



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC25-880
<b>Regulation title</b>	General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities
<b>Action title</b>	In accordance with the Administrative Process Act exemption requirements specified in §2.2-4006 A 8, amend, modify or delete provisions of the regulation related to: the General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880)
<b>Final agency action date</b>	December 17, 2013
<b>Document preparation date</b>	January 30, 2014

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This regulatory action amends and reissues the General VPDES Permit for Discharges of Stormwater from Construction Activities (general permit), 9VAC25-880. This action to update and reissue the general permit is authorized under the federal Clean Water Act (33 USC §1251 et seq.) and the Stormwater Management Act (§62.1-44.15:24 et seq. of the Code of Virginia), which require that state permits be effective for a fixed term not to exceed five years. The existing five-year general permit became effective on July 1, 2009; thus necessitating the promulgation of a new general permit before the June 30, 2014 expiration date. This general permit establishes stormwater pollution prevention plan (SWPPP) requirements and special conditions for construction activities with stormwater discharges to surface waters, and the general permit conditions are set to protect the water quality of the receiving waters.

In this regulatory action the general permit regulation has been amended and reorganized for clarity and consistency with other general VPDES permits issued by the State Water Control Board, the VSMP Regulations, 9VAC25-870, and EPA's final 2012 construction general permit (CGP). Several new definitions have been added to the regulation for clarity and consistency with the VSMP Regulations and EPA's final 2012 CGP. In addition, the general permit regulation has been amended to authorize discharges from emergency-related construction activities as well as authorize discharges from single-family residences separately built disturbing less than one (1) acre and part of a larger common plan of development or sale without the submission of a registration statement or general permit fee. The regulation has also been revised to incorporate administrative continuance provisions for existing construction activities currently covered under the 2009 CGP. The regulation has been modified to include updated provisions for discharges to impaired waters, surface waters with an applicable approved TMDL, and exceptional waters for consistency with EPA's final 2012 CGP. The stormwater pollution prevention plan (SWPPP) requirements of the regulation have been revised to incorporate the federal effluent limitation guidelines for the Construction and Development Point Source Category, 40 Code of Federal Regulations (CFR) Part 450, and for consistency with the VSMP Regulations and EPA's final 2012 CGP. These revisions include clarifying and updating the existing SWPPP requirements for erosion and sediment control plans, stormwater management plans, and pollution prevention plans. The existing SWPPP requirements for amendments/modifications/updates, notification, availability, implementation, inspections, and corrective actions have been amended for added clarity and consistency with EPA's final 2012 CGP.

## Background

On February 26, 2013, the Virginia Soil and Water Conservation Board approved, authorized, and directed the filing of proposed regulations related to the general permit as an exempt action. That authorization was related to those changes that are exempt from the Administrative Process Act pursuant to §2.2-4006 subsection A 8 of the Code of Virginia. The Virginia Soil and Water Conservation Board's authorization extended to, but was not limited to, the posting of the approved action to the Virginia Regulatory Town Hall and the filing of the proposed regulations with the Virginia Registrar's Office and the U.S. Environmental Protection Agency, the holding of at least one public hearing, as well as the coordination necessary to gain approvals from the Office of the Attorney General, the Virginia Registrar of Regulations, and the U.S. Environmental Protection Agency (EPA).

At the August 26-27, 2013 meeting the State Water Control Board (Board) adopted regulations to implement Chapters 756 and 793 of the 2013 Acts of Assembly. 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 VPDES Permit for Stormwater Discharges from Construction Activities. 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 and the EPA.

Additional amendments to the general permit regulation were proposed as a result of further review of the Virginia Stormwater Management Program (VSMP) Regulations, 9VAC25-870, and review of the proposed (2014) general permit and the public comments received by the Virginia Soil and Water Conservation Board. A public comment period on the proposed amendments ran from October 18, 2013 through November 20, 2013, and written comments were received from 470 individuals and the EPA. Changes were made to the proposed amendments to address public comments and EPA objections.

## Statement of final agency action

On December 17, 2013, the State Water Control Board adopted amendments to the regulation 9VAC25-880, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities. The Board also asserted that they will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulation.

### Changes made since the proposed stage

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.*

#### Changes applicable to the entire regulation

- 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 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”.
- Added a definition for “construction site” in response to EPA comments.
- Updated the definition for “final stabilization” in response to EPA comments.
- Updated the definition for “immediately” in response to public comments and for clarity.
- Added a definition for “infeasible” in response to public comments. This definition is consistent with EPA’s final 2012 CGP.
- Added a definition for “stabilized” in response to EPA comments.

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

- Updated the regulation language for clarity and consistency.
- 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 State Water Control Board after the proposed stage and has been added for consistency.
- Updated the applicable Code of Federal Regulations (CFR) reference 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” for clarity and consistency.

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

- Reorganized and 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

- Clarified that plan review and approval pertains to stormwater management plans.

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

- Updated the section title from “State permit application (registration statement)” to “General permit application (registration statement)” for clarity and consistency.
- 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. Updated the requirement for existing construction activities to update their SWPPP no later than 60 days after coverage under the general permit. 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 SWPPP to be prepared prior to the submission of a registration statement in response to EPA comments.
- Deleted the following statement since it is unnecessary, “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” for clarity and consistency.
- 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.
- Added 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 established 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” for clarity and consistency. 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.
- Updated the requirement for existing construction activities to update their SWPPP no later than 60 days after coverage under the general permit.
- “Stormwater pollution prevention plan contents”, 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” for clarity and consistency. 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) in response to public comments. 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” for clarity and consistency.
- “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.

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

- This section of the regulation was adopted by the State Water Control Board after the proposed stage and has been added for consistency.

### Public comment

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

<b>Public Comment Period: April 8, 2013 – June 7, 2013</b>		
<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 Woodriff, 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	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.

	holding builders and developers accountable. Please revise the proposed permit to assure unrestricted public access to all runoff prevention plans.	
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.

<p>Christine Llewellyn, M.D.</p>	<p>It is essential that an important issue such as pollution controls (SWPPP) remain transparent and readily available to the 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>
<p>Ed Knight, Old Dominion Smallmouth Club</p>	<p>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.</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>Charles W. Parrish, Parrish Project Management</p>	<p>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.</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>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>

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	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

	<p>allow time to effectively manage projects and construction activities.</p>	<p>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.</p> <p>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.</p>
<p>Steve Barnes, Tennessee Valley Authority (TVA)</p>	<p>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 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."</p>	<p>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 of the facility. As a result, routine maintenance operations meeting the above definition are not governed by the proposed general permit.</p>
<p>Steve Barnes, Tennessee Valley Authority (TVA)</p>	<p>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;"</p>	<p>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.</p>
<p>Steve Barnes, Tennessee Valley Authority (TVA)</p>	<p>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</p>	<p>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.</p>

	<p>"...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."</p>	
<p>Steve Barnes, Tennessee Valley Authority (TVA)</p>	<p>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.</p>	<p>Thank you for your comment. The requested revision has been incorporated into the general permit; please see Part II A 2 c (9).</p> <p>In addition, a definition of infeasible has been added to the general permit regulation; please see 9VAC25-880-1.</p>
<p>Phil Riggan, Volunteer</p>	<p>Protect our rivers and waterways.</p>	<p>The Board thanks you for your comment.</p>
<p>Blake Puhak; Linda Jennings, Midlothian</p>	<p>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-instated into the pending construction general permits.</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>June Whitehurst, City of Norfolk Stormwater Management</p>	<p>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</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>

	burdensome, therefore settling both the permittee and municipality for non-compliance.	
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 Quality Coordinator, City of Chesapeake Public Works Department	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.
June Whitehurst, City of Norfolk	4VAC50-60-1160. Termination of state permit coverage has	Thank you for your comment. Section 60 of the general permit regulation has been

<p>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>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>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</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</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>Coordinator, City of Chesapeake Public Works Department</p>	<p>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>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</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,</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>

