

TENTATIVE AGENDA  
STATE WATER CONTROL BOARD MEETING

THURSDAY, AUGUST 23, 2023

IN PERSON ONLY – GALLERY, COMMUNITY COLLEGE WORKFORCE ALLIANCE,  
1651 EAST PARHAM ROAD, RICHMOND, VA 23228

Meeting will be Live-Streamed. Go to: [www.deq.virginia.gov](http://www.deq.virginia.gov)

Any Updates To Details/Final Arrangements To Be Announced On Virginia Regulatory Town Hall

Convene – 10:30 A.M

<b>Agenda Item</b>	<b>Presenter</b>	<b>Tab</b>
<b>Minutes</b> (June 22, 2023)	Porterfield	A
Errata to final <i>Virginia Erosion and Stormwater Management Regulation 9VAC25-875</i>	Porterfield	B pg 4
<b>Final Regulations</b> <i>Reissuance of General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems 9VAC25-890</i>	Selengut	C pg 7
<b>Proposed Regulations</b> <i>Reissuance of Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management (9VAC25-192)</i>	Bowles	D pg 266
<b>Petition</b> <i>Petition to promulgate a site-specific aquatic life ambient criterion for selenium</i>	Thomas	E pg 356
<b>Other Business</b> Report to the Board Regarding Controversial Permits Mountain Valley Pipeline - Update Future Meeting date- to be determined Public Forum (time not to exceed 45 minutes - no public comment on Mountain Valley Pipeline)	Porterfield Stafford Porterfield	

**ADJOURN**

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions on the latest status of the agenda should be directed to Melissa S. Porterfield at (804) 698-4238.

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

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

For CASE DECISIONS (e.g., issuance and amendment of permits and enforcement orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. (Note: as of July 1, 2022, the Department takes final action on all case decisions.) As a general rule, public comment is accepted on a draft permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may be an additional comment period during which a public hearing is held, usually 45 days.

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

**REGULATORY ACTIONS:** Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Also, public comment will be accepted for certain final exempt actions where there has been no public comment period. Persons are allowed up to 3 minutes to address the Board on the emergency regulation and final exempt actions under consideration.

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

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

**PUBLIC FORUM:** The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda or pending regulatory actions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less. Note, there is no pooling of minutes during the public forum.

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

Department of Environmental Quality Staff Contact: Melissa S. Porterfield, Policy Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4238, e-mail: [Melissa.porterfield@deq.virginia.gov](mailto:Melissa.porterfield@deq.virginia.gov)

---

**Additional Meeting Information:**

- Attendees may not erect any signage inside or outside the meeting room or building.
- Attendees are not entitled to be disorderly or disrupt the meeting from proceeding in an orderly, efficient, and effective fashion. Disruptive behavior may result in a recess or removal from the meeting.
- Possession or use of any device that may disrupt the conduct of business is prohibited, including but not limited to: voice-amplification equipment; bullhorns; blow horns; sirens, or other noise-producing devices; as well as signs on sticks, poles or stakes; or helium-filled balloons.
- All attendees are asked to be respectful of all speakers.
- Rules will be enforced fairly and impartially not only to ensure the efficient and effective conduct of business, but also to ensure no interference with the business of the complex, its employees and guests.
- Attendees wishing to record the proceedings are welcome to do so; however, you may not interfere with the business of the meeting, nor impede the view or participation of other meeting attendees and staff.
- No smoking is allowed unless in a designated outside space. This includes tobacco & e-cigarettes.
- No alcohol, fireworks, pyrotechnics, weapons, or any substances/items controlled by law are allowed.
- No firearms are allowed in the State's contracted spaces except for firearms carried by law-enforcement officers or authorized security personnel.
- All violators may be subject to removal from the meeting facility.
- Anyone removed from the facility may not reenter.
- Anyone who fails to comply with removal may be charged with trespass.

**TAB B**



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Travis A. Voyles  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

**Memorandum**

To: State Water Control Board Members

From: Melissa Porterfield, Office of Regulatory Affairs

Date: August 1, 2023

Subject: Errata sheet for the Virginia Erosion and Stormwater Management Regulation (9VAC25-875) to correct 9VAC25-875-210 and 9VAC25-875-590 C

---

At the June 22, 2023, meeting of the State Water Control Board (Board), DEQ staff presented a consolidated stormwater regulation, the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), to the Board. The Board voted to adopt the final regulation. Prior to submitting the regulatory package for executive review, DEQ staff identified two errors in the final regulatory language adopted by the Board: 1) an incorrect definition at 9VAC25-875-210; and 2) a phrase in 9VAC25-875-590 C that is not in the corresponding section of the regulation that it replaces, 9VAC25-870-65 C. Staff have prepared an errata sheet that identifies the corrections that should be adopted as part of the final regulation.

**Staff recommendation**

Staff recommends the Board:

1. Adopt the revised definition of “Agreement in lieu of a plan” for 9VAC25-875-210 so that it is identical to Code of Virginia § 62.1-44.15:51 (effective July 1, 2024) and
2. Adopt 9VAC25-875-590 C so that it is identical to the section it replaces, 9VAC25-870-65 C

as listed on the errata sheet for the Virginia Erosion and Stormwater Management Regulation (9VAC25-875).

Attachment: Errata sheet to 9VAC25-875 adopted by the Board on June 22, 2023.

August 23, 2023- State Water Control Board meeting- Errata sheet for the Virginia Erosion and Stormwater Management Regulation (9VAC25-875)

9VAC25-875-210. Definitions.

"Agreement in lieu of a plan" means a contract between the VESCP authority and the owner that specifies conservation measures that must be implemented in the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; this contract may be executed by the VESCP authority in lieu of a formal site plan.

9VAC25-875-590. Water quality compliance.

C. Nonproprietary BMPs differing from those listed in subsection B of this section shall be reviewed and approved by the director in accordance with procedures established by the department.

**TAB C**



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Travis A. Voyles  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

**MEMORANDUM**

TO: State Water Control Board Members

FROM: Allan Brockenbrough, Manager-Office of VPDES Permits *Allan Brockenbrough*

DATE: July 19, 2023

SUBJECT: Virginia Pollution Discharge Elimination System (VPDES) General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s) Amendments to 9VAC25-890 and Reissuance of the General Permit

The current VPDES General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s) will expire on October 31, 2023, and the regulation establishing this general permit is being amended to reissue for another term. The staff is bringing this proposed regulation amendment before the State Water Control Board (Board) to request adoption of the amendments to the VPDES General Permit Regulation for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (9VAC25-890). The staff also recommend that the Board affirm that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act.

The proposed regulation takes into consideration the recommendations of a technical advisory committee (TAC) formed for this regulatory action. A list of the TAC membership is attached.

Proposed amendments showing changes to the current regulation, the Agency Town Hall background document, Fact Sheet, and Office of Regulatory Management (ORM) Economic Review Form are also attached. Substantive changes to the existing regulation that were presented to the Board on November 29, 2022, for authorization to proceed to public notice included:

1. Adding definitions for common MS4 terminology and modifying the high-priority facility definition.
2. Requiring electronic submission of annual reports after at least three months' notice provided by the Department in accordance with 9VAC23-31-1020.



3. Adding permit conditions specific to traditional and nontraditional MS4 permittees to address existing permit conditions that are inherently not applicable to nontraditional permittees or not practicable for nontraditional permittee implementation.
4. Requiring third phase Chesapeake Bay Total Maximum Daily Load (TMDL) action plan submittal and completion of 100% of required nitrogen, phosphorus, and sediment reductions no later than 10/31/2028.
5. Requiring Chesapeake Bay TMDL implementation annual status reports be maintained as separate documents from annual reports and posted to the permittee's publicly accessible stormwater webpage.
6. Requiring permittees to provide MS4 maps in a GIS shapefile format and no longer allowing pdf format to satisfy this requirement and establishing data standards for GIS shapefile submissions.
7. Adding provisions allowing permittees to adopt a risk-based approach to dry weather screening identifying observation points based upon illicit discharge risks upstream of an outfall. Each observation point screened may be counted as one outfall screening activity equivalent; however, at least 50% of the minimum annual screening events must include outfalls. These provisions are voluntary and permittees may choose to adopt this approach at their discretion.
8. Removing electronic Best Management Practices (BMP) database requirements as these requirements are duplicative of BMP Warehouse reporting requirements.
9. Moving BMP warehouse reporting conditions to new permit section (Part III) and adding reporting requirements for ecosystem restoration projects.
10. Reformatting and integrating good housekeeping requirements:
  - a. For written procedures, differentiating between the objectives each procedure shall meet and activities that require procedures.
  - b. Incorporating existing good housekeeping permit conditions into written procedure requirements and improving linkage to contract language and training requirements.
  - c. Removed subjectivity from Stormwater Pollution Prevention Plan (SWPPP) applicability, clarified SWPPP requirements, and integrated utilization of applicable written good housekeeping procedures.
11. Requiring good housekeeping written procedures for the following activities:
  - a. Requiring permittees that apply anti-icing and deicing agents to update road, street, sidewalk and parking lot procedures to include implementation of best management practices for anti-icing and deicing agent application, transport, and storage.
  - b. Requiring permittees to develop written procedures for renovation and significant exterior maintenance activities.
  - c. Clarifying written good housekeeping procedures for temporary storage of landscaping materials recognizing that long-term bulk storage meets the definition of a high-priority facility.
12. Requiring Department of Conservation and Recreation (DCR) approval and renewal of nutrient management plans.
13. Requiring chloride TMDL Action Plans where applicable.
14. Requiring inspection and maintenance procedures for ecosystem restoration projects.
15. Removing sediment reduction requirements from the Chesapeake Bay TMDL special condition.

The Notice of Public Comment and Hearing was approved by the Board on November 29, 2022, along with a recommendation to directly solicit comments on the removal of the sediment reduction

requirements from the Chesapeake Bay TMDL special condition. On December 2, 2022, three days following the Board's action, the U.S. Environmental Protection Agency (EPA) issued a proposed rule providing clarification in the Phase II small MS4 regulation in order incorporate the results of the 2020 Census. DEQ subsequently published the Notice of Public Comment and Hearing requesting comments on the proposed amendments to the regulation, as well as specifically requesting comments on the removal of the Chesapeake Bay TMDL special condition sediment reduction requirements and the impact of EPAs' December 2, 2022 proposed direct final rule entitled NPDES Small MS4 Urbanized Area Clarification. The comment period ran from February 13, 2023 through April 14, 2023 with a public hearing held on March 20, 2023. Six individuals from the regulated MS4 community attended the hearing. All written and oral public comments received and DEQ responses are included in the attached Town Hall Background Document. The Town Hall Background Document also includes changes to the regulation made in response to comments provided by EPA, including the impact of EPA's NPDES Small MS4 Urbanized Area Clarification rulemaking which became effective on July 12, 2023.

The following are the substantive changes made to the proposed regulation in response from comments received from the public and EPA.

1. Added the requirement for permittees to submit registration statements electronically 90 days after notification from the department as required by 9VAC25-31-102 Implementation of electronic reporting requirements for VPDES Permittees.
2. Various permit sections were impacted by the requirement to address the 2020 Census expanded urban areas. Addition requirements were added to the definition, illicit discharge detection and elimination, post construction stormwater management for new development and development on prior developed lands, pollution prevention and good housekeeping, and the Chesapeake Bay special condition sections along with schedules, where appropriate, to implement existing MS4 program elements in the newly designated areas.

The Office of the Attorney General will be sent the regulation for certification of authority to adopt the amendments.

Attachments: Technical Advisory Committee (TAC) Membership, Draft General Permit Regulation, Agency Background Document (Town Hall), Fact Sheet and ORM Economic Review Form.

**TAC COMMITTEE MEMBERSHIP**  
**VPDES Discharges of Stormwater from Small MS4s General Permit Regulation**  
**9VAC25-890**

<p>Lisa Ochsenhirt, Esq.          AquaLaw, PLC          6 South 5th Street          Richmond, VA 23219          804-716-9021          lisa@aqualaw.com          Alternate:          Chris Pomeroy, Esq.          chris@aqualaw.com</p>	<p>Normand Goulet          Environmental and Resiliency Planning Director          Northern Virginia Regional Commission          3040 Williams Drive, Suite 200          Fairfax, VA 22031          703-642-4634          noouletnovareqion.orci</p>
<p>Jillian C. Sunderland          Water Resources Planner          Hampton Roads Planning District Commission          723 Woodlake Drive          Chesapeake, Virginia 23320          757-420-8300          isunderlandahrodcva.gov</p>	<p>John W. Burke          Stormwater Specialist          County of Montgomery          755 Roanoke Street, Suite 1C          Christiansburg, VA 24073          540-394-2090, ext. 54133          burkeiwmontoomerycountvva.Q0V</p>
<p>Erin B. Hawkins, CFM          Water Quality Manager          City of Lynchburg          525 Taylor Street          Lynchburg VA 24501          434-455-3869          erin.hawkinslynchburova.gov</p>	<p>Jessica Wenger          Environmental Projects Manager          University of Virginia          1490 Leake Drive          Charlottesville, VA 22904-4726          434-982-5540          jsw6dviroinia.edu</p>
<p>Joe Wood, Ph.D.          Virginia Senior Scientist          Chesapeake Bay Foundation          1108 E. Main Street, Suite 1600          Richmond, VA 23219          804-833-1489          jwoodcbf.org          Alternate:          Patrick Fanning, Esq.          pfanningAcbtorq</p>	<p>Anna Killius          Government Affairs and Policy          Manager James River          Association 211 Rocketts Way,          Suite 200 Richmond, Virginia          23231 410-212-3819          akilliusatheamesriver.org</p>
<p>Ashley Hall, P.E.          Senior Engineer          Stantec Consulting Ltd.          1011 Boulder Springs Drive Suite 225          Richmond, VA 23225-4951          804-267- 3474</p>	<p>Maria Mutuc          Senior Engineer          Virginia Department of Transportation          1401 E. Broad Street          Richmond, VA 23219          804-729-6689</p>

<p>ashlev.hall@astantec.com</p> <p>Alternate:           Doug Beisch          doug.beisch@astantec.com</p>	<p>maria.mutucavdot@virginia.gov</p> <p>Shelley Bains          Capital Outlay Program Manager          Virginia Community College System          300 Arboretum Place, 2nd Floor, Suite 390          Richmond, VA 23236          804-683-5777          sbains@vccs.edu</p>
<p>Ginny Sneed, P.E., CFM          Chair Stormwater Committee          American Society of Civil Engineers - Virginia          A. Morton Thomas and Associates, Inc.          1100 Boulders Parkway          Richmond, Virginia 23225          757-345-3851          gsnead@amtengineering.com</p>	<p>Catherine Lin          Facilities and Operation Director          Arlington County Public Schools          2770 South Taylor Street          Arlington, Virginia 22206          703-228-7731          cathy.lin@apsva.us</p>
<p>Erin Rountree          Development &amp; Environmental Programs          Manager          City of Suffolk          442 W. Washington Street          Suffolk, Virginia 23434          757-514-7678          erountree@suffolkva.us          Alternate:          Heather Baggett          hbaggett@suffolkva.us</p>	<p>Phillip Winslow          Water Compliance Programs Director          U.S. Navy          1510 Gilbert St., Bldg. N26, Rm. 3208          Norfolk, VA 23511          757-341-0420          phillip.winslow@navy.mil          Alternate:          Mark Sauer          mark.h.sauer.civ4us.navy.mil</p>
<p>Dan Frisbee          Water Resources Specialist          City of Charlottesville          305 4th Street NW          Charlottesville, VA 22903          434-970-3997          frisbee@charlottesville.org</p>	<p><b>DEQ Staff on TAC:</b>          Derick Winn — MS4 Team Lead          Allan Brockenbrough - VPDES Program Manager          Andrew Hammond — Water Permits Manager</p>
<p><b>DEQ Staff Technical Liaisons:</b>          Jeff Selengut — MS4 Permit Writer          Mason Harper - MS4 Compliance Coordinator          Kristen Sadtler - Water Enforcement Program          Manager          Megan Gorek, VRO MS4 Coordinator          David Taylor, TRO MS4 Coordinator          Anna Tuthill, NRO MS4 Coordinator</p>	

SWCB Memo  
VPDES General Permit for Discharges of MS4s  
July 19, 2023

Emma Danz, BRRO MS4 Coordinator	
---------------------------------	--



[townhall.virginia.gov](http://townhall.virginia.gov)

## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC25-890
<b>VAC Chapter title(s)</b>	General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4)
<b>Action title</b>	Amend and Reissue the Small MS4 General Permit
<b>Final agency action date</b>	
<b>Date this document prepared</b>	July 6, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

This rulemaking is proposed in order to amend and reissue the existing general permit which expires on October 31, 2023. The general permit governs local governments and state and federal agencies that discharge stormwater from municipally owned separate storm sewer systems located within the Census Urbanized Area as determined by the Bureau of Census.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or*

*board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

---

The impetus of the regulatory change is Virginia Code § 62.1-44.15 (5a) which states, "All certificates issued by the Board under this chapter shall have fixed terms. The term of a Virginia Pollutant Discharge Elimination System permit shall not exceed five years." This general permit expires on October 31, 2023, and must be reissued in order to make coverage available for Small Municipal Separate Storm Sewer Systems discharging to surface waters. If this permit is not re-issued in a timely manner, no new coverage is available to any new facility owner or operator and such owners or operators would be required to obtain individual Virginia Pollutant Discharge Elimination System (VPDES) permits, which require more time to develop and issue, and impose significantly greater burden and costs on permittees and increased administrative burden on DEQ.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

---

APA: Administrative Process Act  
BMP: Best Management Practices  
CFR: Code of Federal Regulations  
DCR: Department of Conservation and Recreation  
DEQ: Department of Environmental Quality  
EPA (U.S. EPA): United States Environmental Protection Agency  
MCM: Minimum Control Measure  
MEP: Maximum Extent practicable  
MS4: Municipal Separate Storm Sewer System  
NPDES: National Pollutant Discharge Elimination System  
SWPPP: Stormwater Pollution Prevention Plan  
TAC: Technical Advisory Committee  
TMDL: Total Maximum Daily Load  
USC: United States Code  
VAC: Virginia Administrative Code  
VPDES: Virginia Pollutant Discharge Elimination System  
WIP: Watershed Implementation Plan

### Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

---

On August 23, 2023, the State Water Control Board adopted the General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4) – 9VAC25-890 as a final regulation.

### Legal Basis

*Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.*

---

The basis of this regulation is §62.1-44.15:25 of the Code of Virginia which authorizes the State Water Control Board under the Virginia Stormwater Management Act to issue, deny, revoke, terminate or amend stormwater permits and adopt regulations for the control of stormwater discharges from Municipal Separate Storm Systems to surface waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (2.2-4006 A 8).

**Purpose**

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it’s intended to solve.*

---

The proposed regulatory action protects water quality in the Commonwealth of Virginia which is essential to the health, safety and welfare of Virginia’s citizens. The proposed action authorizes municipal owners or operators of separate storm sewer systems located within the Census Urbanized Area to discharge stormwater to waters of the state. The general permit establishes the minimum control measures to reduce the potential discharge of pollutants in municipal stormwater as well as requirements for demonstration of compliance with Total Maximum Daily Load (TMDL) wasteload allocations for local watersheds and the Chesapeake Bay. The primary issue that needs to be addressed is that the existing general permit expires on October 31, 2023, and must be reissued to authorize small MS4s to continue to discharge under the general permit. This regulatory action updates the permit and the regulation to be consistent with other VPDES general permits and protect water quality.

**Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.*

---

Substantive changes to the regulation include the following revisions:

1. Adding definitions for common MS4 terminology and modifying the high-priority facility definition.
2. Requiring electronic submission of annual reports after at least three months’ notice provided by the Department in accordance with 9VAC25-31-1020.
3. Adding permit conditions specific to traditional and nontraditional MS4 permittees to address existing permit conditions that are inherently not applicable to nontraditional permittees or not practicable for nontraditional permittee implementation.
4. Requiring third phase Chesapeake Bay TMDL action plan submittal and completion of 100% of required nitrogen, phosphorus, and sediment reductions no later than 10/31/2028.
5. Requiring Chesapeake Bay TMDL implementation annual status reports be maintained as separate documents from annual reports and posted to the permittee’s publicly accessible stormwater webpage.
6. Requiring permittees to provide MS4 maps in a GIS shapefile format and no longer allowing pdf format to satisfy this requirement and establishing data standards for GIS shapefile submission.



7. Adding provisions allowing permittees to adopt a risk-based approach to dry weather screening identifying observation points based upon illicit discharge risks upstream of an outfall. Each observation point screened may be counted as one outfall screening activity equivalent; however, at least 50% of the minimum annual screening events must include outfalls. These provisions are voluntary, and permittees may choose to adopt this approach at their discretion.
8. Removing electronic Best Management Practices (BMP) database requirements as these requirements are duplicative of BMP Warehouse reporting requirements.
9. Moving BMP warehouse reporting conditions to new permit section (Part III) and adding reporting requirements for ecosystem restoration projects.
10. Reformatting and integrating good housekeeping requirements:
  - a. For written procedures, differentiating between the objectives each procedure shall meet and activities that require procedures.
  - b. Incorporating existing good housekeeping permit conditions into written procedure requirements and improving linkage to contract language and training requirements.
  - c. Removed subjectivity from Stormwater Pollution Prevention Plan (SWPPP) applicability, clarified SWPPP requirements, and integrated utilization of applicable written good housekeeping procedures.
11. Requiring good housekeeping written procedures for the following activities:
  - a. Requiring permittees that apply anti-icing and deicing agents to update road, street, sidewalk, and parking lot procedures to include implementation of best management practices for anti-icing and deicing agent application, transport, and storage.
  - b. Requiring permittees to develop written procedures for renovation and significant exterior maintenance activities.
  - c. Clarifying written good housekeeping procedures for temporary storage of landscaping materials recognizing that long-term bulk storage meets the definition of a high-priority facility.
12. Requiring Department of Conservation and Recreation (DCR) approval and renewal of nutrient management plans.
13. Requiring chloride TMDL Action Plans where applicable.
14. Requiring inspection and maintenance procedures for ecosystem restoration projects.
15. Removing sediment reduction requirements from the Chesapeake Bay TMDL special condition.
16. Added the requirement for permittees to submit registration statements electronically 90 days after notification from the department as required by 9VAC25-31-102 Implementation of electronic reporting requirements for VPDES Permittees.
17. Various permit sections were impacted by the requirement to address the 2020 Census expanded urban areas. Addition requirements were added to the definition, illicit discharge detection and elimination (Minimum Control Measure 3 (MCM3)), post construction stormwater management for new development and development on prior developed lands (MCM5), pollution prevention and good housekeeping (MCM6), and the Chesapeake Bay special condition sections along with schedules, where appropriate, to implement existing the MS4 program elements in the newly designated areas.

**Issues**

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The advantages to the public and the agency are that a VPDES general permit will continue to be available to small MS4s to enable them to discharge safely to surface waters without the increased cost and more complicated application process associated with issuing an individual permit. Additionally, advantages to the Commonwealth of Virginia are the implementation of additional nutrient and sediment reductions from municipal stormwater discharges to the Chesapeake Bay watershed and local receiving

waters. Another advantage to the agency is that the clarifications to permit requirements and best management practices will assist with permit reporting, inspections and compliance reviews. There are no disadvantages to the public, agency, or Commonwealth.

**Requirements More Restrictive than Federal**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

---

There are no requirements that exceed applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

---

Other State Agencies Particularly Affected:

This general permit regulation is applicable statewide to any government entity operator of a municipal separate stormwater sewer system within the 2010 census defined urbanized area. The proposed amendments to the regulation apply statewide within the 2010 census defined urbanized area, with the exception of the Chesapeake Bay TMDL Special Condition, which only applies to 2010 census defined urbanized area within the Chesapeake Bay watershed. The proposed amendments to the regulation affect colleges, universities, and correctional facilities administered by state agencies. The general permit regulation implements the Commonwealth of Virginia’s Chesapeake Bay TMDL Phase I, II, and III Watershed Implementation Plans (WIPs) dated November 29, 2010, March 30, 2012, and August 23, 2019. These WIPs establish reductions in the load of total nitrogen, total phosphorus, and total suspended solids for regulated MS4s that discharge to receiving waters located in the Chesapeake Bay Watershed.

The proposed amendments are expected to impose a greater material water quality impact on any state agency in the Chesapeake Bay watershed than those state agencies outside of the Chesapeake Bay watershed.

DCR has expressed concerns regarding expired nutrient management plans held by MS4 permittees. The authority for nutrient management plan approval and renewal is unclear in the current permit. The proposed permit establishes DCR as the nutrient management plan approving authority and the nutrient management plan approval and renewal provisions were discussed with the DCR Director of Soil and Water Conservation and nutrient management staff. Permit conditions were developed based on DCR recommendations to ensure workload issues will not result from permit reissuance.

Localities Particularly Affected:

This general permit regulation is applicable statewide to any government entity operator of a municipal separate stormwater sewer system within the 2010 census defined urbanized area. The proposed amendments to the regulation apply statewide within the 2010 census defined urbanized area, with the exception of the Chesapeake Bay TMDL Special Condition, which only applies to 2010 census defined urbanized area within the Chesapeake Bay watershed. The general permit regulation implements the Commonwealth of Virginia’s Chesapeake Bay TMDL Phase I, II, and III WIPs dated November 29, 2010, March 30, 2012, and August 23, 2019. These WIPs establish reductions in the load of total nitrogen, total phosphorus, and total suspended solids for regulated MS4s that discharge to receiving waters located in the Chesapeake Bay Watershed.

The proposed amendments are expected to impose a greater material water quality impact on any locality in the Chesapeake Bay watershed than those localities outside of the Chesapeake Bay watershed.

Federal Agencies and Regional Authorities Particularly Affected:

This general permit regulation is applicable statewide to any operator of a municipal separate stormwater sewer system within the 2010 census defined urbanized area. The proposed amendments to the regulation apply statewide within the 2010 census defined urbanized area, with the exception of the Chesapeake Bay TMDL Special Condition, which only applies to 2010 census defined urbanized area within the Chesapeake Bay watershed. The proposed amendments to the regulation affect military installations, medical centers, research centers, transportation authorities, and correctional facilities administered by federal agencies and regional authorities. The general permit regulation implements the Commonwealth of Virginia’s Chesapeake Bay TMDL Phase I, II, and III WIPs dated November 29, 2010, March 30, 2012, and August 23, 2019. These WIPs establish reductions in the load of total nitrogen, total phosphorus, and total suspended solids for regulated MS4s that discharge to receiving waters located in the Chesapeake Bay Watershed.

The proposed amendments are expected to impose a greater material water quality impact on any federal agency or regional authority in the Chesapeake Bay watershed than those federal agencies or regional authorities outside of the Chesapeake Bay watershed.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. Ensure to include all comments submitted: including any received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

The following comments were received:

Commenter	Comment	Agency response
City of Charlottesville	The City notes that the cross-reference to 9VAC 25-31-220.D.1.a is not the most appropriate reference. In our opinion, the more appropriate cross-reference is to 9VAC25-870-400.D.1, which specifically addresses the VSMP regulations and requires permittees to develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, the Virginia Stormwater Management Act, and the State Water Control Law.	Reviewed request and determined cross reference citation is correct. No changes needed.
Hampton Roads Planning District Commission	Non-Stormwater Discharges List The draft MS4 GP does not include routine external building washdown as an authorized non-stormwater discharge; however, it is included in the VPDES General Permit Regulation for Discharges Associated with Industrial Activity	This requirement will be added to all reissued Phase 1 individual permits. DEQ revised the list of non-stormwater discharges to include routine external building wash down provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is

	<p>(9VAC25-151-50). Industrial permittees can discharge waters into the MS4 that MS4 permittees are not allowed to discharge. Routine exterior building washdown should be added to the list in the draft MS4 GP. We support the conditions in the industrial permit that require the building washdown water to be free of detergents and hazardous products. Suggested Revision – Add the following to the list of authorized nonstormwater discharges (9VAC25-890-20.D.3): Routine external building washdown that does not use detergents or hazardous cleaning products;</p>	<p>filtered, settled, or similarly treated prior to discharge.</p>
<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>Non-Stormwater Discharges – The current GP limits non-stormwater discharges to the MS4 to the list provided in 9VAC25-890-20. The proposed GP makes several proposed changes to the list. However, one change that is not included, but that should be, is allowing “Routine external building washdown where soaps, solvents, or detergents or hazardous cleaning products have not been used during the cleaning;” VAMSA understands DEQ wants to align all of the language on acceptable nonstormwater discharges across all GPs. The current Industrial Stormwater General Permit (ISWGP, 9VAC25-151-50, Authorization to discharge) allows an industrial facility to washdown a building and discharge to an MS4 if there are no detergents or hazardous cleaning products used during the cleaning. The current Construction Stormwater General Permit (CGP) also allows “Routine external building wash down where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;” (9VAC25-880-30, Authorization to discharge). Requested Change: VAMSA requests that DEQ change the</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. DEQ revised the list of non-stormwater discharges to include routine external building wash down provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge.</p>

	acceptable nonstormwater discharge list at -890-20 to include building washdown. This would also impact MCM-6, which would require procedures for building power-washing (see discussion above). Justification: Consistency with the ISWGP and CGP.	
City of Bristol	The current permit focuses on reporting for the high priority issues. The new language expands reporting requirements and could increase expectations for the public education and outreach program. Small MS4s are already overwhelmed with permit requirements and do not have the staff to manage increased reporting and increased expectations.	The 2018-2023 MS4 General Permit required a list of high priority issues addressed as well as a list of the strategies used to communicate these issues. Changing the reporting element from a “list of strategies used to communicate the issues” to a “summary of activities conducted each report year” was necessary for DEQ to accurately assess this portion of the MS4 program. Likewise, the addition of the requirement to provide a description and rationale for any changes to the high priority issues or communication methods was necessary to adequately assess this part of the MS4 program. The addition of the reporting element for changes to high priority issues or their communication methods is intended to clearly indicate DEQ’s expectations to the permittee and other interested parties, that the permittee has the flexibility to adapt their public education program element to newly emerging concerns within their MS4 service area. No change has been made to the proposed regulation.
City of Charlottesville	Part I.E.1, Table 1 – the City is supportive of the addition of “Public Education Activities” and “Public Meetings” to the table.	Comment noted. No change is needed to the proposed regulation.
City of Bristol	Public Meetings have been added to both Table 1 and Table 2. Please clarify that a public meeting can be used to meet both the Public Education and Outreach Program and the Public Involvement Opportunity.	DEQ will revise Fact Sheet to be consistent with the general permit language.
City of Charlottesville	Part I.E.2, Table 2 - the City is supportive of the addition of “Public Meetings” to the table.	Comment noted. No change is needed to the proposed regulation.
Hampton Roads Planning District Commission	Table 2 of the draft MS4 GP includes examples of opportunities for public involvement. Revisions were made to the list, including deleting “participation on environmental advisory committees.” Page 14 of the draft Fact Sheet indicates it was removed because a new strategy	Participation on environmental advisory committees is an allowable activity under the Public Meeting category in Table 2 provided that the meeting is publicly announced and open to public participation. The requirement will remain as written.

