with stormwater discharges from the construction activity at the site;~~

(4) Identify the person responsible for the pollution prevention activities for each pollutant generating activity (if other than the person listed as the qualified personnel);

(5) Describe procedures and practices that will be implemented to:

(a) Prevent and respond to leaks, spills and other releases including (i) procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases; and (ii) procedures for reporting leaks, spills, and other releases in accordance with Section III G;

(b) Eliminate the discharge of spilled and leaked fuels and chemicals from vehicle fueling and maintenance activities (e.g., providing secondary containment such as spill berms, decks, spill containment pallets, providing cover where appropriate, and having spill kits readily available);

(c) Prevent the discharge of soaps, detergents, solvents, and wash water from construction materials, such as clean up of stucco, paint form release oils, and curing compounds, by providing (i) cover (e.g., plastic sheeting or temporary roofs) to prevent contact with stormwater; (ii) collection and proper disposal in a manner to prevent contact with stormwater; and (iii) a similarly effective means designed to prevent discharge of these pollutants;

(d) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water and other types of washing (e.g., locating activities away from surface waters and stormwater inlets or conveyances and directing wash waters to sediment basins or traps, using infiltration devices such as filter bags or sand filters or using similarly effective controls);

(e) Direct concrete wash water into a leak proof container or leak proof settling basin that is designed so that no overflows can occur due to inadequate sizing or precipitation. Hardened concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wastes. Liquid concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wash waters and shall not be discharged to surface waters;

(f) Minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials, and wastes including (i) building products such as asphalt sealants, copper flashing, roofing materials, adhesives, concrete admixtures; (ii) pesticides, herbicides, insecticides, fertilizers, and landscape materials; and (iii) construction and domestic wastes such as packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, Styrofoam, concrete, and other trash or building materials;

(g) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, and sanitary wastes; and

(h) Address any other discharges from the potential pollutant generating activity not addressed above;

(6) The pollution prevention plan shall describe procedures for providing pollution prevention awareness of all applicable wastes, including any wash water, disposal practices and applicable disposal locations of such wastes, to personnel in order to comply with the conditions of this permit. The operator shall implement the procedures described in the SWPPP.

(7) Previously covered construction activities, as identified in Section I A 1 b, shall review and update their pollution prevention plan no later than 30 days following permit coverage to ensure compliance with these permit conditions:

e. Applicable state or local programs. Certain requirements of this general permit may be fulfilled by incorporating by reference other plans such as a spill prevention control and countermeasure (SPCC) plan developed for the site under § 311 of the federal Clean Water Act or BMP programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Section II A 2 a. All plans incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP, the operator must develop the missing elements and include them in the SWPPP.

f. SWPPP requirements for discharges to impaired waters, surface waters located within a TMDL watershed, and exceptional waters. The SWPPP shall:

(1) Identify impaired water(s), associated impairment(s), TMDL name(s), TMDL pollutant(s) of concern, and exceptional waters when applicable; and

(2) Provide clear direction that:

~~(a) Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site, when applicable;~~

~~(b) Nutrients shall be applied in accordance with manufacturer's recommendations and shall not be applied during wet weather events when applicable; and~~

~~(c) A modified inspection schedule shall be implemented, when applicable.~~

~~g. Qualified personnel. The name, phone number, and qualifications of the qualified personnel conducting inspections required by this permit.~~

~~h. Delegation of authority. The individuals or positions with delegated authority, in accordance with Section III K, to sign inspection reports or modify the SWPPP.~~

~~i. SWPPP signature. The SWPPP shall be signed and dated in accordance with Section III K. ]~~

~~3. The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other state or local plans such as (i) an erosion and sediment control (ESC) plan, (ii) an agreement in lieu of a plan as defined in 9VAC25-840-10, (iii) a stormwater management plan, (iv) a spill prevention control and countermeasure (SPCC) plan developed for the site under § 311 of the federal Clean Water Act or (v) best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Section II D. If an erosion and sediment control plan for the land disturbing activity is being incorporated by reference, the referenced plan must be approved by the VESCP authority of the locality in which the construction activity is to occur prior to the commencement of land disturbance.~~

~~4. All plans incorporated by reference into the SWPPP become enforceable under this state permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP of Section II D, the operator must develop the missing elements and include them in the required SWPPP.~~

~~5. Once a definable area has been finally stabilized, the operator may mark this on the SWPPP and no further SWPPP or inspection requirements apply to that portion of the site (e.g., earth-disturbing activities around one of three buildings in a complex are done and the area is finally stabilized; one mile of a roadway or pipeline project is done and finally stabilized, etc.).~~

~~6. The SWPPP shall identify all properties that are no longer under the control of the operator and the dates on which the operator no longer had control over each property.~~

~~7. The operator must implement the SWPPP as written and updated in accordance with Section II C from commencement of construction activity until final stabilization is complete. [ General information.~~

~~a. A signed copy of the registration statement for coverage under the general VPDES permit for discharges of stormwater from construction activities;~~

~~b. Upon receipt, a copy of the notice of coverage under the general VPDES permit for discharges of stormwater from construction activities (i.e., notice of coverage letter);~~

~~c. Upon receipt, a copy of the general VPDES permit for discharges of stormwater from construction activities;~~

~~d. A narrative description of the nature of the construction activity, including the function of the project (e.g., low density residential, shopping mall, highway, etc.);~~

~~e. A legible site plan identifying:~~

~~(1) Directions of stormwater flow and approximate slopes anticipated after major grading activities;~~

~~(2) Limits of land disturbance including steep slopes and natural buffers around surface waters that will not be disturbed;~~

~~(3) Locations of major structural and nonstructural control measures including sediment basins and traps, perimeter dikes, sediment barriers, and other measures intended to filter, settle, or similarly treat sediment that will be installed between disturbed areas and the undisturbed vegetated areas, in order to increase sediment removal and maximize stormwater infiltration;~~

~~(4) Locations of surface waters;~~

~~(5) Locations where concentrated stormwater is discharged;~~

~~(6) Locations of support activities, when applicable and when required by the VSMP authority, including but not limited to: (i) areas where equipment and vehicle washing, wheel wash water, and other wash water is to occur; (ii) storage areas for chemicals such as acids, fuels, fertilizers and other lawn care chemicals; (iii) concrete wash out areas; (iv) vehicle fueling and maintenance areas; (v) sanitary waste facilities, including those temporarily placed on the construction site; and (vi) construction waste storage; and~~

(7) When applicable, the location of the on-site rain gauge, or the methodology established in consultation with the VSMP authority, used to identify measurable storm events for inspection purposes.

## 2. Erosion and sediment control plan.

a. An erosion and sediment control plan approved by the VESCP authority as authorized under the Virginia Erosion and Sediment Control Regulations, 9VAC25-840, an “agreement in lieu of a plan” as defined in 9VAC25-840-10 from the VESCP authority, or an erosion and sediment control plan prepared in accordance with annual standards and specifications approved by the department. Any operator proposing a new stormwater discharge from construction activities that is not required to obtain erosion and sediment control plan approval from a VESCP authority or does not adopt department-approved annual standards and specifications shall submit the erosion and sediment control plan to the department for review and approval;

b. All erosion and sediment control plans shall include a statement describing the maintenance responsibilities required for the erosion and sediment controls used.

c. A properly implemented approved erosion and sediment control plan, “agreement in lieu of a plan”, or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications, adequately:

(1) Controls the volume and velocity of stormwater runoff within the site to minimize soil erosion;

(2) Controls stormwater discharges, including peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;

(3) Minimizes the amount of soil exposed during the construction activity;

(4) Minimizes the disturbance of steep slopes;

(5) Minimizes sediment discharges from the site in a manner that addresses (i) the amount, frequency, intensity, and duration of precipitation, (ii) the nature of resulting stormwater runoff and (iii) soil characteristics, including the range of soil particle sizes present on the site;

(6) Provides and maintains natural buffers around surface waters, directs stormwater to vegetated areas to increase sediment removal, and maximizes stormwater infiltration, unless infeasible;

(7) Minimizes soil compaction and, unless infeasible, preserves topsoil;

(8) Ensures that stabilization of disturbed areas will be initiated immediately whenever any clearing, grading, or excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days;

(9) Utilizes outlet structures that withdraw stormwater from the surface (i.e., above the permanent pool or wet storage water surface elevation), unless infeasible, when discharging from sediment basis or sediment traps.

## 3. Stormwater management plan.

a. New construction activities. A stormwater management plan approved by the VSMP authority as authorized under the Virginia Stormwater Management Program Regulations, 9VAC25-870, or a stormwater management plan prepared in accordance with annual standards and specifications approved by the department. Any operator proposing a new stormwater discharge from construction activities that is not required to obtain stormwater management plan approval from a VSMP authority or does not adopt department-approved annual standards and specifications shall submit the stormwater management plan to the department for review and approval;

b. Existing construction activities. Any operator that was authorized to discharge under the general permit issued in 2009, and who intends to continue coverage under this general permit, shall ensure compliance with the requirements of 9VAC25-870-93 through 9VAC25-870-99 of the VSMP regulation, including but not limited to the water quality and quantity requirements. The SWPPP shall include a description of, and all necessary calculations supporting, all post-construction stormwater management measures that will be installed prior to the completion of the construction process to control pollutants in stormwater discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree possible. Such measures must be designed and installed in accordance with applicable VESCP authority, VSMP authority, state, and federal requirements, and any necessary permits must be obtained.

4. Pollution prevention plan. A pollution prevention plan that addresses potential pollutant-generating activities that may reasonably be expected to affect the quality of stormwater discharges from the construction activity, including any support activity. The pollution prevention plan shall:
- a. Identify the potential pollutant-generating activities and the pollutant that is expected to be exposed to stormwater;
  - b. Describe the location where the potential pollutant-generating activities will occur, or if identified on the site plan, reference the site plan;
  - c. Identify all nonstormwater discharges, as authorized in Part I E of this general permit, that are or will be commingled with stormwater discharges from the construction activity, including any applicable support activity;
  - d. Identify the person responsible for implementing the pollution prevention practice or practices for each pollutant-generating activity (if other than the person listed as the qualified personnel);
  - e. Describe the pollution prevention practices and procedures that will be implemented to:
    - (1) Prevent and respond to leaks, spills and other releases including (i) procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases; and (ii) procedures for reporting leaks, spills, and other releases in accordance with Part III G;
    - (2) Prevent the discharge of spilled and leaked fuels and chemicals from vehicle fueling and maintenance activities (e.g., providing secondary containment such as spill berms, decks, spill containment pallets, providing cover where appropriate, and having spill kits readily available);
    - (3) Prevent the discharge of soaps, solvents, detergents, and wash water from construction materials, including the clean-up of stucco, paint, form release oils, and curing compounds (e.g., providing (i) cover (e.g., plastic sheeting or temporary roofs) to prevent contact with stormwater; (ii) collection and proper disposal in a manner to prevent contact with stormwater; and (iii) a similarly effective means designed to prevent discharge of these pollutants).
    - (4) Minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water and other types of washing (e.g., locating activities away from surface waters and stormwater inlets or conveyance and directing wash waters to sediment basins or traps, using filtration devices such as filter bags or sand filters or using similarly effective controls);
    - (5) Direct concrete wash water into a leak-proof container or leak-proof settling basin. The container or basin shall be designed so that no overflows can occur due to inadequate sizing or precipitation. Hardened concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wastes. Liquid concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wash waters and shall not be discharged to surface waters;
    - (6) Minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials and wastes including (i) building products such as asphalt sealants, copper flashing, roofing materials, adhesives, concrete admixtures; (ii) pesticides, herbicides, insecticides, fertilizers, and landscape materials; and (iii) construction and domestic wastes such as packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, styrofoam, concrete, and other trash or building materials;
    - (7) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, and sanitary wastes; and
    - (8) Address any other discharge from the potential pollutant-generating activities not addressed above.
  - f. The pollution prevention plan shall describe procedures for providing pollution prevention awareness of all applicable wastes, including any wash water, disposal practices and applicable disposal locations of such wastes, to personnel in order to comply with the conditions of this general permit. The operator shall implement the procedures described in the SWPPP.
5. SWPPP requirements for discharges to impaired waters, surface waters with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit, and exceptional waters. The SWPPP shall:
- a. Identify the impaired water(s), approved TMDL(s), pollutant(s) of concern, and exceptional waters identified in 9VAC25-260-30 A 3, when applicable;
  - b. Provide clear direction that:

(1) Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;

(2) Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events; and

(3) A modified inspection schedule shall be implemented in accordance with Part I B 4 or Part I B 5.

6. Qualified personnel. The name, phone number, and qualifications of the qualified personnel conducting inspections required by this general permit.

7. Delegation of authority. The individuals or positions with delegated authority, in accordance with Part III K, to sign inspection reports or modify the SWPPP.