Coordinator, City of Chesapeake Public Works Department	2014?	
June Whitehurst, City of Norfolk Stormwater Management	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?	The Board thanks you for your comment. However, contractor training and certification is outside of the scope of this regulatory action.  The Board will, however, take into consideration your comments during future regulatory actions.
Diana Parker, Falls of the James Group Sierra Club	I object to neighbors and concerned environmental activists being denied access to a site wherein the plan for protection from stormwater damage should be posted with all environmental concerns relevant to that site.	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.
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	Thank you for your comment. The Board has

	availability of SWPPPs.	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 having responsibilities under the SWPPP <u>or concerned members of the public whenever they are on the construction site. The documents should also be posted and indexed online.</u>	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.
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	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>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."</p>	
<p>Karen Moran, Annandale, Virginia</p>	<p>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.</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>Julie Locascio, Washington, DC</p>	<p>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.</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>Robert England, Winchester, VA</p>	<p>I am in favor of continuing the Stormwater Pollution Prevention Plan (SWPPP). It is essential to protecting our natural resources.</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>John Langknecht, Manassas, VA; John M. Langknecht, Manassas</p>	<p>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, rivers and bays.</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>Ned Stone,</p>	<p>Please maintain the provision in</p>	<p>Thank you for your comment. The Board has</p>

<p>Alexandria, VA</p>	<p>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.</p>	<p>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>Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams</p>	<p>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.</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>Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams</p>	<p>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.</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. 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>Jeff Kelble, Shenandoah Riverkeeper; Douglas Williams</p>	<p>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</p>	<p>Thank you for your comment. Please see the Board's response above.</p>

	duty to ensure that activities will not be covered under the general permit unless water quality standards are met.	
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 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."	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 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	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.

	access to SWPPPs during the permit period deprives citizens of a legal right to be involved in the permitting and enforcement processes.	
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 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!	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.
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	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>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.</p>	
<p>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</p>	<p>Please reinstate the public's right to access construction Stormwater runoff management plans (SWPPPs).</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>Mark B. Taylor, County Attorney, County of Accomack</p>	<p>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 potently 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" should be defined east of the Chesapeake Bay as a rainfall</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; 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>

	<p>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</p>	<p>Accomack County is concerned by the potential confusion and/or inconsistency caused by having</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</p>

<p>Accomack</p>	<p>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>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, Environmental Quality Coordinator, City of Chesapeake Public Works Department</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 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.</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>Christine H. Porter, Director for Regional Environmental Coordination, Department of the Navy</p>	<p>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.</p>	<p>Thank you for your comment. Part I B 4 of the general permit regulation has been revised for added clarity.</p> <p>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.</p>
<p>Christine H. Porter, Director for Regional Environmental Coordination, Department of the Navy</p>	<p>Section I.E.c: Reads: “Waters used to wash vehicles where detergents <del>have not been</del> <del>are not used</del> <del>and</del> <u>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</p>	<p>Thank you for your comment. Part I E 3 of the general permit has been revised for added clarity.</p>

	vehicles wash water” be described in the regulations.	
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 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	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>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>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,</p>	<p>Citizen review is a critical tool in</p>	<p>Thank you for your comment. The Board has</p>

<p>Upper James Riverkeeper, James River Association</p>	<p>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 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.</p>	<p>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>David James, Member James River Association and Nansemond River Preservation Alliance</p>	<p>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.</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>Alan R. Wood, P.E., Director, Water &amp; Ecological Resource Services, American Electric Power</p>	<p>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.</p>	<p>The Board thanks you for your support.</p>
<p>Alan R. Wood, P.E., Director, Water &amp; Ecological Resource Services, American Electric Power</p>	<p>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.</p>	<p>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.</p>

<p>Alan R. Wood, P.E., Director, Water &amp; Ecological Resource Services, American Electric Power</p>	<p>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.</p>	<p>The Board acknowledges your concerns. However, the Board believes that additional regulatory amendments are unwarranted at this time.</p>
<p>Alan R. Wood, P.E., Director, Water &amp; Ecological Resource Services, American Electric Power</p>	<p>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.</p>	<p>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.</p>
<p>David S. Nunnally, Senior Environmental Planner, Caroline County</p>	<p>1100 – Definitions: Recommend that the threshold for permit coverage include both area <u>and</u> duration (ex/ more than “X” days). This could encourage short duration and quick stabilization, both of which provide environmental benefits over long, drawn out activities.</p>	<p>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.</p>
<p>David S. Nunnally, Senior Environmental Planner, Caroline County</p>	<p>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&amp;S program. It is also less stringent and would be less effective than the stabilization requirement in our local E&amp;S program currently.</p>	<p>The Board acknowledges your concerns. However, the Board believes that additional regulatory revisions are unwarranted at this time.</p>
<p>David S. Nunnally, Senior Environmental Planner, Caroline County</p>	<p>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&amp;S Regs.).</p>	<p>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.</p>

		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 Planner, Caroline County	Inspections: “Winter conditions” is a questionable provision. In Virginia, rarely do temperatures stay below freezing all day, for 30 days. The regulation would be much more effective if it encouraged and incentivized site controls that reduced the likelihood	Thank you for your comment. Part II F 2 b of the general permit has been revised for added clarity.

	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	Section II F 3 a (4) (b): Please clarify that soil stockpiles do not necessarily require separate	Thank you for your comment. Part II F 3 a (4) (b) of the general permit has been revised for added clarity.

<p>Planner, Caroline County</p>	<p>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.</p>	
<p>David S. Nunnally, Senior Environmental Planner, Caroline County</p>	<p>Section II F 3 a (7): Evidence that the erosion plan is not working should include "repeated failures" of a control and location.</p>	<p>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.</p>
<p>David S. Nunnally, Senior Environmental Planner, Caroline County</p>	<p>Section II F 3 a (7) (a): Recommend deleting "concentrated" from (7) (a). All runoff must be treated prior to discharge, not just concentrated flows.</p>	<p>Thank you for your comment. Part II F 3 a (7) (a) of the general permit has been revised for added clarity.</p>
<p>Cindy Schulz, Field Supervisor, Virginia Ecological Services, U.S. Fish and Wildlife Service; Susan Lingenfelser, Fish and Wildlife Service; Katie Temple, Virginia Field Office, U.S. Fish and Wildlife Service</p>	<p>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</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. 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>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.</p>	
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>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.</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, 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>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,</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>in fact, achieve final stabilization within the spring [good season for planning 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>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</p>	<p>Triggering Rainfall Event: We recommend changing the triggering rainfall event from the</p>	<p>Thank you for your comment. For this general permit a "measurable storm event" is defined as a rainfall event producing 0.25</p>

<p>Administrator, City of Virginia Beach</p>	<p>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>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>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>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.</p>	<p>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.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>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.</p>	<p>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.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>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.</p>	<p>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.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>Section II A 2 b (4) does not form a complete thought. Additional language is needed after II A 2 (6) b (4) (i).</p>	<p>Thank you for your comment. Part II A 2 of the general permit has been reorganized and revised for added clarity.</p>
<p>William J.</p>	<p>Section II A 2 d (6): We request</p>	<p>Thank you for your comment. Due to the</p>

<p>Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>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 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></p>	<p>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.</p>
<p>William J. Johnston, P.E., VPDES Permit Administrator, City of Virginia Beach</p>	<p>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.</p>	<p>The Board acknowledges your request and provided an additional public comment period from October 18, 2013 through November 20, 2013.</p>
<p>Adam Snyder</p>	<p>Please, reinstate/continue the requirement for SWPPP.</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution</p>

		Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
<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 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.]</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,</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</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.]</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>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>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>4VAC50-60-1100: Add the following definition of "Normal Working Days": "<u>Normal Working Days</u>" means Monday through Friday, excluding state and federal 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>Mike Rolband, P.E., P.W.S., P.W.D., President, Wetland Studies</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>and Solutions, Inc.;</p> <p>Eric Martin, Director of Public Works, City of Chesapeake;</p> <p>Barbara Brumbaugh, Environmental Quality Coordinator, City of Chesapeake Public Works Department;</p> <p>Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia;</p> <p>Barb Preddy, Home Builders Association of Virginia;</p> <p>Philip F. Abraham, Director and General Counsel, The Vectre Corporation – The Virginia Association for Commercial Real Estate (VACRE)</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,</p>	<p>As an integral part of the Permit, the SWPPP must be made publicly</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general</p>

<p>Virginia Senior Attorney, Chesapeake Bay Foundation</p>	<p>available. This is so because the Permit serves as a 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>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 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</p>	<p>Thank you for your comment. However, the Board believes that the proposed amendment is unwarranted at this time.</p>