	<p>category was added, “Public Meetings.” While advisory committee meetings provide opportunities for members of the public to be involved, serving as a member of an advisory committee is a significant commitment that should be highlighted. For example, the Stormwater Program Advisory Committee in James City County meets every other month, and its members identify project needs, review public engagement materials, assist staff by manning displays at events, etc. We would like to see this specific example preserved in the draft MS4 GP to help maintain support for advisory committees. Suggested Revision – Add “participation on environmental advisory committees” back to the list of examples of “Public Education Activities” in Table 2.</p>	
<p>The Metropolitan Airports Authority</p>	<p>Given proposed changes elsewhere in the document which change the word “public” to “target audience”, please clarify the meaning of the term “Public” in regard to the Public Involvement and Participation. Is the public referenced in this section the same as the previous Minimum Control Measure Public Education and Outreach in which the “Public” is the “target audience?”</p>	<p>For this specific element, Part I.E.2.a, public is referring to any interested party that wishes to provide a comment on the permittees’ MS4 program plan. Fact sheet amended to clarify that public and targeted audience are generally the same, however there are instances where the entire public cannot participate, and a target audience is necessary. No change has been made to the proposed regulation.</p>
<p>The Metropolitan Airports Authority</p>	<p>Clarification should be provided regarding “promote.” Please provide examples of activities that would satisfy this requirement (such as, would activities like facility-wide email, publications on an intranet, etc. meet the requirement?) to ensure proper understanding to ensure compliance and documentation requirements. Some nontraditional permittees have a relatively limited “target audience”, and the nature of the facility (e.g., highway) creates space and access constraints that present challenges for these types of activities and differ from traditional permittees (and, may also be unique to</p>	<p>The number of required activities was discussed with the TAC and the numbers found in the draft permit were considered appropriate and provides flexibility. Furthermore, the ability of non-traditional permittees to not just implement, but promote, participate in, or coordinate activities with another entity(s) provides the flexibility needed to satisfy this requirement. These activities are not limited to permittee property. No change has been made to the proposed regulation.</p>

	<p>particular nontraditional permittees). For these reasons, the Department should reduce the number of public involvement activities to a maximum of two activities for nontraditional permittees due to limited audience, space, access, and other variables that make many of the activities listed in Table 2 difficult to conduct.</p>	
<p>The Metropolitan Airports Authority</p>	<p>If there are access restrictions due to security and/or safety concerns (such as access/work along the Dulles Toll Road), the Department should allow nontraditional permittees to use staff to meet the Public Involvement requirement. This would be consistent with the intent of this section when the activity conducted for the facility are not part of the staff's routine day to day duties (even if the staff have, for example, maintenance responsibilities for parts of the permittee that are unrelated to the facility).</p>	<p>Staff are allowed to fulfil this requirement. The requirement is that the staff cannot solely be comprised of individuals that would have already received stormwater, groundskeeping and maintenance training as part of their regular duties. Any staff that do not have any of the above listed duties may satisfy this requirement. No change has been made to the proposed regulation.</p>
<p>Pentagon</p>	<p>Due to the secure nature of the Pentagon, Washington Headquarters Services (WHS) is unable to conduct many of the categories of public involvement opportunities listed in Table 2. Additionally, public involvement activities are restricted to tenants of the Pentagon building. WHS in the past has achieved compliance for this requirement through pollution prevention/good housekeeping training for WHS employees. Under the proposed Permit, WHS will be unable to use this type of employee training to achieve compliance with permit requirements. WHS requests that the proposed Permit language be revised to allow employee training to count towards compliance with the public education and outreach and public involvement and participation Minimum Control Measures (MCMs).</p>	<p>DEQ has recognized the difficulties some permittees have had in satisfying requirements for MCM1 and MCM2. In response to this, traditional and non-traditional permittee definitions have been added to the draft permit. The Pentagon will be classified as a non-traditional permittee. As such, the Pentagon will have the option of implementing, promoting, participating in, or coordinating activities. This provides additional opportunities for non-traditional permittees, particularly those of a secure nature like Department of Defense facilities, to satisfy this permit requirement. For example, the Pentagon may choose to promote a clean-up of a section of the Potomac River to its target audience that a different organization is implementing. Also, Pentagon staff may participate in these activities at the facility to satisfy this requirement. The requirement is that the staff cannot solely be comprised of individuals that would have already received stormwater, groundskeeping and maintenance training as part of their regular duties. Any staff that do not have any of the above listed duties may satisfy this requirement.</p>
<p>The Metropolitan</p>	<p>Provide clarification regarding staff. Could a training program that</p>	<p>Staff are allowed to fulfil this requirement. The requirement is that the staff cannot solely</p>

<p>Airports Authority</p>	<p>is directed to a permittee’s staff whose activities are not directly associated specifically with the MS4 stormwater, groundskeeping, and maintenance duties under its regulated area be counted toward this section?</p>	<p>be comprised of individuals that would have already received stormwater, groundskeeping and maintenance training as part of their regular duties. Any staff that do not have any of the above listed duties may satisfy this requirement. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>Part I.E.2.h.(3) - please consider inserting “types of” before “public involvement activities”. In the vein of the MS4 Program Plan being an implementation planning tool, this would allow the City the needed flexibility in planning for the expected public involvement activities without committing to specific activities that may or may not end up coming to fruition. The Annual Report is the appropriate place to report on the specific activities that the City participates in during the permit year.</p>	<p>The requirement allows for any type of public involvement activity. If one public involvement activity is not available, it can be replaced with another equivalent activity. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>Part I.E.2.i.(2) – the requirement to include a summary of all stormwater pollution complaints received and how the City responded in the Annual Reports is cumbersome and unnecessary. Please consider deleting this requirement.</p>	<p>This requirement was added to ensure that DEQ can accurately assess the permittees’ response to stormwater complaints and the potential for the need of the permittee to review and adjust elements of its MS4 Program Plan. It also allows any interested party to obtain information on stormwater complaints and the permittees’ response to those complaints. This requirement will remain.</p>
<p>Hampton Roads Planning District Commission</p>	<p>MCM 3 – Pervious and Impervious Acres in the Permittee’s MS4 Service Area The draft MS4 GP includes revisions to the MS4 mapping requirements. Specifically, Part I.E.3.a(3)(b)(iii) requires permittees to provide “a polygon feature class or shapefile for the MS4 service area as required in accordance with Part I.E.3.a(1)(d) with an attribute table containing the following information: MS4 service area pervious, impervious, and total acreage to the nearest hundredth.” While permittees report the pervious and impervious acreage of their service area as needed to calculate their pollutant loads and reductions for their Chesapeake Bay TMDL Action Plans, they have not been required to report them as a polygon feature class or</p>	<p>This request has been considered, and DEQ will revise Part I.E.3.a(3)(b)(iii) as follows: <u>MS4 service area total acreage rounded to the nearest hundredth.</u></p>



	<p>shapefile. While we understand that DEQ intends to develop a statewide map of regulated MS4 service area, the purpose of providing the pervious and impervious acreage is unclear. If DEQ is collecting this data to support Chesapeake Bay modeling efforts, as described in the draft Fact Sheet on page 15, it is unnecessary because the Chesapeake Bay Program has already identified these acres as part of the land use/cover update completed by The Chesapeake Conservancy. Additionally, the draft Fact Sheet on page 16 instructs permittees to provide the MS4 service area total acreage but makes no mention of the breakdown of pervious and impervious acres. Suggested Revision – Remove the requirement to provide pervious and impervious acreage and edit Part I.E.3.a(3)(b)(iii) as follows: MS4 service area pervious, impervious, and total acreage to the nearest hundredth.</p>	
The Metropolitan Airports Authority	<p>An exemption should be added for simple connections, i.e. a discharge point that only consists of one inlet and pipe. These points should be exempt from dry weather field screening, since the permittee would be aware if there was an unauthorized discharge and/or spill that impacted that specific system.</p>	<p>DEQ recognizes many of the systems in certain areas (e.g. airports, residential areas, commercial areas) may be considered simple connections; however, illicit connections or unknown unauthorized discharges may still occur in these systems and inspection of these structures are still required. No change has been made to the proposed regulation.</p>
The Metropolitan Airports Authority	<p>A means or method for submittal should be provided to permittees who do not have the ability or would require significant investment to generate GIS (geodatabase or shapefiles) files.</p>	<p>There are many cost-conscious geospatial data software, including, training tutorials available to provide this service. Moving to a GIS format will insure compatibility with DEQ’s Electronic Data mapper initiatives. This requirement will remain.</p>
Pentagon	<p>Due to security restrictions, WHS is unable to submit geospatial information pertaining to the Pentagon site utilities. WHS has previously submitted the Pentagon’s MS4 map as a PDF. WHS requests that submitting the Pentagon’s MS4 information as a map in PDF format continues to be an acceptable means to comply</p>	<p>This request has been considered, and DEQ will revise Part I.E.3.a(3)(b)(iii) as follows: <u>MS4 service area total acreage rounded to the nearest hundredth.</u></p>

	with the Permit’s mapping requirement.	
City of Bristol	The proposed requirements add a financial burden on Small MS4s to provide a GIS map with the MS4 Area broken out into pervious and impervious acreage. Small MS4s typically do not have this data and this is an overreach that Small MS4s cannot afford.	There are many cost-conscious geospatial data software available to provide this service. This request has been considered, and DEQ will revise Part I.E.3.a(3)(b)(iii) as follows: <u>MS4 service area total acreage rounded to the nearest hundredth.</u>
City of Charlottesville	Part I.E.3.a.(3).(d).(iii) – the requirement to include MS4 service area pervious and impervious acreage will be challenging for many small MS4s. Those that are in the Chesapeake Bay watershed have this information as of 6/30/09 but may not have updated or current acreages. It is unclear why DEQ needs this information. The City requests that this requirement be deleted.	This request has been considered, and DEQ will revise Part I.E.3.a(3)(b)(iii) as follows: <u>MS4 service area total acreage rounded to the nearest hundredth.</u>
Virginia Municipal Stormwater Association (VAMSA)	MCM-3 (Part I.E.3.a.3.b.iii) – The Proposed GP directs a permittee to submit a polygon feature class or shapefile with an attribute table that contains “MS4 service area pervious, impervious, and total acreage to the nearest hundredth.” Requested Change: VAMSA requests that DEQ delete this requirement. Justification: VAMSA does not remember this topic being discussed during TAC meetings and has serious concerns about this requirement. Permittees have impervious and total acreage for each BMP, but nowhere in the current permit is a permittee required to characterize the entire MS4 service area by pervious and impervious area. VAMSA questions why this information is needed given the burden associated with gathering it and adding it to a map. For purposes of the Chesapeake Bay TMDL, all that the Bay Program needs for modeling is the service area boundary for each MS4, not the amount of pervious, impervious, and acreage to the nearest hundredth. Additionally, this requirement is not in the Draft	This request has been considered, and DEQ will revise Part I.E.3.a(3)(b)(iii) as follows: <u>MS4 service area total acreage rounded to the nearest hundredth.</u>

	Fact Sheet (it references total acreage only) (p. 16).	
Chesapeake Bay Foundation (CBF)	The General Permit should incorporate the latest Census data consistent with EPA's Proposed Amendments to its NPDES Stormwater Phase II Regulations In light of EPA's recent proposal to fix a terminology issue between its Phase II regulations and new terminology used by the U.S. Census, DEQ should include language in the General Permit that would cover any new Phase II MS4 localities under the General Permit based on the 2020 Census, associated mapping, and EPA's changes to the Phase II regulations. DEQ should also include in the General Permit updated service areas for existing MS4s utilizing the 2020 Census mapping. This will ensure Virginia does not delay incorporating 2020 Census data for nearly eight years after the census. Any additional Bay TMDL nitrogen, phosphorus, and sediment reductions associated with new service areas should also be incorporated in the final permit.	Revised permit language to incorporate new 2020 census data.
Fauquier County	More information and collaboration is required as it relates to the changes proposed to Reporting – GIS shapefile submission.	There are many cost-conscious geospatial data software, including, training tutorials available to provide this service. Moving to a GIS format will insure compatibility with DEQ's Electronic Data mapper initiatives. This requirement will remain.
City of Bristol	– Why is accuracy to the fifth decimal place necessary? Point locations in GIS have variable GPS accuracies. It is not clear why this financial burden is being placed on Small MS4s who have already mapped the stormwater system years/decades ago with a different accuracy.	DEQ's standard for GIS data is five decimal places. The accuracy is necessary to ensure all GIS data submitted to the department meets specified minimum standards, as well as to ensure data consistency across permittee GIS data submittals. This requirement will remain.
Virginia Municipal Stormwater Association (VAMSA)	MCM-3 (Part I.E.3.a.4.c) – The Proposed GP states that all geodatabase feature classes or shapefiles shall be submitted with outfall location accuracy to the fifth decimal place. Requested Change: VAMSA requests that DEQ revise this requirement to align with the	DEQ's standard for GIS data is five decimal places. The accuracy is necessary to ensure all GIS data submitted to the department meets specified minimum standards, as well as to ensure data consistency across permittee GIS data submittals. This requirement will remain.

	<p>degree of accuracy currently being used by the permittee. Justification: Permittees have points mapped with variable GPS accuracies. It is unclear why requiring accuracy to the fifth decimal place is necessary and making these changes would be burdensome. In reality, if DEQ wanted to locate some of the database features it would need to ask for local assistance.</p>	
<p>City of Bristol</p>	<p>Why is DEQ interested in the physical condition of the outfall? This appears to cross into infrastructure maintenance instead of water quality. Will DEQ begin setting requirements for infrastructure maintenance?</p>	<p>Physical condition may be an indication of illicit discharge. Depending on how the physical condition of the outfall is noted, a permittee could begin to identify those outfalls at a higher risk and would allow the permittee to focus attention for a Risk-based Approach. DEQ does not require infrastructure maintenance above and beyond those already present in the MS4 permit. This requirement will remain.</p>
<p>Chesapeake Bay Foundation (CBF)</p>	<p>we appreciate the addition of language requiring permittees to provide information on the condition of outfalls for outfalls where a discharge was observed during dry weather screening. This information will help permittees ensure that outfalls are maintained in good condition so that derelict outfalls are not leading to additional pollutant loading to receiving waters and so permittees can sequence and prioritize outfall maintenance.</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>Part I.E.3.e.(1) – it is stated previously in Part I.E.3.a.(5) that updates to the MS4 map and information table are to be made by October 1 of each year; the requirement here to include a confirmation statement that the MS4 map and information table were updated to reflect changes occurring on or before June 30 of the reporting year is inconsistent. Please consider reconciling these dates.</p>	<p>The General Permit cycle has been set to the fiscal year of July 1<sup>st</sup> – June 30<sup>th</sup>. The October 1 reporting deadline is set to provide time for permittees to compile the necessary information for the entire annual reporting requirements. No change has been made to the proposed regulation.</p>
<p>Chesapeake Bay Foundation (CBF)</p>	<p>Stormwater runoff from developed lands often carries many contaminants that plague Virginia’s waterways, including chlorides from de-icing activities. DEQ’s salt management strategy illustrates</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>

	<p>the need for MS4 permittees to be involved in managing salt application, which has important implications for water resources.<sup>11</sup> CBF and JRA support the new requirements in the General Permit for road, street, sidewalk, and parking lot maintenance written procedures for de-icing and Chloride TMDL action plan requirements for educating the public on impacts of de-icing agents on receiving streams.</p>	
<p>Chesapeake Bay Foundation (CBF)</p>	<p>We support the proposed changes to the General Permit in Part II(6) to require that areas required to be covered by a nutrient management plan (NMP) have such plans approved by the Virginia Department of Conservation and Recreation (DCR) and that such plans are updated so expired NMPs are not being relied upon for compliance.</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>
<p>Chesapeake Bay Foundation (CBF)</p>	<p>We support the removal of the subjective language “high potential to discharge pollutants” in MCM 6, Part (E)(6) regarding high priority facilities. Removing this language will enhance permittees’ tracking of high priority facilities and will help ensure consistent interpretation and application of these requirements by all permittees.</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>
<p>Fauquier County</p>	<p>More information is needed to understand how the changes to MCM6, Pollution Prevention and Good Housekeeping, will be administered. The requirement for additional nutrient management plans, coupled with the additional step of DCR approval of the plans, will be costly and time intensive.</p>	<p>NMPs are already required to be updated and approved by DCR (3 years for turf and 5 years for golf course). This requirement helps keep permittees with the compliance issue of allowing the NMP to lapse in approval. This requirement will remain.</p>
<p>Fauquier County</p>	<p>It is unclear what impact the changes to the SWPPP will have on the program as it relates to inspections and requirements for additional data.</p>	<p>The expectation of the SWPPP requirements is that the facility will have the necessary documentation showing they are performing necessary inspections, maintenance, procedures to prevent discharges, and a review process after an incident, to ensure that pollutants are not being discharged from the MS4. No additional language will be added.</p>
<p>City of Bristol</p>	<p>This requirement should be deleted as this is not included in Phase I permits. It is difficult to</p>	<p>The requirement clarifies issues for permittees and provides permittees clear expectations for their contractors. This</p>

	document compliance if the owner is not on-site. Building washing is allowed under other stormwater general permits and permittees should not be required to develop procedures for a stormwater discharge that is acceptable on an industrial or construction site.	requirement will be added to all reissued Phase 1 individual permits. DEQ revised the list of non-stormwater discharges to include routine external building wash down provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge. In addition, this requirement will be added to all reissued Phase 1 individual permits.
City of Alexandria	Renovation and Significant Exterior Maintenance (MCM-6, Part I.E.6.b.2) – Within 36 months, permittees will be required to develop procedures to address “Renovation and significant exterior maintenance activities (e.g., painting, building power-washing, roof resealing, and HVAC coil cleaning) not covered under a separate VSMP construction general permit.” This requirement is not included in Phase I permits. These types of activities are generally included in Pollution Prevention and Good Housekeeping measures and should not be singled out for more stringent oversight that could require staff or an additional third party to act as an onsite inspector during these operations. The City requests that DEQ remove this requirement.	This requirement will be added to all reissued Phase 1 individual permits. DEQ revised the list of non-stormwater discharges to include routine external building wash down provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge.
City of Charlottesville	Part I.E.6.b.(2) – the requirement to develop and implement written procedures for renovation and significant exterior building maintenance activities is an example of a proposed new requirement that is not even required of Phase I MS4 permittees. As such, the City requests that this requirement be deleted.	This requirement will be added to all reissued Phase 1 individual permits.
Hampton Roads Planning District Commission	MCM 6 – Good Housekeeping Procedures for Renovation and Significant Exterior Maintenance Part I.E.6.b(2) requires permittees to develop and implement good housekeeping procedures for “renovation and significant exterior building maintenance activities (e.g. painting, building power	This requirement will be added to all reissued Phase 1 individual permits.

	<p>washing, roof sealing, and HVAC coil cleaning) not covered under a separate VSMP construction general permit.” These activities are typically performed by contractors and minimizing pollutants in stormwater runoff from activities performed by contractors is already addressed in Part I.E.6.c. Permittees are to “...require through the use of contract language, training, written procedures, or other measures within the permittee’s legal authority that contractors employed by the permittee and engaging in the activities described in Part I.E.6.a and b follow established good housekeeping procedures and use appropriate control measures to minimize the discharge of pollutants to the MS4.” Rather than develop vague good housekeeping procedures applicable to several renovation and significant exterior building maintenance activities, it is more effective to tailor either the contract language or the training to the specific maintenance activity, based on site characteristics and the work to be completed, as described in Part I.E.6.c. The requirement to develop good housekeeping procedures for renovation and exterior building maintenance should be deleted. Suggested Revision - Delete Part I.E.6.b(2).</p>	
<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>Renovation and Significant Exterior Maintenance (MCM-6, Part I.E.6.b.2) – Within 36 months, permittees will be required to develop procedures to address “Renovation and significant exterior maintenance activities (e.g., painting, building power-washing, roof resealing, and HVAC coil cleaning) not covered under a separate VSMP construction general permit.” Requested Change: VAMSA requests that DEQ delete this requirement. Justification: This requirement is not included in Phase I permits.</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. DEQ revised the list of non-stormwater discharges to include routine external building wash down provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge.</p>

	<p>VAMSA is concerned that during an inspection DEQ or EPA could request documentation that the procedures were followed by a third-party contractor. Although an MS4 owner would ordinarily instruct a contractor on good housekeeping measures (even without the permit requirement), it is very difficult to document compliance if the owner is not on-site. DEQ or EPA regularly note in an inspection report if paperwork is not available to prove compliance. In addition, building washing is allowed under other stormwater general permits (see discussion below). Permittees should not be required to develop procedures for a stormwater discharge that is acceptable on an industrial or construction site.</p>	
<p>City of Bristol</p>	<p>This requirement is not included in Phase I permits. In addition, it is a significant expansion of the current requirement which would pull in all construction and maintenance across 2 the service area. There is not a 24- or 36-month period to allow permittees to revise existing procedures. This is unnecessary as a significant percentage of construction projects are covered by the Construction Stormwater General Permit.</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. DEQ will revise the language as follows: <u>Discharging water pumped from construction and maintenance activities not covered by another permit covering such activities.</u></p>
<p>City of Alexandria</p>	<p>Utility Construction Discharges (MCM-6, Part I.E.6.b.3) – The Proposed General Permit requires procedures for “Discharging water pumped from construction and maintenance activities” (Part I.E.6.b.3) in comparison to the current General Permit which requires procedures for “Requiring implementation of best management practices when discharging water pumped from utility construction and maintenance activities” (Part I.E.6.a.4). This requirement is not included in Phase I permits. The existing requirement in the General Permit is for the implementation of “best management practices when discharging water pumped from</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. DEQ will revise the language as follows: <u>Discharging water pumped from construction and maintenance activities not covered by another permit covering such activities.</u></p>



	<p>utility construction and maintenance activities” is adequate to protect water quality and included in standard operating procedures (SOP). Understanding that a large part of “utility construction and maintenance” activities are performed by utility companies operating under annual standards and specifications as authorized by DEQ, a localities’ SOPs are comparable and the preferred method. Because of this, the City requests that DEQ retain the current requirement</p>	
<p>Hampton Roads Planning District Commission</p>	<p>MCM 6 – Water Pumped from Utility Construction and Maintenance Activities Part I.E.6.b(3) requires permittees to develop and implement good housekeeping procedures for “discharging water pumped from construction and maintenance activities,” which expands the requirement in the existing MS4 GP, which is limited to “discharges from utility construction and maintenance activities.” Removing “utility” means that all construction and maintenance activities that discharge pumped water to the MS4 would need to be addressed in the procedures, which is unnecessary because these projects are managed using other state stormwater programs. Most construction projects are already subject to the water quality protection requirements in the VPDES General Permit Regulation for Discharges from Construction Activities (9VAC25-880-70). Projects that do not require Construction GP coverage are still subject to the Erosion and Sediment Control requirements in the regulations. Suggested Revision – Retain the language in the existing MS4 permit as follows: Require implementation of best management practices when discharging water pumped from utility construction and maintenance activities;</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. DEQ will revise the language as follows: <u>Discharging water pumped from construction and maintenance activities not covered by another permit covering such activities.</u></p>

<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>Utility Construction Discharges (MCM-6, Part I.E.6.b.3) – The Proposed GP requires procedures for “Discharging water pumped from construction and maintenance activities” (Part I.E.6.b.3) in comparison to the current GP that requires procedures for “Requiring implementation of best management practices when discharging water pumped from utility construction and maintenance activities;” (Part I.E.6.a.4, emphasis added). Requested Change: VAMSA requests that DEQ retain the current requirement. Justification: This requirement is not included in Phase I permits. In addition, it is a significant expansion of the current requirement which would pull in all construction and maintenance across the service area. There is no 24- or 36-month period to allow for permittees to revise existing procedures. Lastly, the requirement is unnecessary. A significant percentage of local construction projects are covered by the Construction Stormwater General Permit (CGP, 9VAC25-880-70). The CGP has extensive water quality protection requirements, including developing a stormwater pollution prevention plan (SWPPP) with an erosion and sediment control, stormwater management, and pollution prevention plan. Smaller construction projects that are not covered by the CGP are required to comply with the State’s Erosion and Sediment Control Regulations (in fact, utility construction is required to comply with MS-16) (9VAC25-840).</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. DEQ will revise the language as follows: <u>Discharging water pumped from construction and maintenance activities not covered by another permit covering such activities.</u></p>
<p>City of Alexandria</p>	<p>Temporary Landscaping Materials (MCM-6, Part I.E.6.b.4) – The General Permit requires procedures for temporary storage of landscaping materials in addition to identifying any permittee facility with “long-term bulk materials storage” as a “high</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. This requirement will remain.</p>

	<p>priority facility.” This is a new requirement in the General Permit and not included in Phase I permits. The temporary storage of small amounts of mulch is usually done in connection with onsite use where the material will soon be permanently placed and does not warrant separate procedures or inspections. Bulk storage is already identified as a “high priority facility” in the current permit. The City requests the removal of requirements for temporary storage.</p>	
<p>Hampton Roads Planning District Commission</p>	<p>MCM 6 – Temporary Storage of Landscaping Materials Part I.E.6.b(4) requires permittees to develop and implement good housekeeping procedures for the “temporary storage of landscaping materials.” This requirement is unnecessary because storing materials such as mulch for a short period of time before spreading it in garden beds or in bioretention BMPs has a low potential to impact water quality. When developing pollution prevention training materials, permittees should emphasize ways to minimize pollutants such as sediment, litter, vehicle fluids, hazardous materials, etc. from mobilizing in stormwater runoff. Permittees run the risk of diluting the effectiveness of their good housekeeping program if they prioritize procedures for activities that present little risk of stormwater pollution such as the temporary storage of landscaping materials. Permittees are also concerned about compliance with these procedures, and whether they would need to track each temporary pile of mulch used by a variety of landscaping contractors, even if it was staged for just a few hours before use. Suggested Revision - Delete Part I.E.6.b(4).</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. This requirement will remain.</p>
<p>City of Bristol</p>	<p>This is a new requirement and is not included in Phase I permits and appears to attempt to address any de minimus impact. The storage of small mulch piles is a</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. This requirement will remain.</p>

	<p>minor issue and the potential for any real water quality impacts from this activity is highly unlikely. In addition, the paperwork that documents the placement of each small mulch pile would be very burdensome.</p>	
<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>Temporary Landscaping Materials (MCM-6, Part I.E.6.b.4) – The Proposed GP requires procedures for temporary storage of landscaping materials in addition to identifying any permittee facility with “long-term bulk materials storage” as a “high priority facility.” This is a new requirement and not included in Phase I permits.                  Requested Change: VAMSA requests that DEQ delete the requirement in MCM-6 to establish procedures for temporary storage of landscaping materials.                  Justification: The storage of small mulch piles is a minor issue and, on the whole, the potential for any real water quality impacts from this activity is highly unlikely. Identifying minor issues like landscaping materials (mulch) devalues the importance of other issues that should be addressed by the permittee. We are also concerned that we will be asked during an inspection to produce paperwork that documents the proper placement of each small mulch pile/compliance with the good housekeeping procedures developed under MCM-6. This would be very burdensome. As noted above, DEQ and EPA regularly note paperwork issues during inspections. This appears to be a compliance issue found during some MS4 audits. Compliance issues should be dealt with on a case-by-case basis not through broad permit language.</p>	<p>This requirement will be added to all reissued Phase 1 individual permits. This requirement will remain.</p>
<p>City of Charlottesville</p>	<p>Part I.E.6.b.(6) and (7) – it is unclear if the requirements for the application of materials are meant to represent activities for which written good housekeeping procedures are required. As written, they are not activities per</p>	<p>DEQ has reviewed this request and the language will remain as proposed.</p>

	<p>se, but rather stand alone requirements.</p>	
<p>Hampton Roads Planning District Commission</p>	<p>MCM 6 – Determining which High-Priority Facilities Require Stormwater Pollution Prevention Plans (SWPPPs) The existing MS4 GP requires permittees to develop SWPPPs for their highpriority facilities that have a “high potential of discharging pollutants.” The draft MS4 GP does not include the qualifier of “high potential of discharging pollutants.” Permittees would instead be required to develop SWPPPs for facilities that meet the revised definition of high-priority facility in section 9VAC25-890-1 and at least one of the conditions listed in Part I.E.6.g. Based on these changes, the universe of facilities requiring SWPPP coverage has expanded far beyond what we believe the intent to be. For example, a municipal park with a drop-off recycling center could qualify as needing SWPPP coverage because the facility engages in recycling and there is likely to be dog waste residuals on the ground exposed to runoff. SWPPPs should be tailored to those facilities that have a “high potential of discharging pollutants.” Permittees should not be burdened with developing and implementing SWPPPs for facilities that are not likely to contribute to water quality impairments. Page 25 of the draft Fact Sheet indicates that some permittees misconstrued the meaning of “a high potential of discharging pollutants” and that misunderstanding has led to enforcement action. However, the revisions made to the language in the draft MS4 GP have not made it clearer to determine which facilities should have SWPPP coverage. Instead, the changes require permittees to develop SWPPPs for high-priority facilities that are not likely to impact the MS4. Rather than change permit requirements for over 100 permittees, we ask</p>	<p>The old qualifier “high potential of discharging pollutants” was removed due to misinterpretation and consistency issues across permittees. DEQ understands that the new system may be confusing at first but should align permittee programs more consistently. Additional information will be given in the Fact Sheet to clarify the intent of this section. To the example given, if the recycling area is not covered, then there could be any number of possible items (i.e., lead batteries, petroleum products) in the recycling that could potentially cause a discharge and, therefore, would require a SWPPP. Public parks that could potentially have dog waste would not necessitate a SWPPP, but the addition of a recycling area, could constitute the addition of a SWPPP.</p>

	<p>DEQ to provide technical assistance to those permittees who are misunderstanding the intent of “a high potential of discharging pollutants.” Suggested Revisions – Use the original language in Part I.E.6.g so that it is clear to permittees that the intent is to develop SWPPPs to minimize pollution from facilities with a “high potential of discharging pollutants.” Part I.E.6.g should be edited to read as follows: g. The permittee shall maintain and implement a site specific SWPPP for each high-priority facility as defined in 9VAC25-890-1 that does not have or require separate VPDES permit coverage, and which has a high potential of discharging pollutants. Delete Part I.E.6.g(1)-(9).</p>	
City of Bristol	<p>This needs to be clarified that a maintenance schedule is not needed for controls that are replaced as needed. Certain controls are replaced as needed and do not have a maintenance schedule.</p>	<p>Replace as needed can be a maintenance schedule, as long as the criteria for what “as needed” entails are documented, and inspections are performed regularly to evaluate these criteria. No additional language is proposed.</p>
Virginia Municipal Stormwater Association (VAMSA)	<p>MCM-6 (Part I.E.6.h.5) – The Proposed GP states that a SWPPP for a high-priority facility must have a “maintenance schedule for all stormwater management facilities and other pollutant source controls applicable to SWPPP implementation...” Requested Change: VAMSA requests that DEQ revise this requirement to clarify that a maintenance schedule is not required for controls that are replaced as needed or for general maintenance. Justification: Controls like drop inlet protection or drip pads under equipment do not have a maintenance schedule, they are replaced as needed. Likewise, it is not clear if DEQ intends for a permittee to have a schedule for regular maintenance like grass cutting.</p>	<p>Replace as needed can be a maintenance schedule, as long as the criteria for what “as needed” entails are documented, and inspections are performed regularly to evaluate these criteria. No additional language is proposed.</p>
City of Bristol	<p>The permittees already are required to annually review the high-priority facilities list to</p>	<p>Permittees have historically dealt with the previous requirement in many ways and the revised language will assist permittees with</p>

	determine if a SWPPP is necessary. Maintaining a separate list of high-priority facilities that do not need a SWPPP is unnecessary paperwork.	consistent compliance. This requirement will remain.
Virginia Municipal Stormwater Association (VAMSA)	List of High-Priority Facilities Without SWPPP (MCM-6, Part I.E.6.i) – The Proposed GP requires that a permittee “maintain a list of all high-priority facilities owned or operated by the permittee not required to maintain a SWPPP...” Requested Change: VAMSA requests that DEQ delete this requirement. Justification: Permittees are already required to annually review the high-priority facilities list to determine if a SWPPP is necessary. Maintaining a list of high-priority facilities that do not need a SWPPP is paperwork for paperwork’s sake; VAMSA sees no benefit to this requirement.	Permittees have historically dealt with the previous requirement in many ways and the revised language will assist permittees with consistent compliance. This requirement will remain.
Hampton Roads Planning District Commission	MCM 6 – List of High-Priority Facilities that Do Not Require a SWPPP Part 1.E.11 of the draft MS4 GP requires permittees to maintain a list of highpriority facilities owned or operated by the permittee not required to maintain a SWPPP in accordance with Part I.E.6.g. The list is required to be made available upon request. This list is unnecessary because Part I.E.6.u already requires permittees to submit a confirmation statement as part of their Annual Report indicating all high-priority facilities were reviewed to determine if SWPPP coverage is required during the reporting period. Suggested Revision – Delete Part 1.E.11 of the draft MS4 GP.	Permittees have historically dealt with the previous requirement in many ways and the revised language will assist permittees with consistent compliance. This requirement will remain.
Hampton Roads Planning District Commission (HRPDC)	Chesapeake Bay TMDL Special Condition - TSS Reduction Requirements As described on page 5 of the draft Fact Sheet, Chesapeake Bay research has shown that the water clarity/submerged aquatic vegetation water quality standard is “generally more responsive to nutrient load reductions than it is to reduction in sediment loads.”	Comment noted. No change has been made to the proposed regulation.

	<p>HRPDC supports DEQ’s decision to remove the sediment reduction requirements from the draft MS4 GP. Page 5 of the draft Fact Sheet includes a description of the letter DEQ submitted to EPA explaining why they removed the sediment reduction requirements from the draft MS4 GP. When EPA responds to the letter, the draft Fact Sheet should be updated. Suggested Revision – Update page 5 of the draft Fact Sheet when guidance is provided by EPA.</p>	
<p>Chesapeake Bay Foundation (CBF)</p>	<p>Removing sediment load reduction requirements in the General Permit is inconsistent with the Clean Water Act. CBF and JRA strenuously object to DEQ’s last minute removal of sediment reduction requirements from the Chesapeake Bay Total Maximum Daily Load (TMDL) Special Condition. Not only did DEQ not provide any opportunity for the stakeholder group to discuss this critical issue during the regulatory development process, but the agency also failed to undertake required analysis under the Clean Water Act. What is more, the basis for DEQ’s removal of the sediment reduction requirements, a 2019 letter from EPA’s Chesapeake Bay Program Principals’ Staff Committee (PSC), is not new and there is no justification for DEQ’s delay in sharing this proposal and for failing to provide an opportunity for input during the stakeholder process. A. Removal of these sediment reduction obligations would be unlawful. First, removing the sediment reduction provisions from the General Permit would be unlawful because the Clean Water Act and Chesapeake Bay TMDL require National Pollutant Discharge Elimination System (NPDES) permits to be consistent with applicable TMDLs, including the Bay TMDL. According to 40 C.F.R. § 122.44(d)(1)(vii)(B), all NPDES discharge permits must</p>	<p>The Chesapeake Bay Program itself has indicated this. On August 12, 2019, the Chesapeake Bay Program Principals’ Staff Committee (PSC) approved the process, timeline, and proposed Phase III WIP language for developing the Phase III WIP sediment targets. Virginia included the PSC-approved language in its final Phase III WIP on Page 29, Section 5.2 (Sediment Targets). This language states in part, <i>“Sediment loads are managed in the Bay TMDL to specifically address the water clarity/submerged aquatic vegetation (SAV) water quality standards. Intuitively, it makes sense that the more sediment suspended in the water, the less makes it down to the SAV. Interestingly, research in the Chesapeake Bay has shown that the water clarity/SAV water quality standard is generally more responsive to nutrient load reductions than it is to reduction in sediment loads. This is because the algae that are fueled by the nutrients can block as much, or more, light from reaching the SAV as suspended sediments. The sediment targets will not affect the BMPs called for in the WIP, and are not intended to be the driver for implementation moving forward...”</i> This proposed change does not give MS4 permittees a “free pass” on sediment reductions. Sediment reductions will still occur when MS4s install various BMPs to meet the nutrient reduction requirements. Additionally, the removal of the sediment reduction requirement for the Chesapeake Bay TMDL does not relieve MS4 permittees of their responsibility to achieve sediment reductions required by local TMDLs. Sediment reductions to the Bay will still occur. This proposed general permit maintains sediment reduction BMP Warehouse reporting</p>



	<p>include water-quality based effluent limitations that are “consistent with the assumptions and requirements of any available wasteload allocation,” meaning the proposed MS4 permit will be unlawful unless it implements effluent limits that are consistent with the sediment Wasteload Allocations (WLA) of the Chesapeake Bay TMDL.<sup>1</sup> Since the existing MS4 permit terms, which require a 40% reduction in sediment loads, are currently compliant with the WLAs of the Bay TMDL,<sup>2</sup> removing this sediment reduction program in the revised permit would violate this requirement. Even though the sediment reduction requirements were calculated based on best management practice (BMP) implementation to meet nutrient targets, nowhere do the proposed changes in the General Permit make this connection. The proposed General Permit itself does not include any provision tying nutrient BMP implementation to associated sediment reductions, thus making the removal of sediment reductions inconsistent with the Bay TMDL. Second, the PSC letter does not have the authority to ratify this unlawful conduct. Nothing in the cited PSC letter altered or amended the enforceability of the sediment WLAs in the TMDL. Rather, the PSC letter merely notes that water clarity/submerged aquatic vegetation [SAV] is more responsive to nutrient reductions than sediment load reductions. However, the PSC letter itself notes that “there are detrimental effects of sediment on the clarity/SAV [Water Quality Standard] and state-level regulatory frameworks of the tidal CBP States address the issue of sediment’s detrimental effects on water clarity and SAV.” See Letter at 1.3 At a minimum, it is not clear the extent to which the PSC may</p>	<p>requirements under Part III since sediment reduction tracking for permittee BMP implementation is still necessary for Chesapeake Bay Program reporting purposes and Chesapeake Bay TMDL modeling efforts. No change has been made to the proposed regulation.</p>
--	--	--

	<p>itself have been relying on the very sediment reductions in this permit in making such a statement; creating the potential that DEQ's proposed action may in fact undermine, and be inconsistent with, the assumptions in the PSC letter. Further, as EPA explains in the PSC letter, the methodology for calculating sediment targets has not changed since the Phase II Watershed Implementation Plan (WIP), and thus, since the last reissuance of this permit. Therefore, it is challenging to understand, and even more so given no opportunity to discuss this issue during the stakeholder process, why DEQ is choosing to make this change at this juncture.</p>	
<p>Chesapeake Bay Foundation (CBF)</p>	<p>DEQ failed to conduct required anti-backsliding analysis. DEQ's removal of the existing sediment effluent limit would also violate the CWA's antibacksliding provision. CWA Section 402(o)(1) prohibits the reissuance of permits with limitations based on TMDLs "which are less stringent than the comparable effluent limitations in the previous permit . . ." 33 U.S.C. Section 1342(o). Such limitations may only be revised pursuant to the conditions of 33 U.S.C. Section 1313(d)(4), neither of which DEQ has met. Even if DEQ did meet one of these conditions, in order to remove the sediment limitations in the permit, DEQ is required to undertake and document an anti-backsliding analysis (40 CFR Section 122.44(l)), which it has failed to do in the proposed reissuance. Because DEQ's proposed reissuance of the draft permit is completely devoid of any anti-backsliding analysis, it is impossible to determine under which standard, if any, DEQ believes the sediment limitations may be removed. DEQ's failure to include any anti-backsliding analysis violates the CWA and is arbitrary and capricious.</p>	<p>The Chesapeake Bay Program itself has indicated this. On August 12, 2019, the Chesapeake Bay Program Principals' Staff Committee (PSC) approved the process, timeline, and proposed Phase III WIP language for developing the Phase III WIP sediment targets. Virginia included the PSC-approved language in its final Phase III WIP on Page 29, Section 5.2 (Sediment Targets). This language states in part, "<i>Sediment loads are managed in the Bay TMDL to specifically address the water clarity/submerged aquatic vegetation (SAV) water quality standards. Intuitively, it makes sense that the more sediment suspended in the water, the less makes it down to the SAV. Interestingly, research in the Chesapeake Bay has shown that the water clarity/SAV water quality standard is generally more responsive to nutrient load reductions than it is to reduction in sediment loads. This is because the algae that are fueled by the nutrients can block as much, or more, light from reaching the SAV as suspended sediments. The sediment targets will not affect the BMPs called for in the WIP, and are not intended to be the driver for implementation moving forward...</i>" This proposed change does not give MS4 permittees a "free pass" on sediment reductions. Sediment reductions will still occur when MS4s install various BMPs to meet the nutrient reduction requirements. Additionally, the removal of the sediment reduction requirement for the Chesapeake Bay TMDL does not relieve MS4 permittees of their</p>