8. SWPPP signature. The SWPPP shall be signed and dated in accordance with Part III K. ]

~~B. Signature, SWPPP review and making SWPPPs available.~~

~~1. The SWPPP shall be signed in accordance with Section III K.~~

~~2. The SWPPP shall be retained, along with a copy of this state permit, registration statement, and state permit coverage letter from the department, at the construction site or other location easily accessible during normal business hours from the date of commencement of construction activity to the date of final stabilization. Operators with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for the use of all operators and those identified as having responsibilities under the SWPPP whenever they are on the construction site. The SWPPP must be made available, in its entirety, to the department, the VSMP authority, and the operator of a municipal separate storm sewer system receiving discharges from the site for review at the time of an on-site inspection. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location must be posted near the main entrance at the construction site.~~

~~3. The operator shall make SWPPPs and all updates available upon request to the department; the VSMP authority; EPA; a state or local agency approving erosion and sediment control plans, grading plans, or stormwater management plans; local government officials; or the operator of a municipal separate storm sewer system receiving discharges from the site.~~

~~4. A sign or other notice must be posted conspicuously near the main entrance of the construction site. The sign or other notice must contain the following information:~~

~~a. A copy of the state permit coverage letter that includes the registration number for the construction activity; and~~

~~b. The Internet address at which a copy of the SWPPP may be found or the location of a hard copy of the SWPPP and name and telephone number of a contact person for scheduling viewing times.~~

~~For linear projects, the sign or other notice must be posted at a publicly accessible location near an active part of the construction project (e.g., where a pipeline project crosses a public road).~~

~~5. For discharges that commence on or after July 1, 2009, that have not previously held coverage under a state or VPDES permit, the operator shall make the SWPPP available to the public for review. A copy of the SWPPP for each site shall be made available on the Internet or in hard copy. The website address or contact person for access to the SWPPP shall be posted on the sign required by subdivision B 4 of this section. If not provided electronically, access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or his designee but shall be no less than once per month and shall be during normal business hours. If a reproduced copy of the SWPPP is provided to the requestor, the requestor shall be responsible for the costs of reproduction. Information excluded from disclosure under applicable law shall not be required to be released. Information not required to be contained within the SWPPP by this state permit is not required to be released.~~

~~C. Maintaining an updated SWPPP.~~

~~1. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP.~~

~~2. The SWPPP must be amended if during inspections or investigations by the operator's qualified personnel, or by VESCP authority, VSMP authority, state or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in stormwater discharges from the construction site. Revisions to the SWPPP shall include additional or modified control measures designed to correct problems identified. If approval by a VSMP authority is necessary for the control~~

~~measure, revisions to the SWPPP shall be completed within seven calendar days of approval. Implementation of these additional or modified control measures must be accomplished as described in Section II-D-3-b.~~

~~3. Revisions to the SWPPP must be dated and signed in accordance with Section III-K-2, but are not required to be certified in accordance with Section III-K-4.~~

~~4. The SWPPP must clearly identify the contractor(s) or subcontractor(s) that will implement and maintain each measure identified in the SWPPP. The SWPPP shall be revised to identify any new contractor that will implement a measure.~~

~~D. Stormwater pollution prevention plan contents. The SWPPP shall include the registration statement, this state permit, and the following items:~~

~~1. Site and activity description. Each SWPPP shall provide the following information:~~

~~a. A narrative description of the nature of the construction activity, including the function of the project (e.g., low density residential, shopping mall, highway, etc.);~~

~~b. The intended sequence and timing of activities that disturb soils at the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation);~~

~~c. A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated;~~

~~d. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities including off-site borrow and fill areas;~~

~~e. A description of any other potential pollutant sources, such as vehicle fueling, storage of fertilizers or chemicals, sanitary waste facilities, etc.;~~

~~f. Identification of the nearest receiving waters at or near the construction site that will receive discharges from disturbed areas of the project;~~

~~g. The location and description of any discharge associated with industrial activity other than construction at the site. This includes stormwater discharges from dedicated asphalt plants and dedicated concrete plants that are covered by this state permit;~~

~~h. A legible general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with sufficient detail to identify the location of the construction activity and surface waters within one mile of the construction activity; and~~

~~i. A legible site map identifying:~~

~~(1) Directions of stormwater flow and approximate slopes anticipated after major grading activities;~~

~~(2) Areas of soil disturbance and areas of the site which will not be disturbed;~~

~~(3) Locations of major structural and nonstructural control measures identified in the SWPPP, including those that will be permanent after construction activities have been completed;~~

~~(4) Locations where stabilization practices are expected to occur;~~

~~(5) Locations of surface waters;~~

~~(6) Locations where concentrated stormwater discharges;~~

~~(7) Locations of off-site material, waste, borrow or equipment storage areas covered by the SWPPP;~~

~~(8) Locations of other potential pollutant sources, such as vehicle fueling, storage of chemicals, concrete wash-out areas, sanitary waste facilities, including those temporarily placed on the construction site, etc.; and~~

~~(9) Areas where final stabilization has been accomplished.~~

~~2. Controls to minimize pollutants. The SWPPP shall include a description of all control measures that will be implemented as part of the construction activity to minimize pollutants in stormwater discharges. For each major activity identified in the project description, the SWPPP shall clearly describe appropriate control measures, the general sequencing during the construction process in which the control measures will be implemented, and which operator is responsible for the control measure's implementation.~~

~~a. Erosion and sediment controls.~~

~~(1) An erosion and sediment control plan or an agreement in lieu of a plan shall be approved by the appropriate VESCP authority for the land-disturbing activity in accordance with the Virginia Erosion and Sediment Control Law and regulations (9VAC25-840). Where applicable, a plan shall be~~

~~developed in accordance with board approved annual general erosion and sediment control specifications.~~

~~(2) All control measures required by the plan shall be designed, installed, and maintained in accordance with good engineering practices and the minimum standards of the Virginia Erosion and Sediment Control Law and regulations (9VAC25-840).~~

~~b. Management practices.~~

~~(1) Plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized.~~

~~(2) All control measures must be properly selected, installed, and maintained in accordance with good engineering practices and, where applicable, manufacturer specifications. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the operator must replace or modify the control for site situations as soon as practicable and update the SWPPP in accordance with Section II C.~~

~~(3) If sediment escapes the construction site, off-site accumulations of sediment must be removed as soon as practicable to minimize off-site impacts. If approval by a VESCP authority is necessary, control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained.~~

~~(4) Construction debris and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source in stormwater discharges.~~

~~(5) Litter exposed to stormwater shall be prevented from becoming a pollutant source in stormwater discharges and the construction site shall be policed daily to control litter.~~

~~c. Stormwater management.~~

~~(1) The operator shall ensure compliance with the requirements of 9VAC25-880-80 through 9VAC25-880-90 of the General Permit for Discharges of Stormwater from Construction Activities regulations, including but not limited to water quality and quantity requirements. The SWPPP shall include a description of, and all necessary calculations supporting, all post-construction stormwater management measures that will be installed prior to the completion of the construction process to control pollutants in stormwater discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree possible. Such measures must be designed and installed in accordance with applicable VESCP authority, VSMP authority, state, and federal requirements, and any necessary permits must be obtained.~~

~~(2) Control measures contained in Part II (9VAC25-870-40 et seq.) of the Virginia Stormwater Management Regulations, 9VAC25-880-84, or on the Virginia BMP Clearinghouse Website may be utilized. Innovative or alternate control measures may be allowed by the department provided such measures effectively address water quality and quantity in accordance with the requirements of 9VAC25-880-80 through 9VAC25-880-90 and are not restricted by the locality in accordance with § 62.1-44.15:33 of the Code of Virginia.~~

~~(3) Where applicable, the SWPPP shall contain additional information related to participation in a regional stormwater management plan, including:~~

~~(a) Type of regional facility or facilities to which the site contributes;~~

~~(b) Geographic location of any regional facility to which the site contributes (county or city and Hydrologic Unit Code);~~

~~(c) Geographic location of the site (county or city and Hydrologic Unit Code). Latitude and longitude may additionally be included if available; and~~

~~(d) Number of acres treated by a regional facility.~~

~~(4) Where applicable, the SWPPP shall contain additional information related to nutrient offsets to be acquired in accordance with § 62.1-44.15:35 of the Code of Virginia, including:~~

~~(a) Name of the broker from which offsets will be acquired;~~

~~(b) Geographic location (county or city and Hydrologic Unit Code) of the broker's offset generating facility;~~

~~(c) Number of nutrient offsets to be acquired (lbs. per acre per year); and~~

~~(d) Nutrient reductions to be achieved on site (lbs. per acre per year).~~

~~(5) Outflows from a stormwater management facility or stormwater conveyance system shall be discharged to an adequate channel as defined in the Virginia Erosion and Sediment Control Regulations (9VAC25-840). In addition, all control measures shall be employed in a manner that~~

~~minimizes impacts on the physical, chemical and biological integrity of rivers, streams, and other state waters, is protective of water quality standards, and is consistent with Section II D 6 and D 7 and other applicable provisions of this state permit.~~

~~d. Other controls.~~

~~(1) The SWPPP shall describe measures to prevent the discharge of solid materials, including building materials, garbage, and debris to state waters, except as authorized by a Clean Water Act § 404 permit.~~

~~(2) The SWPPP shall describe control measures used to comply with applicable state or local waste disposal, sanitary sewer or septic system regulations.~~

~~(3) The SWPPP shall include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP shall also include a description of controls including storage practices, to minimize exposure of the materials to stormwater, and for spill prevention and response.~~

~~(4) The SWPPP shall include a description of pollutant sources from off site areas (including stormwater discharges from dedicated asphalt plants and dedicated concrete plants), and a description of control measures that will be implemented at those sites to minimize pollutant discharges.~~

~~e. Applicable state or local programs. The control measures implemented at the site shall be consistent with all applicable federal, state, or VESCP or VSMP authority requirements for erosion and sediment control and stormwater management. The SWPPP shall be updated as necessary to reflect any revisions to applicable federal, state or VESCP or VSMP authority requirements that affect the control measures implemented at the site.~~

### ~~3. Maintenance of controls.~~

~~a. All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If site inspections required by Section II D 4 identify control measures that are not operating effectively, maintenance shall be performed as soon as practicable to maintain the continued effectiveness of stormwater controls.~~

~~b. If site inspections required by Section II D 4 identify existing control measures that need to be modified or if additional control measures are necessary for any reason, implementation shall be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, the situation shall be documented in the SWPPP and alternative control measures shall be implemented as soon as practicable.~~

### ~~4. Inspections. The name and phone number of qualified personnel conducting inspections shall be included in the SWPPP.~~

~~a. Inspections shall be conducted (i) at least every seven calendar days or (ii) at least once every 14 calendar days and within 48 hours following any runoff producing storm event. Where areas have been temporarily stabilized or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or frozen ground exists) such inspections shall be conducted at least once every month.~~

~~b. Inspections must include all areas of the site disturbed by construction activity, off site areas covered by the state permit, and areas used for storage of materials that are exposed to precipitation, but does not need to include areas identified pursuant to Section II A 5. Inspectors must look for evidence of, or the potential for, pollutants entering a stormwater conveyance system. Control measures identified in the SWPPP shall be inspected for proper installation, maintenance, and operation. Discharge locations, where accessible, shall be inspected to ascertain whether control measures are effective in minimizing impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of off site sediment tracking.~~

~~c. Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may limit the access of inspection personnel to the areas described in Section II D 4 b. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected on the same frequencies as other~~

~~construction projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 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 described above. The conditions of the controls along each inspected 0.25-mile segment may be considered as representative of the condition of controls along that reach extending from the end of the 0.25-mile segment to either the end of the next 0.25-mile segment, or to the end of the project, whichever occurs first. Inspection locations must be listed in the report required by Section II D 4 d.~~

~~d. A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the dates of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with Section II D 4 d of the state permit shall be made and retained as part of the SWPPP in accordance with Section III B of this state permit. Major observations should include:~~

- ~~(1) The location(s) of discharges of sediment or other pollutants from the site;~~
- ~~(2) Location(s) of control measures that need to be maintained;~~
- ~~(3) Location(s) of control measures that failed to operate as designed or proved inadequate for a particular location;~~
- ~~(4) Location(s) where additional control measures are needed that did not exist at the time of inspection;~~
- ~~(5) Corrective action required including any changes to the SWPPP that are necessary and implementation dates;~~
- ~~(6) An estimate of the amount of rainfall at the construction site (in inches) from the runoff producing storm event requiring the inspection, or if inspecting on a seven-day schedule, the amount of rainfall (in inches) since the previous inspection; and~~
- ~~(7) Weather information and a description of any discharges occurring at the time of inspection.~~

~~A record of each inspection and of any actions taken in accordance with Section II must be retained by the operator as part of the SWPPP for at least three years from the date that state permit coverage expires or is terminated. The inspection reports shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this state permit. The report shall be signed in accordance with Section III K of this state permit.~~

~~5. Nonstormwater discharge management. The SWPPP shall identify all allowable sources of nonstormwater discharges listed in Section I D 2 of this state permit that are combined with stormwater discharges from the construction activity at the site, except for flows from firefighting activities. The SWPPP shall identify and require the implementation of appropriate control measures for the nonstormwater components of the discharge.~~

~~6. Total maximum daily loads. An approved total maximum daily load (TMDL) may include a wasteload allocation to the regulated construction activity that identifies the pollutant for which stormwater control measures are necessary for the surface waters to meet water quality standards. The pollutant identified in a wasteload allocation as of the effective date of this state permit must be specified in the SWPPP. The SWPPP shall include strategies and control measures to ensure consistency with the assumptions and requirements of the TMDL WLA that apply to the operator's discharge. In a situation where a TMDL has specified a general wasteload allocation applicable to construction stormwater discharges, but no specific requirements for construction sites have been identified in the TMDL, the operator shall consult with the state or federal TMDL authority to confirm that meeting state permit requirements will be consistent with the approved TMDL. If the TMDL specifically precludes such discharges, the operator is not eligible for coverage under the general permit.~~

~~7. Impaired waters. In accordance with Section I H, control measures shall be protective of water quality standards for impaired waters identified as having impairments for pollutants that may be discharged from the construction activity in the 2008 § 305(b)/303(d) Water Quality Assessment Integrated Report.~~

B. SWPPP [ amendments, ] modification, [ and ] updates [ ,and records ].

1. The operator shall amend the SWPPP whenever there is a change in the design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to surface waters and that has not been previously addressed in the SWPPP.