	<p>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>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,</p>	<p>4VAC50-60-1170, Section I B 3 A (3) (b) - Inspection Schedules: The</p>	<p>Thank you for your comment. Part II F 2 b of the general permit has been revised for</p>

<p>Virginia Senior Attorney, Chesapeake Bay Foundation</p>	<p>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>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>
<p>Jack E. Snell, PhD</p>	<p>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</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>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.</p>	
<p>Patricia Padgett, Edgewater Resident, Chesterfield County</p>	<p>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.</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>John Bryant</p>	<p>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.</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>Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood</p>	<p>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</p>	<p>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.</p>

Development Services Engineering Division	indentation formatting were used in the upcoming publication of this regulation.	
Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division	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 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.	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.
Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division	It is recommended that small and large construction sites be defined in the regulation as they are defined in the Fact Sheet.	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.
Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division	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.	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.
Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division	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.	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.
Martin O. Sullivan, PE, Civil Engineer, City of Charlottesville, Neighborhood Development Services Engineering Division	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.	Please note that the term "qualified personnel" has been previously defined in the VSMP regulation, 9VAC25-870-10, and has been incorporated by reference.
Pamela F. Faggert,	As the regulated entity subject to	The Board acknowledges your concern and

<p>Vice President and Chief Environmental Officer, Dominion; Dennis Slade, Environmental Consultant, Dominion – Environmental Policy</p>	<p>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>will take into consideration your comment during future regulatory actions.</p>
<p>Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion; Dennis Slade, Environmental Consultant, Dominion – Environmental Policy</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 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>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) (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: "<u>Controls stormwater discharges, including both peak flow rates and total stormwater volume, to minimize 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;</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</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</p>

<p>Dennis Slade, Environmental Consultant, Dominion – Environmental Policy</p>	<p>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 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.</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>Pamela F. Faggert, Vice President and Chief Environmental Officer, Dominion; Dennis Slade, Environmental Consultant,</p>	<p>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,</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>Dominion – Environmental Policy</p>	<p>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.</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>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.</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>Patricia VonOhlen, Newport News</p>	<p>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.</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>Paul A. Shirley, P.E., Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E.,</p>	<p>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</p>	<p>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.</p>

<p>Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax</p>	<p>stormwater management plan approval from the VSMP Authority would not be required. Is this only referring to State and Federal projects?</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 Development and Compliance Division, County of Fairfax</p>	<p>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.</p>	<p>Thank you for your comment. Parts I C and I D of the general permit have been revised for added clarity.</p> <p>Please note that other VPDES permits include individual and general permits issued under the Virginia Pollutant Discharge Elimination System regulation, 9VAC25-31.</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 Development and Compliance Division, County of Fairfax</p>	<p>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?</p>	<p>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.</p>
<p>Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce</p>	<p>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</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>McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax</p>	<p>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:</p> <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</li> </ul>	
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	<p>inherent these violations, which could be cause for action against the locality for not properly administering the program.</p> <p>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.</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 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 Development and Compliance Division, County of Fairfax</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>
<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</p>	<p>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</p>	<p>Thank you for your comment. Section 50 of the general permit regulation has been revised for added clarity.</p>

<p>Branch, Code Development and Compliance Division, County of Fairfax</p>	<p>stated elsewhere in 4VAC50-60-1150, it could be misunderstood that the Operator must make a separate submission to the VSMP authority.</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 Development and Compliance Division, County of Fairfax</p>	<p>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...?"</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.</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 Development and Compliance Division, County of Fairfax</p>	<p>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.</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.</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>4VAC50-60-1160 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</p>	<p>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.</p>

<p>Development and Compliance Division, County of Fairfax</p>	<p>functioning effectively and final stabilization has been achieved is made by only the Operator, the VSMP Authority, or jointly.</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 Development and Compliance Division, County of Fairfax</p>	<p>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?</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.</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 Development and Compliance Division, County of Fairfax</p>	<p>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.</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.</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 Development and Compliance Division, County of Fairfax</p>	<p>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.)</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.</p>
<p>Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce</p>	<p>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</p>	<p>Thank you for your comment. Section 60 of the general permit regulation has been revised for added clarity.</p>

<p>McGranahan, P.E., Engineer, Site Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax</p>	<p>of the construction activity and termination of the 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 Development and Compliance Division, County of Fairfax</p>	<p>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)?</p>	<p>Thank you for your comment. Please note that this proposed language has been removed from the 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 Development and Compliance Division, County of Fairfax</p>	<p>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.</p>	<p>Thank you for your comment. An alternative general permit would be one that also authorizes stormwater discharges from construction activities.</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 Development and Compliance Division, County of Fairfax</p>	<p>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?</p>	<p>Thank you for your comment. Your interpretation is correct.</p>
<p>Paul A. Shirley,</p>	<p>4VAC50-60-1170 I D: "Prohibition</p>	<p>Thank you for your comment. Please note</p>

<p>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>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 discharge could be non-stormwater in addition to the non-stormwater discharges authorized under I E.</p>	<p>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.</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 Development and Compliance Division, County of Fairfax</p>	<p>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.</p>	<p>The Board acknowledges your comment.</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 Development and Compliance Division, County of Fairfax</p>	<p>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.</p>	<p>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.</p>
<p>Paul A. Shirley, P.E. , Director, Code Development and Compliance Division, County of Fairfax; Bruce McGranahan, P.E., Engineer, Site</p>	<p>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</p>	<p>Thank you for our comment. Part II G 2 of the general permit has been revised as recommended.</p>

<p>Code Research and Development Branch, Code Development and Compliance Division, County of Fairfax</p>	<p>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.</p>	
<p>J.C. McCord, N. Chesterfield;</p>	<p>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.</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>Richard Jacobs, Culpeper Soil and Water Conservation District</p>	<p>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 under an in lieu agreement with a template of stormwater management practices.</p>	<p>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.</p>
<p>Richard Jacobs, Culpeper Soil and Water Conservation District</p>	<p>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.</p>	<p>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.</p>
<p>Richard Jacobs, Culpeper Soil and Water Conservation District</p>	<p>4VAC50-60-1150 D: I thought the registration statements will be submitted electronically for the VSMP authority and state review.</p>	<p>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.</p>
<p>Richard Jacobs, Culpeper Soil and Water Conservation District</p>	<p>4VAC50-60-1150 D: When is permit coverage issued? Does it occur upon registration or with VSMP authority permit issuance?</p>	<p>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.</p>
<p>Richard Jacobs,</p>	<p>4VAC50-60-1160 B 5 a: Is it</p>	<p>The Board acknowledges your concern. It is</p>

Culpeper Soil and Water Conservation District	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 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?	<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>In addition, local VSMP authorities are responsible for adopting and enforcing a VSMP that is consistent with the construction general permit.</p>
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?	<p>Thank you for your comment. The State Water Control Board issues coverage under the general permit.</p> <p>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.</p>
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 shall adequately address the following:"	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)	Thank you for your comment. As currently written, Part II A 2 c of the general permit provides consistency with 9VAC25-870-54 F

Conservation District	through (i)? Could the minimum standards be incorporated by reference?	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	Thank you for your comment. Part II F of the general permit has been revised for added clarity.

	used.	
William Gayle, Bedford County, Sam Jones; Celeste Cooper; Melissa Damiano; Ann F. Schatzle; Anne Donovan Larson, Member Catoctin Creek Scenic River Advisory Board	The Soil & Water Conservation Board should be encouraged to maintain its earlier 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".	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.
Peter Solomon, Richmond	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.	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.
Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation	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.	The Board acknowledges your concern. However, the Board believes that this proposal is outside the scope of this regulatory action.

<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 Department of Transportation</p>	<p>4VAC50-60-1100. Definitions: "Commencement of construction" Lines 18-20 – Recommend changing verbiage for clarification and consistency to read: "<u>Commencement of construction or 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>".</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>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>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.</p>	<p>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.</p>
<p>Roy T. Mills, State Stormwater Program Administrator,</p>	<p>4VAC50-60-1130 Section A 1 a: Change the word "board" to "department" for clarification and consistency.</p>	<p>Thank you for your comment. The proposed recommendation has been incorporated into the general permit regulation.</p>

Virginia Department of Transportation		
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. 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.	The Board acknowledges your concern. However, the Board believes that additional regulatory amendments are unwarranted at this time.