		<p>responsibility to achieve sediment reductions required by local TMDLs. Sediment reductions to the Bay will still occur. This proposed general permit maintains sediment reduction BMP Warehouse reporting requirements under Part III since sediment reduction tracking for permittee BMP implementation is still necessary for Chesapeake Bay Program reporting purposes and Chesapeake Bay TMDL modeling efforts. No change has been made to the proposed regulation.</p>
<p>Chesapeake Bay Foundation (CBF)</p>	<p>Requiring sediment load reduction is beneficial to the Bay and local water quality. The Chesapeake Bay TMDL explicitly singles out sediment as one of the three pollutants that pose the greatest threat to the Bay.<sup>4</sup> Not only this, but Virginia-based MS4s are identified as one of the largest contributors of sediment loads delivered to the Bay. Specifically, Virginia is responsible for 41% of the sediment loads delivered to the Bay, and point sources like MS4 facilities contribute 35% of this sediment delivery.<sup>5</sup> Half of the tidal segments of the Chesapeake Bay included in Virginia’s Integrated Report have been classified as impaired due to SAV/Water Clarity Issues.<sup>6</sup> Even if this designated use is more responsive to nutrient reductions, sediment still degrades these designated uses and DEQ has the responsibility to manage the degradation from sediment for impaired waterways both within the Bay watershed and beyond,<sup>7</sup> yet many lack local sediment TMDLs.<sup>8</sup> Further, Chesapeake Bay Program Partnership has suggested there is a need for additional analyses “in tributary open waters and shallow water habitats, where the estuary model currently struggles to predict water quality standards attainment.”<sup>9</sup> The current “Comprehensive Analysis of System Response” (CESR) effort has focused on the need to consider restoration efforts on shallow waters where aquatic</p>	<p>The Chesapeake Bay Program itself has indicated this. On August 12, 2019, the Chesapeake Bay Program Principals’ Staff Committee (PSC) approved the process, timeline, and proposed Phase III WIP language for developing the Phase III WIP sediment targets. Virginia included the PSC-approved language in its final Phase III WIP on Page 29, Section 5.2 (Sediment Targets). This language states in part, “<i>Sediment loads are managed in the Bay TMDL to specifically address the water clarity/submerged aquatic vegetation (SAV) water quality standards. Intuitively, it makes sense that the more sediment suspended in the water, the less makes it down to the SAV. Interestingly, research in the Chesapeake Bay has shown that the water clarity/SAV water quality standard is generally more responsive to nutrient load reductions than it is to reduction in sediment loads. This is because the algae that are fueled by the nutrients can block as much, or more, light from reaching the SAV as suspended sediments. The sediment targets will not affect the BMPs called for in the WIP, and are not intended to be the driver for implementation moving forward...</i>” This proposed change does not give MS4 permittees a “free pass” on sediment reductions. Sediment reductions will still occur when MS4s install various BMPs to meet the nutrient reduction requirements. Additionally, the removal of the sediment reduction requirement for the Chesapeake Bay TMDL does not relieve MS4 permittees of their responsibility to achieve sediment reductions required by local TMDLs. Sediment reductions to the Bay will still occur. This proposed general permit maintains sediment reduction BMP Warehouse reporting requirements under Part III since sediment reduction tracking for permittee BMP</p>

	<p>species abound and where impacts of sediment are most acutely felt.<sup>10</sup> Further, the quicker response to nutrient reductions could simply be driven by lag times whereby nutrients are flushed relatively quickly when sources are reduced whereas sediment loads may have longer lag times. If that is the case, it may take longer to see designated use response from sediment reductions. That, however, is not a reason not to manage this pollutant, and in fact, points to the importance of preventing sediment loads in order to avoid impairments that can last for long periods of time. Therefore, it is abundantly clear that reducing sediment loads from MS4s is an integral part of the Chesapeake Bay TMDL. DEQ cites the PSC’s statement that water clarity/SAV water quality is “generally more responsive to nutrient load reductions than it is to reduction in sediment loads;” however, MS4s should not lose sight of the sediment reductions they will achieve through BMPs they implement to address nitrogen and phosphorus—and such reductions should be tracked and reported as required in the existing permit. Finally, local streams within and outside the Bay watershed are impaired for sediment. Sediment in the watershed is already the subject of thousands of local sediment TMDLs in streams and rivers being implemented by the Chesapeake Bay Program partners. There are also many streams impaired for sediment for which TMDLs are yet to be completed.</p>	<p>implementation is still necessary for Chesapeake Bay Program reporting purposes and Chesapeake Bay TMDL modeling efforts. No change has been made to the proposed regulation.</p>
<p>Chesapeake Legal Alliance</p>	<p>Chesapeake Legal Alliance: CLA is concerned about the proposed elimination in the TMDL Special Condition section of the reduction requirements for TSS&gt; What is the legal, policy, and scientific justification for the elimination of reduction requirements for TSS? How would the removal of this</p>	<p>The Chesapeake Bay Program itself has indicated this. On August 12, 2019, the Chesapeake Bay Program Principals’ Staff Committee (PSC) approved the process, timeline, and proposed Phase III WIP language for developing the Phase III WIP sediment targets. Virginia included the PSC-approved language in its final Phase III WIP on Page 29, Section 5.2 (Sediment Targets).</p>

	<p>requirement impact sediment0impaired waters, TSS TMDLs, and any applicable WLA? Would the removal of these requirements impact efforts to help attain VA WQS?</p> <p>We are also concerned that the elimination of TSS reduction requirements will have an outsized impact on public health, particularly in disproportionately burdened communities and households. Because many toxic chemicals and pollutants bind to sediment, the inclusion of a sediment reduction target would be one of the best ways for point source dischargers to reduce their impacts on surrounding communities.</p>	<p>This language states in part, “<i>Sediment loads are managed in the Bay TMDL to specifically address the water clarity/submerged aquatic vegetation (SAV) water quality standards. Intuitively, it makes sense that the more sediment suspended in the water, the less makes it down to the SAV. Interestingly, research in the Chesapeake Bay has shown that the water clarity/SAV water quality standard is generally more responsive to nutrient load reductions than it is to reduction in sediment loads. This is because the algae that are fueled by the nutrients can block as much, or more, light from reaching the SAV as suspended sediments. The sediment targets will not affect the BMPs called for in the WIP, and are not intended to be the driver for implementation moving forward...</i>” This proposed change does not give MS4 permittees a “free pass” on sediment reductions. Sediment reductions will still occur when MS4s install various BMPs to meet the nutrient reduction requirements. Additionally, the removal of the sediment reduction requirement for the Chesapeake Bay TMDL does not relieve MS4 permittees of their responsibility to achieve sediment reductions required by local TMDLs. Sediment reductions to the Bay will still occur. This proposed general permit maintains sediment reduction BMP Warehouse reporting requirements under Part III since sediment reduction tracking for permittee BMP implementation is still necessary for Chesapeake Bay Program reporting purposes and Chesapeake Bay TMDL modeling efforts. No change has been made to the proposed regulation.</p>
<p>City of Alexandria</p>	<p>Removal of TSS Reductions from the TMDL Bay Special Condition The City supports DEQ’s decision to remove total suspended solids/sediment from the Chesapeake Bay TMDL special condition in the permit. We agree with DEQ’s statement in a letter to U.S. EPA’s Region 3 Administrator that the “sediment targets will not affect the BMPs called for in the WIP [Watershed Implementation Plan], and are not intended to be the driver for implementation moving forward...”. There is no scientific or practical basis for</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>

	<p>continued inclusion of sediment reductions in the GP.</p>	
<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>VAMSA Supports Removal of TSS Reductions from the TMDL Bay Special Condition VAMSA supports DEQ's decision to remove total suspended solids (TSS)/sediment reduction requirements from the Proposed GP. There is strong scientific support for water clarity/submerged aquatic vegetation (SAV) being more responsive to nutrient reductions than sediment reductions. 3 It is logical for the State to focus permittee action on nutrient reductions during the upcoming permit cycle. VAMSA notes that Phase II MS4s have been successfully implementing Bay-related requirements for 10 years and are on schedule to hit nutrient reduction targets by 2028. There is no reason to believe that TSS reductions will be an issue given the excellent performance by permittees to date. In addition, there is at least one other Bay jurisdiction that has MS4 permit requirements that are not specifically pegged to nutrient reductions. Maryland has written its MS4 permits to mandate impervious area reduction, not nutrient and sediment reductions.</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>
<p>Chesapeake Bay Foundation (CBF)</p>	<p>The timelines under the proposed permit must be accelerated in order to meet the 2025 TMDL goals. With the initiation of the Chesapeake Bay TMDL in 2010, Virginia committed to three cycles of reductions for small MS4s to be implemented by 2025. The reissuance of this General Permit, representing the third round of these permits and the majority of pollutant reductions, will not go into effect until 2023 and would give permittees until 2028 to achieve 60% of their Bay TMDL reductions, thereby failing to achieve the Commonwealth's commitment. In its Agency Background Document, DEQ rationalizes that in exchange</p>	<p>The original agreement between DCR and EPA was established based on three, five-year permit terms. The 2028 timeframe aligns with the original agreement. The proposed schedule will remain as written.</p>

	<p>for removing sediment reductions from the General Permit, it will require nutrient load reductions “at a much-accelerated rate to focus on achieving the needed nitrogen and phosphorus reduction.”</p> <p>However, the language of the General Permit itself shows that DEQ continues to impose a schedule for nutrient reductions that goes beyond 2025. In fact, the General Permit evinces no acceleration of nutrient reductions. DEQ should include in its response to comments the specific section of the General Permit that requires any acceleration of nutrient reductions beyond the 2028 schedule it has long identified. Phase I MS4s are even farther off track, with some permit cycles lagging the General Permit by more than five years. The three phases of reductions have been known since before 2013 and it has also been common knowledge since that time that the greatest nutrient reductions were heavily backloaded for the third permit cycle. Localities have long been aware of these timelines and should have been planning for implementing necessary nutrient reductions regardless of the administrative delays that have occurred with the reissuances of these stormwater permits. We urge DEQ, through the reissuance of this General Permit and the accelerated reissuance of the remaining Phase I MS4 individual permits, to formally address these delays and accelerate timelines for MS4s to reduce nutrients consistent with the Commonwealth’s commitments. The Bay TMDL Action Plan requirements in the General Permit should likewise be modified to acknowledge the need to accelerate the timeline for evaluating and updating TMDL Action Plans so that nutrient reductions can be implemented more quickly given the looming</p>	
--	--	--

	<p>2025 deadline. The existing twelve-month update timeframe for TMDL Action Plans will leave extremely limited time for localities to get practices in place to align with the 2025 Bay TMDL deadline. As a result, we encourage DEQ to reduce to six months the timeline for submission of updated TMDL Action Plans. In view of the current permit's requirement for submission of an updated Action Plan with the permittee's reapplication for coverage and the fact that changes are rarely made between the updated and final TMDL Action Plans, six months should be adequate to address any changes required by the new permit and, as mentioned above, the phased reductions have been long known by localities.</p>	
<p>Chesapeake Bay Foundation (CBF)</p>	<p>We also support DEQ requiring that Bay TMDL implementation be done in a standalone report and publicly posted on the permittee's website. This will aid the public in being able to more easily understand how their locality is achieving their Bay TMDL requirements.</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>Part II.A.3 – the second phase reduction of at least 35% of the L2 Scoping Run should be required by October 31, 2023 to coincide with the end of the current General Permit cycle, not by June 30, 2023.</p>	<p>The June 30, 2023 deadline will have elapsed prior to the reissuance of this permit. The date will not be changed.</p>
<p>City of Charlottesville</p>	<p>Part II.A.13.d.(1).(a) – what is the standard for determining the “BMP type” (Virginia BMP Clearinghouse, Chesapeake Bay Program, other)?</p>	<p>This information can be found in DEQ Guidance Memo 20-2003. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>Part II.A.13.d.(1).(b) – is DEQ only requesting the total, cumulative amount of POC reduction for each BMP type, and not for each individual BMP?</p>	<p>The Chesapeake Bay TMDL action plan report should include the pounds of POC reduction per year for each BMP type. Thus, multiple of the same BMP type can be reported cumulatively. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>Part II.A.13.d.(2).(a) – how should the location of the BMP be reported (address, latitude and longitude, other)?</p>	<p>The information submitted in the annual report should be consistent with the information submitted in the BMP Warehouse.</p>
<p>The Metropolitan</p>	<p>Annual practices should be credited in the year the practice is</p>	<p>Annual practices are credited in the year they are conducted. If an annual practice is</p>



<p>Airports Authority</p>	<p>implemented and every year thereafter in which the annual practice is used. If annual practices cannot be credited each year the practice is used, an average of the pollutant load reductions from each year during the permit cycle should be used to instead of only the compliance year in which the annual practice was implemented.</p>	<p>conducted in year one of the permit, the pollution reduction is reported in the annual report for that year. Credit for annual practices can only be “applied” for the year in which the annual practice was conducted. Taking an average, of 3 years out of 5, or summing those 3 years is inappropriate. Annual practices are meant to be conducted each year, in an ongoing fashion, not used as a one-time BMP. This requirement will remain.</p>
<p>Environmental Integrity Project</p>	<p>Commenters are requesting that Virginia improve the bacteria conditions of the Draft Permit (Part II.B.5 of the Draft Permit, Bacterial TMDLs) by doing the following: 1. Requiring more specific bacteria BMPs, including adding numeric measurements. 2. Changing the general permit requirements so that MS4s must implement at least some of the more rigorous BMPs. 3. Requiring instream and/or outfall monitoring for MS4s. 4. Requiring every permittee to create a new local action plan for their bacteria TMDL.</p>	<p>Practical strategies are provided to allow flexibility by the permittee to achieve bacterial reductions in the most cost effective and achievable manner. No language changes are proposed.</p>
<p>City of Bristol</p>	<p>Is the update on progress supposed to be part of the annual MS4 permit?</p>	<p>The permittee has the option to submit a separate progress updated within 36 months after the effective date of the permit or may submit an addendum within the annual report clearly denoting it is to meet this requirement. No change has been made to the proposed regulation.</p>
<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>Local Sediment, Phosphorus, and Nitrogen TMDLs (Part II.B.6.d) – The Proposed GP directs a permittee to provide an update on progress made toward achieving action plan goals 36 months after the permit effective date. VAMSA asks for clarification from DEQ regarding whether this should be a separate report or included in an annual report (if so, which? 36 months is November 1, 2026, one month after annual reports are due on October 1, 2026).</p>	<p>The permittee has the option to submit a separate progress updated within 36 months after the effective date of the permit or may submit an addendum within the annual report clearly denoting it is to meet this requirement. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>Part II.B.6.d - the City prefers that the General Permit does not include a requirement to submit anticipated end dates for meeting WLAs. Please consider deleting this requirement.</p>	<p>Comment noted. This requirement will remain unchanged.</p>

<p>Hampton Roads Planning District Commission</p>	<p>Local PCB TMDLs – Monitoring and Product Testing Results Part II.B.7.c requires permittees to “...submit results of any action plan PCB monitoring or product testing conducted and any adaptive management strategies that have been incorporated into the updated action plan based upon monitoring or product testing results if the permittee has elected to perform monitoring or product testing or both.” This provision should be deleted because monitoring and product testing are optional activities which are not required to comply with the MS4 GP. In accordance with the partial remand of the Phase II stormwater regulations, which were revised and promulgated on January 9, 2017, the permitting authority is to establish what is necessary for the MS4 to “reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act.” In accordance with Option 1 of the remand rule, the permits are to contain all the requirements that are to be used to assess compliance. Providing the results of optional monitoring and product testing is an overreach, cannot be used to assess compliance, and should be deleted from the draft MS4 GP. Suggested Revision – Delete Part II.B.7.c.</p>	<p>As indicated, in accordance with the partial remand of the Phase II stormwater regulations, which were revised and promulgated on January 9, 2017, the permitting authority is to establish what is necessary for the MS4 to “reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act.” PCB is a pollutant. If identified, the requirement is for a strategy to be in place. The language will remain as written.</p>
<p>City of Bristol</p>	<p>This is not required of Phase I permits and is unnecessary. Many of these projects are funded through State and Federal grants and require maintenance and inspection of the projects. In addition, this could be construed as requiring all permittees to develop inspection and maintenance protocols regardless of whether such practices have been implemented based upon the definition of “ecosystem restoration practices”. If this section is included within the permit, then</p>	<p>If the project was completed because of the Chesapeake Bay TMDL, inspection and maintenance procedures are required in order to maintain pollution reductions provided by the project. If the project utilized State or Federal grants that require inspection and maintenance procedures, then the permittee may include those procedures by reference to satisfy this requirement. If the project was not installed to produce pollution reductions for a TMDL nor because of VSMP requirements, inspection and maintenance procedures do not need to be developed. The language will remain as written.</p>

	clarification is required that the protocols are only required if the permittee has implemented a restoration practice or has included a restoration practice in a TMDL action plan.	
Chesapeake Bay Foundation (CBF)	We support the many changes made to account for the reality that ecosystem restoration projects have been implemented in many Small MS4s and are an important aspect of their compliance obligations with the permits. We support the new definition of ecosystem restoration projects and the necessary inspection and maintenance requirements for these projects.	Comment noted. No change has been made to the proposed regulation.
Virginia Municipal Stormwater Association (VAMSA)	Inspection and Maintenance of Ecosystem Restoration Projects Used for TMDL Compliance (Part II.C) – Within 36 months, permittees will be required to develop inspection and maintenance procedures for ecosystem restoration projects; each project owned or operated by the permittee must be inspected no less than once every 60 months. Requested Change: VAMSA requests that DEQ delete this requirement. Justification: This is not included in Phase I permits and is unnecessary. VAMSA believes most permittees are already inspecting these projects under MCM-5. In addition, many of these projects are funded by the Stormwater Local Assistance Fund (SLAF). SLAF agreements require that a grantee have maintenance and inspection protocols and that the grantee inspects and verifies the project at least once every five years. We suggest that if DEQ has concerns, it could issue guidance explaining to all permittees that MCM-5 obligations cover ecosystem restoration projects as well as structural BMPs.	If the project was completed because of the Chesapeake Bay TMDL, inspection and maintenance procedures are required in order to maintain pollution reductions provided by the project. If the project utilized State or Federal grants that require inspection and maintenance procedures, then the permittee may include those procedures by reference to satisfy this requirement. If the project was not installed to produce pollution reductions for a TMDL nor because of VSMP requirements, inspection and maintenance procedures do not need to be developed. The language will remain as written.
City of Bristol	There are numerous issues with this section. This language suggests that all BMPs that are inspected, including both CGP and TMDL, must be tracked and	If the Construction General Permit requires post construction BMPs, and the proper process for terminating the CGP is followed, these BMPs will transition into the BMP warehouse from the Construction General

	<p>annually reported in the Warehouse. Small MS4s have limited staff and this would create a considerable burden to input all legacy facilities. This language could be construed to also require non-structural BMPs, such as street sweeping, storm drain cleaning, etc., to be entered into the Warehouse. Some Small MS4s, such as Bristol, have facilities maintained on spreadsheets, which will be very burdensome to input into the Warehouse. In addition, there is understanding that DEQ has transferred BMP data from the Construction Stormwater Database into the Warehouse. This will make it very difficult to determine how to update the Warehouse to include legacy BMPs without duplicating BMPs. This entire Part should be removed from the permit until these issues are resolved and coordination between DEQ and MS4s</p>	<p>Permit database. They should be in the permittees BMP listings and the permittee may enter the inspection and maintenance information for the following years. If non-structural BMPs are being used (street sweeping, storm drain inlet cleaning) for pollution reductions due to the Chesapeake Bay or any local TMDL, then these practices must be reported to the BMP warehouse. If a permittee is using non-structural BMPs for other reasons than achieving pollutant reductions, the practices will not need to be reported to the BMP Warehouse. It is intended that the BMP warehouse will be the sole reporting method for BMP information. The language will remain as written.</p>
<p>Chesapeake Bay Foundation (CBF)</p>	<p>We support the additions of BMP Warehouse reporting requirements including for total acreage and impervious acreage treated, even for pre-2013 BMPs. This is critical information for DEQ to utilize for Chesapeake Bay modeling efforts and the BMP Warehouse.</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>Part II.B.1 – this section talks about reporting BMPs to the DEQ Construction Stormwater BMP Database, but falls under the section for reporting the DEQ BMP Warehouse. Please consider whether this section might be fit better in another place.</p>	<p>This requirement is placed here to keep all BMP reporting requirements in one section, making all reporting responsibilities easier to find and track. The language will remain as written.</p>
<p>City of Charlottesville</p>	<p>Part III.B.2 – it is unclear what the “associated reporting template” is that is being referenced. Also, this section is presumably referring to BMPs reported to the DEQ BMP Warehouse, but that is not made explicitly clear.</p>	<p>The BMP Warehouse has several pre-made BMP reporting templates that cover various scenarios for BMP implementation (BMP installed to meet VSMP requirements, BMP installed solely to meet Chesapeake Bay TMDL requirements, etc). The permittee fills out the appropriate template for the particular BMP and submits that template to the BMP Warehouse. The language will remain as written.</p>
<p>Virginia Municipal</p>	<p>BMP Warehouse Reporting (Part III) – VAMSA has numerous</p>	<p>If the Construction General Permit requires post construction BMPs, and the proper</p>

<p>Stormwater Association (VAMSA)</p>	<p>questions and concerns regarding the new BMP Warehouse Reporting requirements. We respectfully request that DEQ clarify intentions in this section before reissuing the Proposed GP (and if this is not possible, deleting the text from the GP). • Did DEQ intend for Parts B.2 to B.4 to be separate reporting requirements? The criteria for B.2 is already very broad and appears to require reporting to the Warehouse anything that is not covered by B.1; are B.3 and B.4 needed or could they be deleted? • As a suggestion, for consistency with language in the current GP, VAMSA recommends pulling out III.B.1 on CGP database reporting and make it standalone section III.B. This is essentially the same language as in Part I.E.5.f of the current GP. Other requirements that pertain to working with the Warehouse (i.e., III.B.2, III.B.5, and III.D) could then be consolidated into new section III.C. • Current Part III.C should be revised to read: "The following information for each BMP reported in accordance with Part III B 1, B 2, B 3, or B 4 shall be reported to the DEQ Construction Stormwater Database or DEQ BMP Warehouse as applicable;" • The Proposed GP includes "annual practices" in BMP definition. Does this mean a permittee must report street sweeping, storm drain cleaning, etc. to the BMP Warehouse instead of in the TMDL reporting section of the Annual Report? If so, would these annual practices be reported once per year consistent with III.B.? • The Proposed GP suggests that all BMPs that are inspected need to be reported in the BMP Warehouse (B.5: "The permittee shall use the DEQ BMP Warehouse to report the most inspection data for BMPs in accordance with Part I E 5 b or 5 c, or in accordance with Part II C and</p>	<p>process for terminating the CGP is followed, these BMPs will transition into the BMP warehouse from the Construction General Permit database. They should be in the permittees BMP listings and the permittee may enter the inspection and maintenance information for the following years. If non-structural BMPs are being used (street sweeping, storm drain inlet cleaning) for pollution reductions due to the Chesapeake Bay or any local TMDL, then these practices must be reported to the BMP warehouse. If a permittee is using non-structural BMPs for other reasons than achieving pollutant reductions, the practices will not need to be reported to the BMP Warehouse. It is intended that the BMP warehouse will be the sole reporting method for BMP information. The BMP Warehouse has several pre-made BMP reporting templates that cover various scenarios for BMP implementation (BMP installed to meet VSMP requirements, BMP installed solely to meet Chesapeake Bay TMDL requirements, etc.). The permittee fills out the appropriate template for the particular BMP and submits that template to the BMP Warehouse. The language will remain as written.</p>
---------------------------------------	--	---

	<p>the most recent associated TMDL action plan”). Inspection data has never been required in the Warehouse and has historically just been used as helpful information for documenting Bay TMDL progress. VAMSA is worried that DEQ intends that a permittee will have to add all legacy BMPs (BMPs installed before the permit effective date of November 1, 2023) to the Warehouse so that the permittee can input the inspection data for the associated BMP. Many of these legacy BMPs were not entered into the CGP database or the BMP Warehouse because there was no permit requirement to do so at the time the BMP was constructed. Some permittees have these facilities on spreadsheets, making it very burdensome to input them into the Warehouse. Moreover, we understand that in the past DEQ has transferred BMP data from the Construction Stormwater Database to the Warehouse. This makes it very difficult to determine how to update the Warehouse to include legacy BMPs without duplicating BMPs. Until DEQ and permittees have a common understanding for what is in the Warehouse and what is not, we suggest limiting the requirement to input inspection data to BMPs installed after the November 1, 2023 permit effective date.</p>	
<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>Conditions Applicable to All State and VPDES Permits (Part IV.I) – The Proposed GP states that an “oral report” shall be made to DEQ within 24 hours for noncompliance. Later in that same section, it states that the report may be made by telephone, email, fax, or online. VAMSA prefers electronic reporting, especially for after-hours reporting. We request that DEQ deletes the word “oral” from Part IV.I.</p>	<p>Language revised as requested.</p>
<p>Chesapeake Bay Foundation (CBF)</p>	<p>Likewise, we support the new language in the General Permit that requires any PCB monitoring</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>

	<p>or testing to be made available to DEQ or other permittees. This language could be further improved by making such information available to the public.</p>	
<p>City of Charlottesville</p>	<p>As a local government that owns and operates a municipal separate storm sewer system (MS4) the development of a new MS4 General Permit is of great significance to the City of Charlottesville. The City would like to acknowledge the hard work of the Virginia Department of Environmental Quality (DEQ) staff in engaging permit holders throughout the development of the proposed permit.</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>As an MS4 permit holder we take our responsibilities to the local environment very seriously; we strive every day for full compliance with our permit. However, we feel that the proposed General Permit would benefit from some textual changes to ensure the proposed permit does not include regulatory expectations that are not even required of larger Phase I MS4 permittees. The Commonwealth's smallest regulated MS4s should not be asked to implement permit conditions that are not mandated for the largest regulated MS4s.</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>
<p>City of Charlottesville</p>	<p>The City requests that DEQ and the SWCB continue to stand by the commitment the State made in the Chesapeake Bay TMDL Phase I and II Watershed Implementation Plans (WIPs) that gives MS4s three full permit cycles (15 years) to make the reductions needed to meet the requirements in the Chesapeake Bay TMDL Special Condition, specifically the pollutants of concern reductions in the L2 scoping run. (Phase I WIP, p. 93; Phase II WIP, p. 25). Even though the third permit cycle will cover a period extending beyond 2025, the Chesapeake Bay Program/Principals' Staff Committee has long interpreted a permit-in-place as meeting CBP goals even though full permit</p>	<p>Comment noted. No change has been made to the proposed regulation.</p>

	implementation remains in progress.	
City of Charlottesville	The City conveys our general support for the comments submitted by the Virginia Municipal Stormwater Association (VAMSA), of which we are a member organization.	Comment noted. No change has been made to the proposed regulation.
City of Waynesboro	As a traditional MS4, Waynesboro takes our responsibilities to the local environment very seriously; we strive every day for full compliance with our permit. However, we agree with VAMSA that the Proposed GP would benefit from textual changes to bring the Proposed GP in line with the regulatory expectations for larger Phase I MS4 permittees. The Commonwealth’s smallest regulated MS4s should not be asked to implement permit conditions that are not mandated for the largest regulated MS4s. As the guardians of public funds, we request that DEQ revise or delete the text identified in VAMSA’s comments so that we can prioritize and spend limited resources on other significant stormwater programs and projects that will result in greater public health and environmental gains.	DEQ has responded to VAMSA’s comments. Please see throughout.
City of Waynesboro	We support DEQ’s decision to remove total suspended solids/sediment from the Chesapeake Bay TMDL special condition in the permit. We agree with DEQ’s statement in a letter to U.S. EPA’s Region 3 Administrator that the “sediment targets will not affect the BMPs called for in the WIP [Watershed Implementation Plan], and are not intended to be the driver for implementation moving forward...” There is no scientific or practical basis for continued inclusion of sediment reductions in the GP.	Comment noted. No change has been made to the proposed regulation.
Fauquier County	Clarity needs to be added to address the interim guidance on census elimination of “Urbanized Area” definition and subsequent proposed rule.	Revised permit language to incorporate new 2020 census data.



Fauquier County	Streamlining the amount of information that is required to be submitted to various regulatory agencies would be beneficial. There is a tremendous amount of duplication, which in addition to the time it takes to compile, requires large storage space on localities' servers (Annual Reports, Nutrient Management Plans, Program Plan, TMDL Action Plan, Chesapeake Bay TMDL Implementation Annual Status Reports, and Screening Field Sheets).	Comment noted. No change has been made to the proposed regulation.
Fauquier County	Ample timelines need to be stated for the various changes to the plan. Several of the requirements could necessitate procurement of services which is required to follow specific guidelines in local government.	No timelines will be adjusted. No change has been made to the proposed regulation.
Fauquier County	Further clarification should be provided regarding the required template for the Annual Report submissions.	The electronic reporting (NForms) template is not yet available. Once available and ready for use, DEQ will provide at least a three month notice prior to the requirement for the permittee to use the new template. No change has been made to the proposed regulation.
Anonymous	"MS4 regulated service area" or "service area" means for Phase II permittees, the drainage area served by the permittee's MS4 that is located within an urbanized area as determined by the <b>2010 decennial census</b> performed by the Bureau of the Census. Why is the 2020 Census data not being used? or language similar to what is seen on VADEQ Permit portal "in "urbanized areas" (as defined by the latest decennial census)"?	Revised permit language to incorporate new 2020 census data.
Virginia Municipal Stormwater Association (VAMSA)	Illicit Discharge Detection and Elimination – The Draft Fact Sheet states that permittees will be submitting an updated map of the MS4 on an annual basis. The Proposed GP requires one submission of the updated MS4 map and then an annual confirmation that the map was updated. (p. 15)	The fact sheet was updated to be consistent with the general permit requirements.
Virginia Municipal Stormwater	Tracking – The Draft Fact Sheet states that "If an outfall exhibits indicators of illicit discharges, or	The fact sheet was updated to be consistent with the general permit requirements.

<p>Association (VAMSA)</p>	<p>physical conditions that contribute to erosion, sediment loading, and nutrient loading, these observations shall be documented and tracked by the permittee." The Proposed GP does not require tracking of physical conditions that contribute to erosion, sediment loading, or nutrient loading. This should be removed from the Fact Sheet. (p. 18)</p>	
<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>MCM-5 – The Draft Fact Sheet states that "Part III also replaces conditions in the 2018 permit that required permittees to electronically submit stormwater management facilities using a spreadsheet or database." The 2018 permit removed the requirement to submit the spreadsheet annually and changed the requirement to just certifying that the spreadsheet was maintained. This reference should be removed for accuracy. (p. 22)</p>	<p>The fact sheet was updated to be consistent with the general permit requirements.</p>
<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p>Local TMDL Special Condition – The Draft Fact Sheet states that "When sediment reduction efficiencies are not available permittees may use the Chesapeake Bay Program retrofit curves using runoff storage to establish a reduction efficiency for storage." VAMSA suggests adding "or other applicable sediment reduction efficiency protocols" to the end of this sentence. The retrofit curves were developed for the Chesapeake Bay watershed Piedmont and Coastal zone soils and do not work for the western part of the State and MS4s outside of the Chesapeake Bay. If permittees can find established, research based, sediment reduction efficiency calculation protocols from elsewhere that better match soils, topography, and climate, permittees should be allowed to use them. (p. 33)</p>	<p>The fact sheet was updated to be consistent with the general permit requirements.</p>

**Details of Changes Made Since the Previous Stage**

List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
9VAC25-890-1 Definitions *		"MS4 regulated service area" or "service area" means for Phase II permittees, the drainage area served by the permittee's MS4 that is located within an urbanized area as determined by the by the Bureau of the Census. MS4 regulated service area may also be referred to as "served by the MS4" as it pertains to the tables in Part II A of this permit.	"MS4 regulated service area" or "service area" means for Phase II permittees, the drainage area served by the permittee's MS4 that is located within <u>the 2020 census urban areas with a population of least 50,000, or any previous decennial census</u> urbanized area as determined by the by the Bureau of the Census. MS4 regulated service area may also be referred to as "served by the MS4" as it pertains to the tables in Part II A of this permit.	<p>The revision was made to require permittees to include any expanded area due to the 2020 Cen sus.</p> <p>This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees must evaluate their MS4 service area in comparison to the 2020 urban area maps.</p>
9VAC25-890-20 Authorization to discharge	s	Discharges or flows from <u>emergency</u> firefighting activities;	Added Routine external building wash down provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge;	<p>Added this language to make the MS4 general permit consistent with other VPDES permits.</p> <p>No impact.</p>

9VAC25-890-20 Authorization to discharge	t	s. Discharges or flows from <u>emergency firefighting activities</u> ;	Re-lettered from s. to t.	Re-lettered because of the new language in s.  No impact.
9VAC25-890-20 Authorization to discharge	u	t. <u>Discharges or flows of water for fire prevention or firefighting training activities managed in a manner to avoid instream impact in accordance with § 9.1-207.1 of the Code of Virginia</u> ;	Re-lettered from t. to u.	Re-lettered because of the new language in s.  No impact.
9VAC25-890-20 Authorization to discharge	v	u. Discharges from noncommercial fundraising car washes if the washing uses only biodegradable, phosphate-free, water-based cleaners <u>in accordance with § 15.2-2114.1 of the Code of Virginia</u> ; or	Re-lettered from u. to v.	Re-lettered because of the new language in s.  No impact.
9VAC25-890-20 Authorization to discharge	w	v. Other activities generating discharges identified by the department as not requiring VPDES authorization.; <u>or</u>	Re-lettered from v. to w.	Re-lettered because of the new language in s.  No impact.
9VAC25-890-30 B 7 b Registration statement		b. Whether or not the receiving waters are listed as impaired in the Virginia 2016 305(b)/303(d) Water Quality Assessment Integrated Report;	b. Whether or not the receiving waters are listed as impaired in the Virginia <u>2022</u> 305(b)/303(d) Water Quality Assessment Integrated Report;	Changed the date to the latest 305(b)/303(d) Report.  No impact.
9VAC25-890-30 E *			<u>Added Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements) as provided for in 9VAC25-31-1020.</u>	Language added to require the use of Nforms for electronic submittal of registration statements as per 9VAC25-31-1020.  This language was added to satisfy an EPA requirement for electronic reporting.