2. The SWPPP must be amended if, during inspections or investigations by the operator's qualified personnel, or by local, state, or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in discharges from the construction [ siteactivity ]. Revisions to the SWPPP shall include additional or modified control measures designed and implemented to correct problems identified. If approval by the VESCP authority, VSMP authority, or [ the ] department is necessary for the control measure, revisions to the SWPPP shall be completed no later than seven [ calendar ] days following approval. Implementation of these additional or modified control measures must be accomplished as described in [ Section-Part ] II G.

3. [ Revisions to the SWPPP shall be signed and dated in accordance with Section III K 2 but are not required to be certified in accordance with Section III K 4. 4. ] The SWPPP must clearly identify the contractor(s) that will implement and maintain each control measure identified in the SWPPP. The SWPPP shall be [ revised/amended ] to identify any new contractor that will implement and maintain a control measure.

[ 5.4. ] The operator shall update the SWPPP no later than seven days following any modification to its implementation. All modifications or [ changes/updates ] to the SWPPP shall be noted [ . Updates and modifications shall be signed and dated in accordance with Section III K ] and shall include [ the following items ]:

a. A record of dates when:

(1) Major grading activities occur;

(2) Construction activities temporarily or permanently cease on a portion of the site; and

(3) Stabilization measures are initiated.

b. Documentation of replaced or modified controls where periodic inspections or other information have indicated that the controls have been used inappropriately or incorrectly and where modified as soon as possible;

c. Areas that have reached final stabilization and where no further SWPPP or inspection requirements apply;

d. All properties that are no longer under the legal control of the operator and the dates on which the operator no longer had legal control over each property;

e. The date of any prohibited discharges, the discharge volume released, and what actions were taken to minimize the impact of the release;

f. Measures taken to prevent the reoccurrence of any prohibited discharge; [ and ]

g. Measures taken to address any evidence identified as a result of an inspection required under [ SectionPart ] II F [ ; -and ]

h. Updates necessary to reflect any revisions to applicable federal, state, or local requirements that affect the control measures implemented at the site.

5. Amendments, modifications, or updates to the SWPPP shall be signed in accordance with Part III K. ]

C. Public Notification. Upon commencement of land disturbance, the operator shall [ maintain and ] post conspicuously [ a copy of the notice of coverage letter ] near the main entrance of the construction activity [ ; -1. A copy of the Notice of Coverage letter; 2.-. ] For linear projects, the [ operators/operator ] shall post the [ information/notice of coverage letter ] at a publicly accessible location near an active part of the construction project (e.g., where a pipeline crosses a public road) [ ; -and3.-. ] The operator shall maintain the posted information until termination of general permit coverage [ as specified in Part I F ].

D. SWPPP availability.

1. Operators with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for use by those identified as having responsibilities under the SWPPP whenever they are on the construction site.

2. The operator shall make [ SWPPPs-the SWPPP ] and all [ updates-amendments, modifications, and updates ] available upon request to the department, the VSMP authority, the EPA, [ the ] VESCP [ authorities/authority ], local government officials, or the operator of a municipal separate storm sewer system receiving discharges from the construction activity. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location must be posted near the main entrance of the construction site. [

3. The operator shall make the SWPPP available for public review in an electronic format or in hard copy. Information for public access to the SWPPP shall be posted and maintained in accordance with

Part II C. If not provided electronically, public access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or his designee but shall be no less than once per month and shall be during normal business hours. Information not required to be contained within the SWPPP by this general permit is not required to be released. ]

E. SWPPP implementation. The operator shall implement the SWPPP and subsequent [ amendments, modifications, and ] updates from commencement of [ ~~construction activity~~land disturbance until permit termination of general permit coverage as specified in Part I F ].

1. All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If [ a ] site [ ~~inspections~~inspection] required by [ SectionPart ] II F [ ~~identify~~identifies ] a control [ ~~measures~~measure ] that [ ~~are~~is ] not operating effectively, corrective [ ~~action~~action(s) ] shall be [ ~~performed~~completed ] as soon as practicable, but no later than seven days after discovery [ or a longer period as established by the VSMP authority ], to maintain the continued effectiveness of [ ~~stormwater control~~the control measures ] .

2. If site inspections required by [ SectionPart ] II F identify [ an ] existing control [ ~~measures~~measure ] that [ ~~need~~needs ] to be modified or if [ an ] additional control [ ~~measures~~measure is ] necessary for any reason, implementation shall be completed prior to the next anticipated [ measurable ] storm event. If implementation prior to the next anticipated [ measurable ] storm even is impracticable, then [ ~~the situation shall be documented in the SWPPP and~~ ] alternative control measures shall be implemented as soon as practicable, but no later than seven days after discovery [ or a longer period as established by the VSMP authority ] .

E. [ SWPPP ] Inspections.

1. Personnel responsible for on-site and off-site inspections required by this [ general ] permit shall be conducted by the qualified personnel identified by the operator in the SWPPP. The operator is responsible for insuring that the qualified personnel conduct the inspection.

2. Inspection schedule.

a. Inspections shall be conducted at a frequency of:

(1) At least once every [ ~~seven~~five business ] days; or

(2) At least once every [ ~~14~~10 business ] days and no later than 48 hours following [ ~~any~~ ] measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between [ ~~normal working~~business ] days, the inspection shall be conducted no later than the next business day.

b. Where areas have been temporarily stabilized [ ~~or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or continuous frozen ground exists), the inspection frequency may be reduced to once every 30 days. If unexpected weather conditions (such as above freezing temperature or land-disturbing activities will be suspended due to continuous frozen ground conditions and stormwater discharges are unlikely, the inspection frequency may be reduced to once per month. If weather conditions (such as above freezing temperatures ] or rain or snow events) make discharges likely, the operator shall immediately resume the regular inspection frequency.~~

c. Representative inspections may be utilized for utility line installation, pipeline construction, or other similar linear construction activities provided that:

(1) Temporary or permanent stabilization has been installed and [ ~~where~~ ] vehicle access may compromise [ the ] temporary or permanent stabilization and potentially cause additional [ ~~land~~ ] disturbance [ ~~of soils~~ ] increasing the potential for erosion;

(2) Inspections occur on the same [ ~~frequencies~~frequency ] as other construction [ ~~projects~~activities ] . [ ~~Controls~~

(3) Control measures ] are inspected along the construction site [ ~~of~~ ] 0.25 miles above and below each access point [ (i.e., ] where a roadway, undisturbed right-of-way, or other similar feature intersects the construction [ ~~site~~activity ] and [ ~~allows~~ ] access [ ~~to the areas without compromising~~does not compromise ] temporary or permanent stabilization [ ) ] ; and

[ ~~(3)~~(4) ] Inspection locations [ ~~shall be listed~~are provided ] in the report required by [ SectionPart ] II F.

3. Inspection requirements.

a. As part of the inspection, the qualified personnel shall:

- (1) Record the date and time of the inspection and [ when applicable ] the [ amount of cumulative rainfall since the last inspection date and rainfall amount of the last measurable storm event ] ;
- (2) Record the information and a description of any discharges occurring at the time of the inspection;
- (3) Record any land disturbing activities that have occurred outside of the approved erosion and sediment control plan;
- (4) Inspect the following for installation in accordance with the approved erosion and sediment control plan, [ identify identification of any ] maintenance needs and [ evaluate evaluation of ] effectiveness in minimizing sediment discharge, including whether the control has been inappropriately or incorrectly used:
- (a) All perimeter erosion and sediment controls, such as silt fence;
- (b) Soil stockpiles [ , when applicable, ] and borrow areas for stabilization or sediment trapping measures;
- (c) Completed earthen structures, such as dams, dikes, ditches, and diversions for stabilization;
- (d) Cut and fill slopes;
- (e) Sediment basins and traps, sediment barriers, and other measures installed to control sediment discharge from [ concentrated ] stormwater;
- (f) Temporary or permanent channel, flume, or other slope drain structures installed to convey concentrated runoff [ flowing ] down cut and fill slopes;
- (g) Storm inlets that have been made operational to ensure that sediment laden stormwater does not enter without first being filtered or similarly treated; and
- (h) Construction vehicle access routes that intersect or access paved roads for minimizing sediment tracking.
- (5) Inspect areas that have reached final grade or that will remain dormant for more than 14 days for initiation of stabilization activities;
- (6) Inspect areas that have reached final grade or that will remain dormant for more than 14 days for completion of stabilization activities within seven days of reaching grade or stopping work;
- (7) Inspect for evidence that the [ approved ] erosion and sediment control plan [ , "agreement in lieu of a plan", or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications ] has not been properly implemented [ and is not meeting the requirements of Section II A 2 b (4). Evidence. This ] includes but is not limited to:
- (a) [ Evidence of concentrated-Concentrated ] flows of stormwater [ in conveyances ] such as rills, rivulets or channels that [ cause erosion when such flows are have ] not [ been ] filtered, settled or similarly treated prior to discharge [ or evidence thereof ] ;
- (b) Sediment laden or turbid flows of stormwater that [ are have ] not [ been ] filtered or settled to remove sediments prior to discharge;
- (c) [ Deposits of sedimentSediment deposition ] in areas that drain to unprotected stormwater inlets or [ to ] catch basins that discharge to surface waters. Inlets and catch basins with failing sediment controls due to improper installation, lack of maintenance, or inadequate design are considered unprotected;
- (d) [ Deposits of sediment from construction activitySediment deposition ] on any property (including public and private streets) outside of the construction activity covered by this [ general ] permit;
- (e) [ Portions of the site where requiredRequired ] stabilization has not been initiated or completed [ on portions of the site ];
- (f) Sediment basins without [ a dewatering device allowing discharge from below the designed permanent pool elevationadequate wet or dry storage volume or sediment basins that allow the discharge of stormwater from below the surface of the wet storage portion of the basin ];
- (g) Sediment traps without adequate wet [ and/or ] dry storage [ and without restricted discharge from the drawdown of dry or sediment traps that allow the discharge of stormwater from below the surface of the wet ] storage portion of the trap; and
- (h) Land disturbance outside of the [ delineatedapproved ] area to be disturbed;
- (8) Inspect pollutant generating activities identified in the pollution prevention plan for the proper implementation, maintenance and effectiveness of the procedures and practices;
- (9) Identify any pollutant generating activities not identified in the pollution prevention plan; and

(10) Identify and document the presence of any evidence of the discharge of pollutants prohibited by this [ general ] permit.

4. Inspection report. Each inspection [ report ] shall [ document in a report ] include the following items [ ] :
- a. The date and time of the inspection [ and when applicable, the date and rainfall amount of the last measurable storm event ] ;
  - b. Summarized findings of the inspection;
  - c. The location(s) of prohibited discharges;
  - d. The location(s) of control measures that require maintenance;
  - e. The location(s) of control measures that failed to operate as designed or proved inadequate [ or inappropriate ] for a particular location;
  - f. The location(s) where [ any ] evidence identified under [ SectionPart ] II F 3 a (7) exists;
  - g. The location(s) where [ any ] additional control [ measures are measure is ] needed that did not exist at the time of inspection;
  - h. A list of corrective actions required [ ( ] including any changes to the SWPPP that are necessary [ ) to implement ] as a result of the inspection [ and in order or ] to maintain permit compliance;
  - i. Documentation of any corrective actions required from a previous inspection that [ have yet to be has not been ] implemented; and
  - j. The date and signature of the qualified personnel and [ the ] operator or [ the their duly ] authorized representative.

The inspection report and any actions taken in accordance with [ Section-Part ] II must be retained by the operator as part of the SWPPP for at least three years from the date that [ general ] permit coverage expires or is terminated. The inspection [ reports-report ] shall identify any incidents of noncompliance. Where [ a-an inspection ] report does not identify any incidents of noncompliance, the report shall contain a certification that the [ facility construction activity ] is in compliance with the SWPPP and this [ state-general ] permit. The report shall be signed in accordance with [ Section-Part ] III K of this [ general ] permit.