<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</p>	<p>4VAC50-60-1150 – Section 3 b: 30 days is not sufficient time to update SWPPPs for permitted activities,</p>	<p>Thank you for your comment. Section 50 of the general permit regulation has been revised to provide existing construction</p>

<p>Administrator, Virginia Department of Transportation</p>	<p>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, 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>	<p>activity operators with 60 days to update their SWPPPs to comply with the terms of the 2014 general permit.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1150 – Section A 46: Recommend changing verbiage for consistency to read "...statements after <u>commencement of land disturbing activities.</u>"</p>	<p>Thank you for our comment. 9VAC25-880-50 A 4 of the general permit regulation has been revised for added clarity.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1150 – Section B 5: For consistency change the words "receiving water(s)" to "<u>surface water(s).</u>"</p>	<p>The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia</p>	<p>4VAC50-60-1150 – Section B 6: For clarification recommend changing verbiage to read "...operator of the <u>MS4.</u>"</p>	<p>Thank you for your comment. 9VAC25-880-50 B 6 of the general permit regulation has been revised for added clarity.</p>

Department of Transportation		
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 "state permit's expiration date <u>or date of termination of state permit coverage, whichever occurs first</u> , the operator..."	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,	4VAC50-60-1170 – Section I A 2 c: Recommend revising verbiage to read "...the registration statement <u>or is located within the land</u>	The Board acknowledges your concern. However, the Board believes that additional regulatory amendments are unwarranted at this time.

Virginia Department of Transportation	<u>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.	
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 "construction <u>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 "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 3 b (2): For clarification, recommend revising verbiage to read "manufacturer's recommendations <u>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.
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	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.

	discharge of a pollutant (see 4VAC50-60-10).	
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 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 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 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 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	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	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.

Department of Transportation	permit coverage under the 2009 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 <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	4VAC50-60-1170 – Section II A 2 d (5) c: For consistency, recommend	Thank you for your comment. Part II A 4 e (3) of the general permit has been revised for

<p>Program Administrator, Virginia Department of Transportation</p>	<p>changing the verbiage to read "...with stormwater; <u>or (iii) other</u> similar effective..."</p>	<p>added clarity.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>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.</p>	<p>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.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>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</u> and shall not be applied during <u>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).</p>	<p>Thank you for your comment. The proposed revision has been incorporated into Part II A 5 a (2) of the general permit.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1170 – Section II B 5 – Line 1227: For clarification, change Section reference from III K to <u>III K 2</u>.</p>	<p>The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1170 – Section II B 5 b: Grammatical correction – Change word "where" to "<u>were</u>".</p>	<p>Thank you for your comment. The proposed revision has been incorporated into the general permit.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>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</p>	<p>Thank you for your comment. This requirement has been deleted from the general permit.</p>

	<p>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 address those conditions.</p>	
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>4VAC50-60-1170 – Section II D 2: Would appear that "discharges" is referring to "stormwater discharges". If so, for clarification, add the word "stormwater" prior to the word "discharges" as discharge without qualification refers to the discharge of a pollutant (see 4VAC50-60-10).</p>	<p>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.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>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.</p>	<p>The Board acknowledges your comment. However, the Board believes that additional regulatory amendments are unwarranted at this time.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>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..."</p>	<p>Thank you for your comment. Part II F 2 c of the general permit has been revised for added clarity.</p>
<p>Roy T. Mills, State Stormwater Program Administrator, Virginia Department of Transportation</p>	<p>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,</p>	<p>Thank you for your comment. Part II F 3 of the general permit has been revised for added clarity.</p>

	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).	
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</u> maintenance needs, and <u>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.
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	4VAC50-60-1170 – Section II F 4 e: For clarification recommend changing the verbiage to read	Thank you for your comment. The proposed revision has been incorporated into Part II F 4 e of the general permit.

Administrator, Virginia Department of Transportation	"...inadequate <u>or inappropriate</u> for a ..."	
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</u> (e.g., VSMP authority, VESCP authority), 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 Commonwealth, Richmond	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 (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	Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution

	<p>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."</p>	<p>Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.</p>
<p>Louie Schweickert, Howardsville</p>	<p>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".</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>Rick McCormick, N Chesterfield; Pam Lepper, Chesterfield</p>	<p>Please encourage (strongly urge) the Soil &amp; 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".</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>Michael L. Toalson, Chief Executive Office, Home Builders Association of Virginia; Barb Preddy, Home Builders Association of Virginia</p>	<p>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&amp;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</p>	<p>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>

	<p>corresponding improvements to water quality.</p>	
<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</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>inspections, but will also encourage preventative inspections before problems develop with a rainfall event.</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 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>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>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</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general permit to make Stormwater Pollution</p>

	Pollution Prevention Plans from construction sites upon request.	Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
Robin C. Ruth, Richmond	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 & 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."	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.
Eileen Kinahan	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.	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. Ernest Skinner, Richmond	As our water is compromised more and more by both natural and human events, it is more important than ever to safeguard these 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	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.

	requirement and reinstate it into the pending construction 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	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>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.</p>	
<p>Gem Bingol, Loudoun &amp; Clarke Field Officer, Piedmont Environmental Council</p>	<p>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 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 me 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>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>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</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</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>Estate (VACRE)</p>	<p>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 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.</p>	
<p>Shannon Brennan, Lynchburg</p>	<p>I am shocked to learn that the Virginia Soil &amp; 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</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>

	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.	
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.

<p>Erik Allen, Watershed Consulting, PLLC, Richmond</p>	<p>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.</p>	<p>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.</p>
<p>Lance Courtright, Woodstock</p>	<p>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.</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>Cindy Smith, PhD, K-12 Education Director, George Mason University</p>	<p>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.</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>Kathryn Kobe, Arlington</p>	<p>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.</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>Robert Benson, PhD, Fort Valley</p>	<p>I am writing to ask you to reinstitute the public availability of</p>	<p>Thank you for your comment. The Board has included a provision in the proposed general</p>

	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.	permit to make Stormwater Pollution Prevention Plans (SWPPPs) available for public review; please see Part II D 3 of the general permit.
<b>Public Comment Period: October 18, 2013 – November 20, 2013</b>		
<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	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.”

	<p>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 or lower wages.</p>	
<p>Ms. Pamela C. Dodds, Montrose, WV</p>	<p>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.</p>	<p>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.</p>
<p>Ms. Pamela C. Dodds, Montrose, WV</p>	<p>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</p>	<p>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.</p>

	<p>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.</p>	
<p>Mr. Bob Kerr, Virginia Beach</p>	<p>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&amp;S approvals required before application for the VSMP, and the review of the VSMP application is very straightforward.</p>	<p>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.</p> <p>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.</p>
<p>Ms. Carolyn Howard, Blacksburg</p>	<p>9VAC25-880-40. Please provide guidance as to what the following means "...permit compliance and enforcement dependent upon conditions as established as part of the board approval." Does this mean enforcement authority may vary from locality to locality?</p>	<p>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 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.</p> <p>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.</p>
<p>Ms. Carolyn Howard, Blacksburg</p>	<p>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</p>	<p>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.</p>

	statement for use by applications and local governments – please confirm.	
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.