			<p><u>such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms must be submitted electronically.</u></p>	<p>Impact: After being notified 90 days in advance, permittees must use the electronic reporting platform specified by the Department.</p>
9VAC25-890-40 Part I E Table 1 General Permit			<p>Added to Public meetings examples, "Climate change's effects on stormwater management"</p>	<p>Added to expand options for activities.  No Impact.</p>
9VAC25-890-40 Part I E 1 g (4) General Permit			<p>Added <u>(4) A description of public education and outreach activities conducted that included education regarding climate change.</u></p>	<p>Added to expand options for activities.  No impact.</p>
9VAC25-890-40 Part I E 2 Table 2 General permit			<p>Added <u>climate change's effects on stormwater management to Public education activities examples, and to Public meetings examples</u></p>	<p>Added to expand options for activities.  No impact.</p>
9VAC25-890-40 Part I E 2 i (6)			<p>Added <u>(6) A description of public education and outreach activities conducted that also included education regarding climate change.</u></p>	<p>Added to expand options for activities.  No impact</p>

<p>9VAC25-890-40 Part I E 3 a (1) *</p>		<p>(1) A map of the storm sewer system owned or operated by the permittee within the census urbanized area identified by the 2010 decennial census no later than 12 months after the permit effective date that includes, at a minimum:</p>	<p>(1) A <u>An updated</u> map of the <u>MS4</u> owned or operated by the permittee within the <u>2020</u> census <u>urban areas</u> <u>with a population of</u> <u>least 50,000 and</u> <u>any previous</u> <u>decennial census</u> urbanized area <u>no later than 24 months</u> <u>after the permit effective date</u> that includes, at a minimum:</p>	<p>The revision was made to require permittees to include any expanded area due to the 2020 Census.</p> <p>This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau’s changes to urbanized areas. Impact:</p> <p>Permittees must evaluate their MS4 service area in comparison to the 2020 urban area maps.</p>
<p>9VAC25-890-40 Part I E 3 a (2) f</p>		<p>(f) An indication as to whether the receiving water is listed as impaired in the Virginia 2016 305(b)/303(d) Water Quality Assessment Integrated Report; <u>and</u></p>	<p>(f) An indication as to whether the receiving water is listed as impaired in the Virginia 2022 305(b)/303(d) Water Quality Assessment Integrated Report; <u>and</u></p>	<p>Changed the date to the latest 305(b)/303(d) Report.</p> <p>No impact.</p>
<p>9VAC25-890-40 Part I E 3 a (3)</p>		<p>No later than 12 months after permit issuance, the permittee shall submit to DEQ, a format file geodatabase or two shapefiles that contain at a minimum:</p>	<p>No later than 24 months after permit issuance, the permittee shall submit to DEQ a format file geodatabase or two shapefiles that contain at a minimum:</p>	<p>Changed submittal date to 24 months to allow adequate time for requirement completion.</p>
<p>9VAC25-890-40 Part I E 3 c (2) g v</p>		<p>.... (e.g., dying or dead vegetation, excessive vegetative growth, etc.);</p>	<p>(e.g., dying or dead vegetation, excessive vegetative growth);</p>	<p>Removed etc. for clarity.</p> <p>No impact.</p>
<p>9VAC25-890-40 part I E 3 D (2)</p>		<p>Copies of written notifications of new physical interconnections given by the permittee to other MS4s; and</p>	<p>Copies of written notifications of physical interconnections given by the permittee to other MS4s; and</p>	<p>Removed “new” to clarify intention to receive list of all interconnections.</p> <p>No impact.</p>

<p>9VAC25-890-40 Part I E 4 e</p>		<p>(1) For nontraditional permittees:                  (a) A confirmation statement that land disturbing projects that occurred during the reporting period have been conducted in accordance with the current department approved annual standards and specifications for erosion and sediment control; and                   (b) If any land disturbing projects were conducted without department approved annual standards and specifications, a list of all land disturbing projects that occurred during the reporting period with erosion and sediment control plan approval dates for each project.                  Total number of erosion and sediment control inspections conducted; and                  (2) <u>Total</u> number of each type of compliance action and enforcement action implemented.</p>	<p>Total number of erosion and sediment control inspections conducted; and                  (2) <u>Total</u> number of each type of compliance action and enforcement action implemented.                  (3) For nontraditional permittees:                  (a) A confirmation statement that land disturbing projects that occurred during the reporting period have been conducted in accordance with the current department approved <u>annual</u> standards and specifications for erosion and sediment control; and                  (b) If any land disturbing projects were conducted without department approved annual standards and specifications, a list of all land disturbing projects that occurred during the reporting period with erosion and sediment control plan approval dates for each project.</p>	<p>Moved For nontraditional permittees requirements to the end of the requirement to clarify intention that all permittees are subject to this requirement.                   No impact.</p>
<p>VAC25-890-40 Part I E 5 a (1)</p>		<p>... (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as develop an inspection and maintenance program in accordance with <u>Part I E 5 b</u> and c;</p>	<p>(§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as maintain an inspection and maintenance program in accordance with <u>Part I E 5 b</u> and c;</p>	<p>Changed “develop” to “maintain” to clarify requirement.                   No impact.</p>

<p>VAC25-890-40 Part I E 5 a (2)</p>		<p>... post-construction stormwater runoff problems and develop an inspection and maintenance program in accordance with Part I E 5 c and d;</p>	<p>post-construction stormwater runoff problems and maintain an inspection and maintenance program in accordance with Part I E 5 c and d;</p>	<p>Changed “develop” to “maintain” to clarify requirement.  No impact.</p>
<p>VAC25-890-40 Part I E 5 a (4)</p>		<p>... the most recent department approved standards and specifications and develop an inspection and maintenance program in accordance with Part I E 5 b;</p>	<p>the most recent department approved standards and specifications and maintain an inspection and maintenance program in accordance with Part I E 5 b;</p>	<p>Changed “develop” to “maintain” to clarify requirement.  No impact.</p>
<p>VAC25-890-40 Part I E 5 a (5) *</p>		<p>... 9VAC25-870 and with the implementation of a maintenance and inspection program consistent with Part I E 5 b</p>	<p>9VAC25-870 and with the implementation of a maintenance and inspection program consistent with Part I E 5 b no later than 60 months after receiving permit coverage; <u>or</u></p>	<p>Added “no later than 60 months after receiving permit coverage” to account for potential new permittees due to expansion of urban areas as indicated by the 2020 census.  This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau’s changes to urbanized areas.  Impact: No impact to existing permittees. Newly designated permittees will have adequate time to develop their MS4 program.</p>



<p>VAC25-890-40 Part I E 5 b (1) *</p>		<p>the permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of its stormwater management facilities. The permittee may use inspection and maintenance specifications available from the Virginia Stormwater BMP Clearinghouse or inspection and maintenance plans developed in accordance with the department's Stormwater Local Assistance Fund (SLAF) guidelines;</p>	<p>Within six months of the permit effective date, the permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of its stormwater management facilities. The permittee may use inspection and maintenance specifications available from the Virginia Stormwater BMP Clearinghouse or inspection and maintenance plans developed in accordance with the department's Stormwater Local Assistance Fund (SLAF) guidelines;</p>	<p>Added “within six months of the permit effective date” to account for potential new permittees due to expansion of urban areas as indicated by the 2020 census.</p> <p>This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau’s changes to urbanized areas.</p> <p>Impact: No impact to existing permittees. Newly designated permittees will have adequate time to develop their MS4 program.</p>
<p>VAC25-890-40 Part I E 5 c (1) (b)</p>		<p>Require adequate long-term operation and maintenance by the owner of the stormwater....</p>	<p>Adequate long-term operation and maintenance by the owner of the stormwater</p>	<p>Removed “Require a” to align requirement language with Part I. E. 5. c. (1) .</p> <p>No impact.</p>
<p>VAC25-890-40 Part I E 6 b (2)</p>		<p>Renovation and significant exterior maintenance activities (e.g., painting, building power-washing, roof resealing, and HVAC coil cleaning).....</p>	<p>Renovation and significant exterior maintenance activities (e.g., painting, roof resealing, and HVAC coil cleaning).....</p>	<p>Removed “building power washing” as it was added to 9VAC25-890-20 Authorization to discharge above to maintain consistency among other VPDES permits.</p> <p>No impact.</p>
<p>VAC25-890-40 Part I E 6 b (3)</p>		<p>Discharging water pumped from construction and maintenance activities;</p>	<p>Discharging water pumped from construction and maintenance activities not covered by another permit covering such activities;</p>	<p>Added “not covered by another permit covering such activities” to clarify permit condition.</p> <p>No impact.</p>

<p>VAC25-890-40 Part I E 6 g *</p>		<p>g. The permittee shall maintain and implement a site specific stormwater pollution prevention plan (SWPPP) for each high-priority facility identified. High priority facilities that have a high potential for discharging pollutants are those facilities that are not covered under a as defined in 9VAC25-890-1 that does not have or require separate VPDES permit coverage, and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff:</p>	<p>Added "Within 12 months of permit coverage, the permittee shall identify any new high-priority facilities located in expanded 2020 census urban areas with a population of at least 50,000. h. Within 36 months of permit coverage, the permittee shall implement SWPPPs for high-priority facilities meeting the conditions of Part I E 6 i and which are located in expanded 2020 census urban areas with a population of at least 50,000."</p>	<p>Added new language and moved existing language in g down to i to account for changes due to the 2020 census.</p> <p>This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees will need to evaluate any facilities that are within the 2020 Census expanded areas.</p>
<p>VAC25-890-40 Part I E 6 h *</p>		<p>h. A description of all structural control measures such as stormwater management facilities and other pollutant source controls applicable to SWPPP implementation (e.g., permeable pavement or oil-water separators that discharge to sanitary sewer are not applicable to the SWPPP) such as oil-water separators, and inlet protection designed to address potential pollutants and pollutant sources at risk of being discharged to the MS4;</p>	<p>Added "Within 36 months of permit coverage, the permittee shall implement SWPPPs for high-priority facilities meeting the conditions of Part I E 6 i and which are located in expanded 2020 census urban areas with a population of at least 50,000."</p>	<p>Added new language and moved existing language in h down to j to account for changes due to the 2020 census.</p> <p>This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees will need to develop SWPPPs for those High Priority facilities that they added due to the 2020 Census expanded urban area.</p>

VAC25-890-40 Part I E 6	i	g. The permittee shall maintain and implement a site specific (SWPPP) for each high-priority facility as defined in 9VAC25-890-1 that does not have or require separate VPDES permit coverage, and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff: ...	Re-lettered from g to i	Re-lettered because of new language in g.  No impact.
VAC25-890-40 part I E 6	j	h. Each SWPPP as required in Part I E 6 e g shall include the following:.....	Re-lettered from h to j.	Re-lettered because of new language in h.  No impact.
VAC25-890-40 part I E 6	k	i. No later than June 30 of each year, the permittee shall annually review any high-priority facility owned or operated by the permittee for which an SWPPP has not been developed to determine if the facility.....	Re-lettered from i to k.	Re-lettered because of new language in g and h.  No impact.
VAC25-890-40 part I E 6	l	j. The permittee shall review the contents of any site specific SWPPP no later than 30 days after any unauthorized discharge.....	Re-lettered from j to l	Re-lettered because of new language in g and h.  No impact.
VAC25-890-40 part I E 6	m	k. The SWPPP shall be kept at the high-priority facility and utilized as part of employee SWPPP training required...	Re-lettered from k to m	Re-lettered because of new language in g and h.  No impact.
VAC25-890-40 part I E 6	n	l. If activities change at a facility such that the facility no longer meets the definition	Re-lettered from l to n	Re-lettered because of new language in g and h.

		of a high-priority facility...		No impact.
VAC25-890-40 part I E 6	o	m. If activities change at a facility such that the facility no longer meets the criteria requiring SWPPP coverage as described in Part I E 6 g, the permittee may remove the facility from the list of high-priority facilities that require SWPPP coverage.	Re-lettered from m to o	Re-lettered because of new language in g and h.  No impact.
VAC25-890-40 part I E 6	p	n. The permittee shall maintain and implement turf and landscape nutrient management plans that have been developed by a certified turf and landscape nutrient management planner in accordance with § 10.1-104.2...	Re-lettered from n to p	Re-lettered because of new language in g and h.  No impact.
VAC25-890-40 part I E 6 *	u	q. . Nutrient management plans that are expired as of the effective date of this permit shall be submitted to DCR for renewal within six months after the effective date...	Added " Within 12 months of permit coverage, the permittee shall identify contiguous areas greater than one acre located in expanded 2020 census urban areas with population of at least 50,000 and within the permittee's MS4 service area requiring turf and landscape nutrient management plans."	Added new language and moved existing language in q down to u to account for changes due to the 2020 census.  This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.  Impact: Permittees will need to identify any areas within the expanded MS4 service area due to the 2020 Census where nutrients are applied that meet the criteria.

<p>VAC25-890-40 part I E 6 *</p>	<p>v</p>	<p>r. Nutrient management plans may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site.</p>	<p>Added "Within 36 months of permit coverage, the permittee shall implement turf and landscape nutrient management plans on contiguous areas greater than one acre located in expanded 2020 Census urban areas with a population of least 50,000 and within the permittee's MS4 service area."</p>	<p>Added new language and moved existing language in r down to v to account for changes due to the 2020 census.</p> <p>This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees will need to develop and maintain nutrient management plans on areas within the 2020 Census expanded service area, that meet the listed criteria.</p>
<p>VAC25-890-40 part I E 6</p>	<p>s</p>	<p>o. If nutrients are being applied to achieve final stabilization of a land disturbance project, application shall follow the manufacturer's recommendations. For newly established turf...</p>	<p>Re-lettered from o to s</p>	<p>Re-lettered because of new language in o and s.</p> <p>No impact.</p>
<p>VAC25-890-40 part I E 6</p>	<p>t</p>	<p>p. Nutrient management plans developed in accordance with Part I E 6 n shall be submitted to the Department of Conservation and Recreation (DCR) for approval.</p>	<p>Re-lettered from p to t</p>	<p>Re-lettered because of new language in o and s.</p> <p>No impact.</p>
<p>VAC25-890-40 part I E 6</p>	<p>u</p>	<p>q. Nutrient management plans that are expired as of the effective date of this permit shall be submitted to DCR for renewal within six months after the effective</p>	<p>Re-lettered from q to u</p>	<p>Re-lettered because of new language in o and s.</p> <p>No impact.</p>

		date of this permit. Thereafter...		
VAC25-890-40 part I E 6	v	r. Nutrient management plans may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site.	Re-lettered from r to v	Re-lettered because of new language in o and s.  No impact.
VAC25-890-40 part I E 6	w	s. Nontraditional permittees with lands regulated under § 10.1-104.4 of the Code of Virginia, including state agencies, state colleges and universities, and other state government entities...	Re-lettered from s to w	Re-lettered because of new language in o and s.  No impact.
VAC25-890-40 part I E 6	x	t. The MS4 program plan shall include:...	Re-lettered from t to x	Re-lettered because of new language in o and s.  No impact.
VAC25-890-40 part I E 6	y	u. The annual report shall include the following:...	Re-lettered from u to y	Re-lettered because of new language in o and s.  No impact.
Part II A 1		... no later than October 31, 2028, of 100% of L2 will be achieved. Conditions of future permits will be consistent with the TMDL or WIP conditions in place at the time of permit issuance.	... no later than October 31, 2028, of 100% of L2 shall be achieved. Conditions of future permits will be consistent with the TMDL or WIP conditions in place at the time of permit issuance.	Changed "will" to "shall" to clarify permit condition.  No impact.
Part II A 7		Forty percent (40%) of L2 reductions for total nitrogen and total phosphorus shall at a minimum, be maintained by the permittee during the permit term.	40% of L2 reductions for total nitrogen and total phosphorus shall be maintained by the permittee during the permit term.	Removed "at a minimum" to clarify permit condition.  No impact.

<p>Part II A 12 a 3 and 4</p>			<p>Added “(3) <u>A preliminary schedule for implementation of the BMPs included in the Chesapeake Bay TMDL action plan; and</u></p> <p>(4) <u>A summary of any comments received as a result of public participation required in Part II A 14, the permittee’s response, identification of any public meetings to address public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a result of public participation.</u>”</p>	<p>Added 3 and 4 in response to EPA comments and to clarify permit requirements.</p> <p>No impact.</p>
<p>Part II A 12 b (5) (d)</p>		<p>Percent removal efficiency for each pollutant of concern; and</p>	<p>Percent removal efficiency for each pollutant of concern;</p>	<p>Removed “and” to account for added language in Part II A 12 b (5) (f).</p> <p>No impact.</p>
<p>Part II A 12 b (5) (e)</p>		<p>Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 9 for each pollutant of concern;</p>	<p>Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 9 for each pollutant of concern;</p>	<p>Removed “and” to account for added language in Part II A 12 b (5) (f).</p> <p>No impact.</p>
<p>Part II A 12 b (5) (f)</p>			<p>Added “A preliminary schedule for implementation of the BMPs included in the Chesapeake Bay TMDL action plan; and...</p>	<p>Added (f) in response to EPA comments and to clarify permit requirements.</p> <p>No impact.</p>

Part II A 13		Prior to submittal of the action plan required in Part II A 12 b, the permittee shall provide an opportunity for public comment on the additional BMPs proposed in the phase III Chesapeake Bay TMDL action plan for no less than 15 days.	Prior to submittal of the action plan required in Part II A 12 a and b, permittees shall provide an opportunity for public comment on the additional BMPs proposed in the phase III Chesapeake Bay TMDL action plan for no less than 15 days.	Added 'a and" to clarify permit requirements. Pluralized permittee.  No impact.
Part II A 13 a to j	Part II A 14 a	Permittees previously covered under the General VPDES Permit for Discharges of Stormwater from MS4 effective November 1, 2018, shall submit a Chesapeake Bay TMDL implementation annual status report in a method (i.e., how the permittee must submit) and format (i.e., how the report shall be laid out) as specified by the department no later than October 1 of each year. The report shall cover the previous year from July 1 to June 30. b. Following notification from the department of the start date for the required electronic submission of Chesapeake Bay TMDL implementation annual status reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that	14. Chesapeake Bay TMDL implementation annual status report. Permittees previously covered under the General VPDES Permit for Discharges of Stormwater from MS4 effective November 1, 2018, shall submit a Chesapeake Bay TMDL implementation annual status report in a method (i.e., how the permittee must submit) and format (i.e., how the report shall be laid out) as specified by the department no later than October 1 of each year. The report shall cover the previous year from July 1 to June 30. b. Following notification from the department of the start date for the required electronic submission of Chesapeake Bay TMDL implementation annual status reports, as provided	Added new section number to clarify permit conditions and annual report requirements.  No impact.



		<p>date shall be electronically submitted to the department in compliance with 9VAC25-31-1020 and this section. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.</p> <p>c. The year two Chesapeake Bay TMDL implementation annual status report shall contain a summary of any public comments on the Chesapeake Bay TMDL action plan received and how the permittee responded.</p> <p>d. Each Chesapeake Bay TMDL implementation annual status report shall include the following information:</p> <p>(1) A list of Chesapeake Bay TMDL action plan BMPs, not including annual practices, implemented prior to the reporting period that includes the following information for reported BMP;</p> <p>(a) The number of BMPs for each BMP type;</p> <p>(b) The estimated reduction of</p>	<p>for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with 9VAC25-31-1020 and this section. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.</p> <p>c. The year two Chesapeake Bay TMDL implementation annual status report shall contain a summary of any public comments on the Chesapeake Bay TMDL action plan received and how the permittee responded.</p> <p>d. Each Chesapeake Bay TMDL implementation annual status report shall include the following information:</p> <p>(1) A list of Chesapeake Bay TMDL action plan BMPs, not including annual practices, implemented prior to the reporting period that includes the following information for reported BMP;</p>	
--	--	---	---	--

		<p>pollutants of concern achieved by each BMP type and reported in pounds of pollutant reduction per year; and</p> <p>(c) A confirmation statement that the permittee electronically reported Chesapeake Bay TMDL action plan BMPs inspected using the DEQ BMP Warehouse in accordance with Part III B 5.</p> <p>(2) A list of newly implemented BMPs including annual practices implemented during the reporting period that includes the following information for each reported BMP or a statement that no BMPs were implemented during the reporting period:</p> <p>(a) The BMP type and a description of the location for each BMP;</p> <p>(b) The estimated reduction of pollutants of concern achieved by each BMP and reported in pounds of pollutant reduction per year; and</p> <p>(c) A confirmation statement that the permittee electronically reported BMPs using the DEQ BMP Warehouse in accordance with Part III B 3.</p>	<p>(a) The number of BMPs for each BMP type;</p> <p>(b) The estimated reduction of pollutants of concern achieved by each BMP type and reported in pounds of pollutant reduction per year; and</p> <p>(c) A confirmation statement that the permittee electronically reported Chesapeake Bay TMDL action plan BMPs inspected using the DEQ BMP Warehouse in accordance with Part III B 5.</p> <p>(2) A list of newly implemented BMPs including annual practices implemented during the reporting period that includes the following information for each reported BMP or a statement that no BMPs were implemented during the reporting period:</p> <p>(a) The BMP type and a description of the location for each BMP;</p> <p>(b) The estimated reduction of pollutants of concern achieved by each BMP and reported in pounds of pollutant reduction per year; and</p> <p>(c) A confirmation statement that the permittee electronically reported BMPs</p>	
--	--	--	---	--

		<p>e. If the permittee acquired credits during the reporting period to meet all or a portion of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were acquired.</p> <p>f. Pollutant load reductions generated by annual practices, such as street and storm drain cleaning, shall only be applied to the compliance year in which the annual practice was implemented.</p> <p>g. The progress, using the final design efficiency of the BMPs, toward meeting the required cumulative reductions for total nitrogen and total phosphorus.</p> <p>h. Any revisions made to the Chesapeake Bay TMDL action plan.</p> <p>i. A list of BMPs that are planned to be implemented during the next reporting period.</p>	<p>using the DEQ BMP Warehouse in accordance with Part III B 3.</p> <p>e. If the permittee acquired credits during the reporting period to meet all or a portion of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were acquired.</p> <p>f. Pollutant load reductions generated by annual practices, such as street and storm drain cleaning, shall only be applied to the compliance year in which the annual practice was implemented.</p> <p>g. The progress, using the final design efficiency of the BMPs, toward meeting the required cumulative reductions for total nitrogen and total phosphorus.</p> <p>h. Any revisions made to the Chesapeake Bay TMDL action plan.</p> <p>i. A list of BMPs that are planned to be implemented during the next reporting period.</p>	
Part II A 15 *	Part II A 15		<p>Added "No later than 60 months after permit issuance, the permittee shall update the Phase III Chesapeake Bay TMDL action plan to offset the increased loads from new sources initiating construction between July 1,</p>	<p>Added language to account for potential expanded areas due to the 2020 census.</p> <p>This language was added due to public and EPA comments, and EPA clarified their stance on the Census</p>

			<p>2009, and June 30, 2024, that are located in the expanded 2020 census urban areas with a population of at least 50,000, and within the permittee's MS4 service area, and designed in accordance with 9VAC25-870 Part II C (9VAC25-870-93 et seq.), if the following conditions apply:</p> <ul style="list-style-type: none"> <li>a. The activity disturbed one acre or greater; and</li> <li>b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is equivalent to an average land cover condition of 16% impervious cover.</li> <li>c. The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent nitrogen pollutant load for new sources meeting the requirements of this condition." </li></ul>	<p>Bureau's changes to urbanized areas.</p> <p>Impact: Permittees will need to evaluate development projects within the 2020 expanded census urban areas to determine if any additional pollutant reductions are required.</p>
Part II A 16 *	Part II A 16		<p>Added " No later than 60 months after permit issuance, the permittee shall update the Phase III Chesapeake Bay TMDL action plan to offset the increased loads from projects grandfathered in accordance with 9VAC25-870-48 that are located in the expanded 2020 Census urban areas with a population of</p>	<p>Added language to require pollutant reduction offsets for certain projects that may be developed under different criteria.</p> <p>This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p>

			<p>least 50,000, and within the permittee’s MS4 service area, and began construction after July 1, 2014, if the following conditions apply:</p> <p>a. The activity disturbs one acre or greater; and</p> <p>b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is equivalent to an average land cover condition of 16% impervious cover.</p> <p>c. The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent nitrogen pollutant load for grandfathered sources meeting the requirements of this condition.”</p>	<p>Impact: Permittees will need to evaluate development projects within the 2020 expanded census urban areas to determine if any additional pollutant reductions are required.</p>
Part II B 3		<p>The permittee shall complete implementation of the TMDL action plans as soon as practicable. TMDL action plans may be implemented in...</p>	<p>The permittee shall complete implementation of the TMDL action plans as determined by the schedule. TMDL action plans may be implemented in...</p>	<p>Changed “ as soon as practicable” to “as determined by the schedule” to clarify permit requirement and in response to an EPA comment.</p> <p>No impact.</p>
Part II B 6 d		<p>... an update on the progress made toward achieving action plan goals...</p>	<p>an update on the progress made toward achieving local TMDL action plan goals...</p>	<p>Added “ local TMDL” to clarify permit requirement.</p> <p>No impact.</p>
Part II B 8 a		<p>Traditional permittees shall develop an anti-icing and deicing agent education and outreach strategy that identifies target audiences for increasing...</p>	<p>No later than 36 months after the permit effective date, permittees shall develop an anti-icing and deicing agent education and outreach strategy that identifies target</p>	<p>Added “ no later than 36 months after the permit effective date”, and removed “Traditional” to clarify permit requirements.</p> <p>No impact.</p>

			audiences for increasing...	
Part II B 8 b		Traditional permittee anti-icing and deicing agent education and outreach strategies shall contain a schedule to implement two...	Anti-icing and deicing agent education and outreach strategies shall contain a schedule to implement two...	Removed "traditional permittee" to clarify that this permit condition applies to all permittees.  No impact.
Part III B 1-5		Traditional permittees specified in Part I E 5 a (1) shall use the DEQ Construction Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post-construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities. 2. The permittee shall use the associated reporting template for stormwater management facilities not reported in accordance with Part III B 1 including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in	1. The permittee shall use the associated reporting template for stormwater management facilities not reported in accordance with Part III B 1, including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in accordance with the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830), if applicable, and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required. 2. The permittee shall use the DEQ BMP Warehouse to report BMPs that were not reported in accordance with Part III B 1 or B 2 and were implemented as part of a TMDL action	Moved B1 to B5 to clarify permit conditions and renumbered the following conditions.  No impact.

		<p>accordance with the Chesapeake Bay Preservation Act regulations (9VAC25-830) if applicable and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required. 3. The permittee shall use the BMP Warehouse to report BMPs that were not reported in accordance with Part III B 1 or 2 and were implemented as part of a TMDL action plan to achieve nitrogen, phosphorus, and total suspended solids reductions in accordance with Part II A or B. 4. The permittee shall use the BMP Warehouse to report any BMPs that were not reported in accordance with Part III B 1, 2, or 3. 5. The permittee shall use the BMP Warehouse to report the most recent inspection date for BMPs in accordance with Part I E 5 b or c, or in accordance with Part II C and the most recent associated TMDL action plan.</p>	<p>plan to achieve nitrogen, phosphorus, and total suspended solids reductions in accordance with Part II A or B. 3. The permittee shall use the DEQ BMP Warehouse to report any BMPs that were not reported in accordance with Part III B 1, B 2, or B 3. 4. The permittee shall use the DEQ BMP Warehouse to report the most recent inspection date for BMPs in accordance with Part I E 5 b or 5 c, or in accordance with Part II C and the most recent associated TMDL action plan. 5. Traditional permittees specified in Part I E 5 a (1) shall use the DEQ Construction Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post-construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities.</p>	
--	--	---	---	--

**Details of All Changes Proposed in this Regulatory Action**

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-890		Provisions on “Board” authority outside the context promulgating regulations.	<p>Changed “Board” to “Department” pursuant to SB 657 of the 2022 General Assembly session transferring authority from the board to the department outside the context of promulgating regulations where applicable.</p> <p>No impact.</p>
9VAC25-890 (Title)		General (VPDES) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (formerly Part XV, 4VAC50-60 MS4s)	<p>Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s).</p> <p>Rationale: Title updated to be consistent with other VPDES regulation titles and removed former DCR citation.</p> <p>Removed “small” from provisions referring to “small MS4s” for consistency with provisions that follow the title of this general permit regulation.</p> <p>No impact.</p>
9VAC25-890-1. Definitions.		The words and terms used in this chapter shall have the meanings defined in the Virginia Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia) and 9VAC25-870 unless the context clearly indicates otherwise, except that for the purposes of this chapter:	The words and terms used in this chapter shall have the meanings defined in the Virginia Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870) unless the context clearly indicates otherwise, except that for the purposes of this chapter:



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>Rationale: Added "Virginia Stormwater Management Program (VSMP) Regulation" title to 9VAC25-870 for clarification.</p> <p>No impact.</p>
9VAC25-890-1. Definitions.		New proposed definition.	<p>"Annual practice" means a nonstructural best management practice such as street or storm drain cleaning that reduces pollution for one compliance year upon implementation.</p> <p>Rationale: This definition was added to provide clarification that pollutant reductions generated by annual practices are creditable towards one compliance year for TMDL action plans (i.e., pollutant reductions generated must correspond to one compliance year).</p> <p>No impact.</p>
9VAC25-890-1. Definitions.		New proposed definition.	<p>"Ecosystem restoration projects" means practices implemented to reestablish and maintain natural systems that prevent, reduce, or remediate pollutant loadings. Examples of ecosystem restoration projects include stream restoration, shoreline restoration, land-use conversion, and reforestation.</p> <p>Rationale: This permit introduces the term ecosystem restoration projects in several provisions in order to recognize the regulatory distinction between ecosystem restoration projects and stormwater management facilities.</p> <p>No impact.</p>
9VAC25-890-1. Definitions. *		"High-priority facilities" means facilities owned or operated by the permittee that actively engage in one or more of the following activities: (i) composting, (ii) equipment storage and maintenance, (iii) materials storage, (iv) pesticide storage, (v) storage for public works, (vi) recycling, (vii) salt storage , (viii) solid	"High-priority facilities" means facilities owned or operated by the permittee with drainage to any permitted MS4 that actively engage in one or more of the following activities: (i) composting, (ii) equipment storage , cleaning, and maintenance, (iii) long-term bulk materials storage, (iv) pesticide, herbicide, and fertilizer storage, (v) recycling, (vi) anti-icing and deicing agent storage, handling, and transfer, (vii) solid waste handling and transfer,

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		waste handling and transfer, and (ix) vehicle storage and maintenance.	<p>and (viii) permittee owned or operated vehicle washing, maintenance, and salvage.</p> <p>Rationale: Added the qualifier “with drainage to an MS4” to “facilities owned or operated by the permittee,” recognizing drainage to an MS4 is important for classifying high-priority facilities (HPFs).</p> <p>The following modifications were made to activities defining high-priority facilities HPFs:</p> <p>(ii) Added “cleaning” to equipment storage and maintenance for clarification.</p> <p>(iii) Added “long-term bulk” to materials storage as a qualifier to distinguish large permanent storage areas such as facility maintenance yards that continuously store building materials from smaller temporary material storage areas such as temporary on-site storage of construction and maintenance supplies.</p> <p>(iv) Added “herbicide and fertilizer” to pesticide storage for clarification.</p> <p>(v) Removed storage for public works” since this activity is ambiguous and overlaps other activities defining HPFs.</p> <p>(vi) Replaced “salt” with “anti-icing and deicing agent” to include all chemicals used for anti-icing and deicing and for consistency with the Virginia Salt Management Strategies (SaMS) guidance document.</p> <p>(vi) Added “handling and transfer” for clarification.</p> <p>(viii) Added “washing” and “salvage” to vehicle maintenance for clarification. Removed “storage” since this permit intent is not to classify every municipal parking lot as a HPF. “Salvage” was added to distinguish parking lots from damaged vehicle storage which have higher risk for leaking and pollutant discharges.</p> <p>Impact: Facilities that do not discharge to permitted MS4 are no longer</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			classified as HPFs. Municipal parking lots are no longer classified as HPFs.
9VAC25-890-1 Definitions *		"MS4 regulated service area" or "service area" means for Phase II permittees, the drainage area served by the permittee's MS4 that is located within an urbanized area as determined by the by the Bureau of the Census. MS4 regulated service area may also be referred to as "served by the MS4" as it pertains to the tables in Part II A of this permit.	"MS4 regulated service area" or "service area" means for Phase II permittees, the drainage area served by the permittee's MS4 that is located within the 2020 census urban areas with a population of least 50,000, or any previous decennial census urbanized area as determined by the Bureau of the Census. MS4 regulated service area may also be referred to as "served by the MS4" as it pertains to the tables in Part II A of this permit.
9VAC25-890-1. Definitions.		New proposed definition.	<p>"Nontraditional MS4 permittee" or "nontraditional permittee" means a government entity that operates a regulated MS4 that is not under the authority of a county board of supervisors, a city council, or a town council.</p> <p>Rationale: Nontraditional is a category of Phase II MS4 permittees and this term has been in common use within the MS4 program for many years.</p> <p>This permit introduces the term nontraditional permittee in several provisions recognizing the differences in jurisdictional authority between traditional local governments and all other government entities considered nontraditional permittees.</p> <p>Nontraditional permittees may include but are not limited to operators of state and federal facilities such as transportation infrastructure, college campuses, hospitals, correctional facilities, military installations, administrative campuses, and research facilities.</p> <p>Nontraditional permittees may also include local authority operators for facilities such as public school and other regional authorities that may operate an MS4.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>Traditional and nontraditional permittee differences in authority, public, and systems necessitated the need for distinct permit conditions for traditional and nontraditional permittees.</p> <p>No impact.</p>
<p>9VAC25-890-1. Definitions.</p>		<p>New proposed definition.</p>	<p>"Traditional MS4 permittee" or "traditional permittee" means a local government that operates a regulated MS4 under the authority of a county board of supervisors, a city council, or a town council.</p> <p>Rationale: Traditional is a category of Phase II MS4 permittees and these terms have been in common use within the MS4 program for many years.</p> <p>This permit introduces the terms traditional and nontraditional permittee in several provisions recognizing the differences in jurisdictional authority between traditional local governments and all other government entities considered nontraditional permittees. Traditional permittees are limited to counties, cities, and towns.</p> <p>Traditional and nontraditional permittee differences necessitated the need for distinct permit conditions for traditional and nontraditional permittees.</p> <p>No impact</p>
<p>9VAC25-890-10 A.</p>		<p>This general permit regulation governs point source stormwater discharges from regulated small municipal separate storm sewer systems (small MS4s) to surface waters of the Commonwealth of Virginia.</p>	<p>This general permit regulation governs point source stormwater discharges from regulated small municipal separate storm sewer systems (MS4s) to surface waters of the Commonwealth of Virginia. Nonmunicipal stormwater or wastewater discharges are not authorized by this permit except in accordance with 9VAC25-890-20 D.</p> <p>Removed "small" for consistency with provisions that follow the title of this general permit regulation.</p> <p>No impact.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-890-10 B. date of the state permit.		This general permit will become effective on November 1, 2018 and will expire October 31, 2023.	<p>This general permit will become effective on November 1, 2023 and will expire October 31, 2028.</p> <p>Updated the effective and expiration date of the general permit.</p> <p>No impact.</p>
9VAC25-890-15. Applicability of incorporated references based on the dates that they became effective.		Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 CFR is referenced and incorporated in this chapter, that regulation shall be as it exists and has been published in the July 1, 2017, update. The final rule published in the Federal Register on August 28, 2017 (82 FR 40836), which amends 40 CFR Part 136, is also incorporated by reference in this chapter.	<p>Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated in this chapter, that regulation shall be as it exists and has been published in the July 1, 2022, update.</p> <p>Consolidated and updated the Title 40 CFR publication date.</p> <p>No impact.</p>
9VAC25-890-20 A. Authorization to discharge		<p>Any operator covered by this general permit is authorized to discharge stormwater from the small municipal separate storm sewer system (MS4) to surface waters of the Commonwealth of Virginia provided that:</p> <p>1. The operator submits a complete and accurate registration statement in accordance with 9VAC25-890-30 and that registration statement is accepted by the board;</p> <p>4. The board has not notified the operator that the discharge is ineligible for coverage in accordance with subsection C of this section.</p>	<p>Any operator covered by this general permit is authorized to discharge stormwater from the MS4 to surface waters of the Commonwealth of Virginia provided that:</p> <p>1. The operator submits a complete and accurate registration statement in accordance with 9VAC25-890-30 and that registration statement is accepted by the department;</p> <p>4. The department has not notified the operator that the discharge is ineligible for coverage in accordance with subsection C of this section.</p> <p>Removed “small municipal separate storm sewer system” as the acronym for MS4 is spelled out in a previous section.</p> <p>“Board” has been changed to “department” recognizing the transfer of authority.</p> <p>No impact.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-890-20 C. Authorization to discharge		The board will notify an operator that the discharge is not eligible for coverage under this general permit in the event of any of the following:	<p>The department will notify an operator that the discharge is not eligible for coverage under this general permit in the event of any of the following:</p> <p>“Board” has been changed to “department” recognizing the transfer of authority.</p> <p>No impact.</p>
9VAC25-890-20 D 3. Authorization to discharge		<p>The nonstormwater discharges or flows are identified in this subdivision D 3 and have not been identified by the operator or by the board as significant contributors of pollutants to the small MS4:</p> <p>g. Discharges from potable water sources;</p> <p>p. Flows from riparian habitats and wetlands;</p> <p>q. Dechlorinated swimming pool discharges;</p> <p>r. Street wash waters;</p> <p>s. Discharges or flows from firefighting activities;</p> <p>t. Discharges from noncommercial fundraising car washes if the washing uses only biodegradable, phosphate-free, water-based cleaners</p>	<p>The nonstormwater discharges or flows are identified in this subdivision D 3 and have not been identified by the operator or by the department as significant contributors of pollutants to the small MS4:</p> <p>Rationale: “Board” has been changed to “department” recognizing the transfer of authority and “small” has been removed from MS4.</p> <p>g. Discharges from potable water sources managed in a manner to avoid instream impact;</p> <p>Rationale: Added “managed in a manner to avoid instream impact” for clarification recognizing discharges of potable may have an instream impact depending on the volume of the discharge and the size of the stream.</p> <p>q. Dechlorinated freshwater swimming pool discharges managed in a manner to avoid instream impact;</p> <p>Rationale: Added “freshwater” to exclude saltwater swimming pool discharges and “managed in a manner to avoid instream impact” for clarification.</p> <p>r. Street and pavement wash waters that do not contain cleaning additives or are otherwise managed in a manner to avoid instream impact;</p> <p>Rationale: Added “pavement wash waters that do not contain cleaning additives or are otherwise managed in</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>a manner to avoid instream impact” for clarification.</p> <p>t. Discharges or flows from emergency firefighting activities;</p> <p>Rationale: Added “emergency” to distinguish from non-emergency activities.</p> <p>u. Discharges or flows of water for fire prevention or firefighting training activities managed in a manner to avoid instream impact in accordance with § 9.1-207.1 of the Code of Virginia;</p> <p>Rationale: Added u. to distinguish from emergency activities subject to § 9.1-207.1 of the Code of Virginia.</p> <p>v. Discharges from noncommercial fundraising car washes if the washing uses only biodegradable, phosphate-free, water-based cleaners in accordance with § 15.2-2114.1 of the Code of Virginia; or</p> <p>Rationale: Added “in accordance with § 15.2-2114.1 of the Code of Virginia” for context.</p> <p>No impact.</p>
9VAC25-890-20 Authorization to discharge	s	Discharges or flows from emergency firefighting activities;	<p>Added: “Routine external building wash down provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge;”</p> <p>Rationale: Added this language to make the MS4 general permit consistent with other VPDES permits.</p> <p>No impact.</p>
9VAC25-890-20 Authorization to discharge	w	v. Other activities generating discharges identified by the department as not requiring VPDES authorization.; <u>or</u>	<p>Re-lettered from u. to w.</p> <p>No impact.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-890-20 K. Continuation of permit coverage.		<p>1. Any permittee that was authorized to discharge under the state permit effective July 1, 2013, and that submits a complete registration statement on or before June 1, 2018, is authorized to continue to discharge under the terms of the July 1, 2018, state permit until such time as the board either:</p> <p>2. When the permittee is not in compliance with the conditions of the expiring or expired general permit, the board may choose to do any or all of the following:</p> <p>a. Initiate enforcement action based upon the 2013 general permit;</p>	<p>1. Any permittee that was authorized to discharge under the state permit effective November 1, 2018, and that submits a complete registration statement on or before October 1, 2023, is authorized to continue to discharge under the terms of the November 1, 2018, state permit until such time as the department either:</p> <p>2. When the permittee is not in compliance with the conditions of the expiring or expired general permit, the department may choose to do any or all of the following:</p> <p>a. Initiate enforcement action based upon the 2018 general permit;</p> <p>Rationale: Updated timeframes consistent with previous permit.</p> <p>No impact.</p>
9VAC25-890-30 A 2. Registration statement.		<p>In order to continue uninterrupted coverage under the general permit, operators of small MS4s shall submit a new registration statement no later than June 1, 2018, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing state permit.</p>	<p>In order to continue uninterrupted coverage under the general permit, operators of small MS4s shall submit a new registration statement no later than October 1, 2023, unless permission for a later date has been granted by the department. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing state permit.</p> <p>Rationale: Updated timeframes consistent with previous permit.</p> <p>No impact.</p>
9VAC25-890-30 B 5. Registration statement. *		<p>None.</p>	<p>If the MS4 is operated under the authority of a city council or a county board of supervisors, indicate if public school facilities are included in the application.</p> <p>Rationale: The department is requesting this information in order to determine which public school systems have permit coverage</p> <p>Impact: Any school system that is not covered under a localities MS4</p>