#### G. Corrective actions.

- 1. The operator shall implement the corrective action(s) identified as a result of an inspection as soon as practicable but no later than seven days after discovery [ or a longer period as approved by the VSMP authority ] . If approval [ of a correction action ] by a regulatory authority (e.g., VSMP authority, VESCP authority [ , the department ] ) [ of a corrective action ] is necessary, additional control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained.
- 2. The operator may be required to remove accumulated sediment deposits located outside of the construction activity covered by this [ general ] permit as soon as practicable in order to minimize environmental impacts. The operator shall notify the [ VSMP authority and the ] department [ and as well as ] obtain all applicable federal, state, and local authorizations, approvals, and permits prior to the removal of sediments accumulated in surface waters including wetlands.

### [ SECTIONPART ] III

#### CONDITIONS APPLICABLE TO ALL [ STATEVPDES ] PERMITS

NOTE: Discharge monitoring is not required for this [ stategeneral ] permit. If the operator chooses to monitor stormwater discharges or control measures, the operator must comply with the requirements of subsections A, B, and C, as appropriate.

#### A. Monitoring.

- 1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitoring activity.
- 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this [ stategeneral ] permit. [ Analyses performed according to test procedures approved under 40 CFR Part 136 shall be performed by an environmental laboratory certified under regulations adopted by the Department of General Services (1VAC30-45 or 1VAC30-46). ]
- 3. The operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

#### B. Records.

1. Monitoring records and reports shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;
  - c. The date(s) and time(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.

2. The operator shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this [ stategeneral ] permit, and records of all data used to complete the registration statement for this [ stategeneral ] permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the operator, or as requested by the board.

C. Reporting monitoring results.

1. The operator shall update the SWPPP to include the results of the monitoring as may be performed in accordance with this [ stategeneral ] permit, unless another reporting schedule is specified elsewhere in this [ stategeneral ] permit.

2. Monitoring results shall be reported on a discharge monitoring report (DMR); on forms provided, approved or specified by the department; or in any format provided that the date, location, parameter, method, and result of the monitoring activity are included.

3. If the operator monitors any pollutant specifically addressed by this [ general ] permit more frequently than required by this [ stategeneral ] permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this [ general ] permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this [ stategeneral ] permit.

D. Duty to provide information. The operator shall furnish, within a reasonable time, any information which the board, department, or other VSMP authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this [ stategeneral ] permit or to determine compliance with this [ stategeneral ] permit. The board, department, [ EPA ] or [ other ] VSMP authority may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of [ statesurface ] waters, or such other information as may be necessary to accomplish the purposes of the CWA and the Virginia Stormwater Management Act. The operator shall also furnish to the board, department, EPA, or other VSMP authority, upon request, copies of records required to be kept by this [ stategeneral ] permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this [ stategeneral ] permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized stormwater discharges. Pursuant to § 62.1-44.5 of the Code of Virginia, except in compliance with a state permit issued by the department, it shall be unlawful to cause a stormwater discharge from a construction activity.

G. Reports of unauthorized discharges. Any operator who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-44.15:19 of the Code of Virginia that occurs during a 24-hour period into or upon statesurface waters or who discharges or causes or allows a discharge that may reasonably be expected to enter statesurface waters, shall notify the Department of Environmental Quality of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department and the VSMP authority within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;

3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this [ stategeneral ] permit.

Discharges reportable to the department and the VSMP authority under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a "bypass" or "upset", as defined herein, should occur from a facility and the discharge enters or could be expected to enter statesurface waters, the operator shall promptly notify, in no case later than within 24 hours, the department and the VSMP authority by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The operator shall reduce the report to writing and shall submit it to the department and the VSMP authority within five days of discovery of the discharge in accordance with [ SectionPart ] III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service of some or all of the facilities; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The operator shall report any noncompliance which may adversely affect statesurface waters or may endanger public health.

1. An oral report to the department and the VSMP authority shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to statesurface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The department may waive the written report on a case-by-case basis for reports of noncompliance under [ SectionPart ] III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The operator shall report all instances of noncompliance not reported under [ SectionPart ] III I 1 or 2 in writing as part of the SWPPP. The reports shall contain the information listed in [ SectionPart ] III I 2.

NOTE: The reports required in [ SectionPart ] III G, H and I shall be made to the department and the VSMP authority. Reports may be made by telephone, email, or by fax. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

4. Where the operator becomes aware of a failure to submit any relevant facts, or submittal of incorrect information in any report, including a registration statement, to the department or the VSMP authority, the operator shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The operator shall give notice to the department and the VSMP authority as soon as possible of any planned physical alterations or additions to the permitted facility or activity. Notice is required only when:

- a. The operator plans an alteration or addition to any building, structure, facility, or installation that may meet one of the criteria for determining whether a facility is a new source in 9VAC25-870-420;
- b. The operator plans an alteration or addition that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this [ stategeneral ] permit; or

2. The operator shall give advance notice to the department and VSMP authority of any planned changes in the permitted facility or activity, which may result in noncompliance with state permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this chapter, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for state permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this chapter, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by [ ~~state permits~~this general permit ], including SWPPPs, and other information requested by the board or the department shall be signed by a person described in [ ~~SectionPart~~ ] III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in [ ~~SectionPart~~ ] III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c. The signed and dated written authorization is included in the SWPPP. A copy must be provided to the department and VSMP authority, if requested.

3. Changes to authorization. If an authorization under [ ~~SectionPart~~ ] III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the construction activity, a new authorization satisfying the requirements of [ ~~SectionPart~~ ] III K 2 shall be submitted to the VSMP authority as the administering entity for the board prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under [ ~~SectionPart~~ ] III K 1 or 2 shall make the following certification:

"I certify under penalty of law that I have read and understand this document and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The operator shall comply with all conditions of this [ ~~state~~general ] permit. Any state permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this [ ~~state~~general ] permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for state permit termination, revocation and reissuance, or modification; or denial of a state permit renewal application.

The operator shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this [ stategeneral ] permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the operator wishes to continue an activity regulated by this [ general ] permit after the expiration date of this [ stategeneral ] permit, the operator shall submit a new registration statement at least 90 days before the expiration date of the existing [ stategeneral ] permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing [ stategeneral ] permit.

N. Effect of a state permit. This [ stategeneral ] permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this [ stategeneral ] permit shall be construed to preclude the institution of any legal action under, or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in state permit conditions on "bypassing" [ ~~(Section III U)~~(Part III U) ] and "upset" [ ~~(Section III V)~~(Part III V) ], nothing in this [ stategeneral ] permit shall be construed to relieve the operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this [ stategeneral ] permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties to which the operator is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

Q. Proper operation and maintenance. The operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed or used by the operator to achieve compliance with the conditions of this [ stategeneral ] permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by the operator only when the operation is necessary to achieve compliance with the conditions of this [ stategeneral ] permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering statesurface waters and in compliance with all applicable state and federal laws and regulations.

S. Duty to mitigate. The operator shall take all [ reasonable ] steps to minimize or prevent any discharge in violation of this [ stategeneral ] permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for an operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this [ stategeneral ] permit.

U. Bypass.

1. "Bypass," as defined in 9VAC25-870-10, means the intentional diversion of waste streams from any portion of a treatment facility. The operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of [ ~~SectionPart~~ ] III U 2 and 3.

2. Notice.

a. Anticipated bypass. If the operator knows in advance of the need for a bypass, the operator shall submit prior notice to the department, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass as required in [ ~~SectionPart~~ ] III I.

3. Prohibition of bypass.

a. Except as provided in [ ~~SectionPart~~ ] III U 1, bypass is prohibited, and the board or department may take enforcement action against an operator for bypass unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural

resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The operator submitted notices as required under [ ~~SectionPart~~ ] III U 2.

b. The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three conditions listed in [ ~~SectionPart~~ ] III U 3 a.

#### V. Upset.

1. An "upset," as defined in 9VAC25-870-10, means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based state permit effluent limitations because of factors beyond the reasonable control of the operator. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based state permit effluent limitations if the requirements of [ ~~SectionPart~~ ] III V 4 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

3. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

4. An operator who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

a. An upset occurred and that the operator can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The operator submitted notice of the upset as required in [ ~~SectionPart~~ ] III I; and

d. The operator complied with any remedial measures required under [ ~~SectionPart~~ ] III S.

5. In any enforcement proceeding, the operator seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The operator shall allow the department as the board's designee, the VSMP authority, EPA, or an authorized representative of either entity (including an authorized contractor), upon presentation of credentials and other documents as may be required by law to:

1. Enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this [ ~~stategeneral~~ ] permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this [ ~~stategeneral~~ ] permit;

3. Inspect and photograph at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this [ ~~stategeneral~~ ] permit; and

4. Sample or monitor at reasonable times, for the purposes of ensuring state permit compliance or as otherwise authorized by the Clean Water Act or the Virginia Stormwater Management Act, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. State permit actions. State permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the operator for a state permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any state permit condition.

#### Y. Transfer of state permits.

1. State permits are not transferable to any person except after notice to the department. Except as provided in [ ~~SectionPart~~ ] III Y 2, a state permit may be transferred by the operator to a new operator only if the state permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.

2. As an alternative to transfers under [ ~~SectionPart~~ ] III Y 1, this state permit may be automatically transferred to a new operator if:

- a. The current operator notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new operators containing a specific date for transfer of state permit responsibility, coverage, and liability between them; and
- c. The department does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the state permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in [ ~~SectionPart~~ ] III Y 2 b.

3. For ongoing construction activity involving a change of operator, the new operator shall accept and maintain the existing SWPPP, or prepare and implement a new SWPPP prior to taking over operations at the site.

Z. Severability. The provisions of this [ ~~stategeneral~~ ] permit are severable, and if any provision of this [ ~~stategeneral~~ ] permit or the application of any provision of this state permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this [ ~~stategeneral~~ ] permit shall not be affected thereby.

**9VAC25-880-80. Applicability. (Repealed.)**

~~Operators receiving coverage under this general permit shall remain subject to the water quality and quantity criteria set forth in 9VAC25-880-82 through 9VAC25-880-90, which specify technical criteria for every land disturbing activity regulated by this general permit.~~

**9VAC25-880-82. General. (Repealed.)**

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

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

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

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

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

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

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

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

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

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

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

~~L. Land disturbing activities shall comply with the Virginia Erosion and Sediment Control Law and attendant regulations.~~

M. Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas defined in the Chesapeake Bay Preservation Act, provided that (i) the local government has conclusively established that the location of the facility within the Resource Protection Area is the optimum location; (ii) the size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both; and (iii) the facility must be consistent with a stormwater management program that has been approved by the board, the Chesapeake Bay Local Assistance Board prior to its abolishment on July 1, 2012, or the Board of Conservation and Recreation.

**9VAC25-880-84. Water quality.(Repealed.)**

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

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

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

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

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

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

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

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

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

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

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

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

**9VAC25-880-86. Stream channel erosion. (Repealed.)**

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

B. ~~The permit issuing authority shall require compliance with subdivision 19 of 9VAC25-840-40 of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.~~

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

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

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

**9VAC25-880-88. Flooding. (Repealed.)**

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

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

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

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

**9VAC25-880-90. Regional (watershed wide) stormwater management plans. (Repealed.)**

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

~~The objective of a regional stormwater management plan is to address the stormwater management concerns in a given watershed with greater economy and efficiency by installing regional stormwater~~

management facilities versus individual, site-specific facilities. The result will be fewer stormwater management facilities to design, build and maintain in the affected watershed. It is also anticipated that regional stormwater management facilities will not only help mitigate the impacts of new development, but may also provide for the remediation of erosion, flooding or water quality problems caused by existing development within the given watershed.

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

1. The specific stormwater management issues within the targeted watersheds.
2. The technical criteria in 9VAC25-880-80 through 9VAC25-880-88 as needed based on subdivision 1 of this section.
3. The implications of any local comprehensive plans, zoning requirements, local ordinances pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, and other planning documents.
4. Opportunities for financing a watershed plan through cost sharing with neighboring agencies or localities, implementation of regional stormwater utility fees, etc.
5. Maintenance of the selected stormwater management facilities.
6. Future expansion of the selected stormwater management facilities in the event that development exceeds the anticipated level.

**9VAC25-880-100. Delegation of authority.**

The director, or his designee, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

FORMS (9VAC25-880)

[Department of Environmental Quality Construction Activity Operator Permit Fee Form - Form DEQ 199-213 \(rev. 08/13\)](#)

[General Permit for Discharges of Stormwater from Construction Activities \(VAR10\) - Notice of Termination - Form DEQ 199-147 \(rev. 08/13\)](#)

[General Permit for Discharges of Stormwater from Construction Activities \(VAR10\) - Registration Statement - Form DEQ 199-146 \(rev. 08/13\)](#)

[General Permit for Discharges of Stormwater from Construction Activities \(VAR10\) - Transfer Agreement - Form DEQ 199-191 \(rev. 08/13\)](#)

**Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870):** The State Water Control Board (Board) adopted regulations to implement Chapters 756 and 793 of the 2013 Acts of Assembly at the August 26-27, 2013 meeting. The primary purpose of the Board's action was to renumber the regulations, change statutory and regulatory citations, and change references to the Virginia Soil and Water Conservation Board/Department of Conservation and Recreation (DCR) to State Water Control Board/Department of Environmental Quality (DEQ). Also, at that meeting the Board authorized the regulatory action to reissue and amend, as necessary, the General Permit for Stormwater Discharges from Construction Activities (General Permit), 9VAC25-880. Amendments to the General Permit were previously proposed by the Virginia Soil and Water Conservation Board with a public comment period from April 8, 2013 through June 7, 2013, and three public hearings.