<p>Mr. Eric Martin, Chesapeake</p>	<p>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.</p>	<p>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.</p>
<p>Mr. Eric Martin, Chesapeake</p>	<p>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.</p>	<p>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.</p>
<p>Mr. Eric Martin, Chesapeake</p>	<p>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.</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>Mr. Eric Martin, Chesapeake</p>	<p>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.</p>	<p>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.</p>
<p>Mr. Eric Martin, Chesapeake</p>	<p>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</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>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.</p>	
<p>Mr. Eric Martin, Chesapeake</p>	<p>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.</p>	<p>The Board thanks you for your support.</p>
<p>Mr. Eric Martin, Chesapeake</p>	<p>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 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>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 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</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,</p>

	<p>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>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 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”.</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>Mr. Randy Bartlett, Richmond</p>	<p>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</p>	<p>The term “business day” has been defined as Monday through Friday excluding state holidays; see 9VAC25-880-1.</p>

<p>Mr. Randy Bartlett, Richmond</p>	<p>holidays.” 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)).</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. Joseph M. DuRant, Newport News</p>	<p>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.</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. Joseph M. DuRant, Newport News</p>	<p>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</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>significant increase this late in the game would be unworkable and unwarranted for the purposes of environmental improvement.</p>	
<p>Ms. June Whitehurst, Norfolk</p>	<p>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 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>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>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</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>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>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</p>	<p>Thank you for your comment. The Board has chosen not to move forward with the</p>

	<p>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 "stormwater discharge"?</p>	<p>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 "one-hundredth of an acre". Accuracy to this degree is not warranted nor supported. VDOT recommends the previous proposal to the nearest "one-tenth of an acre" 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</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</p>

	<p>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>objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>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.</p>	<p>Thank you for your comment. The proposed revision has been incorporated into Section 60 of the general permit regulation.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>Under subsection B.6.c of this section, VDOT recommends the language be clarified to state the "<i>...number of <u>construction activity acres accounted for in the regional facility...</u></i>"</p>	<p>Thank you for your comment. The language included in 9VAC25-880-60 B 6 c has been revised for clarity.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>Under Part I.A.1 of the General Permit, language should be added to state that coverage lasts until "<i>expiration date <u>or date of termination of Construction Permit coverage, whichever comes first</u></i>".</p>	<p>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</p>

		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 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 G 1 of the general permit accordingly.
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	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

	<p>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.</p>	<p>with the terms of the 2014 general permit.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>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>"</p>	<p>Thank you for your comment. The proposed revision has been incorporated into Part II A 4 c of the general permit.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>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>".</p>	<p>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.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>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.</p>	<p>Thank you for your comment. The proposed revision has been incorporated into Part II A 5 a of the general permit.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>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 Department of Conservation and Recreation approved Nutrient Management Plan.</i>"</p>	<p>Thank you for your comment. The proposed revision has been incorporated into Part II A 5 a (2) of the general permit.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>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</p>	<p>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.</p>

	<p>construction activity. VDOT recommends this requirement be revised to require the date and the initials of the <i>qualified</i> person approving any amendments, modifications or updates to the SWPPP.</p>	
<p>Mr. Roy T. Mills, Richmond</p>	<p>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.</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>Mr. Roy T. Mills, Richmond</p>	<p>Under Part II.F.3.a.(2) of the General Permit, language should be added to clarify the use of the term "<i>discharge</i>". 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.</p>	<p>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.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>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 storage volume or sediment basins that allow the discharge of stormwater from below the surface of the wet storage portion of the trap basin</i>"</p>	<p>Thank you for your comment. The proposed revision has been incorporated into Part II F 3 a (7) (f) of the general permit.</p>
<p>Mr. Roy T. Mills, Richmond</p>	<p>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 storage volume or sediment traps that allow the discharge of stormwater from below the surface</i></p>	<p>Thank you for your comment. The proposed revision has been incorporated into Part II F 3 a (7) (g) of the general permit.</p>

	<i>of the wet storage portion of the trap, and"</i>	
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 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.	Thank you for your comment. This amendment has been carried forward in the proposed final regulation for consideration by the State Water Control Board.
Ms. Margaret L. (Peggy) Sanner, Richmond	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.	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.

	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.	
Ms. Margaret L. (Peggy) Sanner, Richmond	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.	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. Margaret L. (Peggy) Sanner, Richmond	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.	Thank you for your comment. Please note that Part II F 2 b of the general permit has been revised for added clarity.
Ms. Margaret L. (Peggy) Sanner, Richmond	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.	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.
Ms. Margaret L. (Peggy) Sanner, Richmond	The Revised Draft requires the operator to minimize the discharge of pollutants such 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	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.

	<p>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.</p>	
<p>Ms. Margaret L. (Peggy) Sanner, Richmond</p>	<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>	<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.</p>
<p>Ms. Margaret L. (Peggy) Sanner, Richmond</p>	<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</p>	<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.</p>

	<p>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>	
<p>Ms. Pamela F. Faggert, Glen Allen</p>	<p>9VAC25-880. General Permit, Part II.A.2.c.(2) (Erosion Control)</p> <p>To align with the revision being proposed in 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 channel and streambank erosion in the immediate vicinity of discharge points;</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>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>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</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>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 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</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>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>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</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>

	<p>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 larger land disturbing activities in their localities.</p>	
<p>Mr. Michael L. Toalson, Richmond</p>	<p>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&amp;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.</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>Mr. Michael L. Toalson, Richmond</p>	<p>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.</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. Michael S. Rolband, Gainesville</p>	<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</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>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 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</p>	<p>Thank you for your comment. All operator inspection frequencies specified in the general permit have been clarified in terms of</p>

	<p>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>“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>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>Please define “normal working days” as Monday through Friday except for state holidays.</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)</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</p>

	<p>– 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 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>objections to the 2014 general permit. No additional changes to the general permit regulation have been proposed at this time.</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 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>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 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</p>

		<p>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,</p>	<p>For Tier II waters, DEQ should</p>	<p>Thank you for your comment. Please see the</p>

<p>Thomas M. Gremillion, Matthew Goetz, George University Law Center, Washington, DC</p>	<p>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>response above.</p>
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**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.*

The existing title of Chapter 880 (i.e., General Permit for Discharges of Stormwater from Construction Activities) has been updated to "General VPDES Permit for Discharges of Stormwater from Construction Activities;" as of July 1, 2014, the CGP will be a VPDES permit. In addition, all references to general permit "Sections" have been updated to general permit "Parts;" the general permit is no longer a section of the VSMP Regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
1		Definitions	<p>Added definitions for "business day", "construction site", "immediately", "impaired waters", "infeasible", "initiation of stabilization activities", "measurable storm event", and "stabilized" to clarify these terms in the regulation.</p> <p>Modified the definition of "commencement of construction" (now "commencement of land disturbance") for consistency with the regulation.</p> <p>Modified the definition of "final stabilization" in response to EPA comments.</p> <p>Deleted the definition of "minimize" since it has been previously defined in the VSMP Regulation (9VAC25-870).</p>
10		Purpose	<p>Clarified that the general permit regulation governs stormwater discharges from regulated construction activities.</p> <p>Clarified that the general permit regulation only covers point source discharges to surface waters.</p>
15		Applicability of incorporated references based on the dates that they became	<p>Adjusted the date for EPA 40 CFR references to July 1, 2013 to reflect the current CFR publication date.</p>

		effective	
20		Effective date of general permit	Updated the title of this section for consistency with the VSMP Regulation (9VAC25-870). Changed the effective date to July 1, 2014 and the expiration date to June 30, 2009 to correspond to the new general permit dates.
30		Authorization to discharge	Reformatted this section to match the structure of other general permits being issued by the Board at this time.
30 A 1	30 A 4	Erosion and sediment control plans	Relocated this section for clarity purposes. Expanded this section to indicate that an operator must also obtain approval of a stormwater management plan or prepare a plan in accordance with department-approved annual standards and specifications in accordance with the VSMP Regulation (9VAC25-870).
30 A 2	30 E	Commingled discharges	Relocated this section and updated the general permit regulation language for clarity purposes.
30 A 3	30 B 5	Discharges to waters with applicable TMDLs	Relocated this section and updated the general permit regulation language to match the structure of other general permits being issued by the Board at this time.
30 A 4		Discharges to impaired waters	Deleted this subsection to match the structure of other general permits being issued by the Board at this time.
30 B		Discharges not eligible for coverage under this general permit	Reformatted this section to match the structure of other general permits being issued by the Board at this time. Added two reasons why an operator's discharge would not be eligible for coverage under the general 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.
30 C		Support Activities	Updated this section for clarity and consistency with EPA's final 2012 CGP.
30 E	30 G	Compliance with any other applicable ordinance or regulation	Relocated this section and updated the general permit regulation language for clarity purposes.
30 F		Exceptions to general permit technical criteria	Deleted this subsection since it is no longer necessary. The existing general permit technical criteria have been incorporated into Part II C of the VSMP Regulation.
	30 F	None	Authorized nonstormwater discharges. Added language to authorize a number of nonstormwater discharges for consistency with EPA's final 2012 CGP.
	30 H	None	Continuation of permit coverage. Added