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>program or separate MS4 permit coverage may be required to obtain MS4 Permit coverage.</p>
<p>9VAC25-890-30 B 7 b Registration statement</p>		<p>b. Whether or not the receiving waters are listed as impaired in the Virginia 2016 305(b)/303(d) Water Quality Assessment Integrated Report;</p>	<p>b. Whether or not the receiving waters are listed as impaired in the Virginia <u>2022</u> 305(b)/303(d) Water Quality Assessment Integrated Report;</p> <p>Rationale: Changed the date to the latest 305(b)/303(d) Report.</p> <p>No impact.</p>
<p>9VAC25-890-30 B 10.</p>		<p>For those permittees whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, a draft second phase Chesapeake Bay TMDL action plan; and</p>	<p>For permittees previously covered under the General VPDES Permit for the Discharge of Stormwater from MS4 effective November 1, 2018, whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, a draft third phase Chesapeake Bay TMDL action plan; and</p> <p>Updated to require a draft third phase Chesapeake Bay TMDL action plan with registration.</p> <p>No Impact</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-890-30 E *		None.	<p>Added: Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements) as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms must be submitted electronically.</p> <p>Language added to require the use of Nforms for electronic submittal of registration statements as per 9VAC25-31-1020. This language was added to satisfy an EPA requirement for electronic reporting.</p> <p>Impact: After being notified 90 days in advance, permittees must use the electronic reporting platform specified by the Department.</p>
9VAC25-890-40. General permit.		<p>Effective Date: November 1, 2018</p> <p>Expiration Date: October 31, 2023</p>	<p>Effective Date: November 1, 2023</p> <p>Expiration Date: October 31, 2028</p> <p>Rationale: New permit cycle.</p> <p>No impact.</p>
9VAC25-890-40. General permit.		<p>The authorized discharge shall be in accordance with the registration statement filed with the department, this cover page, Part I - Discharge Authorization and Special Conditions, Part II - TMDL Special Conditions, and Part III - Conditions Applicable to All State and VPDES Permits, as set forth in this general permit.</p>	<p>The authorized discharge shall be in accordance with the registration statement filed with the department, this cover page, Part I - Discharge Authorization and Special Conditions, Part II - TMDL Special Conditions, and Part III - DEQ BMP Warehouse Reporting, and Part IV - Conditions Applicable to All State and VPDES Permits, as set forth in this general permit.</p> <p>Rationale: General permit has been reorganized to include "DEQ BMP Warehouse Reporting" as Part III and added Part I Discharge Authorization and Special Conditions heading.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			No impact.
Part I B.		The permittee shall develop, implement, and enforce a MS4 program designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable.	Removed “small” from in front of “MS4” to maintain consistency throughout the permit.  No impact.
Part I C 2 a.		...that does not exceed the expiration date of this permit; and	...that does not exceed October 31, 2028, unless the department grants a later date; and  Rationale: This section pertains to permittees receiving initial coverage under the proposed permit the department recognizes there may be circumstances where permit coverage was issued late in the permit cycle and fully developing a program plan in shortened term may not be feasible.  Impact: Department may offer flexibility to new permittees for program development timelines.
Part I D. *		1. The permittee shall submit an annual report to the department no later than October 1 of each year in a format as specified by the department. The report shall cover the previous year from July 1 to June 30.	1. The permittee shall submit an annual report to the department no later than October 1 of each year in a method, (i.e., how the permittee must submit) and format (i.e., how the report shall be laid out) as specified by the department; the required content of the annual report is specified in Part I E and Part II B. The report shall cover the previous year from July 1 to June 30.  2. Following notification from the department of the start date for the required electronic submission of annual reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>Rationale: Added annual reporting clarification on method, (i.e. how the permittee must submit) and format (i.e. how the report shall be laid out).</p> <p>The format and required content of the annual report is specified in Part I E.</p> <p>Methods and Annual reporting requirements have been updated to reflect the new notification requirements for the department. The method of annual report submittals “Nform” is being developed by the department and guidance for the use of Nform will be provided to permittees on Nform annual report submittals once the MS4 Nform module is fully developed for roll-out and permittee use. Nform permittee reporting is part of the department’s strategy to fulfill EPA’s e-reporting rule.</p> <p>Impact: Allows DEQ and permittees to comply with EPA e-reporting rule.</p>
Part I D.4		For those permittees with requirements established under Part II A, the annual report shall include a status report on the implementation of the Chesapeake Bay TMDL action plan in accordance with Part II A of this permit including any revisions to the plan.	<p>Removed from this section.</p> <p>Rationale: Moved to reporting requirements for the Chesapeake Bay TMDL special condition have Part II A of this permit.</p> <p>No impact.</p>
Part I D.6 *		For the purposes of this permit, the MS4 program plan and annual report shall be maintained separately and submitted to the department as required by this permit as two separate documents.	<p>For the purposes of this permit, the MS4 program plan, annual reports, the Chesapeake Bay TMDL action plan, and Chesapeake Bay TMDL implementation annual status reports shall be maintained as separate documents and submitted to the department as required by this permit as separate documents.</p> <p>Rationale: Added additional clarification that the MS4 program plan, annual reports, the Chesapeake Bay TMDL action plan, and Chesapeake Bay TMDL implementation annual</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>status reports, shall be maintained as separate documents primarily to promote public transparency and to facilitate department tracking to ensure permittees achieve 100% of the Chesapeake Bay TMDL target reductions by the end of the permit cycle.</p> <p>Impact: Require those permittees that have combined documents to split them into separate documents.</p>
Part I E.1.b		<p>The permittee shall identify no less than three high-priority stormwater issues to meet the goal of educating the public in accordance with Part I E 1 a. High-priority issues may include the following examples: Chesapeake Bay nutrients, pet wastes, local receiving water impairments, TMDLs, high-quality receiving waters, and illicit discharges from commercial sites.</p>	<p>The permittee shall identify no fewer than three high-priority stormwater issues to meet the goal of educating the public in accordance with Part I E 1 a. High-priority issues may include the following examples: Chesapeake Bay nutrients, pet wastes, local receiving water impairments, TMDLs, high-quality receiving waters, litter control, BMP maintenance, anti-icing and deicing agent application, planned green infrastructure redevelopment, planned ecosystem restoration, and illicit discharges from commercial sites.</p> <p>Rationale: Added “litter control, BMP maintenance, anti-icing and de-icing agent application, planned green infrastructure redevelopment, planned ecosystem restoration” to expand examples of high priority issues.</p> <p>No Impact.</p>
Part I E.1.d		<p>The permittee shall use two or more of the strategies listed in Table 1 below per year to communicate to the public the high-priority stormwater issues identified in accordance with Part I E 1 b including how to reduce stormwater pollution.</p>	<p>The permittee shall use two or more of the strategies listed in Table 1 per year to communicate to the target audience the high-priority stormwater issues identified in accordance with Part I E 1 b including how to reduce stormwater pollution.</p> <p>Rationale: Replaced “public” with “target audience” to clarify that a high priority issue might be targeted towards a specific audience which may include the general public.</p> <p>No impact.</p>
Part I E.1 Table 1		<p>Information disseminated through electronic media,</p>	<p>Information disseminated through electronic media, radio, televisions,</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Strategies for media materials		radio, televisions, movie theater, or newspaper	<p>movie theater, newspaper, or GIS story maps</p> <p>Rationale: Added GIS story maps to examples of media materials to expand examples of public education and outreach strategies.</p> <p>No impact.</p>
N/A	Part I E.1 Table 1: Strategies for Public education activities	None.	<p>Booth at community fair, demonstration of stormwater control projects, presentation of stormwater materials to schools to meet applicable education Standards of Learning or curriculum requirements, or watershed walks</p> <p>Rationale: Expand examples of public education and outreach strategies.</p> <p>No impact.</p>
N/A	Part I E.1 Table 1: Strategies for Public meetings	None.	<p>Public meetings on proposed community stormwater management retrofits, green infrastructure redevelopment, ecosystem restoration, TMDL development, voluntary residential low impact development, or other stormwater issues</p> <p>Rationale: Expand examples of public education and outreach strategies.</p> <p>No impact.</p>
N/A	Part I E.1 Table 1: Strategies for Public Meetings	None.	<p>Added to Public meetings examples: "climate change's effects on stormwater management,"</p> <p>Rationale: Added to expand options for activities in response to EPA comments.</p> <p>No impact.</p>
Part I E.1.f (3)		Identification of the public audience to receive each high-priority stormwater message;	<p>Identification of the target audience to receive each high-priority stormwater message;</p> <p>Rationale: Replaced "public" with "target audience" for consistency with EPA guidance and to clarify that a high priority issue might be targeted towards a specific audience which may include the general public.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I E.1.f (4) *		None	<p>No impact.</p> <p>Nontraditional permittees may identify staff, students, members of the general public, and other facility users operated by the permittee as the target audience for education and outreach strategies.</p> <p>Rationale: Added (4) - Nontraditional permittees may identify staff, students, members of the general public, and other facility users operated by the permittee as the target audience for education and outreach strategies for clarification</p> <p>Impact: This added clarification will help nontraditional permittees to better define targeted audiences.</p>
Part I E.1.f (5) *		None	<p>Traditional permittees may identify staff and students as part of the target audience for education and outreach strategies; however, staff shall not be the majority of the target audience.</p> <p>Rationale: Added (5) - Traditional permittees may identify staff and students as part of the target audience for education and outreach strategies; however, staff shall not be the majority of the target audience for clarification.</p> <p>Impact: This added clarification will help permittees better define target audiences while differentiating target audiences for traditional and nontraditional permittees.</p>
Part I E.1.f (6)		None	<p>Staff training required in accordance with Part I E 6 d does not qualify as a strategy for public education and outreach.</p> <p>Rationale: Added (6) - Staff training required in accordance with Part I E 6 d does not qualify as a strategy for public education and outreach. This added clarification reinforces the intent of the public education requirement and that education and outreach programs with all staff as the targeted audience are to be included in the good housekeeping training program.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I E.1.g (1)		A list of the high-priority stormwater issues the permittee addressed in the public education and outreach program; and	<p>No impact</p> <p>A list of the high-priority stormwater issues the permittee addressed in the public education and outreach program;</p> <p>Rationale: Removed “and”</p> <p>No impact.</p>
Part I E.1.g (2)		None	<p>A summary of the public education and outreach activities conducted for the report year, including the strategies used to communicate the identified high-priority issues; and</p> <p>Rationale: The added summary language is more useful in the annual report than a list as required by the replaced language.</p> <p>Impact: Changed submitted information from a list format to a more useful summary format.</p>
Part I E.1.g (3)		A list of the strategies used to communicate each high-priority stormwater issue.	<p>A description of any changes in high-priority stormwater issues including, strategies used to communicate high-priority stormwater issues or target audiences for the public education and outreach plan. The permittee shall provide a rationale for any of the above changes.</p> <p>Rationale: Revised language to “A description of any changes in high priority stormwater issues, strategies used to communicate high-priority stormwater issues, or target audiences for the public education and outreach plan. The permittee shall provide a rationale for any of the above changes.” The revised language clarifies the expectations for documenting an iterative education and outreach program.</p> <p>No Impact.</p>



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I E 1 g (4)		None.	<p>Added: (4) A description of public education and outreach activities conducted that included education regarding climate change.</p> <p>Rationale: Added to expand options for activities in response to EPA comments.</p> <p>No Impact.</p>
Part I E.2.a (2)		The public to provide input on the permittee's MS4 program plan;	<p>The public to provide comments on the permittee's MS4 program plan;</p> <p>Rationale: Replaced “input” with “comments” to clarify expectations for public comment on program plans.</p> <p>No impact</p>
Part I E.2.a (3)		Receiving public input or complaints;	<p>Removed (3) – “Receiving public input or complaints.”</p> <p>Rationale: This provision was redundant with Part I E 2 a (1) and (2) requirements and may inadvertently require permittees to capture input or complaints beyond the scope of this permit for issues such as flooding which this permit does not address.</p> <p>Impact: This revision makes the permit more streamlined, less redundant, and clarifies department expectations.</p>
Part I E.2.a (4)	9VAC25-890-40 E.2.a (3)	Responding to public input received on the MS4 program plan or complaints; and	<p>Responding to public comments received on the MS4 program plan; and</p> <p>Rationale: Changed “input” to comments to maintain consistency with changes to Part I.E.2,a (2) above.</p> <p>No impact.</p>
Part I E.2.a (5)	Part I E.2.a (4)	Maintaining documentation of public input received on the MS4 program and associated MS4 program plan and the permittee's response.	<p>Maintaining documentation of public comments received on the MS4 program and associated MS4 program plan and the permittee's response.</p> <p>Rationale: Changed “input” to comments to maintain consistency with changes to Part I.E.2,a (2) and (4).</p> <p>No impact.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I E.2.b		No later than three months after this permit's effective date, the permittee shall develop and maintain a webpage dedicated to the MS4 program and stormwater pollution prevention. The following information shall be posted on this webpage:	<p>No later than three months after this permit's effective date, the existing permittee shall update and maintain the webpage dedicated to the MS4 program and stormwater pollution prevention. The following information shall be posted on this webpage:</p> <p>Rationale: Changed “develop and maintain” to “update and maintain” as the webpage should already exist.</p> <p>No Impact.</p>
N/A	Part I E.2.b(4)	None	<p>For permittees whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, the most current Chesapeake Bay TMDL action plan or location where the Chesapeake Bay TMDL action plan can be obtained;</p> <p>Rationale: Added to clarify permit requirement expectations in conjunction with maintaining Chesapeake Bay TMDL action plans as a separate document from the program plan in accordance with 9VAC25-890-40 D.6.</p> <p>No impact.</p>
N/A	Part I E.2.b(5)	None	<p>For permittees whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, the Chesapeake Bay TMDL implementation annual status reports for each year of the term covered by this permit no later than 30 days after submittal to the department;</p> <p>Rationale: Added to clarify permit requirement expectations in conjunction with maintaining Chesapeake Bay TMDL implementation status reports as a separate document from the annual report in accordance with 9VAC25-890-40 D.6.</p> <p>No Impact.</p>
Part I E.2.b(4)	Part I E.2.b(6)	A mechanism for the public to report potential illicit discharges, improper	Rationale: Re-numbered, no change in requirement.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		disposal, or spills to the MS4, complaints regarding land disturbing activities, or other potential stormwater pollution concerns in accordance with Part I E 2 a (1); and	No impact.
Part I E.2.b(5)	Part I E,2,b,(7)	(7) Methods for how the public can provide input comments on the permittee's MS4 program plan in accordance with Part I E 2 a (2)	<p>(7) Methods for how the public can provide comments on the permittee's MS4 program plan in accordance with Part I E 2 a (2) and if applicable, the Chesapeake Bay TMDL action plan in accordance with Part II A 13; and</p> <p>Rationale: Additional language added to clarify permit requirement expectations for receiving public comments on Chesapeake Bay TMDL action plans.</p> <p>No impact.</p>
N/A	Part I E.2.b(8)	None	<p>Federal and state nontraditional permittees with security policies preventing a MS4 program and stormwater pollution prevention webpage from being publicly accessible may utilize an internal staff accessible webpage such as an intranet webpage to meet the requirements of Part 1 E 2 b.</p> <p>Rationale: Added to provide a mechanism for government entities with restrictive security policies such as DOD and correctional facilities to demonstrate compliance with MS4 program webpage requirements.</p> <p>No impact.</p>
Part I E.2.c		The permittee shall implement no less than four activities per year from two or more of the categories listed in Table 2 below to provide an opportunity for public involvement to improve water quality and support local restoration and clean-up projects.	<p>Traditional permittees shall implement no fewer than four activities per year from two or more of the categories listed in Table 2 to provide an opportunity for public involvement to improve water quality and support local restoration and clean-up projects.</p> <p>Rationale: Changed "The permittee" to "Traditional permittees" to clarify permit requirement expectations for traditional permittees.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
N/A	Part I E.2.d	None	<p>No impact.</p> <p>d. Nontraditional permittees shall implement, promote, participate in, or coordinate on no fewer than four activities per year from two or more of the categories listed in Table 2 to provide an opportunity for public involvement to improve water quality and support local restoration and clean-up projects.</p> <p>Rationale: Added to clarify permit requirement expectations for nontraditional permittees.</p> <p>No impact.</p>
Part I E.2 Table 2: Restoration		Stream or watershed clean-up day, adopt-a-water way program,	<p>Stream, watershed, shoreline, beach, or park clean-up day, adopt-a-waterway program, tree plantings, and riparian buffer plantings</p> <p>Rationale: Expanded list of examples of restoration participation events.</p> <p>No impact.</p>
Part I E.2 Table 2: Educational events	Part I E.2 Table 2: Public education activities	Booth at community fair, demonstration of stormwater control projects, presentation of stormwater materials to schools to meet applicable education Standards of Learning or curriculum requirements, or watershed walks, participation on environmental advisory committees	<p>Booth at community fair, demonstration of stormwater control projects, presentation of stormwater materials to schools to meet applicable education Standards of Learning or curriculum requirements, or watershed walks</p> <p>Rationale: Expanded participation on environmental advisory committees in Table 2 Public meetings examples.</p> <p>No impact.</p>
Part I E.2 Table 2: Educational events	Part I E.2 Table 2: Public education activities	None.	<p>Added “climate change’s effects on stormwater management,” to Public education activities examples, and to Public meetings examples.</p> <p>Rationale: Added to expand options for activities in response to EPA comments.</p> <p>No Impact</p>
N/A	Part I E.2 Table 2: Public Meetings	None.	Public meetings on proposed community stormwater management retrofits, green infrastructure redevelopment, ecosystem restoration, TMDL development, voluntary

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>residential low impact development, or other stormwater issues</p> <p>Rationale: Expanded participation on environmental advisory committees to Public meetings category in Table 2.</p> <p>No impact.</p>
Part I E.2.d	Part I E.2.e	The permittee may coordinate the public involvement opportunities listed in Table 2 with other MS4 permittees; however, each permittee shall be individually responsible for meeting all of the permit requirements.	<p>Rationale: Re-numbered. No change in requirement.</p> <p>No impact.</p>
N/A	Part I E.2.f	None	<p>The Permittee may include staff and students in public participation events; however, the activity cannot solely include or be limited to staff participants with stormwater, groundskeeping, and maintenance duties in order for an event to qualify as a public participation event.</p> <p>Rationale: Added f. to clarify permit requirement expectations.</p> <p>No impact.</p>
N/A	Part I E.2.g	None.	<p>Staff training required in accordance with Part I E 6 d does not qualify as a public participation event unless the training activity solicits participation from target audiences beyond staff or contractors with stormwater, groundskeeping, and maintenance duties.</p> <p>Rationale: Added g. to clarify permit requirement expectations.</p> <p>No impact.</p>
Part I E. 2.e	Part I E.2.h	h. The MS4 program plan shall include: (1) The webpage address where mechanisms for the public to report (i) potential illicit discharges, improper disposal, or spills to the MS4, (ii) complaints regarding land	<p>Rationale: Re-numbered, no change.</p> <p>No Impact</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>disturbing activities, or (iii) other potential stormwater pollution concerns;</p> <p>(2) The webpage address that contains the methods for how the public can provide input on the permittee's MS4 program; and</p> <p>(3) A description of the public involvement activities to be implemented by the permittee, the anticipated time period the activities will occur, and a metric for each activity to determine if the activity is beneficial to water quality. An example of metrics may include the weight of trash collected from a stream cleanup, the number of participants in a hazardous waste collection event, etc.</p>	
Part I E.2.f	Part I E.2.i	<p>The annual report shall include the following information:</p> <p>(1) A summary of any public input on the MS4 program received (including stormwater complaints) and how the permittee responded;</p> <p>(2) A webpage address to the permittee's MS4 program and stormwater website;</p> <p>(3) A description of the public involvement activities implemented by the permittee;</p> <p>(4) A report of the metric as defined for each activity and an evaluation as to whether or not the activity is beneficial to improving water quality; and</p> <p>(5) The name of other MS4 permittees with whom the permittee</p>	<p>The annual report shall include the following information:</p> <p>(1) A summary of any public comments on the MS4 program received and how the permittee responded;</p> <p>(2) A summary of stormwater pollution complaints received under the procedures established in Part I E 2 a (1) (excluding natural flooding complaints) and how the permittee responded;</p> <p>(3) A webpage address to the permittee's MS4 program and stormwater website;</p> <p>(4) Federal and state nontraditional permittees with security policies preventing the MS4 program and stormwater pollution prevention webpage from being publicly accessible utilizing an internal staff accessible website such as intranet shall provide evidence of the current internal MS4 program and stormwater pollution prevention webpage;</p> <p>(5) A description of the public involvement activities implemented by the permittee, including any efforts to</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		collaborated in the public involvement opportunities.	<p>reach out to and engage all economic and ethnic groups;</p> <p>(7) A report of the metric as defined for each activity and an evaluation as to whether or not the activity is beneficial to improving water quality; and</p> <p>(8) The name of other MS4 permittees with whom the permittee collaborated in the public involvement opportunities.</p> <p>Rationale: Added (2) to clarify permit requirement expectation.</p> <p>Impact: Removes flooding complaints from reporting requirements.</p> <p>Rationale: Added (4) to clarify permit requirements.</p> <p>No impact.</p>
Part I E 2 i (6)		None.	<p>Added: (6) A description of public education and outreach activities conducted that also included education regarding climate change;</p> <p>Rationale: Added to expand options for activities in response to EPA comments.</p> <p>No Impact.</p>
Part I E.3.a(1) *		A map of the storm sewer system owned or operated by the permittee within the census urbanized area identified by the 2010 decennial census that includes, at a minimum:	<p>(1) An updated map of the MS4 owned or operated by the permittee within the 2020 census urban areas with a population of least 50,000 and any previous decennial census urbanized area no later than 24 months after the permit effective date that includes, at a minimum:</p> <p>Rationale: The revision was made to require permittees to include any expanded area due to the 2020 Census. This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees must evaluate their MS4 service area in comparison to the 2020 urban area maps.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I E.3.a(2)		The permittee shall maintain an information table associated with the storm sewer system map that includes the following information for each outfall or point of discharge for those cases in which the permittee elects to map the known point of discharge in accordance with Part I E 3 a (1) (a):	<p>The permittee shall maintain an outfall information table associated with the MS4 map that includes the following information for each outfall or point of discharge for those cases in which the permittee elects to map the known point of discharge in accordance with Part I E 3 a (1) (a). The outfall information table may be maintained as a shapefile attribute table. The outfall information table shall contain the following:</p> <p>Rationale: Revised language to clarify the use of GIS-compatible data tables and what information is required for the outfall information table.</p> <p>Impact: Makes maintaining the table less burdensome and more useful to the permittees.</p>
Part I E.3.a(2)(f)		An indication as to whether the receiving water is listed as impaired in the Virginia 2016 305(b)/303(d) Water Quality Assessment Integrated Report; and	<p>An indication as to whether the receiving water is listed as impaired in the Virginia 2020 305(b)/303(d) Water Quality Assessment Integrated Report; and</p> <p>Rationale: Update date to the most current report.</p> <p>No Impact.</p>
Part I E.3.a(2)(g)		The predominant land use for each outfall discharging to an impaired water; and	<p>Removed.</p> <p>Rationale: Predominant land use information is not useful and burdensome for the permittees.</p> <p>Impact: Less burdensome tracking requirements for the permittee without sacrificing useful information.</p>
Part I E.3.a.(3) *		No later than July 1, 2019, the permittee shall submit to DEQ, a GIS-compatible shapefile of the permittee's MS4 map as described in Part I E 3 a. If the permittee does not have an MS4 map in a GIS format, the permittee shall provide the map as a PDF document.	<p>No later than 24 months after permit issuance, the permittee shall submit to DEQ, a format file geodatabase or two shapefiles that contain at a minimum:</p> <p>(a) A point feature class or shapefile for outfalls with an attribute table containing outfall data elements required in accordance with Part I E 3 a (2); and</p>



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>(b) A polygon feature class or shapefile for the MS4 service area as required in accordance with Part I E 3 a (1) (d) with an attribute table containing the following information:                      (i) MS4 operator name;                      (ii) MS4 permit number (VAR04); and                      (iii) MS4 service area total acreage rounded to the nearest hundredth.</p> <p>Rational: Revised language to specify GIS-compatible formats for GIS data submittals to ensure consistency in data received by the department.</p> <p>Removed "If the permittee does not have an MS4 map in a GIS compatible format, the permittee shall provide the map as a PDF document" since open-source geospatial data software is available for use to permittees and there are also recorded tutorial resources for software use training available on YouTube, etc.</p> <p>Added (a) and (b) to ensure consistency and adequate detail of the MS4 service area and data.</p> <p>Impact: All map submittals will be compatible with Agency GIS systems and guidelines.</p>
N/A	Part I E.3.a(4) *	None.	<p>All file geodatabase feature classes or shapefiles shall be submitted in the following data format standards:                      (a) Point data in NAD83 or WGS84 decimal degrees global positional system coordinates;                      (b) Data projected in Virginia Lambert Conformal Conic format;                      (c) Outfall location accuracy shall be represented in decimal degrees rounded to at least the fifth decimal place for latitude and longitude to ensure point location accuracy (e.g., 37.61741, -78.15279); and                      (d) Metadata that shall provide a description of each feature class or shapefile dataset, units of measure as applicable, coordinate system, and projection.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>Rationale: Added (4) to ensure consistency and adequate detail of the MS4 service area and data.</p> <p>Impact: Makes map files uniform, and more useful for various application, as well being compatible with Agency systems and guidelines.</p>
Part I E.3.a(4)	Part I E.3.a(5)	No later than October 1 of each year, the permittee shall update the MS4 map and outfall information table to include any new outfalls constructed or TMDLs approved or both during the immediate preceding reporting period.	<p>Renumbered, no change.</p> <p>No impact.</p>
Part I E.3.a(5)	Part I E.3.a(6)	The permittee shall provide written notification to any downstream adjacent MS4 of any known physical interconnection established or discovered after the effective date of this permit.	<p>Re-numbered, no change.</p> <p>No impact.</p>
Part I E.3.c(2)(d) *	Part I E.3.c(2)(d)-(g)	<p>(d) A mechanism to track the following information:</p> <ul style="list-style-type: none"> <li>(i) The unique outfall identifier;</li> <li>(ii) Time since the last precipitation event;</li> <li>(iii) The estimated quantity of the last precipitation event;</li> <li>(iv) Site descriptions (e.g., conveyance type and dominant watershed land uses);</li> <li>(v) Whether or not a discharge was observed; and</li> <li>(vi) If a discharge was observed, the estimated discharge rate (e.g., width and depth of discharge flow rate) and visual characteristics of the discharge (e.g., odor, color, clarity, floatables, deposits or stains, vegetation condition,</li> </ul>	<p>(d) The permittee may adopt a risk-based approach to dry weather screening identifying observation points based upon illicit discharge risks upstream of an outfall. Observation points may include points of interconnection, manholes, points of discharge, conveyances, or inlets suspected to have a high likelihood of receiving illicit discharges;</p> <p>(e) Each observation point screened may be counted as one outfall screening activity equivalent and counted towards the requirements of Part I E 3 c (2) (b) or (2) (c); however, at least 50% of the minimum annual screening events must include outfall screening;</p> <p>(f) Illicit discharges reported by the public and subsequent investigations may not be counted as screening events; however once the resolution of the investigation and the date the investigation was closed has been documented, an observation point may</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		structural condition, and biology).	<p>be established for future screening events; and</p> <p>Rationale: (d) was revised and (e)-(f) were added to expand the dry weather screening program to incorporate an optional risk based approach that goes beyond the outfall, based upon permittee historical programmatic IDDE knowledge and land use that allows for a more targeted approach. This risk-based option may allow for better resource allocation and a potentially more productive and directed screening efforts.</p> <p>Impact: Increased flexibility for achieving permit conditions and program enhancement.</p> <p>(g) A checklist or mechanism to track the following information for dry weather screening events:                      (i) The unique identifier for the outfall or observation point;                      (ii) Time since the last precipitation event;                      (iii) The estimated quantity of the last precipitation event;                      (iv) Site descriptions (e.g., conveyance type and dominant watershed land uses);                      (v) Observed indicators of possible illicit discharge events such as, floatables, deposits, stains, and vegetative conditions (e.g., dying or dead vegetation, excessive vegetative growth, etc.);                      (vi) Whether or not a discharge was observed;                      (vii) If a discharge was observed, the estimated discharge rate and visual characteristics of the discharge (e.g., odor, color, clarity) and the physical condition of the outfall; and                      (viii) For observation points, the location, downstream outfall unique identifier, and risk factors or rationale for establishing the observation point.</p> <p>Rationale: Dry weather screening information tracking was reformatted</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>and revised to incorporate the potential use of observation points for risk-based approaches.</p> <p>Observed indicators of illicit discharges were moved to (v) and the indicator list was expanded to ensure illicit discharge indicators are part of all dry-weather screening events and not limited to outfalls with an observed discharge present during inspection.</p> <p>Impact: Dry weather screening enhanced effectiveness.</p>
Part I E.3.d(1)		The MS4 map and information table required by Part I E 3 a. The map and information table may be incorporated into the MS4 program plan by reference. The map shall be made available to the department within 14 days upon request;	<p>The MS4 map and outfall information table required by Part I E 3 a. The map and outfall information table may be incorporated into the MS4 program plan by reference. The map shall be made available to the department within 14 days upon request;</p> <p>Rationale: Added “outfall” descriptor for “information table” clarification.</p> <p>No impact.</p>
Part I E.3.d(2)		Copies of written notifications of new physical interconnections given by the permittee to other MS4s; and	<p>Copies of written notifications of physical interconnections given by the permittee to other MS4s; and</p> <p>Rationale: Removed “new” to require that all physical interconnections to other regulated permittees are provided written notification.</p> <p>No impact.</p>
Part I E.3.e(1)-(3)		<p>(1) A confirmation statement that the MS4 map and information table have been updated to reflect any changes to the MS4 occurring on or before June 30 of the reporting year;</p> <p>(2) The total number of outfalls screened during the reporting period as part of the dry weather screening program; and</p>	<p>(1) A confirmation statement that the MS4 map and outfall information table have been updated to reflect any changes to the MS4 occurring on or before June 30 of the reporting year;</p> <p>(2) The total number of outfalls and observation points screened during the reporting period as part of the dry weather screening program; and</p> <p>(3) A list of illicit discharges to the MS4 including spills reaching the MS4 with information as follows:</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>(3) A list of illicit discharges to the MS4 including spills reaching the MS4 with information as follows:</p> <p>(a) The source of illicit discharge;</p>	<p>(a) The location and source of illicit discharge;</p> <p>Rationale: (1) Added “outfall” to “information table”, (2) added “and observation points,” and (3) (a) added “location and” to “source of illicit discharge” for clarification.</p> <p>No impact.</p>
Part I E.4		Construction site stormwater runoff.	<p>Construction site stormwater runoff and erosion and sediment control.</p> <p>Rationale: Added “and erosion and sediment control” for clarification on other state programs utilized for satisfying Part I E 4 requirements.</p> <p>No impact.</p>
Part I E.4.a (1) and (2)		<p>(1) If the permittee is a city, county, or town that has adopted a Virginia Erosion and Sediment Control Program (VESCP), the permittee shall implement the VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840);</p> <p>(2) If the permittee is a town that has not adopted a VESCP, implementation of a VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-44:15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840) by the surrounding county shall constitute compliance with Part I E 4 a; such town shall notify the surrounding county of erosion, sedimentation or other</p>	<p>(1) If the traditional permittee is a city, county, or town that has adopted a Virginia Erosion and Sediment Control Program (VESCP), the permittee shall implement the VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840);</p> <p>(2) If the traditional permittee is a town that has not adopted a VESCP, implementation of a VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-44:15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840) by the surrounding county shall constitute compliance with Part I E 4 a; such town shall notify the surrounding county of erosion, sedimentation or other construction stormwater runoff problems;</p> <p>Rationale: Added “traditional” permittee qualifier to (1) and (2) for clarification.</p> <p>No impact.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		construction stormwater runoff problems;	
Part I E.4.a(3), (4) and (5)		<p>(3) If the permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has developed standards and specifications in accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee shall implement the most recent department approved standards and specifications; or</p> <p>(4) If the permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has not developed standards and specifications in accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee shall inspect all land disturbing activities as defined in § 62.1-44.15:51 of the Code of Virginia that result in the disturbance activities of 10,000 square feet or greater, or 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay</p>	<p>(3) If the nontraditional permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has developed standards and specifications in accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee shall implement the most recent department approved standards and specifications; or</p> <p>(4) If the nontraditional permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has not developed standards and specifications in accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee shall inspect all land disturbing activities as defined in § 62.1-44.15:51 of the Code of Virginia that result in the disturbance of 10,000 square feet or greater, or 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay Preservation Act, as follows:</p> <p>(5) If the nontraditional permittee is a school board or other local government body, the permittee shall inspect those projects resulting in a land disturbance as defined in § 62.1-44.15:51 of the Code of Virginia occurring on lands owned or operated by the permittee that result in the disturbance of 10,000 square feet or greater, 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay Preservation Act, or in accordance with more stringent</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>Preservation Act, as follows:</p> <p>(5) If the permittee is a subdivision of a local government such as a school board or other local government body, the permittee shall inspect those projects resulting in a land disturbance as defined in § 62.1-44.15.51 of the Code of Virginia occurring on lands owned or operated by the permittee that result in the disturbance of 10,000 square feet or greater, 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay Preservation Act, or in accordance with more stringent thresholds established by the local government, as follows:</p>	<p>thresholds established by the local government, as follows:</p> <p>Rationale: Added “nontraditional” permittee qualifier to (3), (4), and (5) for clarification.</p> <p>No impact.</p>
Part I E.4.b		<p>The permittee shall require implementation of appropriate controls to prevent nonstormwater discharges to the MS4, such as wastewater, concrete washout, fuels and oils, and other illicit discharges identified during land disturbing activity inspections of the MS4. The discharge of nonstormwater discharges other than those identified in 9VAC25-890-20 D through the MS4 is not authorized by this state permit.</p>	<p>The permittee shall require implementation of appropriate controls to prevent nonstormwater discharges to the MS4, such as wastewater, concrete washout, fuels and oils, and other illicit discharges identified during land disturbing activity inspections. The discharge of nonstormwater discharges other than those identified in 9VAC25-890-20 D through the MS4 is not authorized by this state permit.</p> <p>Rationale: Removed “of the MS4” for clarification.</p> <p>No impact.</p>
Part I E 6 I (5)	Part I E 4 c	<p>Employees and contractors serving as plan reviewers, inspectors, program administrators, and construction site operators shall obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law</p>	<p>Moved from MCM6 to MCM4 requirements to include certification requirements with other erosion and sediment control permit conditions. No change.</p> <p>No impact.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		and its attendant regulations;	
Part I E 4 c	Part I E 4 d	The permittee's MS4 program plan shall include:	Rationale: Moved to d. No change. No impact
Part I E 4 c (1)	Part I E 4 d (1)	If the permittee implements a construction site stormwater runoff control program in accordance with Part I E 4 a (1), the local ordinance citations for the VESCP program;	If the permittee implements an erosion and sediment control program for construction site stormwater runoff in accordance with Part I E 4 a (1), the local ordinance citations for the VESCP program;  Rationale: Added "erosion and sediment control program" for clarification.  No impact.
Part I E 4 c (2)	Part I E 4 d (2) and (3)	(2) If the permittee implements a construction site stormwater runoff control program in accordance with Part I E 4 a (3):	(2) If the permittee is a town that does not implement an erosion and sediment control program for construction site stormwater runoff in accordance with Part I E 4 a (2), the county ordinance citations for the VESCP program the town is subject to; (3) If the permittee implements annual standards and specifications for erosion and sediment control and construction site stormwater runoff in accordance with Part I E 4 a (3):  Rationale: Added (2) for clarification on towns that do not implement an erosion and sediment control program.  No impact.
Part I E 4 c (3)	Part I E 4 d (4)	(3) A description of the legal authorities utilized to ensure compliance with Part I E 4 a to control construction site stormwater runoff control such as ordinances, permits, orders, specific contract language, policies, and interjurisdictional agreements;	(4) A description of the legal authorities utilized to ensure compliance with Part I E 4 a for erosion and sediment control and construction site stormwater runoff control such as ordinances, permits, orders, specific contract language, policies, and interjurisdictional agreements;  Rationale: Reworded for clarity.  No impact.
Part I E 4 c (4)	Part I E 4 d (5)	(4) Written inspection procedures to ensure the erosion and sediment controls are properly implemented and all	(5) For traditional permittees, written inspection procedures to ensure VESCP requirements are maintained in accordance with 9VAC25-840-90 A and onsite erosion and sediment