Staff is bringing these final regulation amendments before the Board to request adoption of the regulation. These amendments are a result of further review of the regulation and review of the proposed General Permit and the public comments received by the Virginia Soil and Water Conservation Board on the proposed General Permit. In addition, a public comment period on the proposed amendments ran from October 18, 2013 through November 20, 2013. Written comments were received from 470+ individuals. Changes have been made to the proposed amendments to address the public comments. The amended regulation and the list of comments received, along with the staff response are attached to this memorandum.

#### Changes Since The Public Comment Period

*9VAC25-870-47. Applicability of other laws and regulations; time limits on applicability of approved design criteria.*

- Updated the proposed language in subsections B and C of this section for clarity purposes.

*9VAC25-870-48. Grandfathering.*

- Updated the proposed language in subsection A of this section for clarity purposes and in response to public comments received. Added a new provision to this subsection for clarity purposes; land disturbance cannot commence prior to July 1, 2014 in order for a project to be considered grandfathered.
- Added two new provisions to subsection B of this section for clarity purposes. A state permit has not been issued prior to July 1, 2014 and land disturbance cannot commence prior to July 1, 2014 in order for a local, state or federal project to be considered grandfathered.
- Updated the language in subsection C of this section for clarity purposes.

*9VAC25-870-54. Stormwater pollution prevention plan requirements.*

- The department has chosen not to move forward with the proposed amendment to subsection C of this section. The proposed exception has been incorporated into the proposed General Permit, 9VAC25-880.

*9VAC25-870-55. Stormwater management plans.*

- Updated the proposed language in subsection A.1 of this section for clarity purposes and in response to public comments received.

*9VAC25-870-95. General.*

- The department has chosen not to move forward with the proposed amendment to subsection H of this section in response to public comments received.

*9VAC25-870-98. Flooding.*

- The department has chosen not to move forward with the proposed amendment to subsection B of this section in response to public comments received.

9VAC25-870-760. *Method of payment.*

- No additional amendments have been proposed to this section.

9VAC25-870-820. *Fees for an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities.*

- No additional amendments have been proposed to this section.

9VAC25-870-825. *Fees for the modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities.*

- No additional amendments have been proposed to this section.

**DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-870)**

- The department has chosen not to move forward with the proposed amendment to this section in response to public comments received.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

**COMMENTS ON CHAPTER 870 (Comment Period – October 18<sup>th</sup> – November 20<sup>th</sup>, 2013)**

<b>Commenter</b>	<b>Subject</b>	<b>Comment</b>	<b>Agency response</b>
Carolyn Howard – Draper Aden & Associates	Grandfathering	9VAC25-870-48: The proposed revisions remove the following types of plans that are currently allowed to be used to meet the grandfathering clause in the current regulations: "A currently valid proffered or conditional zoning plan", "zooming with a plan of development", and "any document determined by the locality as being equivalent thereto". Retroactively removing these types of plans that were approved as outlined in the current regulations is inappropriate and will cause hardship on developments that complied with the current regulations. Retroactively changing the regulations in question may have legal implications.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Carolyn Howard – Draper Aden & Associates	Terms	9VAC25-870-55 – Stormwater management plans (Part A 1) & 9VAC25-870-95 – General. Part H: The addition of "where applicable" creates confusion about the technical criteria enforceability. What does "where applicable" mean?	Thank you for your comment. The proposed amendment to subsection A.1 of Section 55 has been updated for clarity purposes. The Board, however, has chosen not to move forward with the proposed amendment to subsection H of Section 95.
Carolyn Howard – Draper Aden & Associates	Guidance	Request that DEQ provided additional guidance regarding the common plan of development clause.	Thank you for your comment. The department is currently in the process of developing a Frequently Asked Questions (FAQ) document which will discuss "common plan of

			development or sale” in addition to a number of other topics to assist VSMP authorities with program implementation.
Carolyn Howard – Draper Aden & Associates	Method of Payment	9VAC25-870-760 Part A & Part C: If applicants can no longer access the e-permitting system, will there be a separate online payment system developed by DEQ for use by Applicants? With the intent to keep things simple, each locality has the option to do things differently – potentially causing confusion among the development community as well as the localities.	Thank you for your comment. It is the department’s intention to develop and implement an online construction general permitting system capable of collecting state permit fees if not already done so by the local VSMP authority.
Carolyn Howard – Draper Aden & Associates	Guidance	DEQ must provide guidance as to how applicants are to obtain coverage under the General Permit for Discharges of Stormwater from Construction Activities, and how and how frequently localities are to remit payment to DEQ. This guidance should be provided as soon as possible for the localities to meet their program deadlines and inform their constituents.	Thank you for your comment. It is the department’s intention to develop and implement an online construction general permitting system for use by local VSMP authorities; to obtain general permit coverage an operator will be required to submit a paper registration statement to the local VSMP authority for processing.  In addition, it is the department’s intention to provide additional direction and certainty regarding the remittance of permit fees outside of this regulatory action.
William W. Neville – Town of Chincoteague, Inc.	Common Plan of Development	9VAC25-870-55 (A) (1) – The proposal to apply technical criteria to a common plan of development rather than just the disturbed area does not favor the small incremental investments and improvements to individual properties that are found in our Town and limits options for compliance with regulatory standards. <b>Suggestion: Allow communities to apply technical criteria to a defined area of land disturbing activity, or a common plan of development or sale where applicable.</b>	Thank you for your comment. The proposed amendment to subsection A.1 of Section 55 has been updated for clarity purposes.
William W. Neville – Town of Chincoteague, Inc.	Common Plan of Development	9VAC25-870-95 (H) - The proposal to apply technical criteria to a common plan of development rather than just the disturbed area does not favor the small incremental investments and improvements to individual properties that are found in our Town and limits options for compliance with regulatory standards. <b>Suggestion: Individual lots, parcels, or defined areas in a residential, commercial, or industrial common plan of development or sale may be considered as separate land disturbing activities or as a whole single land disturbing activity under a common plan of development.</b>	Thank you for your comment. The Board, however, has chosen not to move forward with the proposed amendment to subsection H of Section 95.
William W. Neville – Town of Chincoteague, Inc.	Technical Criteria	9VAC25-870-98 (B) – The proposal found in this section requires that technical criteria must be met at each point of discharge rather than from the development site generally. This limits options for compliance with regulatory standards and discourages landscape scale natural system	Thank you for your comment. The Board has chosen not to move forward with the proposed amendment to subsection B of Section 95.

		solutions promoted by the new Handbook. <b>Suggestion: Delete the proposed revision.</b>	
William W. Neville – Town of Chincoteague, Inc.	Flood Protection	9VAC25-870-98 – The proposal which applies riverine flood protection and 10-year storm detention requirements to the Town of Chincoteague cannot apply to an existing coastal community located completely within a special flood hazard district. <b>Suggestion: Add – "E. Existing coastal areas located within a FEMA Special Flood Hazard District shall not be required to control post-developed stormwater runoff for flooding or provide protection of other properties from localized flooding except in accordance with locally adopted plans.</b>	Thank you for your comment. The proposed amendment is outside of the scope of this regulatory action. The Board will, however, take into consideration your comment when proposing future regulatory actions.
William W. Neville – Town of Chincoteague, Inc.	Documents Incorporated by Reference	9VAC25-870 – Documents Incorporated by Reference – This section does not include a specific date for the Technical Criteria. Last minute or after the fact revisions to a 2013 edition of technical criteria should not be added without notice. <b>Suggestion: Virginia Runoff Reduction Method: Instructions &amp; Documentation, (add date), 2013.</b>	Thank you for your comment. The Board, however, has chosen not to move forward with the proposed amendment to this section of the regulation.
William W. Neville – Town of Chincoteague, Inc.	Nutrient Credits	The costs and benefits of the proposal are not in balance for rural, slow growth, low income localities. In an area with a significant percentage of land in federal ownership and agricultural land use, the high cost of meeting standardized phosphorus removal criteria in sub-watersheds that currently meet State water quality standards is a burden for the remaining property owners who generally are not the main source of the nutrient supply. <b>Suggestion: Provide a mechanism for calculating offsite credits from other nutrient reduction programs within the locality so that there is a "no reduction necessary" solution for the individual property owner without mandated purchase of nutrient credits.</b>	Thank you for your comment. The proposed amendment is outside of the scope of this regulatory action. The Board will, however, take into consideration your comment when proposing future regulatory actions.
William W. Neville – Town of Chincoteague, Inc.	Technical Criteria	The costs and benefits of the proposal are strongly influenced by the options available through the Technical Criteria. Natural ecosystem benefits through conservation management are low cost/high benefit solutions that are not adequately represented in the Technical Criteria. <b>Suggestion: Amend the Regulations and Technical Criteria to provide modified standards for Seaside coastal bays watersheds and barrier islands with ridge and glade natural drainage systems, high ground water tables, tidal influence and within a Special Flood Hazard District (100 year floodplain).</b>	Thank you for your comment. The proposed amendment is outside of the scope of this regulatory action. The Board will, however, take into consideration your comment when proposing future regulatory actions.
William W. Neville – Town of Chincoteague, Inc.	Farm and Forest Land Preservation	The effects of the proposal on farm and forest land preservation are unclear in terms of other overlapping nutrient reduction programs. In general, the regulations and technical criteria should only apply to sub-watersheds that are non-compliant with State water quality standards and have adopted TMDL standards.	Thank you for your comment. The proposed amendment is outside of the scope of this regulatory action. The Board will, however, take into consideration your comment when proposing future regulatory actions.

<p>William W. Neville – Town of Chincoteague, Inc.</p>	<p>Impacts on small businesses</p>	<p>Impacts on small businesses are the primary concern for the Town of Chincoteague. The addition of permitting costs, engineering costs, site development costs and loss of limited land area suitable for development will discourage business investment and job creation in our existing commercial districts. The specific redline changes proposed to the Regulations and Technical Criteria will make it worse by only permitting for common plans of development and forcing small businesses to "buy their way out" through a nutrient credit program managed outside of the locality. <b>Suggestion: Change the Regulations and Technical Criteria to exempt 1 acre of land disturbance on non-developed and developed sites so that small investments and improvements to commercial property that sustain our local economy do not trigger compliance solutions for the entire property.</b></p>	<p>Thank you for your comment. The proposed amendment is outside of the scope of this regulatory action. The Board will, however, take into consideration your comment when proposing future regulatory actions.</p>
<p>William W. Neville – Town of Chincoteague, Inc.</p>	<p>General Permit Process</p>	<p>Generally the proposed Regulations and Technical Criteria Incorporated by Reference modify an existing General Permit process for stormwater management that has allowed for localized solutions. The proposed changes add a layer of compliance requirements that have been created for upland, rapidly developing, impaired waters in the Chesapeake Bay watershed. They should not apply in the Town of Chincoteague. <b>Suggestion: Exempt watershed areas that meet State water quality standards outside of the Chesapeake Bay watershed.</b></p>	<p>Thank you for your comment. The proposed amendment is outside of the scope of this regulatory action. The Board will, however, take into consideration your comment when proposing future regulatory actions.</p>
<p>Channing j. Martin – Williams Mullen – Liberty University</p>	<p>Grandfathering</p>	<p>Liberty University has more than \$500 million of construction projects planned on its campus over the next 5 years. The majority of these projects were planned based on the understanding that they would be grandfathered from having to comply with the technical criteria of Part II B of the Regulations provided they met the requirements of 9VAC25-870-48 A (the "Grandfather Provision"). The Public Notice issued for the proposed amendments indicates the amendments include a "clarification: of the Grandfather Provision. That's not accurate. Instead, what is proposed is a revision that revokes grandfather status for many who now have it. Instead of grandfather status being available to those who obtained approval of any of the approved documents noted in 9VAC25-870-48 A, it will be available only to those who obtained approval of subdivision plats or site plans. By changing the rules on parties who incurred costs and did what was required to obtain grandfathered rights, the Board and DEQ would undermine those parties' reasonable expectation of fairness and consistency and threaten the trust necessary for regulated parties and the government to work together on future rule-making. Liberty and many other entities have made significant financial and other</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>