			language to allow for administrative continuance of coverage under the expiring general permit until the new general permit is issued by the Board, and general permit coverage is either granted or denied. To be eligible, the operator must submit a timely registration statement and be in compliance with the terms of the expiring general permit. This language is being added to all general permits as they are reissued so operators can discharge legally if the general permit reissuance process is delayed.
40		Virginia erosion and sediment control programs	Updated this title of this section to "Delegation of authorities to state and local programs." Added language to allow board-approved VSMP authorities to administer requirements of this general permit in accordance with State Water Control Law. Deleted the existing general permit regulation language since VSMP authorities will be adopting programs consistent with the general permit regulation.
50		State permit application (registration statement)	Updated the title of this section to "General permit application (registration statement)." Reformatted the general permit regulation language to match the structure of other general permits being issued by the Board at this time.
50 A 1		New construction activities	Added language regarding construction activities in response to a public emergency for consistency with EPA's final 2012 CGP. Operators of these activities are authorized to discharge under this general permit provided that they submit a registration statement no later than 30 days after the commencement of land disturbance and provide documentation to substantiate the public emergency with the registration statement. Added language regarding construction activities associated with single-family residences separately built, disturbing less than once acre and part of a larger common plan of development. Operators of these activities are authorized to discharge under this general permit and are not required to submit a registration statement (or permit fee) provided that the larger common plan of development provides permanent stormwater management facilities encompassing the single family residence. The operator must comply with all other requirements of the general permit. This provision has been added to reduce the administrative burden on

			the VSMP authorities including the department.
50 A 2	50 A 3	Operator changes	Relocated and updated the language of this subsection for clarity purposes.
50 A 3	50 A 2	Existing construction activities	Relocated this subsection for clarity purposes. Updated the deadline for reapplication from June 1, 2009 to June 1, 2014. Deleted the permit fee waiver and extended the SWPPP update deadline from 30 days to 60 days. This general permit includes a substantial number of new requirements and additional time is necessary in order to complete the necessary SWPPP updates. Added language regarding existing construction activities associated with single-family residences separately built, disturbing less than once acre and part of a larger common plan of development. Operators of these activities are authorized to discharge under this general permit and are not required to submit a registration statement (or permit fee) provided that the larger common plan of development provides permanent stormwater management facilities encompassing the single family residence, and the operator updates his or her SWPPP no later than 60 days after the effective date of this general permit. The operator must comply with all other requirements of the general permit. This provision has been added to reduce the administrative burden on the VSMP authorities including the department.
50 A 4		Effective date of state permit coverage	Deleted this subsection from the general permit regulation. State Water Control Law has provided VSMP authorities, including the department, 60 days to act on a complete application. The VSMP Regulation shortened this time frame to 30 days for state projects.
50 A 5	50 A 4	Late notifications	Relocated and updated the language of this subsection for clarity purposes.
50 B		Registration statement contents	Added a requirement for the construction activity operator to provide a contact name. Updated the requirement regarding the location of the construction activity and all off-site support activities. The operator must provide the latitude and longitude of these activities in decimal degrees and the physical addresses if available. Latitudes and longitudes are necessary for accurate reporting purposes. Deleted the requirement for operators to note if the construction activity receiving water(s)

			<p>have been identified as impaired or have an established applicable TMDL wasteload allocation. This information is readily obtainable by department staff and will be communicated to the operator via the general permit coverage letter.</p> <p>Deleted the requirement for operators to note if nutrient offsets are intended to be acquired in accordance with State Water Control Law. Post June 30, 2014, this information will be determined through the stormwater management plan approval process.</p>
50 D	50 A, B	Where to submit registration statements	Incorporated this language into subsections A and B of this section for clarity purposes.
50 E		Virginia FOIA requests	Deleted this language from the general permit regulation since it is unnecessary.
60		Termination of state permit coverage	Updated the title of this section to "Termination of general permit coverage" for clarity purposes.
60 A		Notice of termination requirements	<p>Updated the language of this subsection for clarity purposes.</p> <p>Added language indicating 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 in accordance with the VSMP Regulation.</p>
60 B		Notice of termination contents	<p>Added a requirement for the construction activity operator to provide a contact name.</p> <p>Updated the requirement regarding the location of the construction activity. The operator must provide the latitude and longitude of the activity in decimal degrees and the physical address if available. Latitudes and longitudes are necessary for accurate reporting purposes.</p> <p>Updated the permanent control measure(s) reporting requirements for clarity and content. When applicable, the operator must provide the latitude and longitude of the control measure(s) in decimal degrees and the physical address(es) if available. The operator must also now provide the number of impervious acres treated by control measure(s) in addition to the total acreage treated.</p> <p>Updated the regional stormwater management plan reporting requirements for clarity and content. When applicable, the operator must provide the latitude and longitude of the regional stormwater management facility in decimal degrees and the physical address if available. The</p>

			operator must also now provide the number impervious site acres treated by a regional stormwater management facility in addition to the total site acreage treated. Updated the nutrient offsets reporting requirements for clarity and content. When applicable, the operator must provide the name of the nonpoint nutrient credit generating entity and the number of perpetual nutrient credits acquired.
60 D	60 A	Where to submit notices of termination	Incorporated this language into subsection A of this section for clarity purposes.
60 E	60 D	General permit termination by the department	Updated this subsection to indicate that general permit coverage may be terminated by the board in accordance with the VSMP Regulation.
70		General permit	Updated the general permit regulation for clarity. Updated the effective date to July 1, 2014 and the expiration date to June 30, 2019. Updated the discharge authorization to indicate that operators of construction activities are authorized to discharge to "surface" waters instead of "state" waters within the boundaries of the Commonwealth of Virginia.
70, Section I	70, Part I	Discharge authorization and special conditions	Updated the title to "Part I – Discharge authorization and special conditions." The CGP is no longer a section of the VSMP Regulation. Updated all applicable references to "state" permits to "general" permits for clarity purposes.
70, Section I A	70, Part I A	Coverage under this state permit	Updated the title of this subsection to "Coverage under this general permit" for clarity purposes.
70, Section I A 2	70, Part I A 2	Support Activities	Updated this section for clarity and consistency with EPA's final 2012 CGP.
70, Section I A 3	70, Part I B 6	No discharge of floating solids or visible foam	Relocated this subsection and updated the language for clarity purposes and because this provision is a limitation for obtaining general permit coverage.
70, Section I B 1	70, Part I B 1	Post-construction discharges	Updated this subsection for consistency with Section 70, Part I A 2.
70, Section I B 2	70, Part I B 2	Discharges mixed with nonstormwater	Update this subsection for consistency with Section 70, Part I E.
70, Section I B 3	70, Part I B 3	Discharges covered by another state permit	Update this subsection for clarity purposes.
70, Sections	70, Part I B 4	TMDL limitation & Impaired waters limitation	Combined these two subsections of the regulation for clarity purposes and for

I B 4 & 5			<p>consistency with EPA’s final 2012 CGP. Further clarified that this provision applies to discharges to sediment or nutrient impaired waters or surface waters with an approved TMDL wasteload allocation for sediment or nutrients. Added four new general permit requirements for consistency with EPA’s final 2012 CGP. In addition to developing a SWPPP to minimize the pollutants of concern, an operator must identify the impaired waters, approved TMDLs, and pollutants of concern, when applicable in the SWPPP, apply soil stabilization to denuded areas within 7 days after final grade is reached on any portion of the site, apply nutrients in accordance with manufacturer’s recommendations or an approved nutrient management plan, and conduct more frequent self inspections. Updated the date of the Water Quality Assessment Integrated Report from 2008 to 2012. This is the date of the most recently approved listing.</p>
	70, Part I B 5	None	<p>Exceptional waters limitation. Added four new general permit requirements for stormwater discharges not previously covered under the 2009 CGP for consistency with EPA’s final 2012 CGP and the Commonwealth’s antidegradation policy. An operator must identify the exceptional waters in the SWPPP, apply soil stabilization to denuded areas within 7 days after final grade is reached on any portion of the site, apply nutrients in accordance with manufacturer’s recommendations or an approved nutrient management plan, and conduct more frequent self inspections.</p>
70, Section I C	70, Part I C	Commingled discharges	<p>Updated the general permit regulation for clarity purposes.</p>
70, Section I D 1	70, Part I D	Prohibition of nonstormwater discharges	<p>Added language specifically prohibiting the discharge of (1) wastewater from the washout of concrete; (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, solvents, or detergents used in equipment and vehicle washing. These prohibitions are consistent with EPA’s federal ELGs for the construction and development point source category contained in 40 CFR Part 450.</p>