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		associated documents utilized during inspection including the inspection schedule;	controls are properly implemented in accordance with 9VAC25-840-60 B;  Rationale: Reformatted to apply to traditional permittees with erosion and sediment control program requirements for written inspection procedures and inspection schedules to reduce regulatory redundancy.  No impact.
Part I E 4 c (5) *	Part I E 4 d (6)-(8)	(5) Written procedures for requiring compliance through corrective action or enforcement action to the extent allowable under federal, state, or local law, regulation, ordinance, or other legal mechanisms; and	(6) For nontraditional permittees, erosion and sediment control plans or annual standards and specifications shall be approved by the department in accordance with § 62.1-44.15:55 of the Code of Virginia. Compliance with approved erosion and sediment control plans or annual standards and specifications shall be ensured by the permittee with written inspection procedures that at minimum include the following: (a) An inspection checklist for documenting onsite erosion and sediment control structures and systems are properly maintained and repaired as needed to insure continued performance of their intended function; and (b) A list of all associated documents utilized for inspections including checklists, department approved erosion and sediment control plans, or the most recently department approved annual standards and specifications, and any other documents utilized; (7) Traditional permittees shall maintain written procedures for requiring VESCP compliance through corrective action or enforcement action in accordance with § 62.1-44.15:58 of the Code of Virginia; (8) Nontraditional permittees shall maintain written procedures for requiring compliance with department approved erosion and sediment control plans and annual standards and specifications through corrective action or enforcement action to the extent allowable under federal, state, or local

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>law, regulation, ordinance, or other legal mechanisms; and</p> <p>Rationale: Clarified expectations for traditional and nontraditional permittees to facilitate nontraditional permittee compliance.</p> <p>Impact: Streamlines traditional permittee requirements and clarifies nontraditional permittee expectations.</p>
Part I E 4 c (6)	Part I E 4 d (9)	The roles and responsibilities of each of the permittee's departments, divisions, or subdivisions in implementing the construction site stormwater runoff control requirements in Part I E 4.	<p>The roles and responsibilities of each of the permittee's departments, divisions, or subdivisions in implementing erosion and sediment control and construction site stormwater runoff control requirements in Part I E 4.</p> <p>Rationale: Added "erosion and sediment control" for clarification.</p> <p>No impact.</p>
Part I E 4 d	Part I E 4 e	<p>The annual report shall include the following:</p> <p>(1) If the permittee implements a construction site stormwater runoff program in accordance with Part I E 4 a (3):</p> <p>(a) A confirmation statement that land disturbing projects that occurred during the reporting period have been conducted in accordance with the current department approved standards and specifications for erosion and sediment control; and</p> <p>(b) If one or more of the land disturbing projects were not conducted with the department approved standards and specifications, an explanation as to why the projects did not conform to the approved standards and specifications.</p> <p>(2) Total number of inspections conducted; and</p>	<p>The annual report shall include the following:</p> <p>(1) Total number of erosion and sediment control inspections conducted;</p> <p>(2) Total number of each type of compliance action and enforcement action implemented; and</p> <p>Rationale: Revised for clarity.</p> <p>No impact.</p> <p>(3) For nontraditional permittees:</p> <p>(a) A confirmation statement that land disturbing projects that occurred during the reporting period have been conducted in accordance with the current department approved annual standards and specifications for erosion and sediment control; and</p> <p>(b) If any land disturbing projects were conducted without department approved annual standards and specifications, a list of all land disturbing projects that occurred during the reporting period with erosion and sediment control plan approval dates for each project.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		(3) The total number and type of enforcement actions implemented and the type of enforcement actions.	<p>Rationale: Revised for nontraditional clarification.</p> <p>No impact.</p>
Part I E 5 a (1) and (2)		<p>(1) If the permittee is a city, county, or town, with an approved Virginia Stormwater Management Program (VSMP), the permittee shall implement the VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as develop an inspection and maintenance program in accordance with Parts I E 5 b and c;</p> <p>(2) If the permittee is a town that has not adopted a VSMP, implementation of a VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) by the surrounding county shall constitute compliance with Part I E 5 a; such town shall notify the surrounding county of erosion, sedimentation, or other post-construction stormwater runoff problems and develop an inspection and maintenance program in accordance with Part I E 5 b and c;</p>	<p>(1) If the traditional permittee is a city, county, or town, with an approved Virginia Stormwater Management Program (VSMP), the permittee shall implement the VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as maintain an inspection and maintenance program in accordance with Part I E 5 b and c;</p> <p>(2) If the traditional permittee is a town that has not adopted a VSMP, implementation of a VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) by the surrounding county shall constitute compliance with Part I E 5 a; such town shall notify the surrounding county of erosion, sedimentation, or other post-construction stormwater runoff problems and maintain an inspection and maintenance program in accordance with Part I E 5 c and d;</p> <p>Rationale: Added “traditional” permittee qualifier for clarification.</p> <p>No impact.</p>
N/A	Part I E 5 a (3) *	None.	If the traditional permittee is a city, county, or town receiving initial permit coverage during the permit term and must obtain VSMP approval from the department, the permittee shall implement the VSMP consistent with the Virginia Stormwater Management

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as develop an inspection and maintenance program in accordance with Part I E 5 b and c no later than 60 months after receiving permit coverage;</p> <p>Rationale: Permit condition for new traditional permittees recognizing they may be required to adopt a VSMP program if not already a VSMP authority.</p> <p>Impact: Gives new traditional permittees time to develop VSMP.</p>
Part I E 5 a (3)-(5)	Part I E 5 a (4)-(6)	<p>(3) If the permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has developed standards and specifications in accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870), the permittee shall implement the most recent department approved standards and specifications and develop an inspection and maintenance program in accordance with Part I E 5 b;</p> <p>(4) If the permittee is a subdivision of a local government such as a school board or other local government body, the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 or in accordance with</p>	<p>(4) If the nontraditional permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has developed standards and specifications in accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870), the permittee shall implement the most recent department approved standards and specifications and maintain an inspection and maintenance program in accordance with Part I E 5 b;</p> <p>(5) If the nontraditional permittee is a state agency; public institution of higher education, including community colleges, colleges, and universities; or federal entity, and has not developed standards and specifications in accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870), the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 and with the implementation of a maintenance and inspection program consistent with Part I E 5 b no later</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>more stringent local requirements, if applicable, and with the implementation of a maintenance and inspection program consistent with Part I E 5 b. If the nontraditional permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has not developed standards and specifications in accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and Virginia Stormwater Management Regulations (9VAC25-870) the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 and with the implementation of a maintenance and inspection program consistent with Part I E 5 b; or</p> <p>(5) If the permittee is a school board or other local government body, the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 or in accordance with more stringent local requirements, if applicable, and with the implementation of a maintenance and inspection program consistent with Part I E 5 b.</p>	<p>than 60 months after receiving permit coverage; or</p> <p>(6) If the nontraditional permittee is a school board or other local government body, the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 or in accordance with more stringent local requirements, if applicable, and with the implementation of a maintenance and inspection program consistent with Part I E 5 b.</p> <p>Rationale: Added “nontraditional” qualifier for clarity.</p> <p>No impact.</p>
Part I E 5 b		The permittee shall implement an inspection and maintenance program	The permittee shall implement an inspection and maintenance program for those stormwater management

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		for those stormwater management facilities owned or operated by the permittee that discharges to the MS4 as follows:	<p>facilities owned or operated by the permittee as follows:</p> <p>Rationale: Removed “that discharges to the MS4” for clarification because stormwater management facilities owned or operated by the permittee within the MS4 service area are inherently part of the permittee’s system regardless of whether the facility discharges to the MS4.</p> <p>No impact.</p>
Part I E 5 b (1)		(1) The permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of its stormwater management facilities.	<p>(1) Within six months of the permit effective date, the permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of its stormwater management facilities. The permittee may use inspection and maintenance specifications available from the Virginia Stormwater BMP Clearinghouse or inspection and maintenance plans developed in accordance with the department’s Stormwater Local Assistance Fund (SLAF) guidelines;</p> <p>Rationale: Added clarification that permittees may utilized established inspection and maintenance specifications or maintenance plans. In addition, this language was added due to public and EPA comments</p> <p>Impact: Reduces duplication of permittee efforts to develop procedures and promotes consistency with state specifications. Newly designated permittees will have adequate time to develop their MS4 program.</p>
Part I E 6 I (6)	Part I E 5 (2)	Employees and contractors implementing the stormwater program shall obtain the appropriate certifications as required under the Virginia Stormwater Management Act and its attendant regulations;	<p>Rationale: Moved certification requirements to post-construction stormwater management.</p> <p>No impact.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I E 5 c		For those permittees described in Part I E 5 a (1) or (2) the permittee shall:	<p>For traditional permittees described in Part I E 5 a (1), (2), or (3), the permittee shall:</p> <p>Rationale: Added “traditional” permittee requirement for clarification.</p> <p>No impact.</p>
Part I E 5 c (2)		Utilize its legal authority for enforcement of the maintenance responsibilities if maintenance is neglected by the owner; and	<p>Utilize its legal authority for enforcement of the maintenance responsibilities in accordance with 9VAC25-870-112 if maintenance is neglected by the owner; and</p> <p>Rationale: Added 9VAC25-870-112 for clarification.</p> <p>No impact.</p>
N/A	Part I E 5 c (4)	None.	<p>The permittee may utilize the inspection reports provided by the owner of a stormwater management facility as part of an inspection and enforcement program in accordance with 9VAC25-870-114 C.</p> <p>Rationale: Added (4) for clarification on satisfying inspection and enforcement program requirements.</p> <p>No impact.</p>
Part I E 5 d-e	Removed	d. The permittee shall maintain an electronic database or spreadsheet of all known permittee-owned or permittee-operated and privately owned stormwater management facilities that discharge into the MS4. The database shall also include all BMPs implemented by the permittee to meet the Chesapeake Bay TMDL load reduction as required in Part II A. A database shall include the following information as applicable: (1) The stormwater management facility or BMP type; (2) The stormwater management facility or	<p>Rationale: Removed because maintaining this database for the purposes of this permit is duplicative of BMP Warehouse Reporting requirements (moved to Part III).</p> <p>Impact: Reduces duplication of tracking and reporting requirements for stormwater management facilities.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>BMPs location as latitude and longitude;                      (3) The acres treated by the stormwater management facility or BMP, including total acres, pervious acres, and impervious acres;                      (4) The date the facility was brought online (MM/YYYY). If the date brought online is not known, the permittee shall use June 30, 2005;                      (5) The 6th Order Hydrologic Unit Code in which the stormwater management facility is located;                      (6) Whether the stormwater management facility or BMP is owned or operated by the permittee or privately owned;                      (7) Whether or not the stormwater management facility or BMP is part of the permittee's Chesapeake Bay TMDL action plan required in Part II A or local TMDL action plan required in Part II B, or both;                      (8) If the stormwater management facility or BMP is privately owned, whether a maintenance agreement exists; and                      (9) The date of the permittee's most recent inspection of the BMP.                      e. The electronic database or spreadsheet shall be updated no later than 30 days after a new stormwater management facility is brought online, a new BMP is implemented to meet a TMDL load reduction as required in Part II, or discovered if it is an existing stormwater management facility.</p>	
Part I E 5 f-g *	Part III	f. The permittee shall use the DEQ Construction	Rationale: Moved to Part III in order to clarify stormwater management



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post-construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities.</p> <p>g. No later than October 1 of each year, the permittee shall electronically report the stormwater management facilities and BMPs implemented between July 1 and June 30 of each year using the DEQ BMP Warehouse and associated reporting template for any practices not reported in accordance with Part I E 5 f including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in accordance with the Chesapeake Bay Preservation Act regulations (9VAC25-830) and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required.</p>	<p>facilities are considered a subcategory of BMPs that are defined in the context of Part III.</p> <p>Impact: Clarifies reporting expectations for BMP Warehouse Reporting.</p>
Part I E 5 h (1) (c)	Part I E 5 d (1) (c)	Written procedures for compliance and enforcement of inspection and maintenance requirements for privately owned BMPs.	<p>Written procedures for compliance and enforcement of inspection and maintenance requirements for privately owned stormwater management facilities.</p> <p>Rationale: Changed “BMPs” to “stormwater management facilities” for consistency.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			No impact.
Part I E 5 h (4)	Part I E 5 d (4)	Written inspection procedures and all associated documents utilized during inspection of stormwater management facilities owned or operated by the permittee;	<p>Written inspection and maintenance procedures and other associated template documents utilized during inspection and maintenance of stormwater management facilities owned or operated by the permittee; and</p> <p>Rationale: Changed for clarity.</p> <p>No impact.</p>
Part I E 5 h (6) *	Removed	The stormwater management facility spreadsheet or database incorporated by reference and the location or webpage address where the spreadsheet or database can be reviewed.	<p>Rationale: Removed database requirement because this program plan element is duplicative of BMP Warehouse reporting.</p> <p>Impact: Reduces permittee program plan update burden.</p>
Part I E 5 i (1)	Part I E 5 e (1)	If the permittee implements a Virginia Stormwater Management Program in accordance with Part I E 5 a (1) and (2):	<p>If the traditional permittee implements a VSMP in accordance with Part I E 5 a (1), (2), and (3):</p> <p>Rationale: Changed for clarity.</p> <p>No impact.</p>
Part I E 5 i (4)	Part I E 5 e (4)	A confirmation statement that the permittee submitted stormwater management facility information through the Virginia Construction Stormwater General Permit database for those land disturbing activities for which the permittee was required to obtain coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities in accordance with Part I E 5 f or a statement that the permittee did not complete any projects requiring coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities; and	<p>For traditional permittees as specified in Part I E 5 a (1), a confirmation statement that the permittee submitted stormwater management facility information through the Virginia Construction Stormwater General Permit database for those land disturbing activities for which the permittee was required to obtain coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities in accordance with Part III B 1 or a statement that the permittee did not complete any projects requiring coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880); and</p> <p>Rationale: Changed recognizing nontraditional permittees do not have access to the Virginia Construction Stormwater General Permit database.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			No impact.
Part I E 5 i (5)	Part I E 5 e (5)	A confirmation statement that the permittee electronically reported BMPs using the DEQ BMP Warehouse in accordance with Part I E 5 g and the date on which the information was submitted.	A confirmation statement that the permittee electronically reported stormwater management facilities using the DEQ BMP Warehouse in accordance with Part III B 1 and 2; and  Rationale: Changed for clarity.  No impact.
N/A	Part I E 5 e (6)	None.	A confirmation statement that the permittee electronically reported stormwater management facilities inspected using BMP Warehouse in accordance with Part III B 5.  Rationale: Annual reporting element for providing most recent inspection dates to BMP Warehouse.  No impact.
Part I E 6 a		The permittee shall maintain and implement written procedures for those activities at facilities owned or operated by the permittee, such as road, street, and parking lot maintenance; equipment maintenance; and the application, storage, transport, and disposal of pesticides, herbicides, and fertilizers designed to:	The permittee shall maintain and implement written good housekeeping procedures for those activities listed in Part I E 6 b at facilities owned or operated by the permittee designed to meet the following objectives:  Rationale: Reformatted to clarify objectives of written good housekeeping procedures.  No impact.
Part I E 6 a (2)		Ensure the proper disposal of waste materials, including landscape wastes	Ensure permittee staff or contractors properly dispose of waste materials, including landscape wastes and prevent waste materials from entering the MS4;  Rationale: Changed for clarity.  No impact.
Part I E 6 a (3)		Prevent the discharge of wastewater or permittee vehicle wash water or both into the MS4 without authorization under a separate VPDES permit;	Prevent the discharge of wastewater or wash water not authorized in accordance with 9VAC25-890-20 D 3 u, into the MS4 without authorization under a separate VPDES permit; and  Rationale: Changed for clarification.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I E 6 a (4)		Require implementation of best management practices when discharging water pumped from utility construction and maintenance activities.	<p>No impact.</p> <p>Minimize the pollutants in stormwater runoff.</p> <p>Rationale: Reformatted this section to reduce redundancy since this objective is in multiple conditions for activities requiring written procedures.</p> <p>No impact.</p>
Part I E 6 a *	Part I E 6 b (1)-(4)	The permittee shall maintain and implement written procedures for those activities at facilities owned or operated by the permittee, such as road, street, and parking lot maintenance; equipment maintenance; and the application, storage, transport, and disposal of pesticides, herbicides, and fertilizers designed to:	<p>The permittee shall develop and implement written good housekeeping procedures that meet the objectives established in Part I E 6 a for the following activities:</p> <p>(1) Road, street, sidewalk, and parking lot maintenance and cleaning;</p> <p>(a) Within 24 months of permit issuance, permittees that apply anti-icing and deicing agents shall update and implement procedures in accordance with this Part 1 E to include implementation of best management practices for anti-icing and deicing agent application, transport, and storage;</p> <p>(b) Procedures developed in accordance with Part 1 E shall prohibit the application of any anti-icing or deicing agent containing urea or other forms of nitrogen or phosphorus;</p> <p>(2) Renovation and significant exterior maintenance activities (e.g., painting, roof resealing, and HVAC coil cleaning) not covered under a separate VSMP construction general permit. The permittee shall develop and implement procedures no later than 36 months of permit issuance;</p> <p>(3) Discharging water pumped from construction and maintenance activities not covered by another permit covering such activities;</p> <p>(4) Temporary storage of landscaping materials;</p> <p>Rationale: Reformatted to clarify activities requiring written good housekeeping procedures. Added (a)</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>good housekeeping procedures for Road, street, sidewalk, and parking lot maintenance and cleaning anti-icing and deicing agent application update to ensure proper management of anti-icing and deicing activities. Integrated Part I E 6 k into (b). Added (2) since renovation and significant exterior maintenance activities have historically caused compliance issues in the MS4 program. Added (4) to distinguish landscaping temporary storage considerations from long-term bulk storage that meets the definition of a high-priority facility.</p> <p>Impact: Objectives of procedures and activities requiring procedures are clarified for permittees.</p>
Part I E 6 a (5)	Removed	Minimize the pollutants in stormwater runoff from bulk storage areas (e.g., salt storage, topsoil stockpiles) through the use of best management practices;	<p>Rationale: Removed as this provision is redundant and overlaps provisions on high-priority facilities.</p> <p>Impact: Eliminated overlapping permit conditions.</p>
Part I E 6 a (6)	Part I E 6 b (5)	Prevent pollutant discharge into the MS4 from leaking municipal automobiles and equipment; and	<p>Maintenance of permittee owned or operated vehicles and equipment (i.e., prevent pollutant discharges from leaking permittee vehicles and equipment);</p> <p>Rationale: Reformatted to fit activity list format.</p> <p>No impact.</p>
Part I E 6 a (7)	Part I E 6 b (6)-(7)	Ensure that the application of materials, including fertilizers and pesticides, is conducted in accordance with the manufacturer's recommendations.	<p>(6) Application of materials, including pesticides, and herbicides shall not exceed manufacturer's recommendations; and</p> <p>(7) Application of fertilizer shall not exceed maximum application rates established by applicable nutrient management plans. For areas not covered under nutrient management plans where fertilizer is applied, application rates shall not exceed manufacturer's recommendations.</p> <p>Rationale: Reformatted to clearly identify activity requiring a procedure with nutrient management plan considerations.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			No impact.
Part I E 6 b	Part I E 6 c	The written procedures established in accordance with Part I E 6 a shall be utilized as part of the employee training program at Part I E 6 m.	<p>The permittee shall require through the use of contract language, training, written procedures, or other measures within the permittee's legal authority that contractors employed by the permittee and engaging in activities described in Part I E 6 b follow established good housekeeping procedures and use appropriate control measures to minimize the discharge of pollutants to the MS4.</p> <p>Rationale: Moved to proceed procedure requirements. Added language for clarification on good housekeeping procedures and appropriate control measures.</p> <p>No impact.</p>
Part I E 6 m-o	Part I E 6 d-f	<p>m. The permittee shall develop a training plan in writing for applicable staff that ensures the following:</p> <ul style="list-style-type: none"> <li>(1) Field personnel receive training in the recognition and reporting of illicit discharges no less than once per 24 months;</li> <li>(2) Employees performing road, street, and parking lot maintenance receive training in pollution prevention and good housekeeping associated with those activities no less than once per 24 months;</li> <li>(3) Employees working in and around maintenance, public works, or recreational facilities receive training in good housekeeping and pollution prevention practices associated with those facilities no less than once per 24 months;</li> </ul>	<p>d. The written procedures established in accordance with Part I E 6 a and b shall be utilized as part of the employee training program at Part I E 6 m. and the permittee shall develop a written training plan for applicable field personnel that ensures the following:</p> <ul style="list-style-type: none"> <li>(1) Applicable field personnel shall receive training in the prevention, recognition, and elimination of illicit discharges no less often than once per 24 months;</li> <li>(2) Employees performing road, street, sidewalk, and parking lot maintenance shall receive training in good housekeeping procedures required under Part I E 6 b 1 no less often than once per 24 months;</li> <li>(3) Employees working in and around facility maintenance, public works, or recreational facilities shall receive training in applicable Part I E 6 a and b good housekeeping procedures required no less often than once per 24 months;</li> <li>(4) Employees working in and around high-priority facilities with a stormwater pollution prevention plan (SWPPP) shall receive training in applicable site specific SWPPP procedures no less often than once per 24 months;</li> </ul>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>(4) Employees and contractors hired by the permittee who apply pesticides and herbicides are trained or certified in accordance with the Virginia Pesticide Control Act (§ 3.2-3900 et seq. of the Code of Virginia). Certification by the Virginia Department of Agriculture and Consumer Services (VCACS) Pesticide and Herbicide Applicator program shall constitute compliance with this requirement;</p> <p>(5) Employees and contractors serving as plan reviewers, inspectors, program administrators, and construction site operators obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations;</p> <p>(6) Employees and contractors implementing the stormwater program obtain the appropriate certifications as required under the Virginia Stormwater Management Act and its attendant regulations; and</p> <p>(7) Employees whose duties include emergency response have been trained in spill response. Training of emergency responders such as firefighters and law-enforcement officers on the handling of spill releases as part of a larger emergency response training</p>	<p>(5) Employees whose duties include emergency spill control and response shall be trained in spill control and response. Emergency responders such as firefighters and law-enforcement officers, trained on the handling of spill control and response as part of a larger emergency response training shall satisfy this training requirement and be documented in the training plan; and</p> <p>(6) Employees and contractors hired by the permittee who apply pesticides and herbicides shall be trained and certified in accordance with the Virginia Pesticide Control Act (§ 3.2-3900 et seq. of the Code of Virginia). Certification by the Virginia Department of Agriculture and Consumer Services (VDACS) Pesticide and Herbicide Applicator program shall constitute compliance with this requirement. Contracts for the application of pesticide and herbicides executed after the effective date of this permit shall require contractor certification.</p> <p>e. The permittee shall maintain documentation of each training activity conducted by the permittee to fulfill the requirements of Part I E 6 d for a minimum of three years after training activity completion. The documentation shall include the following information:</p> <p>(1) The date when applicable employees have completed the training activity;</p> <p>(2) The number of employees that have completed the training activity; and</p> <p>(3) The training objectives and good housekeeping procedures required under Part I E 6 a covered by training activity.</p> <p>f. The permittee may fulfill the training requirements in Part I E 6 d, in total or in part, through regional training programs involving two or more MS4 permittees; however, the permittee shall remain responsible for ensuring</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>shall satisfy this training requirement and be documented in the training plan.</p> <p>n. The permittee shall maintain documentation of each training event conducted by the permittee to fulfill the requirements of Part I E 6 m for a minimum of three years after the training event. The documentation shall include the following information:                      (1) The date of the training event;                      (2) The number of employees attending the training event; and                      (3) The objective of the training event.</p> <p>o. The permittee may fulfill the training requirements in Part I E 6 m, in total or in part, through regional training programs involving two or more MS4 permittees; however, the permittee shall remain responsible for ensuring compliance with the training requirements.</p>	<p>compliance with the training requirements.</p> <p>Rationale: Moved to proceed procedure and contract requirements. Added language for clarification on pesticide management, SWPPP training, and training activities.</p> <p>No impact.</p>
Part I E 6 c *	Part I E 6 g-i	<p>c. Within 12 months of state permit coverage, the permittee shall identify which of the high-priority facilities have a high potential of discharging pollutants. The permittee shall maintain and implement a site specific stormwater pollution prevention plan (SWPPP) for each facility identified. High priority facilities that have a high potential for discharging pollutants are those facilities that are not covered under a separate</p>	<p>g. Within 12 months of permit coverage, the permittee shall identify any new high-priority facilities located in expanded 2020 census urban areas with a population of at least 50,000.</p> <p>h. Within 36 months of permit coverage, the permittee shall implement SWPPPs for high-priority facilities meeting the conditions of Part I E 6 i and which are located in expanded 2020 census urban areas with a population of at least 50,000.</p> <p>i. The permittee shall maintain and implement a site specific stormwater pollution prevention plan (SWPPP) for</p>



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>VPDES permit and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff:</p>	<p>each high-priority facility identified. High priority facilities that have a high potential for discharging pollutants are those facilities that are not covered under a as defined in 9VAC25-890-1 that does not have or require separate VPDES permit coverage, and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff:</p> <p>Rationale: Added new language and moved existing language in g down to i to account for changes due to the 2020 census. This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees will need to evaluate any facilities that are within the 2020 Census expanded areas.</p>
Part I E 6 h	j	h. Each SWPPP as required in Part I E 6 c g shall include the following:.....	Re-lettered from h to j.
Part I E 6 d (4)	Part I E 6 j (4) *	Written procedures designed to reduce and prevent pollutant discharge;	<p>A description of all structural control measures, such as stormwater management facilities and other pollutant source controls, applicable to SWPPP implementation (e.g., permeable pavement or oil-water separators that discharge to sanitary sewer are not applicable to the SWPPP), such as oil-water separators, and inlet protection designed to address potential pollutants and pollutant sources at risk of being discharged to the MS4;</p> <p>Rationale: Revised (4) to include source control description in SWPPP.</p> <p>Impact: Adds crucial information to SWPPPs.</p>
N/A	Part I E 6 j (5) *	None.	A maintenance schedule of all structural stormwater management facilities and other pollutant source controls applicable to SWPPP implementation described in Part I E 6 h (4);

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>Rationale: Added (5) to include source control maintenance schedule in SWPPP.</p> <p>Impact: Adds crucial information to SWPPPs.</p>
Part I E 6 d (6)	Part I E 6 h (6) *	Procedures to conduct an annual comprehensive site compliance evaluation;	<p>Site specific written procedures designed to reduce and prevent pollutant discharge that incorporate by reference applicable good housekeeping procedures required under Part I E 6 a and b;</p> <p>Rationale: Adds crucial information to SWPPPs that may utilize written good housekeeping procedures.</p> <p>Impact: Integrates SWPPPs with good housekeeping procedures.</p>
Part I E 6 d (5)	Part I E 6 j (7) *	A description of the applicable training as required in Part I E 6 m;	<p>A description of the applicable training as required in Part I E 6 d (4);</p> <p>Rationale: Re-lettered from 5 to 7 and corrected permit reference.</p> <p>No impact.</p>
Part I E 6 d (7)	Part I E 6 j (8)	An inspection frequency of no less than once per year and maintenance requirements for site specific source controls. The date of each inspection and associated findings and follow-up shall be logged in each SWPPP; and	<p>An inspection frequency of no less often than once per year and maintenance requirements for site specific source controls. The date of each inspection and associated findings and follow-up shall be logged in each SWPPP;</p> <p>Rationale: Revised for clarity.</p> <p>No impact.</p>
Part I E 6 d (8)	Part I E 6 j (9)	A log of each unauthorized discharge, release, or spill incident reported in accordance with Part III G including the following information: ...	<p>A log of each unauthorized discharge, release, or spill incident reported in accordance with Part IV G including the following information: ...</p> <p>Rationale: Corrected permit reference.</p> <p>No impact.</p>
N/A	Part I E 6 j (10) and (11) *	None.	(10) A log of modifications to the SWPPP made as the result of any unauthorized discharge, release, or spill in accordance Part I E 6 j or changes in facility activities and

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>operation requiring SWPPP modification; and</p> <p>(11) The point of contact for SWPPP implementation.</p> <p>Rationale: Condition for documenting issues or changes in facility activities requiring SWPPP modification. Added SWPPP point of contact in order for the Department to know whose responsible for SWPPP implementation.</p> <p>Impact: Keeps record of vital changes for SWPPP implementation and promotes transparency.</p>
Part I E 6 e *	Part I E 6 k	<p>No later than June 30 of each year, the permittee shall annually review any high-priority facility owned or operated by the permittee for which a SWPPP has not been developed to determine if the facility has a high potential to discharge pollutants as described in Part I E 6 c. If the facility is determined to be a high-priority facility with a high potential to discharge pollutants, the permittee shall develop a SWPPP meeting the requirements of Part I E 6 d no later than December 31 of that same year.</p>	<p>No later than June 30 of each year, the permittee shall annually review any high-priority facility owned or operated by the permittee for which a SWPPP has not been developed to determine if the facility meets any of the conditions described in Part I E 6 g. If the facility is determined to need a SWPPP, the permittee shall develop an SWPPP meeting the requirements of Part I E 6 h no later than December 31 of that same year. The permittee shall maintain a list of all high-priority facilities owned or operated by the permittee not required to maintain an SWPPP in accordance with Part I E 6 g and this list shall be available upon request.</p> <p>Rationale: Revised to reduce subjectivity and add requirement to maintain a list of high-priority facilities not required to maintain a SWPPP as this information is necessary to track for annual reviews.</p> <p>Impact: Reduces condition subjectivity and enhances high-priority facility tracking.</p>
Part I E 6 j	l	<p>j. The permittee shall review the contents of any site specific SWPPP no later than 30 days after any unauthorized discharge , release, or spill reported in</p>	<p>l. The permittee shall review the contents of any site specific SWPPP no later than 30 days after any unauthorized discharge , release, or spill reported in accordance with Part IV G ...</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		accordance with Part III G ...	Rationale: Corrected permit reference.  No impact.
Part I E 6 g-h *	Part I E 6 m-n	<p>g. The SWPPP shall be kept at the high-priority facility with a high potential to discharge and utilized as part of staff training required in Part I E 6 m. The SWPPP and associated documents may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site.</p> <p>h. If activities change at a facility such that the facility no longer meets the criteria of a high-priority facility with a high potential to discharge pollutants as described in Part I E 6 c, the permittee may remove the facility from the list of high-priority facilities with a high potential to discharge pollutants.</p>	<p>m. The SWPPP shall be kept at the high-priority facility and utilized as part of employee SWPPP training required in Part I E 6 m Part I E 6 d (4). The SWPPP and associated documents may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site.</p> <p>n. If activities change at a facility such that the facility no longer meets the definition of a high-priority facility, the permittee may remove the facility from the list of high-priority facilities with a high potential to discharge pollutants.</p> <p>Rationale: Removed “with a high potential to discharge pollutants” to reduce subjectivity. Added (m) to distinguish between facility changes in activities that no longer meet the definition of a high-priority facility and changes in activities that no longer require SWPPP coverage.</p> <p>Impact: Clarifies classification of high-priority facilities and SWPPP applicability.</p>
N/A	Part I E 6 o	None.	<p>o. If activities change at a facility such that the facility no longer meets the criteria requiring SWPPP coverage as described in Part I E 6 g, the permittee may remove the facility from the list of high-priority facilities that require SWPPP coverage.</p> <p>Rationale: Added language allowing permitted to remove a facility from the list of high-priority facilities that require SWPPP coverage based on a change in facility activities.</p> <p>Impact: Clarifies classification of high-priority facilities and SWPPP applicability.</p>
Part I E 6 n	p	n. The permittee shall maintain and implement turf	Re-lettered from n to p.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		and landscape nutrient management plans that have been developed by a certified turf and landscape nutrient management planner in accordance with § 10.1-104.2...	
N/A	Part I E 6 q-r *	q. Nutrient management plans that are expired as of the effective date of this permit shall be submitted to DCR for renewal within six months after the effective date...	<p>q. Within 12 months of permit coverage, the permittee shall identify contiguous areas greater than one acre located in expanded 2020 census urban areas with population of at least 50,000 and within the permittee's MS4 service area requiring turf and landscape nutrient management plans.</p> <p>r. Within 36 months of permit coverage, the permittee shall implement turf and landscape nutrient management plans on contiguous areas greater than one acre located in expanded 2020 Census urban areas with a population of least 50,000 and within the permittee's MS4 service area.</p> <p>Rationale: Added new language and moved existing language in q down to u to account for changes due to the 2020 census. This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees will need to identify any areas within the expanded MS4 service area due to the 2020 Census where nutrients are applied that meet the criteria.</p>
N/A	Part I E 6 s - v *	None.	s. If nutrients are being applied to achieve final stabilization of a land disturbance project, application shall follow the manufacturer's recommendations. For newly established turf where nutrients are applied to a contiguous area greater than one acre, the permittee shall implement a nutrient management plan no later than six months after the site achieves final stabilization.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>t. Nutrient management plans developed in accordance with Part I E 6 n shall be submitted to the Department of Conservation and Recreation (DCR) for approval.</p> <p>u. Nutrient management plans that are expired as of the effective date of this permit shall be submitted to DCR for renewal no later than six months after the effective date of this permit. Thereafter, all nutrient management plans shall be submitted to DCR at least 30 days prior to nutrient management plan expiration. Within 36 months of permit coverage, no nutrient management plans maintained by the permittee in accordance with Part I E 6 n shall be expired due to DCR documented noncompliance with 4VAC50-85-130 provided to the permittee.</p> <p>v. Nutrient management plans may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site.</p> <p>Rationale: Establish timeframe developing and renewing nutrient management plans and clarify DCR's role in plan review and approval.</p> <p>Impact: Requires renewal of expired nutrient management plans in established timeframe and DCR review.</p>
Part I E 6 j	w	j. Permittees with lands regulated under § 10.1-104.4 of the Code of Virginia, including state agencies, state colleges and universities, and other state government entities, shall continue to implement turf and landscape nutrient management plans in accordance with this statutory requirement.	<p>w. Nontraditional permittees with lands regulated under § 10.1-104.4 of the Code of Virginia, including state agencies, state colleges and universities, and other state government entities, shall continue to implement turf and landscape nutrient management plans in accordance with this statutory requirement.</p> <p>Rationale: Added nontraditional qualifier for clarification.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I E 6 p (1)-(3) *	Part I E 6 x (1)-(3)	<p>(1) The written procedures for the operations and maintenance activities as required by Part I E 6 a;</p> <p>(2) A list of all high-priority facilities owned or operated by the permittee required in accordance with Part I E 6 c, and whether or not the facility has a high potential to discharge;</p> <p>(3) A list of lands for which turf and landscape nutrient management plans are required in accordance with Part I E 6 i and j, including the following information:                      (a) The total acreage on which nutrients are applied;                      (b) The date of the most recently approved nutrient management plan for the property; and                      (c) The location in which the individual turf and landscape nutrient management plan is located;</p>	<p>No impact.</p> <p>(1) A list of written good housekeeping procedures for the operations and maintenance activities as required by Part I E 6 a and b;</p> <p>(2) A list of all high-priority facilities owned or operated by the permittee required to maintain a SWPPP in accordance Part I E 6 g that includes the facility name, facility location, and the location of the SWPPP hardcopy or electronic document being maintained. The SWPPP for each high-priority facility shall be incorporated by reference;</p> <p>(3) A list of locations for which turf and landscape nutrient management plans are required in accordance with Part I E 6 n and s, including the following information:                      (a) The total acreage covered by each nutrient management plan;                      (b) The DCR approval date and expiration date for each nutrient management plan;                      (c) The location of the nutrient management plan hardcopy or electronic document being maintained;</p> <p>Rationale: Require a list of procedures instead of each procedure in its entirety and provided clarification on program plan requirements.</p> <p>Impact: Reduces the need for program plan updates every time a procedure is updated.</p>
Part I E 6 q	Part I E 6 y	<p>The annual report shall include the following:                      (1) A summary of any operational procedures developed or modified in accordance with Part I E 6 a during the reporting period;</p> <p>(2) A summary of any new SWPPPs developed in accordance Part I E 6 c during the reporting period;</p>	<p>The annual report shall include the following:                      (1) A summary of any written procedures developed or modified in accordance with Part I E 6 a and b during the reporting period;</p> <p>(2) A confirmation statement that all high-priority facilities were reviewed to determine if SWPPP coverage is needed during the reporting period;</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>(3) A summary of any SWPPPs modified in accordance with Part I E 6 f or the rationale of any high priority facilities delisted in accordance with Part I E 6 h during the reporting period;</p> <p>(4) A summary of any new turf and landscape nutrient management plans developed that includes:                      (a) Location and the total acreage of each land area; and (b) The date of the approved nutrient management plan; and</p> <p>(5) A list of the training events conducted in accordance with Part I E 6 m, including the following information:                      (a) The date of the training event;                      (b) The number of employees who attended the training event; and                      (c) The objective of the training event.</p>	<p>(3) A list of any new SWPPPs developed in accordance Part I E 6 i during the reporting period;</p> <p>(4) A summary of any SWPPPs modified in accordance with Part I E 6 j, 6 l, or 6 m;</p> <p>(5) The rationale of any high-priority facilities delisted in accordance with Part I E 6 l or m during the reporting period;</p> <p>(6) The status of each nutrient management plan as of June 30 of the reporting year (e.g., approved, submitted and pending approval, and expired);</p> <p>(7) A list of the training activities conducted in accordance with Part I E 6 d, including the following information:                      (a) The completion date for the training activity;                      (b) The number of employees who completed the training activity; and                      (c) The objectives and good housekeeping procedures covered by the training activity.</p> <p>Rationale: Updated to provide clearer and more useful reporting information.</p> <p>No impact.</p>
Part II A *		Part II A total suspended solids and sediment reduction requirements.	<p>Removed Part II A total suspended solids and sediment reduction requirements.</p> <p>Rationale: On August 12, 2019, the Chesapeake Bay Program Principals' Staff Committee (PSC) approved the process, timeline, and proposed Phase III WIP language for developing the Phase III WIP sediment targets. Virginia included the PSC-approved language in its final Phase III WIP on Page 29, Section 5.2 (Sediment Targets). This language states in part, "Sediment loads are managed in the Bay TMDL to specifically address the water clarity/submerged aquatic vegetation (SAV) water quality</p>