		<p>commitments based on the Grandfather Provision. To pull the rug out from under them after that have lost the ability to obtain any other approvals "prior to July 1, 2012" will likely result in significant financial loss, delay their development schedules, and impair their contracts with others. It isn't just regulated entities who will be negatively impacted by the amendment; local governments will be affected, too. Liberty and many others worked with their localities to obtain equivalency determinations and approvals of plans. The proposed amendment would negate all of those efforts retroactively. <b>Conclusion: Liberty believes the Grandfather Provision should be left unchanged. The universe of land disturbing activity that ever could come within its safe harbor was fixed as of July 1, 2012, and it is patently unfair to re-write the rules almost two and a half years after that date. Activities that were grandfathered then should be grandfathered now. Anything less will have significant adverse consequences to many stakeholders and undermine trust in the regulatory process.</b></p>	
Charles E. VanAllman, Jr. – City of Salem	Grandfathering	<p>9VAC25-870-48 – DEQ needs to restore the Grandfathering Provisions in the VSMP Regulation to allow currently valid proffered or conditioned rezoning plans and rezoning with a plan of development that were approved prior to July 1, 2012.</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>
Richard A. Costello – AES Consulting Engineers	Grandfathering	<p>Either DEQ needs to NOT change the Grandfathering Provision or provide 12-15 months of time from when you change them to allow developers and others to respond to the proposed changes. <b>Conclusion: DEQ needs to not change the Grandfathering Provisions of the VSMP Regulations.</b></p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>
Charlie Armstrong – Southern Development	Grandfathering	<p>Restore the Grandfathering Provisions in the VSMP Regulation (9VAC25-870-48) to allow currently valid proffered or conditioned rezoning plans and zonings with a plan of development that were approved prior to July 1, 2012. Removing the grandfathering provisions would be detrimental to the Virginia economy. Please restore it to the regulation.</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>

<p>Ben Trost – Trost Custom Homes, Inc.; David L. Owen – Boone Homes, Inc.; Jerry Scripture – Scripture Communities</p>	<p>Grandfathering</p>	<p>Please consider restoring the Grandfathering Provisions in the VSMP Regulation (9VAC25-870-48) to allow currently valid proffered or conditioned rezoning plans and rezoning with a plan of development that were approved prior to July 1, 2012. Failing to "Grandfather" approve proffered or conditioned rezoning or zonings with an approved plan of development could result with the same having to be reconsidered by the local planning commission and localities governing bodies. As a consequence, needed modifications because of the impact of the 2012 adopted VSMP Regulation could take many months or years because of the lengthy process for localities to reconsider rezoning or modifications to rezoning. It would also cost many thousands of dollars for modifications of an approved conditional rezoning to be considered by localities.</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>
<p>Len Boone – Boone Homes</p>	<p>Grandfathering</p>	<p>Request that DEQ restore the Grandfathering provisions to allow currently valid proffered or conditioned rezoning plans and zoning with plans of development that were approved prior to July 1, 2012. The loss of this provision would set our industry back years. Please do the right thing and restore these provisions.</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>
<p>Dennis W. Thomas – Burgess &amp; Niple</p>	<p>Grandfathering</p>	<p>It appears that the proposed changes would eliminate grandfathering status for stormwater permits obtained by projects that received prior to July 1, 2012 local approval of a proffered or conditional zoning plan, zonings with a plan of development or documents constituting equivalent approvals (such as conditional use permits or special exceptions). Developers have been under the impression for the past couple of years that projects fitting this status would be grandfathered and many have continued to invest time and money assuming they were grandfathered. A change at this point will create undue hardship on many developments and could slow or even kill them completely. We urge you to reconsider this change to the regulations.</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>
<p>Jonathan Kinney – Ben Kinney &amp; Korman</p>	<p>Grandfathering</p>	<p>The proposal to make the new Stormwater Control Regulations retroactive to projects approved but not yet built will have a severe, negative impact on development throughout the state of Virginia. Not permitting projects already approved prior to July 1, 2012 but not yet constructed to retain grandfather status will cause additional costs and delays to those projects and/or prevent their development at all. This is not the time to stop or delay job creating projects.</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>

Ralph Johnson - Arlington	Grandfathering	Restore the grandfather status of approved but not built site plans. It is not fair that projects calculated on the current regulations be held to this new standard. Site Plan approvals must depend on the state of things at approval time. Please grandfather in previously approved projects.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Paul B. Johnson – Charles P. Johnson & Associates, Inc.	Grandfathering	My clients and our company have made considerable investment in time and money based upon the grandfathering previously proposed. To change the grandfathering now is unfair and will result in substantial financial loss.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Steven Hulsey & Steven Pandish - Gordon	Grandfathering	9VAC25-870-48 – The current amendments to the enacted Stormwater Management Program under consideration by the SWCB eliminate grandfathering for a "valid proffered or conditional zoning plan". This proposed amendment would mean the new stormwater management program requirements would be applicable to all land disturbing activities associated with "valid proffered or conditional zonings" which can significantly undermine the financial and land use considerations that formed the basis for the proposed development. The process of securing "proffered or conditional zoning plan" approvals requires significant investment along with a commitment to the community. The impacts of this proposed amendment may dramatically reduce the viability of some projects and clearly create instability for a community's growth and economic development. Elimination of the grandfathering status of these plans will not only add considerable cost and delays to a project, but may even make the project infeasible. This proposed amendment will establish significant uncertainties for clientele with "valid proffered or conditional zoning plans" after they have previously pursued the appropriate due diligence concerning environmental and stormwater planning. This planning, which may have considered the current adopted grandfathering provisions, formed the basis for their investment. This uncertain and after the fact change in the regulatory environment after nearly two years of assurances is entirely inconsistent with the State's commitment to the establishment of a supportive business environment for industry and communities and will have a negative	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.

		impact on the Virginia economy. Please consider these comments concerning the impacts on industry and community and eliminate the proposed amendment.	
Edwin W. Lynch – Property Management – Occoquan Land LC and Parkway East LLC	Vesting	The proposed stormwater regulations will cause hardship to existing projects. <b>Recommendation: In cases where a property has stormwater detention capacity in an existing dry retention or wet detention pond that meets existing standards for stormwater management, then that property would be deemed vested as to compliance with Virginia requirements for stormwater management. Appropriate tests are: (1) The facility was constructed and operational as of June 30, 2014, or (2) It is a regional stormwater facility controlled by a public entity, or (3) The facility has been designed to serve more than one property that remains undeveloped, or (4) The property owner conveyed easements or land for the construction of a regional facility prior to June 30, 2014.</b>	Thank you for your comment. Subsections B and C of Section 47 have been updated for added clarity.  The proposed amendments are outside of the scope of this regulatory action. The Board will, however, take into consideration your comments when proposing future regulatory actions.
Charles Records – Zandler Development	General	The proposal is overreaching and will significantly impact small business owners, land development, taxable growth and the home building industry without significantly addressing any other issues contributing to the degradation of the Chesapeake Bay. These regulations will have a significant detrimental effect on the growth and creation of small business.	The Board acknowledges your concerns.
Charles Records – Zandler Development	General	A cost/benefit analysis to property owners will prove to render most small businesses unable to afford to comply.	The Board acknowledges your concerns.
Charles Records – Zandler Development	General	These regulations will affect overall business growth significantly, as less of it will occur.	The Board acknowledges your concerns.
Charles Records – Zandler Development	Runoff Reduction Method	This new regulation has flawed engineering in the Runoff Reduction Method, which will in essence take away property owner rights, and will have a negative economic impact on property owners and localities to a level that has not been properly addressed.	The Board acknowledges your comment.
Charles Records – Zandler Development	Economic Growth and Environmental Protection	It is necessary for the General Assembly and DEQ to head back to the drawing table to determine a better way to balance economic growth and environmental protection. These regulations will create more state and local bureaucracy and it is simply unneeded. For the State to get such a significant cut of the fees is ridiculous since it has put the entire burden on the locality for implementation and enforcement.	The Board acknowledges your concerns.
Charles Records – Zandler Development	Grandfathering	More lenient grandfathering needs to be put in place to protect landowners who have been navigating the approval processes for projects that depending on size could have been started 2-3 years ago and will not meet the thresholds for protection from these new regulations.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the

			locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Brent Wills - Wills Soil & Stream	Water Quality Requirements	The Water Quality Calculation Procedures in Chapter 5 of the Virginia Stormwater Management Handbook require "compliance by either a performance-based...or technology-based water quality criteria". What compliance level are we trying to accomplish? At least allow for an exemption to the water quality requirements if it can be demonstrated by reputable laboratory analysis that the existing phosphorus levels in the soil are so low that there is virtually no possibility of phosphorus leaving the site once stabilized. Is it not ridiculous to require the owner of a property to design and install expensive BMPs to remove an arbitrary 0.41 pounds of phosphorus per acre per year when that same owner was required by the Erosion and Sediment Control Law and Regulations to apply 200 pounds of phosphorus per acre in the form of fertilizer when the project was permanently seeded?	The Board acknowledges your concerns. However, the proposed amendments are outside the scope of this regulatory action.
Brent Wills - Wills Soil & Stream	Fees	Regulations adopted on November 21, 2012 raised the permit fee for obtaining a Virginia General Permit for Discharges of Stormwater from Construction Activities by 50% for all projects not located in the Chesapeake Bay. These new regulations, set for approval just one year later, raise that fee again by a minimum of 600%, from \$450 to \$2,700 for a Phase II Land Clearing activity disturbing between one and five acres and ascends from there for larger sites. This is an obscene increase in fees specifically targeted at generating revenue while having no tangible pollutant removal benefit—more staff, more offices and more bureaucracy does not improve water quality.	The Board acknowledges your concerns.
Brent Wills - Wills Soil & Stream	Grandfathering	Please restore the grandfathering provisions set forth in the original regulations allowing land disturbances of less than 1 acre within a currently approved plan of development to move forward without the additional financial and bureaucratic burden of obtaining a VSMP permit. This revision only increases the cost of development and guarantees no measurable benefit in pollutant removal.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Edwin W. Lynch – Property Management – Occoquan Land LC and Parkway East LLC	Nutrient Reduction Standards	These regulations related to nutrient reduction standards place an undue burden on the Flex/Tech Sector, the industrial sector and the Retail sector of the Real Estate Industry. Our customers require large building floor-plates with large roofs and large parking lots on the flattest land we can find. The overwhelming burden of these new regulations fall on the Northern Virginia suburbs because out land is very	The Board acknowledges your concerns.

		expensive, generally has soils poorly suited to water infiltrations and lots of steep slopes. We feel very strongly that if these regulations take effect, our business strategy for the Flex/Tech/Office sector will no longer be viable in the Northern Virginia region.	
Lacey England – Columbia Gas of Virginia	Linear, Underground, and Public-Utility Projects	Meeting the requirements of 9VAC25-870-63 and 9VAC25-870-66 is not feasible for linear, underground, public-utility projects. These regulations and technical amendments have been developed for non-linear construction sites. The application of these proposed regulations to cover linear utility projects results in an ill-fitting process that is overly restrictive on public utilities. The addition of requiring above-ground BMPs on these projects would significantly hamper the public utilities' ability to obtain land rights in absence of significant legal proceedings. The capture and treatment of stormwater on these very narrow and very long projects using the BMPs outlined in these regulations is not feasible from Columbia's perspective as a utility operator. Linear projects would result in numerous BMPs spread out over a very large geographic area in which simply gaining access for maintenance could require securing environmental permits. Implementing stormwater and nutrient runoff reductions greater than previously existing on the site places a burden on utility companies in a manner that is not warranted by the type of construction work that is being completed.	The Board acknowledges your concerns. However, the proposed exemption for linear utility projects is outside the scope of this regulatory action.
Joseph M. DuRant – City of Newport News	Grandfathering	The City objects to the proposed amendments of the grandfathering provisions. The concept of grandfathering arises out of constitutional property rights. As of July 1, 2012, a property that had been re-zoned prior to that date was grandfathered under the current regulations. This re-zoning created vested property rights under the law as it appeared at that time. The state cannot come back well after the drop-dead date and remove the zoning provision as this is a deprivation of vested property right without due process of law, contrary to the Fifth Amendment of the United States Constitution and Article 1, Section II of the Virginia Constitution. This change would almost certainly result in unnecessary litigation involving both the City and the state.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Randy Bartlett - VAMSA	Grandfathering	VAMSA recommends that DEQ restore the original scope of the grandfathering provision, in particular the proffered rezoning plan basis for grandfathering, which was proposed by DEQ for deletion in the pending amendments (9VAC25-870-48).	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.