70, Section I D 2	70, Part I E	Authorized nonstormwater discharges	Relocated this subsection of the general permit regulation for clarity purposes. Updated the general permit regulation for consistency with EPA's final 2012 CGP and for consistency with EPA's federal ELGs, 40 CFR Part 450.
70, Section I E		Releases of hazardous substances or oil in excess of reportable quantities	Deleted this language from the general permit regulation. Section 70, Part II A 4 (i.e., the pollution prevention plan) requires the operator to develop practices and procedures that will be implemented to prevent the discharge of nonstormwater discharges prohibited under Section 70, Part I D. In addition, Section 70, Part III G requires reporting to the department and the local VSMP authority in accordance with the CFR and State Water Control Law.
70, Section I F		Spills	Deleted this language from the general permit regulation. The discharge of hazardous substances or oil is prohibited under Section 70, Part I D.
70, Section I G	70, Part I F	Termination of state permit coverage	Updated the title of this subsection to "Termination of general permit coverage" for clarity purposes. Added language to the general permit regulation consistent with Section 60 A of the general permit regulation.
70, Section I H	70, Part I G	Water quality protection	Updated the general permit regulation for clarity and for consistency with Section 410 of the VSMP Regulation.
70, Section II  70, Section II A 1  70 Section II A 3  70 Section II A 4	70, Part II	Stormwater pollution prevention plan	Updated the title to "Part II – Stormwater pollution prevention plan." The CGP is no longer a section of the VSMP Regulation. Reorganized several subsections into an opening statement and updated the general permit regulation for clarity purposes. Added language allowing operators of construction activities that are part of a larger common plan of development and disturb less than one acre to utilize a SWPPP template provided by the department. Added language requiring SWPPP updates 60 days after general permit coverage for existing construction activities in accordance with Section 50 A 2 of the general permit regulation.  Updated all applicable references to "state" permits to "general" permits for clarity purposes.
70, Section II A	70, Part II A	Stormwater pollution prevention plan framework	Updated the title of this subsection to "Stormwater pollution prevention plan contents" for clarity purposes.
70, Section II A 2		SWPPP requirements	Deleted this language from the general permit regulation since it was unnecessary.

70, Section II A 5	70, Part II B 4 c	SWPPP requirements after final stabilization	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Section II A 6	70, Part II B 4 d	Properties no longer under the control of the operator	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Section II A 7	70, Part II E	SWPPP implementation	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Section II B	70, Part II B	Signature, SWPPP review and making SWPPPs available	Updated the title of this subsection to “SWPPP amendments, modification, and updates” for clarity purposes.
70, Section II B 1	70, Part II A 8	SWPPP signature	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Sections II B 2 & 3	70, Parts II D 1 & 2	SWPPP availability	Reformatted, relocated, and updated these subsections of the general permit regulation for clarity purposes.
70, Sections II B 4 & 5	70, Parts II C & II D 3	SWPPP availability and public notification	Reformatted, relocated, and updated these subsections of the general permit regulation for clarity purposes.
70, Section II C	70, Part II C	Maintaining an updated SWPPP	Updated the tile of this subsection to “Public Notification” for clarity purposes.
70, Sections II C 1, 2, & 4	70, Parts II B 1, 2, & 3	Maintaining an updated SWPPP	Reformatted, relocated, and updated these subsections of the general permit regulation for clarity purposes.
70, Section II C 3	70, Part II B 5	SWPPP revision signature	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Section II D	70, Part II D	Stormwater pollution prevention plan contents	Updated the title of this subsection to “SWPPP availability” for clarity purposes.
70, Section II D	70, Parts II A 1 a, b & c	Stormwater pollution prevention plan contents	Relocated and updated the general permit regulation requirements for the SWPPP to include a copy of the registration statement and a copy of the general permit for clarity. Added language requiring the operator to include a copy of the Notice of Coverage letter in the SWPPP upon receipt.
70, Section II D 1 a	70, Part II A 1 d	Narrative description of the construction activity	Relocated this subsection of the general permit regulation for clarity purposes
70, Section II D 1 b		Sequence and timing of construction activities	Deleted this general permit regulation requirement since construction sequencing is typically provided on erosion and sediment control plans.
70, Section II D 1 c	70, Part II B 4 a	Record of construction activity dates	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Section II D 1 d		Estimated total acreage to be disturbed	Deleted this general permit regulation requirement since it is provided on the registration statement, which is to be included in the SWPPP.

70, Section II D 1 e  70, Section II D 1 g	70, Parts II A 1 e (6) & II B 4	Location and description of potential pollutant sources and support activities	Relocated and updated these subsections of the general permit regulation for clarity and consistency with the VSMP Regulation and EPA's final 2012 CGP.
70, Section II D 1 f	70, Part II A 1 e (4)	Location of receiving waters	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Section II D 1 h	70, Part II A 1 e	Legible general location map and legible site map	Relocated and updated this subsection of the general permit regulation for clarity and consistency with EPA's final 2012 CGP. Deleted the requirement for providing a legible general location map since this is an erosion and sediment control plan requirement. Deleted the requirement to show the locations where stabilization practices are expected to occur since this is an erosion and sediment control plan requirement. Relocated the requirement to show areas where final stabilization has been accomplished to Section 70, Part II B 4 c for clarity.
70, Section II D 2 a (1)	70, Part II A 2	Erosion and sediment controls	Relocated and updated this subsection of the general permit regulation for clarity and consistency with the VSMP Regulation, 9VAC25-870-54 B.
70, Section II D 2 a (2)	70, Part II E	Installation and maintenance of control measures	Relocated and updated this subsection of the general permit regulation for clarity and consistency with EPA's final 2012 CGP.
70, Section II D 2 b (1)	70, Parts II A 1 e (2), II A 2 c (6) & II A 2 c (8)	Preservation of existing vegetation and soil stabilization	Relocated and updated this subsection of the general permit regulation for clarity and consistency with the federal ELGs.
70, Section II D 2 b (2)	70, Part II E	Installation and maintenance of control measures	Relocated and updated this subsection of the general permit regulation for clarity and consistency with EPA's final 2012 CGP.
70, Section II D 2 b (3)	70, Part II G 2	Off-site sediment accumulations	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Sections II D 2 b (4) & (5)	70, Part II A 4 e	Construction debris, chemicals, and litter	Relocated and updated this subsection of the general permit regulation for clarity and consistency with the VSMP Regulation (9VAC25-880-56), the federal ELGs, and EPA's final 2012 CGP.
70, Section II D 2 c (1)	70, Part II A 3 b	Compliance with the applicable stormwater management technical criteria	Relocated and updated this subsection of the general permit regulation for clarity. Existing construction activities must continue to ensure compliance with the Part II C technical criteria of the VSMP Regulation.

70, Section II D 2 c (2)		Selection and utilization of stormwater management controls	Deleted this subsection of the general permit regulation since it is no longer necessary. The stormwater management technical criterion of the VSMP Regulation ensures the proper selection and utilization of control measures.
70, Section II D 2 c (3)		Participation in a regional stormwater management plan	Deleted this subsection of the general permit regulation since it is no longer necessary. Also, this information is provided to the VSMP authority, including the department, at the time of general permit coverage termination.
70, Section II D 2 c (4)		Utilization of off-site nutrient credits	Deleted this subsection of the general permit regulation since it is no longer necessary. Also, this information is provided to the VSMP authority, including the department, at the time of general permit coverage termination.
70, Section II D 2 c (5)		Discharge to an adequate receiving channel	Deleted this subsection of the general permit regulation since it is redundant. The development of an approvable erosion and sediment control plan will ensure compliance with the Erosion and Sediment Control Regulation, 9VAC25-840.
70, Section II D 2 d	70, Part II A 4	Other controls (pollution prevention practices)	Relocated and updated this subsection of the general permit regulation for clarity and consistency with the VSMP Regulation (9VAC25-880-56), the federal ELGs, and EPA's final 2012 CGP. Updated the title of this subsection to "Pollution prevention plan" for clarity purposes.
70, Section II D 2 e		Applicable state or local programs	Deleted this requirement from the general permit regulation due to redundancy. The implementation of an approved erosion and sediment control plan or stormwater management plan will ensure compliance with state and local VESCPs and VSMPs.
70, Section II D 3	70, Part II E	Maintenance of controls	Relocated and updated this subsection of the general permit regulation for clarity purposes. Added a new seven (7) day deadline for implementing corrective actions or alternative control measures as necessary. Updated the title of this subsection to "SWPPP implementation" for added clarity.
70, Section II D 4  70, Section II D 4 d	70, Part II A 6	Qualified personnel	Relocated, reorganized and updated these subsections of the general permit regulation for clarity purposes.
70, Section II D 4 a	70, Parts II F 2 a & II F 2 b	Inspection frequency	Relocated and updated this subsection of the general permit regulation for clarity and consistency with EPA's final 2012 CGP.