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>standards. Intuitively, it makes sense that the more sediment suspended in the water, the less makes it down to the SAV. Interestingly, research in the Chesapeake Bay has shown that the water clarity/SAV water quality standard is generally more responsive to nutrient load reductions than it is to reduction in sediment loads. This is because the algae that are fueled by the nutrients can block as much, or more, light from reaching the SAV as suspended sediments. The sediment targets will not affect the BMPs called for in the WIP, and are not intended to be the driver for implementation moving forward..."</p> <p>On November 22, 2022 the DEQ Agency Director submitted a letter to the EPA Region 3 Regional Administrator stating: "Based upon the Department of Environmental Quality's (DEQ) understanding of the PSC-approved language, DEQ intends to reissue its MS4 individual permits without the previously required sediment load reductions. The reissued individual permits will continue to include the required nutrient (i.e., total nitrogen and total phosphorus) load reductions at a much accelerated rate to focus on achieving the needed nitrogen and phosphorous reduction. In addition, DEQ intends to revise MS4 general permit regulation to remove the previously required sediment load reductions. The amended general permit regulation will continue to include the required nutrient load reductions."</p> <p>Based upon the above referenced Virginia Phase III WIP and November 22, 2022 letter, the proposed general permit Chesapeake Bay TMDL special condition (Part II A) has been revised, removing previously required sediment reductions under the 2018 general permit. These revisions have not been</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>discussed during TAC meetings; however, the TAC has been notified of the removal of sediment reduction requirements which arose late in the regulatory development process.</p> <p>On November 29, 2022, DEQ presented these amendments to the State Water Control Board and requested authorization to hold a 60-day public comment period specifically soliciting comment on the proposed removal of the sediment reduction requirements under the Chesapeake Bay TMDL special condition.</p> <p>Impact: This change will promote more cost-effective BMP implementation aimed at achieving nutrient reductions consistent with the Chesapeake Bay Phase III WIP goals.</p>
Part II A 1, 2 and 3		<p>1. The Commonwealth in its Phase I and Phase II Chesapeake Bay TMDL Watershed Implementation Plans (WIPs) committed to a phased approach for MS4s, affording MS4 permittees up to three full five-year permit cycles to implement necessary reductions. This permit is consistent with the Chesapeake Bay TMDL and the Virginia Phase I and Phase II WIPs to meet the Level 2 (L2) scoping run for existing developed lands as it represents an implementation of an additional 35% of L2 as specified in the 2010 Phase I and Phase II WIPs. In combination with the 5.0% reduction of L2 that has already been achieved, a total reduction at the end of this permit term of 40% of L2 will be achieved. Conditions of future permits will be consistent with the TMDL or WIP conditions in</p>	<p>1. The Commonwealth in its Phase I, Phase II, and Phase III Chesapeake Bay TMDL Watershed Implementation Plans (WIPs) committed to a phased approach for MS4s, affording MS4 permittees up to three full five-year permit cycles to implement necessary reductions. This permit is consistent with the Chesapeake Bay TMDL and the Virginia Phase I, Phase II, and Phase III WIPs to meet the Level 2 (L2) scoping run for existing developed lands as it represents an implementation of an additional 60% of L2 as specified in the Phase I, Phase II, and Phase III WIPs. In combination with the 40% reduction of L2 that has already been achieved, a total reduction no later than October 31, 2028, of 100% of L2 shall be achieved. Conditions of future permits will be consistent with the TMDL or WIP conditions in place at the time of permit issuance.</p> <p>2. The following definitions apply to Part II of this state permit for the purpose of the Chesapeake Bay TMDL special condition for discharges in the Chesapeake Bay Watershed:</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>place at the time of permit issuance.</p> <p>2. The following definitions apply to Part II of this state permit for the purpose of the Chesapeake Bay TMDL special condition for discharges in the Chesapeake Bay Watershed:</p> <p>"Existing sources" means pervious and impervious urban land uses served by the MS4 as of June 30, 2009.</p> <p>"New sources" means pervious and impervious urban land uses served by the MS4 developed or redeveloped on or after July 1, 2009.</p> <p>"Pollutants of concern" or "POC" means total nitrogen, total phosphorus, and total suspended solids.</p> <p>"Transitional sources" means regulated land disturbing activities that are temporary in nature and discharge through the MS4.</p> <p>3. Reduction requirements. No later than the expiration date of this permit, the permittee shall reduce the load of total nitrogen, total phosphorus, and total suspended solids from existing developed lands served by the MS4 as of June 30, 2009, within the 2010 Census urbanized areas by at least 40% of the Level 2 (L2) Scoping Run Reductions. The 40% reduction is the sum of (i)</p>	<p>"Existing sources" means pervious and impervious urban land uses served by the MS4 as of June 30, 2009.</p> <p>"New sources" means pervious and impervious urban land uses served by the MS4 developed or redeveloped on or after July 1, 2009.</p> <p>"Pollutants of concern" or "POC" means total nitrogen and total phosphorus.</p> <p>"Transitional sources" means regulated land disturbing activities that are temporary in nature and discharge through the MS4.</p> <p>3. Reduction requirements for permittees previously covered under the General VPDES Permit for the Discharge of Stormwater from MS4 effective November 1, 2018. No later than October 31, 2028, the permittee shall reduce the load of total nitrogen and total phosphorus from existing developed lands served by the MS4 as of June 30, 2009, within the 2010 Census urbanized areas by at least 100% of the Level 2 (L2) Scoping Run Reductions. The 100% reduction is the sum of (i) the first phase reduction of 5.0% of the L2 Scoping Run Reductions based on the lands located within the 2000 Census urbanized areas required by June 30, 2018; (ii) the second phase reduction of at least 35% of the L2 Scoping Run based on lands within the 2000 Census urbanized areas required by June 30, 2023; (iii) the second phase reduction of at least 40% of the L2 Scoping Run, which shall only apply to the additional lands that were added by the 2010 expanded Census urbanized areas required by June 30, 2023; and (iv) the third phase reduction of least 60% of the L2 Scoping Run based on lands within the 2000 and 2010 expanded Census urbanized areas required by October 31, 2028. The required</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>the first phase reduction of 5.0% of the L2 Scoping Run Reductions based on the lands located within the 2000 Census urbanized areas required by June 30, 2018; (ii) the second phase reduction of at least 35% of the L2 Scoping Run based on lands within the 2000 Census urbanized areas required by June 30, 2023; and (iii) the reduction of at least 40% of the L2 Scoping Run , which shall only apply to the additional lands that were added by the 2010 expanded Census urbanized areas required by June 30, 2023. The required reduction shall be calculated using Tables 3a, 3b, 3c, and 3d below as applicable:</p>	<p>reduction shall be calculated using Tables 3a, 3b, 3c, and 3d as applicable:</p> <p>Rationale: Updated to include Phase III WIP and requirements for achieving 100% of L2.</p> <p>No impact.</p>
<p>Part II A Table 3 a, b, c, and d</p>		<p>1. Calculation Sheets for Estimating Existing Source Loads and Reduction Requirements James, Potomac, Rappahannock, and York River Basins.</p>	<p>Rationale: Updated each table for calculating 100% cumulative reductions.</p> <p>No impact.</p>
<p>Part II A 4 and 5</p>		<p>4. No later than the expiration date of this permit, the permittee shall offset 40% of the increased loads from new sources initiating construction between July 1, 2009, and June 30, 2019, and designed in accordance with 9VAC25-870 Part II C (9VAC25-870-93 et seq.) if the following conditions apply:</p> <p>5. No later than the expiration date of this permit, the permittee shall offset the increased loads from projects grandfathered in accordance with</p>	<p>4. No later than October 31, 2028, the permittee shall offset 100% of the increased loads from new sources initiating construction between July 1, 2009, and October 31, 2023, and designed in accordance with 9VAC25-870 Part II C (9VAC25-870-93 et seq.) if the following conditions apply:</p> <p>5. No later than October 31, 2028, the permittee shall offset the increased loads from projects grandfathered in accordance with 9VAC25-870-48 that begin construction after July 1, 2014, if the following conditions apply:</p> <p>Rationale: Updated to 100% reductions.</p> <p>No impact.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		9VAC25-870-48 that begin construction after July 1, 2014, if the following conditions apply:	
N/A	Part II A 7	None.	<p>40% of L2 reductions for total nitrogen and total phosphorus shall be maintained by the permittee during the permit term.</p> <p>Rationale: Added to verify the permittee does not drop below the minimum 40% reduction required in the existing permit term.</p> <p>Impact: No impact.</p>
Part II A 11	Part II A 12	<p>11. No later than 12 months after the permit effective date, the permittee shall submit an updated Phase III Chesapeake Bay TMDL action plan for the reductions required in Part II A 3, A 4, and A 5 that includes the following information:</p> <p>a. Any new or modified legal authorities, such as ordinances, permits, policy, specific contract language, orders, and interjurisdictional agreements, implemented or needed to be implemented to meet the requirements of Part II A 3, A 4, and A 5.</p> <p>b. The load and cumulative reduction calculations for each river basin calculated in accordance with Part II A 3, A 4, and A 5.</p> <p>c. The total reductions achieved as of July 1, 2018, for each pollutant of concern in each river basin.</p> <p>d. A list of BMPs implemented prior to July 1, 2018, to achieve reductions associated with the</p>	<p>12. Chesapeake Bay TMDL action plan requirements.</p> <p>a. Permittees applying for initial coverage under this general permit shall submit a draft first phase Chesapeake Bay TMDL action plan to the department no later than October 31, 2028, unless the department grants a later date. The required reduction shall be calculated using Tables 3a, 3b, 3c, and 3d as applicable. The first phase action plan shall achieve a minimum reduction of least 40% of the L2 Scoping Run based on lands within the 2000 and 2010 expanded Census urbanized areas no later than October 31, 2033. The action plan shall include the following information:</p> <p>(1) The load and cumulative reduction calculations for each river basin calculated in accordance with Part II A 3, A 4, and A 5;</p> <p>(2) The BMPs to be implemented by the permittee to achieve 40% of the reductions calculated in Part II A 13 a:</p> <p>(a) Type of BMP;</p> <p>(b) Project name;</p> <p>(c) Location;</p> <p>(d) Percent removal efficiency for each pollutant of concern; and</p> <p>(e) Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 9 for each pollutant of concern;</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>Chesapeake Bay TMDL including:</p> <ul style="list-style-type: none"> <li>(1) The date of implementation; and</li> <li>(2) The reductions achieved.</li> </ul> <p>e. The BMPs to be implemented by the permittee prior to the expiration of this permit to meet the cumulative reductions calculated in Part II A 3, A 4, and A 5, including as applicable:</p> <ul style="list-style-type: none"> <li>(1) Type of BMP;</li> <li>(2) Project name;</li> <li>(3) Location;</li> <li>(4) Percent removal efficiency for each pollutant of concern; and</li> <li>(5) Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 8 for each pollutant of concern; and</li> </ul> <p>f. A summary of any comments received as a result of public participation required in Part II A 12, the permittee's response, identification of any public meetings to address public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a result of public participation.</p>	<ul style="list-style-type: none"> <li>(3) A preliminary schedule for implementation of the BMPs included in the Chesapeake Bay TMDL action plan; and</li> <li>(4) A summary of any comments received as a result of public participation required in Part II A 14, the permittee's response, identification of any public meetings to address public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a result of public participation.</li> </ul> <p>b. For permittees previously covered under the General VPDES Permit for the Discharge of Stormwater from MS4 effective November 1, 2018, no later than 12 months after the permit effective date, the permittee shall submit a third phase Chesapeake Bay TMDL action plan for the reductions required in Part II A 3, A 4, and A 5 that includes the following information:</p> <ul style="list-style-type: none"> <li>(1) Any new or modified legal authorities, such as ordinances, permits, policy, specific contract language, orders, and interjurisdictional agreements, implemented or needing to be implemented to meet the requirements of Part II A 3, A 4, and A 5.</li> <li>(2) The load and cumulative reduction calculations for each river basin calculated in accordance with Part II A 3, A 4, and A 5.</li> <li>(3) The total reductions achieved as of November 1, 2023, for each pollutant of concern in each river basin.</li> <li>(4) A list of BMPs implemented prior to November 1, 2023, to achieve reductions associated with the Chesapeake Bay TMDL including: <ul style="list-style-type: none"> <li>(a) The date of implementation; and</li> <li>(b) The reductions achieved.</li> </ul> </li> <li>(5) The BMPs to be implemented by the permittee within 60 months of the effective date of this permit to meet the cumulative reductions calculated in Part II A 3, A 4, and A 5, including as applicable: <ul style="list-style-type: none"> <li>(a) Type of BMP;</li> </ul> </li> </ul>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>(b) Project name;                      (c) Location;                      (d) Percent removal efficiency for each pollutant of concern;                      (e) Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 9 for each pollutant of concern; and                      (f) A preliminary schedule for implementation of the BMPs included in the Chesapeake Bay TMDL action plan.                      (6) A summary of any comments received as a result of public participation required in Part II A 13, the permittee's response, identification of any public meetings to address public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a result of public participation.</p> <p>Rationale: Establish expectation for new permittees to complete a draft action plan for 40% by the end of the permit term. Updated for existing permittees to achieve 100% reductions.</p> <p>No impact.</p>
Part II A 12	Part II A 13	Prior to submittal of the action plan required in Part II A 11, the permittee shall provide an opportunity for public comment on the additional BMPs proposed to meet the reductions not previously approved by the department in the first phase Chesapeake Bay TMDL action plan for no less than 15 days.	<p>Prior to submittal of the action plan required in Part II A 12 a and b, permittees shall provide an opportunity for public comment for no fewer than 15 days on the additional BMPs proposed in the third phase Chesapeake Bay TMDL action plan.</p> <p>Rationale: Revised for clarity.</p> <p>No impact.</p>
Part II A 13 a – d.	Part II A 14 a – i.	<p>For each reporting period, the corresponding annual report shall include the following information:</p> <p>a. A list of BMPs implemented during the reporting period but not</p>	<p>Chesapeake Bay TMDL implementation annual status report</p> <p>a. Permittees previously covered under the General VPDES Permit for the Discharge of Stormwater from MS4 effective November 1, 2018, shall submit a Chesapeake Bay TMDL</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>reported to the DEQ BMP Warehouse in accordance with Part I E 5 g and the estimated reduction of pollutants of concern achieved by each and reported in pounds per year;</p> <p>b. If the permittee acquired credits during the reporting period to meet all or a portion of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were acquired;</p> <p>c. The progress, using the final design efficiency of the BMPs, toward meeting the required cumulative reductions for total nitrogen, total phosphorus, and total suspended solids; and</p> <p>d. A list of BMPs that are planned to be implemented during the next reporting period.</p>	<p>implementation annual status report in a method, (i.e. how the permittee must submit) and format (i.e. how the report shall be laid out) as specified by the department no later than October 1 of each year. The report shall cover the previous year from July 1 to June 30.</p> <p>b. Following notification from the department of the start date for the required electronic submission of Chesapeake Bay TMDL implementation annual status reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with 9VAC25-31-1020 and this section. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.</p> <p>c. The year two Chesapeake Bay TMDL implementation annual status report shall contain a summary of any public comments on the Chesapeake Bay TMDL Action Plan received and how the permittee responded.</p> <p>d. Each Chesapeake Bay TMDL implementation annual status report shall include the following information:                      (1) A list of Chesapeake Bay TMDL action plan BMPs, not including annual practices, implemented prior to the reporting period that includes the following information for reported BMP;                      (a) The number of BMPs for each BMP type;                      (b) The estimated reduction of pollutants of concern achieved by each BMP type and reported in pounds of pollutant reduction per year; and                      (c) A confirmation statement that the permittee electronically reported Chesapeake Bay TMDL action plan BMPs inspected using the DEQ BMP Warehouse in accordance with Part III B 5.</p>



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>(2) A list of newly implemented BMPs including annual practices implemented during the reporting period that includes the following information for each reported BMP or a statement that no BMPs were implemented during the reporting period:</p> <p>(a) The BMP type and a description of the location for each BMP;</p> <p>(b) The estimated reduction of pollutants of concern achieved by each BMP and reported in pounds of pollutant reduction per year; and</p> <p>(c) A confirmation statement that the permittee electronically reported BMPs using the DEQ BMP Warehouse in accordance with Part III B 3.</p> <p>e. If the permittee acquired credits during the reporting period to meet all or a portion of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were acquired.</p> <p>f. Pollutant load reductions generated by annual practices, such as street and storm drain cleaning, shall only be applied to the compliance year in which the annual practice was implemented.</p> <p>g. The progress, using the final design efficiency of the BMPs, toward meeting the required cumulative reductions for total nitrogen and total phosphorus.</p> <p>h. Any revisions made to the Chesapeake Bay TMDL action plan.</p> <p>i. A list of BMPs that are planned to be implemented during the next reporting period.</p> <p>Rational: Revised to provide more consistent and useful reporting for Chesapeake Bay TMDL progress tracking.</p>
N/A	Part II A 15 *	None.	<p>Added: Within 60 months after permit issuance, the permittee shall update the Phase III Chesapeake Bay TMDL action plan to offset the increased</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>loads from new sources initiating construction between July 1, 2009, and October 31, 2023, that are located in the expanded 2020 census urban areas with a population of at least 50,000, and within the permittee's MS4 service area, and designed in accordance with 9VAC25-870 Part II C (9VAC25-870-93 et seq.), if the following conditions apply:</p> <ul style="list-style-type: none"> <li>a. The activity disturbed one acre or greater; and</li> <li>b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is equivalent to an average land cover condition of 16% impervious cover.</li> <li>c. The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent nitrogen pollutant load for new sources meeting the requirements of this condition.</li> </ul> <p>Rationale: Added language to account for potential expanded areas due to the 2020 census. This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees will need to evaluate development projects within the 2020 expanded census urban areas to determine if any additional pollutant reductions are required.</p>
	Part II A 16 *		<p>Added: Within 60 months after permit issuance, the permittee shall update the Phase III Chesapeake Bay TMDL action plan to offset the increased loads from projects grandfathered in accordance with 9VAC25-870-48 that are located in the expanded 2020 Census urban areas with a population of at least 50,000, and within the permittee's MS4 service area, and began construction after July 1, 2014, if the following conditions apply:</p> <ul style="list-style-type: none"> <li>a. The activity disturbs one acre or greater; and</li> <li>b. The resulting total phosphorous load was greater than 0.45 lb/acre/year,</li> </ul>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>which is equivalent to an average land cover condition of 16% impervious cover.</p> <p>c. The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent nitrogen pollutant load for grandfathered sources meeting the requirements of this condition.</p> <p>Rationale: Added language to require pollutant reduction offsets for certain projects that may be developed under different criteria. This language was added due to public and EPA comments, and EPA clarified their stance on the Census Bureau's changes to urbanized areas.</p> <p>Impact: Permittees will need to evaluate development projects within the 2020 expanded census urban areas to determine if any additional pollutant reductions are required.</p>
Part II B 1	Part II B 1 and 2	<p>1. The permittee shall develop a local TMDL action plan designed to reduce loadings for pollutants of concern if the permittee discharges the pollutants of concern to an impaired water for which a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) as described in Part II B 1 a and 1 b:</p> <p>a. For TMDLs approved by the EPA prior to July 1, 2013, and in which an individual or aggregate wasteload has been allocated to the permittee, the permittee shall update the previously approved local TMDL action plans to meet the conditions of Part II B 3, B 4, B 5, B 6, and B 7 as applicable, no later than 18 months after the permit effective date and</p>	<p>1. Permittees applying for initial coverage under this general permit shall develop a draft local TMDL action plan designed to reduce loadings for pollutants of concern if the permittee discharges the pollutants of concern to an impaired water for which a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) prior to October 31, 2023, and in which an individual or aggregate wasteload has been allocated to the permittee. The permittee shall develop action plans to meet the conditions of Part II B 4, B 5, B 6, B 7, and B 8 as applicable. Each local TMDL action plan shall be provided to the department no later than October 31, 2028, unless the department grants a later date.</p> <p>2. Permittees previously covered under the General VPDES Permit for the Discharge of Stormwater from MS4 effective November 1, 2018, shall develop and maintain a local TMDL action plan designed to reduce loadings for pollutants of concern if the permittee discharges the pollutants of concern to an impaired water for which</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>continue implementation of the action plan; and</p> <p>b. For TMDLs approved by EPA on or after July 1, 2013, and prior to June 30, 2018, and in which an individual or aggregate wasteload has been allocated to the permittee, the permittee shall develop and initiate implementation of action plans to meet the conditions of Part II B 3, B 4, B 5, B 6, and B 7 as applicable for each pollutant for which wasteloads have been allocated to the permittee's MS4 no later than 30 months after the permit effective date.</p>	<p>a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) as described in Part II B 2 a and 2 b:</p> <p>a. For TMDLs approved by EPA prior to July 1, 2018, and in which an individual or aggregate wasteload has been allocated to the permittee, the permittee shall develop and initiate or update as applicable the local TMDL action plans to meet the conditions of Part II B 4, B 5, B 6, B 7, and B 8 as applicable, no later than 18 months after the permit effective date and continue implementation of the action plan. Updated action plans shall include:</p> <ul style="list-style-type: none"> <li>(1) An evaluation of the results achieved by the previous action plan; and</li> <li>(2) Any adaptive management strategies incorporated into updated action plans based on action plan evaluation.</li> </ul> <p>b. For TMDLs approved by EPA on or after July 1, 2018, and prior to October 31, 2023, and in which an individual or aggregate wasteload has been allocated to the permittee, the permittee shall develop and initiate implementation of action plans to meet the conditions of Part II B 4, B 5, B 6, B 7, and B 8 as applicable no later than 30 months after the permit effective date.</p> <p>Rationale: Establish new permittee expectation to draft local action plans. Clarification on revised action plan expectations.</p> <p>No impact.</p>
Part II B 2	Part II B 3	2. The permittee shall complete implementation of the TMDL action plans as soon as practicable. TMDL action plans may be implemented in multiple phases over more than one permit cycle using the	3. The permittee shall complete implementation of the TMDL action plans as determined by the schedule. TMDL action plans may be implemented in multiple phases over more than one permit cycle using the adaptive iterative approach provided adequate progress is achieved in the

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>adaptive iterative approach provided adequate progress is achieved in the implementation of BMPs designed to reduce pollutant discharges in a manner that is consistent with the assumptions and requirements of the applicable TMDL.</p>	<p>implementation of BMPs designed to reduce pollutant discharges in a manner that is consistent with the assumptions and requirements of the applicable TMDL.</p> <p>Rationale: Revised per EPA comment.</p> <p>No impact.</p>
Part II B 4 a and b	Part II B 5 a and b	<p>a. If the permittee is an approved VSMP authority, the permittee shall select and implement at least three of the strategies listed in Table 5 below designed to reduce the load of bacteria to the MS4. Selection of the strategies shall correspond to sources identified in Part II B 3 d.</p> <p>b. If the permittee is not an approved VSMP authority, the permittee shall select at least one strategy listed in Table 5 below designed to reduce the load of bacteria to the MS4 relevant to sources of bacteria applicable within the MS4 regulated service area. Selection of the strategies shall correspond to sources identified in Part II B 3 d.</p>	<p>a. Traditional permittees shall select and implement at least three of the strategies listed in Table 5 designed to reduce the load of bacteria to the MS4. Selection of the strategies shall correspond to sources identified in Part II B 4 d.</p> <p>b. Nontraditional permittees shall select at least one strategy listed in Table 5 designed to reduce the load of bacteria to the MS4 relevant to sources of bacteria applicable within the MS4 regulated service area. Selection of the strategies shall correspond to sources identified in Part II B 4 d.</p> <p>Rationale: Revised to pertain to traditional and nontraditional permittees.</p> <p>Impact: Traditional permittees that are not VSMP Authorities will have to implement three strategies for action plan.</p>
Part II B 5 a (2)	Part II B 6 a (2)	<p>One or more BMPs approved by the Chesapeake Bay Program; or</p>	<p>(2) One or more BMPs approved by the Chesapeake Bay Program. Pollutant load reductions generated by annual practices, such as street and storm drain cleaning, shall only be applied to the compliance year in which the annual practice was implemented; or</p> <p>Rational: Provide clarification on annual practices.</p> <p>No impact.</p>
Part II B 5 b-d	Part II B 6 b-d	<p>b. The permittee may meet the local TMDL requirements for sediment, phosphorus, or nitrogen</p>	<p>b. The permittee may meet the local TMDL requirements for sediment, phosphorus, or nitrogen through BMPs implemented or sediment, phosphorus,</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>through BMPs implemented to meet the requirements of the Chesapeake Bay TMDL in Part II A as long as the BMPs are implemented in the watershed for which local water quality is impaired.</p> <p>c. The permittee shall calculate the anticipated load reduction achieved from each BMP and include the calculations in the action plan required in Part II B 3 f.</p> <p>d. No later than 36 months after the effective date of this permit, the permittee shall submit to the department the anticipated end dates by which the permittee will meet each WLA for sediment, phosphorus, or nitrogen. The proposed end date may be developed in accordance with Part II B 2.</p>	<p>or nitrogen credits acquired. BMPs implemented and nutrient and sediment credits acquired to meet the requirements of the Chesapeake Bay TMDL in Part II A may also be utilized to meet local TMDL requirements as long as the BMPs are implemented or the credits are generated in the watershed for which local water quality is impaired.</p> <p>c. The permittee shall calculate the anticipated load reduction achieved from each BMP and include the calculations in the action plan required in Part II B 4 f.</p> <p>d. No later than 36 months after the effective date of this permit, the permittee shall submit to the department an update on the progress made toward achieving local TMDL action plan goals and the anticipated end dates by which the permittee will meet each wasteload allocation for sediment, phosphorus, or nitrogen. The proposed end date may be developed in accordance with Part II B 3.</p> <p>Rationale: Provide clarification on credit use and update on action plan goals.</p> <p>No impact.</p>
N/A	Part II B 7 c	None.	<p>As part of its annual reporting requirements, the permittee shall submit results of any action plan PCB monitoring or product testing conducted and any adaptive management strategies that have been incorporated into the updated action plan based upon monitoring or product testing results if the permittee has elected to perform monitoring or product testing or both.</p> <p>Rationale: To make the results of any voluntary PCB monitoring or testing available to the Department or other permittees.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
N/A	Part II B 8 *	None.	<p>No impact.</p> <p>8. Chloride TMDLs</p> <p>a. No later than 36 months after the permit effective date, permittees shall develop an anti-icing and deicing agent education and outreach strategy that identifies target audiences for increasing awareness of anti-icing and deicing agent application impacts on receiving waters and encourages implementation of enhanced BMPs for application, handling, and storage of anti-icing and de-icing agents used for snow and ice management.</p> <p>b. Anti-icing and deicing agent education and outreach strategies shall contain a schedule to implement two or more of the strategies listed in Part I E 1 d Table 1 per year to communicate to target audiences the importance of responsible anti-icing and deicing agent application, transport, and storage.</p> <p>c. No later than 36 months after permit issuance, the permittee shall review good housekeeping procedures for anti-icing and deicing agent application, handling, storage, and transport activities required under Part I E 6 b (1) (a) and identify a minimum of two strategies for implementing enhanced BMPs that promote efficient management and application of anti-icing and deicing agents while maintaining public safety.</p> <p>Rationale: Added chloride TMDL action plan requirements to address approved chloride TMDLs.</p> <p>Impact: Permittees with an MS4 in chloride TMDL watersheds must develop an action plan.</p>
Part II C 7	Part II C 9	7. Prior to submittal of the action plan required in Part II B 1, the permittee shall provide an opportunity for public comment proposed to meet the local TMDL	9. Prior to submittal of the action plan required in Part II B 2, the permittee shall provide an opportunity for public comment for no fewer than 15 days on the proposal to meet the local TMDL action plan requirements.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		action plan requirements for no less than 15 days.	Rationale: Revised for clarification.  No impact.
Part II C 8-9	Part II C 10-11	<p>8. The MS4 program plan as required by Part I B of this permit shall incorporate each local TMDL action plan. Local TMDL action plans may be incorporated by reference into the MS4 program plan provided that the program plan includes the date of the most recent local TMDL action plan and identification of the location where a copy of the local TMDL action plan may be obtained.</p> <p>9. For each reporting period, each annual report shall include a summary of actions conducted to implement each local TMDL action plan.</p>	Renumbered to 10 and 11.
N/A	Part II C *	None.	<p>C. Inspection and maintenance of ecosystem restoration projects used for TMDL compliance.</p> <p>1. Within 36 months of permit issuance the permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of ecosystem restoration projects as defined in 9VAC25-890-1 and implemented as part of a TMDL action plan developed in accordance with Part II A, B, or both. The permittee may utilize inspection and maintenance protocols developed by the Chesapeake Bay Program or inspection and maintenance plans developed in accordance with the department's Stormwater Local Assistance Fund (SLAF) guidelines.</p> <p>2. The permittee shall inspect ecosystem restoration projects owned or operated by the permittee and implemented as part of a current TMDL action plan developed in accordance</p>