Bob Kerr – Kerr Environmental Services Corp.	Grandfathering	The proposed changes would eliminate grandfathering status for stormwater permits (9VAC25-870-48) obtained by projects that received prior to July 1, 2012: 1) local approval of a proffered or conditional zoning plan, 2) zonings with a plan of development; or 3) documents constituting equivalent approvals (such as conditional use permits or special exceptions). Developers of these types of projects have operated <u>now for more than two years</u> with the understanding they would be grandfathered from the new stormwater requirements that take effect on July 1, 2014 if they met the other grandfathering requirements. Now at the eleventh hour DEQ staff has proposed eliminating these projects from the grandfathering provisions. There is no mechanism now for those projects to either be grandfathered or secure VSMP permits as there is not enough time to move through the site plan or subdivision plan process in many localities due to the review and approval timelines of those localities. The Commonwealth is burdening these projects with un-budgeted costs, in a crisis environment, in a soft-economy, with virtually no notice. The Grandfathering Sub-Committee was in consensus on each type of project to be grandfathered as it related to the July 1, 2014 date. To undue that process, which then went through the full RAP is, disingenuous and unfair and creates an enormous economic and logistical burden.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Eric Martin – City of Chesapeake	9VAC25-870-47	We support the proposed language to clarify the intent of this section.	The Board thanks you for your support.
Eric Martin – City of Chesapeake	Grandfathering	9VAC25-870-48 – We are recommending that you retain the current language in the grandfathering section – the proposed language is overly restrictive and limits the ability of local programs to make grandfathering determinations which are in the best interest of the locality.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Eric Martin – City of Chesapeake	9VAC25-870-54 C	We support the proposed language to clarify the intent of this section.	Thank you for your comment. The department, however, has chosen not to move forward with the proposed amendment to subsection C of Section 54. The proposed exception has been incorporated into the proposed general permit, 9VAC25-880.
Eric Martin – City of Chesapeake	9VAC25-870-95 H	We support the proposed language to clarify the intent of this section.	Thank you for your comment. The Board, however, has chosen not to move forward with the proposed amendment to subsection H of Section 95.

Eric Martin – City of Chesapeake	9VAC25-870-760 C	We do not object to the proposed language provided that collection of state fees remains an option for VSMP Authority Programs and is not a requirement.	The Board acknowledges your comment.
Eric Martin – City of Chesapeake	9VAC25-870-820	We are supportive of the proposed language which makes clear the timing of the implementation of revised state fees. We do note, however, that the fee table is inconsistent with the changes proposed in the Construction General Permit Regulation (9VAC25-880) which provides for automatic permit coverage for residential lots within common plans of development and eliminates the state permit fee for those lots. We submit that this section needs to be updated to reflect the proposed fee changes within 9VAC25-880.	Thank you for your support. The Board, however, has chosen not to update the VSMP regulation (9VAC25-870-820) at this time and recognizes that the proposed general permit regulation exempts operators from paying the department portion of the permit fee for single-family residences separately built disturbing less than 1 acre and part of a larger common plan of development or sale.  The Board will, however, take into consideration your comments when proposing future regulatory actions.
Eric Martin – City of Chesapeake	9VAC25-870-825	We support the language which provides clarification regarding the collection of fees.	The Board thanks you for your support.
Michael S. Rolband – Wetland Studies and Solutions, Inc.	Grandfathering	9VAC25-870-48 A – Proffered rezoning plans are no longer grandfathered. The public at large has been assured for two years that such projects would be grandfathered. This regulatory section should be reinstated as approved by the RAP, as it is simply bad government policy to make such major switch in direction at the last moment without sufficient time for the affected landowners to protect their interests from a major policy change.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Michael S. Rolband – Wetland Studies and Solutions, Inc.	Documents Incorporated By Reference	The technical requirements for these Stormwater regulations is no longer explicitly defined. The Virginia Runoff Reduction Method (VRRM) is the technical “heart” that decides how your site meets the quality requirements of the Stormwater regulations. Previously a version dated March 28, 2011, was referenced. Now the date is “2013” and the current online document has two different dates in 2013 on its cover sheet. The SWCB should not approve a regulation that cites a document without a specific date/version – and such a document must exist on the public domain prior to its adoption.	Thank you for your comment. The Board, however, has chosen not to move forward with the proposed amendment to this section of the regulation.
Roy T. Mills - VDOT	9VAC25-87-47	Under subsection C of this section, clarifying language should be added to exclude grandfathered projects from following the Part li B technical criteria. Furthermore this subsection, as well as subsection B, should include language stating that is a project is required to follow new technical criteria it should be “...any	The Board acknowledges your comment. However, Board believes that additional regulatory amendments are unwarranted at this time.

		<i>new <b>and applicable</b> technical criteria...</i>	
Roy T. Mills - VDOT	9VAC25-870-48	Grandfathering – Under subsection C of this section, clarifying language should be included stating that is a grandfathered project is required to follow new technical criteria it should be “... <i>any new <b>and applicable</b> technical criteria...</i> ”	The Board acknowledges your comment. However, Board believes that additional regulatory amendments are unwarranted at this time.
Roy T. Mills - VDOT	9VAC25-870-54 B & C	SWPPP – The new language proposed in subsection C (i.e., “... <i>except for land disturbing activities previously covered under the General Permit for Discharges of Stormwater from Construction Activities issued July 1, 2009.</i> ”) needs to also be added to subsection B.	Thank you for your comment. The Board, however, has chosen not to move forward with the proposed amendment to subsection C of section 54.  The Board will, however, take into consideration your comment when proposing future regulatory actions.
Roy T. Mills - VDOT	9VAC25-870-54 B & C	Language needs to be added to each subsection to address an exemption for plans developed under approved annual erosion and sediment control and Stormwater management standards and specifications.	Thank you for your comment. The Board, however, has chosen not to move forward with the proposed amendment to subsection C of section 54.  The Board will, however, take into consideration your comment when proposing future regulatory actions.
Roy T. Mills - VDOT	9VAC25-870-98 B	Flooding – Under subsection B, VDOT does not support language, “ <i>measured at each point of discharge from the land disturbance in accordance with subsection A of 9VAC25-870-95</i> ”. Subsection A of 9VAC25-870-95 only requires an <b>analysis</b> at each point of discharge. VDOT understands the requirement to limit the post development 10 year discharge to no more than the pre-development 10 year discharge when evaluating the impacts of the entire site. However, with the proposed language, no increase in the 10 year discharge would be allowed at an individual discharge point even if the site, as a whole, met the pre/post development discharge condition and there was an existing or proposed adequate downstream conveyance system or the point of discharge met the 1% rule. The proposed language limits the flexibility to locate Stormwater management facilities at the most feasible locations within the land development area or to control multiple drainage areas within the land development area at one location.	Thank you for your comment. The Board, however, has chosen not to move forward with the proposed amendment to subsection B of Section 98.
Margaret L. (Peggy) Sanner – Chesapeake Bay Foundation	9VAC25-870-48 A	The Revised Draft’s grandfathering provision provides helpful clarity on what documents (e.g., subdivision plats, site plans, etc.) may provide the basis for a project to be grandfathered (i.e., subject to the technical criteria of Part II C, rather than Part II B), and in general is much more readable.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the

			VSMP regulation.
Scott Rae – Gloucester County	9VAC25-870-48 A	This section proposes to delete the consideration of proffered or conditional zoning plans or any document determined by the locality as being equivalent that provides (i) a layout and (ii) demonstrates compliance with Tech Part II C. The investment of the development community to provide a proffered layout that includes Tech Criteria Part II C information is a relevant committal and investment by the development community and should be eligible for consideration at the County-level as an appropriate, or not, document. <b>Please consider retaining this language rather than limit to subdivision and site plan submittals.</b>	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Scott Rae – Gloucester County	Documents Incorporated By Reference	There is an obvious disconnect between the legislation and the RRM—specifically the Water Quality Volume stated in the legislation to be one half-inch and the RRM defining one-inch as the quality volume. <b>Please clarify the state’s position on the water quality volume being doubled in the guidance document and not addressed in the definitions of the 870 regulations.</b>	The Board thanks you for pointing out this discrepancy. Your comment will be taken into consideration when proposed future regulatory actions.
Scott Rae – Gloucester County	Virginia Runoff Reduction Method (RRM)	<b>The draft stormwater handbook has been distributed for review with the RRM under a 2011 date. Does the RRM date of 2013 suggest an alternative is under development?</b>	Thank you for your comment. The Board, however, has chosen not to move forward with the proposed amendment to this section of the regulation.
Scott Rae – Gloucester County	Exempt Activities	The proposed regulatory changes do not go far enough to clarify the less-than-an-acre in Chesapeake Bay areas qualification of exemption from stormwater management as represented in <b>62.1-44.15:34 C 3 (exempt activities)</b> . A change in the regulation language would benefit the perpetuation of this poorly phrased component of the legislation and regulations.	The Board acknowledges your concerns. However, the Board believes that additional regulatory amendments are unwarranted at this time.
Scott Rae – Gloucester County	9VAC25-870-51	This section should be modified to clarify with the proposed language—Item 2 may be restructured to incorporate— <b>“A stormwater management plan consistent with the requirements of the Virginia Stormwater Management Act and regulations must be designed and implemented during land disturbing activities. The stormwater management plan shall be developed and submitted in accordance with 9VAC25-870-55. Prior to land disturbance, this plan must be approved by the VSMP authority, acknowledged to the locality by the applicant as completed and available on-site of disturbance.</b> This suggestion effectively places the responsibility on the property owner and avails the document to the locality in the event of an investigation into any violations. This article is an enormous burden of time and	Thank you for your comment. However, the proposed amendments are outside the scope of this regulatory action. The Board believes that additional regulatory amendments are unwarranted at this time.

		finance on the locality and the property owner. This would be consistent with the proposed language in the general permit regulation at 9VAC25-880-30 A 4 b.	
James L. Perry – ELM Street Development	Grandfathering	The grandfathering of proffered rezonings, proffered plans of development, conditional use permits, special exceptions, and equivalent approvals obtained prior to July 1, 2012 should be restored. Developers have relied on the grandfathering status of these projects for nearly 2 years. Changing this status now is grossly unfair to the stakeholders who have participated in this process and relied upon that grandfathering and will likely add considerable costs to their projects.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
James L. Perry – ELM Street Development	Technical Requirements	The technical requirements for the regulations are no longer explicitly defined. A specific methodology for measuring how the standards are achieved must be sites and made available for review prior top adoption.	
Michael L. Toalson – Home Builders Association of Virginia	Grandfathering	HBAV would urge DEQ and the SWCB to restore the Grandfather status (9VAC25-870-48 A) for “valid proffered or conditional zoning plans”, “zonings with a plan of development” and “and document determined by the VSMP Authority to be equivalent thereto”, as approved prior to July 1, 2012, without amendment. HBAV would not object to the previously adopted Grandfather Clause being reformatted to make it more understandable or easier to follow. Many landowners across Virginia have relied on the 2012 approved Grandfather Clause in the 2012 approved VSMP Regulation. As a consequence, landowners have made important business decisions, in the past nearly two (2) years, not to move their approved conditioned rezonings or zonings with a plan of development forward to preliminary plan approval, which would remain grandfathered under the proposal. Failing to Grandfather approved proffered or conditioned rezonings or zonings with an approved plan of development could result with the same having to be reconsidered by the local planning commission and the localities governing body. As a consequence, required modifications could take months or years for a second approval because of the lengthy process for localities to reconsider rezoning...or modifications to rezonings. Such a change would likely add considerable costs to these projects.	Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.
Linda Dort – Linda Dort Homes	Grandfathering	I am for any changes that keep up with the times and uses managed systems to protect our, and future generations clean water supplies and River systems from the days of over development. I do not believe that we should be promoting a stand to use our grandfathers' rules in today's quickly changing environment. I oppose the concept of grandfathering.	The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.

<p>Louis V. Genuario, Jr. – The Genuario Companies – President of the Home Builders Association of Virginia</p>	<p>9VAC25-870-48</p>	<p>I urge DEQ to restore the Grandfathering Provisions in the VSMP Regulation to extend the validity of proffered or conditional rezoning plans, and rezoning with a plan of development, that were approved prior to July 1, 2012. Many landowners across Virginia have RELIED on the 2012 approved grandfather Clause in the VSMP Regulation and have not taken their approved conditioned rezoning with a Plan of Development forward to Preliminary Plan Approval, which are still grandfathered.</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>
<p>Mr. George Rhodes, Manassas, and others provided in <b>Commenter List A</b> below.</p>	<p>9VAC25-870-48</p>	<p>Restore grandfathered status for proffered conditional zonings, proffered plans of development and any document determined by the locality as being equivalent thereto (including conditional use permits and special exceptions) that otherwise meet the requirements in 9VAC25-870-48 as previously adopted in the Virginia Stormwater Management Program (VSMP) Regulation.</p>	<p>Thank you for your comment. Subsections A, B, and C of Section 48 have been updated for clarity purposes. In addition, proffered conditional zoning plans, proffered plans of development, or any documents determined by the locality to be equivalent thereto have been reincorporated into the grandfathering provision of the VSMP regulation.</p>