			Updated the inspection frequency from once every seven (7) days or once every 14 days and 48 hours following a runoff producing event to once every five (5) business days or once every 10 business days and 48 hours following a measurable storm event. These inspection frequencies are essentially equivalent.
70, Section II D 4 b	70, Part II F 3	Inspection requirements	Relocated and updated this subsection of the general permit regulation for clarity and consistency with the regulatory advisory panel's recommendations and EPA's final 2012 CGP. Further clarified the SWPPP inspection requirements for the construction activity operator or their qualified personnel at the request of the RAP.
70, Section II D 4 c	70, Part II F 2 c	Representative inspections for linear construction activities	Relocated and updated this subsection of the general permit regulation for clarity purposes.
70, Section II D 4 d	70, Part II F 4	Reports summarizing the SWPPP inspection	Relocated and updated this subsection of the general permit regulation for clarity and consistency with EPA's final 2012 CGP. Updated the title of this subsection to "Inspection report" for added clarity. Added requirement for the inspection report to include location(s) where evidence that an approved erosion and sediment control plan or agreement in lieu of a plan has not been properly implemented. Added a requirement for the inspection report to include a list of corrective action(s) previously identified that have not been implemented. Added a requirement for the inspection report to be signed by the qualified personnel and the operator or their duly authorized representative for added clarity.
70, Section II D 5	70, Part II A 4 c	Nonstormwater discharge management	Relocated and updated this subsection of the general permit regulation for clarity. Construction activity operators must identify all nonstormwater discharges (including all nonstormwater discharges from support activities) that will be commingled with stormwater discharges from the construction activity and implement appropriate pollution prevention practices.
70, Section II D 6	70, Part II A 5	Total maximum daily loads	Relocated and updated this subsection of the general permit regulation for clarity and consistency with Part I B 4. Added provisions for new stormwater discharges to exceptional waters for consistency with Part I B 5.
70, Section	70, Part II A 5	Impaired waters	Relocated and updated this subsection of the general permit regulation for clarity and

II D 7			consistency with Part I B 4. Added provisions for new stormwater discharges to exceptional waters for consistency with Part I B 5.
	70, Part II A 2 b	None	Added a requirement to the general permit regulation indicating that all erosion and sediment control plans shall include a statement describing the maintenance responsibilities for the controls employed; this is consistent with the Virginia Erosion and Sediment Control Handbook (1992).
	70, Part II A 2 c	None	Added a provision to the general permit regulation indicating that a properly implemented erosion and sediment control plan or an agreement in lieu of a plan adequately addresses the federal ELGs for the construction and development point source category.
	70, Part II A 3 a	None	Added a requirement to the general permit regulation indicating that new construction activities must include an approved stormwater management plan or a stormwater management plan prepared in accordance with department-approved annual standards and specifications in the SWPPP; this is consistent with the VSMP Regulation, 9VAC25-870-54.
	70, Part II A 4 f	None	Added a requirement to the general permit regulation indicating that the construction activity operator shall describe and implement pollution prevention awareness of all applicable wastes to on-site personnel to comply with the terms of the general permit; this is generally consistent with the RAP's recommendation.
	70, Part II A 7	None	Added a requirement to the general permit regulation indicating that the SWPPP must include the individuals or positions with delegated authority to sign inspection reports or modify the SWPPP; this is consistent with EPA's final 2012 CGP.
	70, Part II F 1	None	Added clarifying language to the general permit regulation indicating that on-site and off-site SWPPP inspections shall be performed by qualified personnel identified by the construction activity operator in the SWPPP.
	70, Part I G	None	Added a corrective actions subsection to the general permit regulation for added clarity. Added a provision to the general permit regulation indicating that corrective actions identified as a result of an inspection shall be implemented as soon as practicable but no later than seven (7) days after discovery or a longer period as approved by the VSMP

			authority.
70, Section III	70, Part III	Conditions applicable to all state permits	Updated the title to “Part III – Conditions applicable to all VPDES permits.” The CGP is no longer a section of the VSMP Regulation, and as of July 1, 2014, the CGP will be a VPDES permit. Updated all applicable references to “state” permits to “general” permits for clarity purposes.
70, Section III A 2	70, Part III A 2	Monitoring	Added language requiring compliance with regulations adopted by DGS. VPDES permit monitoring must now be performed by a certified environmental laboratory.
70, Section III D	70, Part III D	Duty to provide information	Deleted the reference to the department or other VSMP authority. Only the board is capable of modifying, revoking and reissuing, or terminating this general permit.
70, Section III G	70, Part III G	Reports of unauthorized discharges	Updated the reference to “state” waters to “surface” waters. The CGP authorizes point source discharges of stormwater to surface waters.
70, Section III R	70, Part III R	Disposal of solids or sludges	Updated the reference to “state” waters to “surface” waters. The CGP authorizes point source discharges of stormwater to surface waters.
70, Section III S	70, Part III S	Duty to mitigate	Deleted the term “reasonable” from the general permit regulation; practicability is already included in the definition of “minimize” (9VAC25-870-10).
80		Applicability	Deleted this section. The existing language has been incorporated into Part II C of the VSMP Regulation (9VAC25-870-94).
82		General	Deleted this section. The existing language has been incorporated into Part II C of the VSMP Regulation (9VAC25-870-95).
84		Water Quality	Deleted this section. The existing language has been incorporated into Part II C of the VSMP Regulation (9VAC25-870-96).
86		Stream Channel Erosion	Deleted this section. The existing language has been incorporated into Part II C of the VSMP Regulation (9VAC25-870-97).
88		Flooding	Deleted this section. The existing language has been incorporated into Part II C of the VSMP Regulation (9VAC25-870-98).
90		Regional (watershed-wide) stormwater management plans	Deleted this section. The existing language has been incorporated into Part II C of the VSMP Regulation (9VAC25-870-99).

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less*

*stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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The reissuance of this general VPDES permit accomplishes the objectives of applicable law and, compared to an individual permit, simplifies the application process and minimizes the costs to a small business owner. Without the general permit, a small business owner would be required to obtain an individual VPDES permit which would increase the cost and complexity of the permit application, and the increased costs to maintain the individual permit.

Any operator with an existing stormwater discharge or proposing a new stormwater discharge associated with the construction of a 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 encompassing the single family residence. This general permit provision further simplifies the application process and further minimizes the costs to a small business owner.

The amended regulation includes an allowance for continuation of general permit coverage in instances where an operator has submitted a timely registration and is in compliance with their existing construction general permit. This will allow the operator to legally discharge if general permit coverage is not granted prior to the existing general permit's expiration date, or the general permit is not reissued on time by the Board.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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It is not anticipated that this regulation will have a direct impact on the institution of the family or family stability. However, the improvement of water quality through the regulation of stormwater discharges from construction activities and best management practices to control pollution from construction activities does have positive public health and safety benefits that have an indirect impact on families.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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CFR – Code of Federal Regulations  
CGP – Construction General Permit  
DCR – Department of Conservation and Recreation  
DEQ – Department of Environmental Quality

DGS – Department of General Services  
ELG – Effluent Limitation Guideline  
EPA – Environmental Protection Agency  
FOIA – Freedom of Information Act  
SWCB – State Water Control Board  
SWPPP – Stormwater Pollution Prevention Plan  
TMDL – Total Maximum Daily Load  
USC – United States Code  
VESCP – Virginia Erosion and Sediment Control Program  
VPDES – Virginia Pollutant Discharge Elimination System  
VSMP – Virginia Stormwater Management Program