**Commenter List A: Restore Grandfathering Provision:** Douglas R. Fahl – Dewberry; Anthony F. Venafro – SMITH Engineering; William M. Yauss – DREES Homes; Helman A Castro – Pennoni Associates; Edward G. Venditti – Pennoni Associates; Mark D. Simms – Toll Brothers Inc.; Christopher W. Spahr – Stanley Martin Homes; Michael Capretti – Capretti Land, Inc.; Carla E. Coffey – The Arcadia Companies; Allen Harrison – The Design Room Inc.; John Olivieri – Associated Development Management Corp.; Stephen L. Pettler, Jr. – Harrison & Johnston, PLC; John Bradshaw – BGGT, LLC; Royce Hylton – Brunk & Hylton Engineering, Inc.; Paul A. Bernard – Carson, Ashley & Associates, LLC; James Ballif – Stanardsville; Frederick J. Napolitano, II – Napolitano Homes; Aaron Yoder – Shenandoah Valley Builders Association; Debby Nash – BGGT, LLC; Thomas G. Johnson, III – S.L. Nusbaum Realty Co.; Joe Thomas, Jr. – Boone, Graham, Gladden & Thomas; Tyler Welcker – Boone, Graham, Gladden & Thomas; Alexander Boone – Boone Homes, Inc.; Sarah Alfano – Boone, Graham, Gladden & Thomas; Dean Stone – Stone Engineering, Inc.; W. Craig Havenner – The Christopher Companies; Erin Widener – Widener Corporation; Richard D. Entsminger – Elm Street Development; Zeke Moore – SDI; Dan Dreelin – Valley Renovators, Inc.; David Guy – Exceptional Home Designs, Inc.; W. Michael Woolwine – Hughes Associates; Vincent Haynie – Ingram Bay Contracting; Ronald Wilson – Franklin County; Brad Graham – Boone, Graham, Gladden & Thomas; Robert B. Mullins – Quality Homes, Inc.; Lana L. O’Meara – Designs of Distinction Ltd & Tidewater Builders Association; Roy O. Bechner, Jr. – S.W. Rodgers, Co. Inc.; John Napolitano – Napolitano Homes; Chris J. Ettel – VB Homes Design Build, LLC; Jeffrey W. Ainslie – Ainslie Group; Kevin McNulty – Life Style Builders & Developers, Inc.; David Blalock – Abbitt Management LLC; Andrew M. Comstock – Gilbert C. Martin Co. Inc.; Michael D. Newsome – Virginia Beach; Sherman Patrick, Jr. – Compton & Duling, L.C.; Justin Miller – Caruthers Properties, LLC; Brad Mason – Washington Real Estate Investment Trust; Aaron M. Vinson – Walter L. Phillips; Jonathan Frank – Williams Mullen; Pete Otteni – Boston Properties; Pete J. Rigby – Paciulli, Simmons & Associates, Ltd.; Mark S. Hassinger – West Dulles Properties; Jim Mertz – CTD; Matthew Holbrook – St. John Properties, Inc.; Alvin S. Mistr, Jr. – Burgess & Niple, Inc.; Michael Rockefeller; Bob Orlando – Patrick Hall Mall; Matthew J. Tauscher – Bowman Consulting; Steve B. Jones – Fried Companies, Inc.; John S. Pearsall, Jr.; Preston Miller – Belmont Bay L.C.; Travis D’Amico – Bohler Engineering; Kyle Wells – West Dulles Properties, Inc.; Peter S. Eckert – Peter S. Eckert & Company, Inc.; Derek E. Karchner – McCandlish Lillard; David J. Bomgardner – Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.; Philip F. Abraham – The Vectre Corporation; John H. Foote - Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.; Frank Martino – L.F. Jennings; Tom Fleury – City Line Partners; Bill May – Miller & Smith; Matt Valentini – The JBG Companies; Ken Jonmaire – Merritt Properties, LLC; June Whitehurst – City of Norfolk; Michael S. Kitchen – Christopher Consultants; Cheryl W. Hamm – Joyner Commercial; Michael A. Theberge – Bohler Engineering; Peter M. Dolan - Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.; Blair White – Landmark Commercial Real Estate; Jack Lewis – Commercial Properties Associates; Douglas M. Atkins – Fidelity National Title Insurance Company; J. Truett Young – Stanley Martin Homes; Randy Brown – Stanley Martin Homes; John W. Iuliano – ABT Custom Homes LLC; Ted Yoder – C& F Mortgage Corporation

**STATE WATER CONTROL BOARD**  
**Chapter 870 Amendments for Fees and Grandfathering**

**9VAC25-870-47. Applicability of other laws and regulations; time limits on applicability of approved design criteria.**

A. Nothing in this chapter shall be construed as limiting the applicability of other laws and regulations, including, but not limited to, the CWA, Virginia Stormwater Management Act, Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation Act, except as provided in § 62.1-44.15:27 K of the Code of Virginia, and all applicable regulations adopted in accordance with those laws, or the rights of other federal agencies, state agencies, or local governments to impose more stringent technical criteria or other requirements as allowed by law.

~~B. Beginning with the General Permit for Discharges of Stormwater from Construction Activities issued July 1, 2009, all land-disturbing activities that receive general permit coverage shall be conducted in accordance with the Part II B or Part II C technical criteria in place at the time of initial state permit coverage and shall remain subject to those criteria for an additional two permit cycles, except as provided for in subsection D of 9VAC25-870-48. After the two additional state permit cycles have passed, or should state permit coverage not be maintained, portions of the project not under construction shall become subject to any new technical criteria adopted since original state permit coverage was issued. For land-disturbing projects issued coverage under the July 1, 2009 state permit and for which coverage was maintained, such projects shall remain subject to the technical criteria of Part II C for an additional two state permits. Land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014 shall be conducted in accordance with the Part II C technical criteria of this chapter. Such projects shall remain subject to the Part II C technical criteria for two additional state permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.~~

C. Land-disturbing activities that obtain an initial state permit on or after July 1, 2014 shall be conducted in accordance with the Part II B technical criteria of this chapter, except as provided for in section 48 of this chapter. Land-disturbing activities conducted in accordance with the Part II B technical criteria shall remain subject to the Part II B technical criteria for two additional state permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

~~D. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.~~

**9VAC25-870-48. Grandfathering.**

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

1. A proffered conditional zoning plan, proffered plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of this chapter, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge or the volume or rate of runoff;

2. A state permit has not been issued prior to July 1, 2014; and

3. Land disturbance did not commence prior to July 1, 2014.

B. Until June 30, 2019, for locality Locality, state, and federal projects for which there shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of this chapter provided:

1. There has been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the department has approved a stormwater management plan prior to July 1, 2012; such projects shall be considered grandfathered by the VSMP authority and shall not be subject to the technical criteria of Part II B, but shall be subject to the technical criteria of Part II C for those areas that were included in the approval.

2. A state permit has not been issued prior to July 1, 2014; and

3. Land disturbance did not commence prior to July 1, 2014.

C. For land disturbing Land disturbing activities grandfathered under subsections A and B of this section, construction must be completed by June 30, 2019, or shall remain subject to the Part II C technical criteria of this chapter for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to the any new technical criteria of Part II B adopted by the board.

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

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

#### **9VAC25-870-55. Stormwater management plans.**

A. A stormwater management plan shall be developed and submitted to the VSMP authority. The stormwater management plan shall be implemented as approved or modified by the VSMP authority and shall be developed in accordance with the following:

1. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria set forth in this part to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.

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

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

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

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

3. A narrative that includes a description of current site conditions and final site conditions or if allowed by the VSMP authority, the information provided and documented during the review process that addresses the current and final site conditions;

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

5. Information on the proposed stormwater management facilities, including (i) the type of facilities; (ii) location, including geographic coordinates; (iii) acres treated; and (iv) the surface waters or karst features into which the facility will discharge;

6. Hydrologic and hydraulic computations, including runoff characteristics;

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

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

a. All contributing drainage areas;

b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;

c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;

d. Current land use including existing structures, roads, and locations of known utilities and easements;

- e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
  - f. The limits of clearing and grading, and the proposed drainage patterns on the site;
  - g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
  - h. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements;
9. If an operator intends to meet the requirements established in 9VAC25-870-63 or 9VAC25-870-66 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and
10. If payment of a fee is required with the stormwater management plan submission by the VSMP authority, the fee and the required fee form in accordance with Part XIII must have been submitted.

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

D. A construction record drawing for permanent stormwater management facilities shall be submitted to the VSMP authority in accordance with 9VAC25-870-108 and 9VAC25-870-112. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

**9VAC25-870-760. Method of payment.**

A. Fees shall be collected utilizing, where practicable, an online payment system. Until such system is operational, fees, as applicable, shall be, at the discretion of the department, submitted electronically or be paid by check, draft or postal money order payable to:

- 1. The Treasurer of Virginia, for a MS4 individual or general permit or for a coverage issued by the department under the General Permit for Discharges of Stormwater from Construction Activities or Individual Permit for Discharges of Stormwater from Construction Activities, and must be in U.S. currency, except that agencies and institutions of the Commonwealth of Virginia may submit Interagency Transfers for the amount of the fee. The Department of Environmental Quality may provide a means to pay fees electronically. Fees not submitted electronically shall be sent to the Virginia Department of Environmental Quality.
- 2. The VSMP authority, for VSMP operational costs of the VSMP authority under the General Permit for Discharges of Stormwater From Construction Activities, and must be in U.S. currency.

B. When fees are collected electronically pursuant to this part through credit cards, business transaction costs associated with processing such payments may be additionally assessed.

C. Nothing in this Part shall prohibit the department and a VSMP authority from entering into an agreement whereby the total fee to be paid by the applicant for coverage under the General Permit for Discharges of Stormwater from Construction Activities is payable to the VSMP authority and the VSMP authority transmits the department portion set forth in 9VAC25-870-820 to the department on a schedule set forth by the department.

D. Required information for state permits or state permit coverage: All applicants, unless otherwise specified by the department, shall submit the following information along with the fee payment or utilize the department Permit Application Fee Form:

- 1. Applicant name, address and daytime phone number.
- ~~2. Applicant Federal Identification Number (FIN), if applicable.~~
- ~~3.~~ 2. The name of the facility/activity, and the facility/activity location.
- ~~4.~~ 3. The type of state permit applied for.
- ~~5.~~ 4. Whether the application is for a new state permit issuance, state permit reissuance, state permit maintenance, or state permit modification.
- ~~6.~~ 5. The amount of fee submitted.
- ~~7.~~ 6. The existing state permit number, if applicable.
- ~~8.~~ 7. Other information as required by the VSMP authority.

**9VAC25-870-820. Fees for an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities.**

The following fees apply, until June 30, 2014, to coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the department prior to a VSMP authority being approved by the board in the area where the applicable land-disturbing activity is located, or where the department has issued an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency ~~for which it has approved annual standards and specifications.~~

General / Stormwater Management - Phase I Land Clearing ("Large" Construction Activity - Sites or common plans of development equal to or greater than five acres)	\$750
General / Stormwater Management - Phase II Land Clearing ("Small" Construction Activity - Sites or common plans of development equal to or greater than one acre and less than five acres)	\$450
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than one acre) (Fee valid until July 1, 2014)	\$200
<u>Individual Permit for Discharges of Stormwater from Construction Activities</u>	<u>\$15,000</u>

The following total fees to be paid by applicant apply to ~~(i) any operator seeking coverage under the a July 1, 2014 General Permit for Discharges of Stormwater from Construction Activities for or~~ (ii) on or after July 1, 2014 to any operator seeking coverage under a General Permit for Discharges of Stormwater from Construction Activities, a state or federal agency that does not file annual standards and specifications or an individual permit issued by the board ~~or coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the board.~~ For On and after approval by the board of a VSMP authority for coverage under the General Permit for Discharges of Stormwater from Construction Activities, no more than 50% of the ~~base total fee to be paid by applicant~~ set out in this part shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted for review in accordance with 9VAC25-870-108. The remaining ~~base total fee to be paid by applicant~~ balance shall be due prior to the issuance of coverage under the General Permit for Discharges of Stormwater from Construction Activities.

When a site or sites are purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees ("total fee to be paid by applicant" column) in accordance with the disturbed acreage of their site or sites according to the following table.

Fee type	Total fee to be paid by applicant (includes both VSMP authority and department portions where applicable)	Department portion of "total fee to be paid by applicant" (based on 28% of total fee paid *)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land-disturbance acreage less than one acre)	\$290	\$81
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five	\$2,700	\$756

acres)		
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$3,400	\$952
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$4,500	\$1,260
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688
Individual Permit for Discharges of Stormwater from Construction Activities (This will be administered by the department)	\$15,000	\$15,000
* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.		

The following fees apply, on or after July 1, 2014 to coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the board for a state or federal agency that has annual standards and specifications approved by the board.

General / Stormwater Management - Phase I Land Clearing ("Large" Construction Activity - Sites or common plans of development equal to or greater than five acres)	\$750
General / Stormwater Management - Phase II Land Clearing ("Small" Construction Activity - Sites or common plans of development equal to or greater than one acre and less than five acres)	\$450

**9VAC25-870-825. Fees for the modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities.**

The following fees apply to modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities issued by the board. If the state permit modifications result in changes to stormwater management plans that require additional review by the VSMP authority, such reviews shall be subject to the fees set out in this section. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the state permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in 9VAC25-870-820. No modification or transfer fee shall be required until such board-approved programs exist. These fees shall only be effective when assessed by a VSMP authority, including the department when acting in that capacity, that has been approved by the board. No modification fee shall be required for the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but shall apply to all other state or federal agency projects.

General / Stormwater Management – Small Construction Activity/Land Clearing (Areas	\$20
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within common plans of development or sale with land disturbance acreage less than one acre)	
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one and less than five acres)	\$200
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$250
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$700
Individual Permit for Discharges of Stormwater from Construction Activities	\$5,000