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>with Part II A or B no less than once every 60 months.</p> <p>Rationale: To establish ecosystem restoration project inspection and maintenance requirements for projects implemented for TMDL action plans.</p> <p>Impact: Require ecosystem restoration project inspection and maintenance in order to maintain action plan reductions achieved.</p>
Part I E 5 d-g	Part III	<p>d. The permittee shall maintain an electronic database or spreadsheet of all known permittee-owned or permittee-operated and privately owned stormwater management facilities that discharge into the MS4. The database shall also include all BMPs implemented by the permittee to meet the Chesapeake Bay TMDL load reduction as required in Part II A. A database shall include the following information as applicable:</p> <ul style="list-style-type: none"> <li>(1) The stormwater management facility or BMP type;</li> <li>(2) The stormwater management facility or BMPs location as latitude and longitude;</li> <li>(3) The acres treated by the stormwater management facility or BMP, including total acres, pervious acres, and impervious acres;</li> <li>(4) The date the facility was brought online (MM/YYYY). If the date brought online is not known, the permittee shall use June 30, 2005;</li> <li>(5) The 6th Order Hydrologic Unit Code in which the stormwater management facility is located;</li> </ul>	<p>Part III</p> <p>DEQ BMP Warehouse Reporting</p> <p>A. For the purpose of Part III of this permit, “best management practice” or “BMP” means a practice that achieves quantifiable nitrogen, phosphorus, or total suspended solids reductions including stormwater management facilities, ecosystem restoration projects, annual practices, and other practices approved by the department for reducing nitrogen, phosphorus, and total suspended solids pollutants.</p> <p>B. No later than October 1 of each year the permittee shall electronically report BMPs implemented and inspected as applicable between July 1 and June 30 of each year using the DEQ BMP Warehouse.</p> <ul style="list-style-type: none"> <li>1. The permittee shall use the associated reporting template for stormwater management facilities not reported in accordance with Part III B 1, including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in accordance with the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830), if applicable, and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required.</li> <li>2. The permittee shall use the DEQ BMP Warehouse to report BMPs that</li> </ul>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>(6) Whether the stormwater management facility or BMP is owned or operated by the permittee or privately owned;</p> <p>(7) Whether or not the stormwater management facility or BMP is part of the permittee's Chesapeake Bay TMDL action plan required in Part II A or local TMDL action plan required in Part II B, or both;</p> <p>(8) If the stormwater management facility or BMP is privately owned, whether a maintenance agreement exists; and</p> <p>(9) The date of the permittee's most recent inspection of the BMP.</p> <p>e. The electronic database or spreadsheet shall be updated no later than 30 days after a new stormwater management facility is brought online, a new BMP is implemented to meet a TMDL load reduction as required in Part II, or discovered if it is an existing stormwater management facility.</p> <p>f. The permittee shall use the DEQ Construction Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post-construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities.</p>	<p>were not reported in accordance with Part III B 1 or B 2 and were implemented as part of a TMDL action plan to achieve nitrogen, phosphorus, and total suspended solids reductions in accordance with Part II A or B.</p> <p>3. The permittee shall use the DEQ BMP Warehouse to report any BMPs that were not reported in accordance with Part III B 1, B 2, or B 3.</p> <p>4. The permittee shall use the DEQ BMP Warehouse to report the most recent inspection date for BMPs in accordance with Part I E 5 b or c, or in accordance with Part II C and the most recent associated TMDL action plan.</p> <p>5. Traditional permittees specified in Part I E 5 a (1) shall use the DEQ Construction Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post-construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities.</p> <p>C. The following information for each BMP reported in accordance with Part III B 1, B 2, B 3, or B 4 shall be reported to the DEQ BMP Warehouse as applicable:</p> <ol style="list-style-type: none"> <li>1. The BMP type;</li> <li>2. The BMP location as decimal degree latitude and longitude;</li> <li>3. The acres treated by the BMP, including total acres and impervious acres;</li> <li>4. The date the BMP was brought online (MM/YYYY). If the date brought online is not known, the permittee shall use 06/2005;</li> <li>5. The 6th Order Hydrologic Unit Code in which the BMP is located;</li> <li>6. Whether the BMP is owned or operated by the permittee or privately owned;</li> <li>7. Whether or not the BMP is part of the permittee's Chesapeake Bay TMDL action plan required in Part II A</li> </ol>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>g. No later than October 1 of each year, the permittee shall electronically report the stormwater management facilities and BMPs implemented between July 1 and June 30 of each year using the DEQ BMP Warehouse and associated reporting template for any practices not reported in accordance with Part I E 5 f including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in accordance with the Chesapeake Bay Preservation Act regulations (9VAC25-830) and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required.</p>	<p>or local TMDL action plan required in Part II B, or both;</p> <p>8. If the BMP is privately owned, whether a maintenance agreement exists;</p> <p>9. The date of the permittee's most recent inspection of the BMP; and</p> <p>10. Any other information specific to the BMP type required by the DEQ BMP Warehouse (e.g., linear feet of stream restoration).</p> <p>D. No later than October 1 of each year the DEQ BMP Warehouse shall be updated if an existing BMP is discovered between July 1 and June 30 that was not previously reported to the DEQ BMP warehouse.</p> <p>Rationale: Move BMP Warehouse reporting to new section of the permit to define BMP as an umbrella term for stormwater management facilities, ecosystem restoration projects, and annual practices. Provide clarification on BMPs to be reported to the BMP Warehouse.</p> <p>No impact.</p>
Part III C 2	Part IV C 2	<p>Monitoring results shall be reported on a discharge monitoring report (DMR); on forms provided, approved or specified by the department; or in any format provided that the date, location, parameter, method, and result of the monitoring activity are included.</p>	<p>Monitoring results shall be reported on a discharge monitoring report (DMR); on forms provided, approved, or specified by the department; or in any format provided that the date, location, parameter, method, and result of the monitoring activity are included.</p> <p>Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with 9VAC25-31-1020 and this section.</p> <p>There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>Rationale: Establishes e-reporting requirements once the Department has given permittees three months' notice.</p> <p>Impact: Allows the Department to comply with EPA e-reporting rule.</p>
Part III D	Part IV D	<p>Duty to provide information. The operator shall furnish within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this state permit or to determine compliance with this state permit. The board, department, or EPA may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of surface waters, or such other information as may be necessary to accomplish the purposes of the CWA and Virginia Stormwater Management Act. The operator shall also furnish to the board, department, or EPA upon request, copies of records required to be kept by this state permit.</p>	<p>Duty to provide information. The operator shall furnish within a reasonable time, any information that the department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this state permit or to determine compliance with this state permit. The department or EPA may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from the permittee's discharge on the quality of surface waters, or such other information as may be necessary to accomplish the purposes of the CWA and Virginia Stormwater Management Act. The operator shall also furnish to the department or EPA upon request, copies of records required to be kept by this state permit.</p> <p>Rationale: Replaced "board" with "department" and "his discharge" with "the permittee's discharge."</p> <p>No impact</p>
Part III H	Part IV H	<p>Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a "bypass" (Part III U) or "upset," (Part III V), should occur from a facility and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify, in no case later than within 24 hours, the department by telephone after the discovery of the discharge.</p>	<p>Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge, including a bypass in Part IV U or an upset in Part IV V, should occur from a facility and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify (see Part IV I 4), in no case later than within 24 hours, the department after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The operator shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include any discharge resulting from:</p>	<p>operator shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part IV I 2. Unusual and extraordinary discharges include any discharge resulting from:</p> <p>Rationale: The Department no longer require contact by telephone for this requirement.</p> <p>No impact.</p>
Part III I		<p>I. Reports of noncompliance. The operator shall report any noncompliance which may adversely affect surface waters or may endanger public health.</p> <p>1. An oral report to the department shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:</p> <p>a. Any unanticipated bypass; and</p> <p>b. Any upset that causes a discharge to surface waters.</p> <p>2. A written report shall be submitted within five days and shall contain:</p> <p>a. A description of the noncompliance and its cause;</p> <p>b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and</p> <p>c. Steps taken or planned to reduce, eliminate, and</p>	<p>I. Reports of noncompliance.</p> <p>1. The operator shall report any noncompliance that may adversely affect surface waters or may endanger public health.</p> <p>a. A report to the department shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under Part IV I:</p> <p>(1) Any unanticipated bypass; and</p> <p>(2) Any upset that causes a discharge to surface waters.</p> <p>b. A written report shall be submitted within five days and shall contain:</p> <p>(1) A description of the noncompliance and its cause;</p> <p>(2) The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and</p> <p>(3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The department may waive the written report on a case-by-case basis for reports of noncompliance under Part IV I if the report has been received within 24 hours and no adverse impact on surface waters has been reported.</p> <p>Rationale: The Department no longer requires oral reporting. Also, revised</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		prevent reoccurrence of the noncompliance. The department may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on surface waters has been reported.	for consistency with other VPDES permits.  No impact.
Part III I 3	Part IV I 2 and 3	<p>3. The operator shall report all instances of noncompliance not reported under Part III I 1 or 2, in writing, as part of the annual reports that are submitted. The reports shall contain the information listed in Part III I 2.</p> <p>NOTE: The reports required in Part III G, H, and I shall be made to the department. Reports may be made by telephone, email, or fax. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.</p>	<p>2. The operator shall report all instances of noncompliance not reported under Part IV I 1 b, in writing, as part of the annual reports that are submitted. The reports shall contain the information listed in Part IV I 2.</p> <p>3. The immediate (within 24 hours) reports required in Part IV G, H, and I shall be made to the department. Reports may be made by telephone, email, fax, or online at <a href="https://www.deq.virginia.gov/our-programs/pollution-response/pollution-data-and-reporting">https://www.deq.virginia.gov/our-programs/pollution-response/pollution-data-and-reporting</a>. For reports outside normal working hours, the online portal shall be used. For emergencies, call the Virginia Department of Emergency Management's Emergency Operations Center (24-hours) at 1-800-468-8892.</p> <p>Rationale: Reformatting and updating department contact information.</p> <p>No impact.</p>

**Regulatory Flexibility Analysis**

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.*

The reissuance of the VPDES general permit accomplishes the objectives of applicable law and minimizes the costs to a small MS4 operator and simplifies the application process. Without the general permit, a small MS4 operator would be required to obtain an individual permit, which would increase the complexity of a permit application and permit costs.

### **Family Impact**

*In accordance with § 2.2-606 of the Code of Virginia, please assess the potential 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.*

---

This regulation is not expected to have a direct impact on the institution of the family or family stability.

1 **Project 6940 - Exempt Final for August 23, 2023 State Water Control Board meeting**

2 **25-890 - Amend and Reissue the Small MS4 General Permit**

3 Chapter 890

4 General Virginia Pollutant Discharge Elimination System (VPDES) General Permit for  
5 Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s)

6 **9VAC25-890-1. Definitions.**

7 The words and terms used in this chapter shall have the meanings defined in the Virginia  
8 Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of  
9 the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Regulation  
10 (9VAC25-870) unless the context clearly indicates otherwise, except that for the purposes of this  
11 chapter:

12 "Annual practice" means a nonstructural best management practice such as street or storm  
13 drain cleaning that reduces pollution for one compliance year upon implementation.

14 "Board" means the State Water Control Board. When used outside the context of the  
15 promulgation of regulations, including regulations to establish general permits, "board" means the  
16 Department of Environmental Quality.

17 "Date brought online" means the date when the permittee determines that a new stormwater  
18 management facility is properly functioning.

19 "Department" or "DEQ" means the Department of Environmental Quality.

20 "Ecosystem restoration projects" means practices implemented to reestablish and maintain  
21 natural systems that prevent, reduce, or remediate pollutant loadings. Examples of ecosystem  
22 restoration projects include stream restoration, shoreline restoration, land-use conversion, and  
23 reforestation.

24 "High-priority facilities" means facilities owned or operated by the permittee with drainage to  
25 any permitted MS4 that actively engage in one or more of the following activities: (i) composting;  
26 (ii) equipment storage, cleaning, and maintenance; (iii) long-term bulk materials storage; (iv)  
27 pesticide, herbicide, and fertilizer storage; (v) storage for public works; (vi); (v) recycling; (vii) salt  
28 storage; (viii); (vi) anti-icing and deicing agent storage, handling, and transfer; (vii) solid waste  
29 handling and transfer, and (ix) vehicle storage and maintenance (viii) permittee owned or operated  
30 vehicle washing, maintenance, and salvage.

31 "MS4 regulated service area" or "service area" means for Phase II permittees, the drainage  
32 area served by the permittee's MS4 that is located within [ an the 2020 census urban areas with  
33 a population of at least 50,000, or any previous decennial census ] urbanized area as determined  
34 [ by the 2010 decennial census performed ] by the Bureau of the Census. MS4 regulated service  
35 area may also be referred to as "served by the MS4" as it pertains to the tables in Part II A of this  
36 permit.

37 "Nontraditional MS4 permittee" or "nontraditional permittee" means a government entity that  
38 operates a regulated MS4 that is not under the authority of a county board of supervisors, a city  
39 council, or a town council.

40 "Physically interconnected" means that one MS4 is connected to a second MS4 in such a  
41 manner that it allows for direct discharges to the second system.

42 "Pollutants of concern" or "POC" means pollutants specifically identified in a U.S.  
43 Environmental Protection Agency approved total maximum daily load (TMDL) report as causing  
44 a water quality impairment.



45 "Traditional MS4 permittee" or "traditional permittee" means a local government that operates  
 46 a regulated MS4 under the authority of a county board of supervisors, a city council, or a town  
 47 council.

48 **9VAC25-890-10. Purpose; effective date of the state permit.**

49 A. This general permit regulation governs point source stormwater discharges from regulated  
 50 small municipal separate storm sewer systems (small-MS4s) to surface waters of the  
 51 Commonwealth of Virginia. Nonmunicipal stormwater or wastewater discharges are not  
 52 authorized by this permit except in accordance with 9VAC25-890-20 D.

53 B. This general permit will become effective on November 1, ~~2018~~ 2023, and will expire  
 54 October 31, ~~2023~~ 2028.

55 **9VAC25-890-15. Applicability of incorporated references based on the dates that they**  
 56 **became effective.**

57 Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in  
 58 Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated in this chapter,  
 59 that regulation shall be as it exists and has been published in the July 1, ~~2017~~ 2022, update. The  
 60 final rule published in the Federal Register on August 28, 2017 (82 FR 40836), which amends 40  
 61 CFR Part 136, is also incorporated by reference in this chapter.

62 **9VAC25-890-20. Authorization to discharge.**

63 A. Any operator covered by this general permit is authorized to discharge stormwater from the  
 64 ~~small municipal separate storm sewer system (MS4)~~ to surface waters of the Commonwealth of  
 65 Virginia provided that:

- 66 1. The operator submits a complete and accurate registration statement in accordance  
 67 with 9VAC25-890-30 and that registration statement is accepted by the ~~board~~ department;
- 68 2. The operator submits any permit fees required by Part XIII (9VAC25-870-700 et seq.  
 69 ~~(Part XIII)~~);
- 70 3. The operator complies with the requirements of 9VAC25-890-40; and
- 71 4. The ~~board~~ department has not notified the operator that the discharge is ineligible for  
 72 coverage in accordance with subsection C of this section.

73 B. The operator is not authorized by this general permit to discharge to surface waters  
 74 specifically named in other board regulations that prohibit such discharges.

75 C. The ~~board~~ department will notify an operator that the discharge is not eligible for coverage  
 76 under this general permit in the event of any of the following:

- 77 1. The operator is required to obtain an individual permit in accordance with 9VAC25-870-  
 78 410 B;
- 79 2. The operator is proposing discharges to surface waters specifically named in other  
 80 board regulations that prohibit such discharges; or
- 81 3. The operator fails to implement BMPs to reduce pollutants to the maximum extent  
 82 practicable (MEP) standard [ ~~in order~~ ] to demonstrate progress toward meeting the water  
 83 quality requirements as listed in 9VAC25-31-220 D 1 a in accordance with 9VAC25-31-  
 84 220 K 2.

85 D. Nonstormwater discharges or flows into the ~~small~~ MS4 are authorized by this state permit  
 86 and do not need to be addressed in the MS4 program required under 9VAC25-890-40 Part I E 3  
 87 if:

- 88 1. The nonstormwater discharges or flows are covered by a separate individual or general  
 89 VPDES or state permit for nonstormwater discharges;

- 90 2. The individual nonstormwater discharges or flows have been identified by the  
 91 department as de minimis discharges that are not significant sources of pollutants to  
 92 surface waters and do not require a separate VPDES permit;
- 93 3. The nonstormwater discharges or flows are identified in this subdivision ~~D-3~~ and have  
 94 not been identified by the operator or by the ~~board~~ department as significant contributors  
 95 of pollutants to the ~~small~~ MS4:
- 96 a. Water line flushing, managed in a manner to avoid an instream impact;
- 97 b. Landscape irrigation;
- 98 c. Diverted stream flows;
- 99 d. Rising groundwaters;
- 100 e. Uncontaminated groundwater infiltration, as defined at 40 CFR 35.2005(20);
- 101 f. Uncontaminated pumped groundwater;
- 102 g. Discharges from potable water sources managed in a manner to avoid instream  
 103 impact;
- 104 h. Foundation drains;
- 105 i. Air conditioning condensation;
- 106 j. Irrigation water;
- 107 k. Springs;
- 108 l. Water from crawl space pumps;
- 109 m. Footing drains;
- 110 n. Lawn watering;
- 111 o. Individual residential car washing;
- 112 p. Flows from riparian habitats and wetlands;
- 113 q. Dechlorinated freshwater swimming pool discharges managed in a manner to avoid  
 114 instream impact;
- 115 r. Street and pavement wash water waters that do not contain cleaning additives or  
 116 are otherwise managed in a manner to avoid instream impact;
- 117 s. [ Routine external building wash down provided no soaps, solvents, or detergents  
 118 are used, external building surfaces do not contain hazardous substances, and the  
 119 wash water is filtered, settled, or similarly treated prior to discharge; ]
- 120 [ t. ] Discharges or flows from emergency firefighting activities;
- 121 [ t. u. ] Discharges or flows of water for fire prevention or firefighting training activities  
 122 managed in a manner to avoid instream impact in accordance with § 9.1-207.1 of the  
 123 Code of Virginia;
- 124 [ u. v. ] Discharges from noncommercial fundraising car washes if the washing uses  
 125 only biodegradable, phosphate-free, water-based cleaners in accordance with § 15.2-  
 126 2114.1 of the Code of Virginia; or
- 127 u. [ v. w. ] Other activities generating discharges identified by the department as not  
 128 requiring VPDES authorization; or
- 129 4. The immediate discharge of materials is necessary to protect life or property as  
 130 determined by fire department personnel or emergency management officials or any  
 131 discharge in accordance with 9VAC25-31-40. The operator shall take, or ensure that the  
 132 responsible party takes, all reasonable steps to minimize or prevent any adverse effect on  
 133 human health or the environment. This state permit does not transfer liability for a spill

134 itself from the party responsible for the spill to the operator nor relieve the party responsible  
135 for a spill from the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302.

136 E. In the event the operator is unable to meet certain conditions of this permit due to  
137 circumstances beyond the operator's control, the operator shall submit a written explanation of  
138 the circumstances that prevented state permit compliance to the department in the annual report.  
139 Circumstances beyond the control of the operator include abnormal climatic conditions; weather  
140 conditions that make certain requirements unsafe or impracticable; or unavoidable equipment  
141 failures caused by weather conditions or other conditions beyond the reasonable control of the  
142 operator (operator error is not a condition beyond the control of the operator). The failure to  
143 provide adequate program funding, staffing, or equipment maintenance shall not be an acceptable  
144 explanation for failure to meet state permit conditions. The ~~board~~ department will determine, at its  
145 sole discretion, whether the reported information will result in an enforcement action.

146 F. Discharges that are excluded from permitting requirements pursuant to 9VAC25-870-300  
147 are exempted from the regulatory requirements of this state permit.

148 G. For those portions of the ~~small~~ MS4 engaging in activities that are covered under a  
149 separate VPDES permit for discharges associated with industrial activities, the permittee shall  
150 follow the conditions established by the separate VPDES permit.

151 H. Upon termination of permit coverage for those activities addressed in subsection G of this  
152 section, the discharges from the outfalls previously authorized under the VPDES permit for  
153 stormwater discharges associated with industrial activities shall meet the conditions of this state  
154 permit provided it has been determined by the ~~board~~ department that an individual MS4 permit is  
155 not required.

156 I. Stormwater discharges from specific MS4 permittee activities that have been granted  
157 conditional exclusion for "no exposure" of industrial activities and materials to stormwater under  
158 the separate VPDES permitting program shall comply with this state permit unless a separate  
159 VPDES permit is obtained. The department is responsible for determining compliance with the  
160 conditional exclusion under the State Water Control Law (Chapter 3.1 (§ 62.1-44.2 et seq.) of Title  
161 62.1 of the Code of Virginia) and attendant regulations.

162 J. Receipt of this general permit does not relieve any permittee of the responsibility to comply  
163 with any other applicable federal, state, or local statute, ordinance, or regulation.

164 K. Continuation of permit coverage.

165 1. Any permittee that was authorized to discharge under the state permit effective ~~July 1,~~  
166 ~~2013~~ November 1, 2018, and that submits a complete registration statement on or before  
167 ~~June 1, 2018~~ October 1, 2023, is authorized to continue to discharge under the terms of  
168 the ~~July 1, 2013~~ November 1, 2018, state permit until such time as the ~~board~~ department  
169 either:

170 a. Issues coverage to the permittee under this state permit; or  
171 b. Notifies the permittee that the discharge is not eligible for coverage under this state  
172 permit.

173 2. When the permittee is not in compliance with the conditions of the expiring or expired  
174 general permit, the ~~board~~ department may choose to do any or all of the following:

175 a. Initiate enforcement action based upon the ~~2013~~ 2018 general permit;  
176 b. Issue a notice of intent to deny coverage under the new general permit. If coverage  
177 under the general permit is denied, the permittee would then be required to cease the  
178 activities authorized by the continued general permit or be subject to enforcement  
179 action for operating without a state permit;  
180 c. Issue a new state permit with appropriate conditions; or

181 d. Take other actions authorized by the State Water Control Law, VPDES (9VAC25-  
182 31), and VSMP (9VAC25-870) regulations.

183 **9VAC25-890-30. Registration statement.**

184 A. Deadline for submitting a registration statement.

185 1. Operators of ~~small~~ MS4s described under 9VAC25-870-400 B that are applying for  
186 initial coverage under this general permit must submit a complete registration statement  
187 to the department within 180 days of notice of designation, unless the ~~board~~ department  
188 grants a later date.

189 2. In order to continue uninterrupted coverage under the general permit, operators of ~~small~~  
190 MS4s shall submit a new registration statement no later than ~~June 1, 2018~~ October 1,  
191 2023, unless permission for a later date has been granted by the ~~board~~ department. The  
192 board shall not grant permission for registration statements to be submitted later than the  
193 expiration date of the existing state permit.

194 B. The registration statement shall include the following information:

195 1. The name and location of the ~~small~~ MS4;

196 2. The name of the owner or operator of the ~~small~~ MS4;

197 3. The mailing address of the owner or operator of the ~~small~~ MS4;

198 4. The type of ~~small~~ MS4 (e.g., city, county, incorporated town, unincorporated town,  
199 college or university, local school board, military installation, transportation system, federal  
200 or state facility, or other);

201 5. If the MS4 is operated under the authority of a city council or a county board of  
202 supervisors, indicate if public school facilities are included in the application.

203 6. The name, title, mailing address, telephone number, and email address for the following  
204 individuals:

205 a. The responsible official who meets the criteria established in ~~9VAC-25-870-370~~  
206 9VAC25-870-370 A 3;

207 b. The MS4 permit contact; and

208 c. The annual permit maintenance fee contact;

209 ~~6.~~ 7. The following receiving waters information:

210 a. The names of the receiving surface waters to which the MS4 system discharges;  
211 and

212 b. Whether or not the receiving waters are listed as impaired in the Virginia [ ~~2016~~  
213 2022 ] 305(b)/303(d) Water Quality Assessment Integrated Report;

214 ~~7.~~ 8. The names of any physically interconnected MS4s to which the ~~small~~ MS4  
215 discharges;

216 ~~8.~~ 9. A list of all existing signed agreements between the operator and any applicable third  
217 parties where the operator has entered into an agreement in order to implement minimum  
218 control measures or portions of minimum control measures;

219 ~~9.~~ 10. For ~~these~~ permittees previously covered under the General VPDES Permit for  
220 Discharges of Stormwater from MS4 effective November 1, 2018, whose regulated MS4  
221 is located partially or entirely in the Chesapeake Bay watershed, a draft ~~second~~ third phase  
222 Chesapeake Bay TMDL action plan; and

223 ~~10.~~ 11. The following certification: "I certify under penalty of law that this document and all  
224 attachments were prepared under my direction or supervision in accordance with a system  
225 designed to assure that qualified personnel properly gather and evaluate the information  
226 submitted. Based on my inquiry of the person or persons who manage the system, or

227 those persons directly responsible for gathering the information, the information submitted  
 228 is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that  
 229 there are significant penalties for submitting false information, including the possibility of  
 230 fine and imprisonment for knowing violations."

231 C. The registration statement shall be signed in accordance with 9VAC25-890-40 Part III IV  
 232 K 4.

233 D. An operator may file its own registration statement, or the operator and other operators of  
 234 ~~small~~ MS4s may jointly submit a registration statement. If responsibilities for meeting the  
 235 stormwater minimum control measures will be shared with other municipalities or governmental  
 236 entities, the registration statement must describe which stormwater minimum control measures  
 237 the operator will implement and identify the entities that will implement the other stormwater  
 238 minimum control measures within the area served by the ~~small~~ MS4.

239 E. The registration statement may be delivered to the DEQ Central Office, Office of VPDES  
 240 Permits or by electronic mail to an electronic mailbox specified by the department. [ Following  
 241 notification from the department of the start date for the required electronic submission of Notices  
 242 of Intent to discharge forms (i.e., registration statements) as provided for in 9VAC25-31-1020,  
 243 such forms submitted after that date shall be electronically submitted to the department in  
 244 compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice  
 245 provided between the notification from the department and the date after which such forms must  
 246 be submitted electronically. ]

247 **9VAC25-890-40. General permit.**

248 Any MS4 operator whose registration statement is accepted by the ~~board~~ department will  
 249 receive coverage under the following general permit and shall comply with the requirements in  
 250 this general permit and be subject to all applicable requirements of the Virginia Stormwater  
 251 Management Program (VSMP) Regulations (9VAC25-870) and the Virginia Pollutant Discharge  
 252 Elimination System (VPDES) Permit Regulations (9VAC25-31).

253 General Permit No.: VAR04

254 Effective Date: November 1, ~~2018~~ 2023

255 Expiration Date: October 31, ~~2023~~ 2028

256 GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM SMALL  
 257 MUNICIPAL SEPARATE STORM SEWER SYSTEMS

258 AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER  
 259 MANAGEMENT PROGRAM REGULATIONS, VIRGINIA POLLUTANT DISCHARGE  
 260 ELIMINATION SYSTEM REGULATIONS, AND THE VIRGINIA STATE WATER  
 261 CONTROL LAW

262 In compliance with the provisions of the Clean Water Act, as amended and pursuant to the  
 263 State Water Control Law and regulations adopted pursuant thereto, permittees of small municipal  
 264 separate storm sewer systems are authorized to discharge to surface waters within the  
 265 boundaries of the Commonwealth of Virginia, except those waters specifically named in State  
 266 Water Control Board regulations ~~which~~ that prohibit such discharges.

267 The authorized discharge shall be in accordance with the registration statement filed with the  
 268 department, this cover page, Part I - Discharge Authorization and Special Conditions, Part II -

269 TMDL Special Conditions, and Part III - DEQ BMP Warehouse Reporting, and Part IV - Conditions  
 270 Applicable to All State and VPDES Permits, as set forth in this general permit.

271 Part I

272 Discharge Authorization and Special Conditions

273 A. Coverage under this state permit. During the period beginning with the date of coverage  
 274 under this general permit and lasting until the expiration and reissuance of this state permit, the  
 275 permittee is authorized to discharge stormwater and those authorized nonstormwater discharges  
 276 described in 9VAC25-890-20 D in accordance with this state permit from the small municipal  
 277 separate storm sewer system identified in the registration statement into surface waters within the  
 278 boundaries of the Commonwealth of Virginia and consistent with 9VAC25-890-30.

279 B. The permittee shall develop, implement, and enforce a an MS4 program designed to reduce  
 280 the discharge of pollutants from the ~~small MS4 to the maximum extent practicable~~ (MEP) in  
 281 accordance with this permit, to protect water quality, and to satisfy the appropriate water quality  
 282 requirements of the State Water Control Law and its attendant regulations. The permittee shall  
 283 utilize the legal authority provided by the laws and regulations of the Commonwealth of Virginia  
 284 to control discharges to and from the MS4. This legal authority may be a combination of statute,  
 285 ordinance, permit, policy, specific contract language, order, or interjurisdictional agreements. The  
 286 MS4 program shall include the minimum control measures (MCM) described in Part I E. For the  
 287 purposes of this permit term, implementation of MCMs in Part I E and the Chesapeake Bay and  
 288 local TMDL requirements in Part II (as applicable) consistent with the provisions of an iterative  
 289 MS4 program required pursuant to this general permit constitutes compliance with the standard  
 290 of reducing pollutants to the "~~maximum extent practicable~~," MEP, provides adequate progress in  
 291 meeting water quality standards, and satisfies the appropriate water quality requirements of the  
 292 State Water Control Law and its attendant regulations.

293 C. The MS4 program plan.

294 1. The MS4 program plan shall include, at a minimum, the following written items:

295 a. The roles and responsibilities of each of the permittee's divisions and departments  
 296 in the implementation of the requirements of the permit tasked with ensuring that the  
 297 permit requirements are met;

298 b. If the permittee utilizes another entity to implement portions of the MS4 program, a  
 299 copy of the written agreement. The description of each party's roles and  
 300 responsibilities, including any written agreements with third parties, shall be updated  
 301 as necessary;

302 c. For each MCM in Part I E, the following information shall be included:

303 (1) Each specific requirement as listed in Part I E for each MCM;

304 (2) A description of the BMPs or strategies that the permittee anticipates will be  
 305 implemented to demonstrate compliance with the permit conditions in Part I E;

306 (3) All standard operating procedures or policies necessary to implement the BMPs;

307 (4) The measurable goal by which each BMP or strategy will be evaluated; and

308 (5) The persons, positions, or departments responsible for implementing each BMP or  
 309 strategy; and

310 d. A list of documents incorporated by reference, including the version and date of the  
 311 document being incorporated.

- 312 2. If the permittee is receiving initial coverage under this general VPDES permit for the  
313 discharge of stormwater, the permittee shall:
- 314 a. No later than six months following the date of permit coverage, submit to the  
315 department a schedule for the development of each component of the MS4 program  
316 plan in accordance with Part I C 1 that does not exceed ~~the expiration date of this~~  
317 ~~permit~~ October 31, 2028, unless the department grants a later date; and
- 318 b. Provide to the department a copy of the MS4 program plan upon completion of  
319 development.
- 320 3. If the permittee was previously covered under the General VPDES Permit for ~~the~~  
321 ~~Discharge~~ Discharges of Stormwater from MS4 effective ~~July 1, 2013~~ November 1, 2018,  
322 the permittee shall update the MS4 program plan to meet the requirements of this permit  
323 no later than six months after the effective date of this permit unless otherwise specified  
324 in another permit condition and shall post the most up-to-date version of MS4 program  
325 plan on the permittee's website or location where the MS4 program plan can be obtained  
326 as required by Part I E 2 within 30 days of updating the MS4 program plan. Until such time  
327 that the MS4 program plan is updated in accordance with Part I E, the permittee shall  
328 continue to implement the MS4 program plan in effect at the time that coverage is issued  
329 under this general permit.
- 330 4. Revisions to the MS4 program plan are expected throughout the life of this permit as  
331 part of the iterative process to reduce pollutant loading and protect water quality to the  
332 MEP. As such, revisions made in accordance with this permit as a result of the iterative  
333 process do not require modification of this permit. The permittee shall summarize revisions  
334 to the MS4 program plan as part of the annual report as described in Part I D 2 ~~3~~.
- 335 5. The permittee may demonstrate compliance with one or more MCM in Part I E through  
336 implementation of separate statutory or regulatory programs provided that the permittee's  
337 MS4 program plan identifies and fully describes any program that will be used to satisfy  
338 one or more of the minimum control measures of Part I E. If the program that the permittee  
339 is using requires the approval of a third party, the program shall be fully approved by the  
340 third party, or the permittee shall be working toward getting full approval. Documentation  
341 of the program's approval status, or the progress toward achieving full approval, shall be  
342 included in the annual report required by Part I D. The permittee shall remain responsible  
343 for compliance with the permit requirements if the other entity fails to implement one or  
344 more components of the control measures.
- 345 6. The permittee may rely on another entity to satisfy the permit requirements to implement  
346 a minimum control measure if:
- 347 a. The other entity, in fact, implements the control measure;
- 348 b. The particular control measure, or component thereof, is at least as stringent as the  
349 corresponding permit requirement;
- 350 c. The other entity agrees to implement the control measure on behalf of the permittee;  
351 and
- 352 d. The agreement between the parties is documented in writing and retained by the  
353 permittee with the MS4 program plan for as long as the agreement is active.
- 354 The permittee shall remain responsible for compliance with requirements of the permit  
355 and shall document in the annual reports required in accordance with Part I D that another  
356 entity is being relied on to satisfy all or part of the state permit requirements. The permittee  
357 shall provide the information required in Part I D.
- 358 7. If the permittee relies on another governmental entity regulated under 9VAC25-870-380  
359 to satisfy all of the state permit obligations, including the obligation to file periodic reports

360 required by Part I D, the permittee must note that fact in the registration statement, but is  
 361 not required to file the periodic reports. The permittee remains responsible for compliance  
 362 with the state permit requirements if the other entity fails to implement the control  
 363 measures or components thereof.

364 D. Annual reporting requirements.

365 1. The permittee shall submit an annual report to the department no later than October 1  
 366 of each year in a method, (i.e., how the permittee must submit) and format (i.e., how the  
 367 report shall be laid out) as specified by the department; the required content of the annual  
 368 report is specified in Part I E and Part II B. The report shall cover the previous year from  
 369 July 1 to June 30.

370 2. Following notification from the department of the start date for the required electronic  
 371 submission of annual reports, as provided for in 9VAC25-31-1020, such forms and reports  
 372 submitted after that date shall be electronically submitted to the department in compliance  
 373 with this section and 9VAC25-31-1020. There shall be at least a three-month notice  
 374 provided between the notification from the department and the date after which such forms  
 375 and reports must be submitted electronically.

376 3. The annual report shall include the following general information:

- 377 a. The permittee, system name, and permit number;
- 378 b. The reporting period for which the annual report is being submitted;
- 379 c. A signed certification as per Part III IV K;
- 380 d. Each annual reporting item as specified in an MCM in Part I E; and
- 381 e. An evaluation of the MS4 program implementation, including a review of each MCM,  
 382 to determine the MS4 program's effectiveness and whether or not changes to the MS4  
 383 program plan are necessary.

384 ~~3.~~ 4. For permittees receiving initial coverage under this general VPDES permit for the  
 385 discharge of stormwater, the annual report shall include a status update on each  
 386 component of the MS4 program plan being developed. Once the MS4 program plan has  
 387 been updated to include implementation of a specific MCM in Part I E, the permittee shall  
 388 follow the reporting requirements established in Part I D ~~2~~ 3.

389 ~~4. For those permittees with requirements established under Part II A, the annual report~~  
 390 ~~shall include a status report on the implementation of the Chesapeake Bay TMDL action~~  
 391 ~~plan in accordance with Part II A of this permit including any revisions to the plan.~~

392 5. For those permittees with requirements established under Part II B, the annual report  
 393 shall include a status report on the implementation of the local TMDL action plans in  
 394 accordance with Part II B including any revisions to the plan.

395 6. For the purposes of this permit, the MS4 program plan ~~and~~, annual report reports, the  
 396 Chesapeake Bay TMDL action plan, and Chesapeake Bay TMDL implementation annual  
 397 status reports shall be maintained ~~separately~~ as separate documents and submitted to the  
 398 department as required by this permit as ~~two~~ separate documents.

399 E. Minimum control measures.

400 1. Public education and outreach.

401 a. The permittee shall implement a public education and outreach program designed  
 402 to:

- 403 (1) Increase the public's knowledge of how to reduce stormwater pollution, placing  
 404 priority on reducing impacts to impaired waters and other local water pollution  
 405 concerns;



- 406 (2) Increase the public's knowledge of hazards associated with illegal discharges and  
 407 improper disposal of waste, including pertinent legal implications; and
- 408 (3) Implement a diverse program with strategies that are targeted toward individuals  
 409 or groups most likely to have significant stormwater impacts.
- 410 b. The permittee shall identify no ~~less~~ fewer than three high-priority stormwater issues  
 411 to meet the goal of educating the public in accordance with Part I E 1 a. High-priority  
 412 issues may include the following examples: Chesapeake Bay nutrients, pet wastes,  
 413 local receiving water impairments, TMDLs, high-quality receiving waters, litter control,  
 414 BMP maintenance, anti-icing and deicing agent application, planned green  
 415 infrastructure redevelopment, planned ecosystem restoration projects, and illicit  
 416 discharges from commercial sites.
- 417 c. The high-priority public education and outreach program, as a whole, shall:
- 418 (1) Clearly identify the high-priority stormwater issues;
- 419 (2) Explain the importance of the high-priority stormwater issues;

Table 1 Strategies for Public Education and Outreach	
Strategies	Examples (provided as examples and are not meant to be all inclusive or limiting)
Traditional written materials	Informational brochures, newsletters, fact sheets, utility bill inserts, or recreational guides for targeted groups of citizens
Alternative materials	Bumper stickers, refrigerator magnets, t-shirts, or drink koozies
Signage	Temporary or permanent signage in public places or facilities, vehicle signage, bill boards, or storm drain stenciling
Media materials	Information disseminated through electronic media, radio, televisions, movie theater, <del>or</del> newspaper, <u>or GIS story maps</u>
Speaking engagements	Presentations to school, church, industry, trade, special interest, or community groups
Curriculum materials	Materials developed for school-aged children, students at local colleges or universities, or extension classes offered to local citizens
Training materials	Materials developed to disseminate during workshops offered to local citizens, trade organization, or industrial officials
<u>Public education activities</u>	<u>Booth at community fair, demonstration of stormwater control projects, presentation of stormwater materials to schools to meet applicable education Standards of Learning or curriculum requirements, or watershed walks</u>
<u>Public meetings</u>	<u>Public meetings on proposed community stormwater management retrofits, green infrastructure redevelopment, ecosystem restoration projects, TMDL development, [ climate change's effects on stormwater management, ] <u>voluntary residential low impact development, or other stormwater issues</u></u>

- 420 (3) Include measures or actions the public can take to minimize the impact of the high-  
 421 priority stormwater issues; and
- 422 (4) Provide a contact and telephone number, website, or location where the public can  
 423 find out more information.
- 424 d. The permittee shall use two or more of the strategies listed in Table 1 ~~below~~ per  
 425 year to communicate to the ~~public~~ target audience the high-priority stormwater issues  
 426 identified in accordance with Part I E 1 b, including how to reduce stormwater pollution.
- 427 e. The permittee may coordinate its public education and outreach efforts with other  
 428 MS4 permittees; however, each permittee shall be individually responsible for meeting  
 429 all of its state permit requirements.
- 430 f. The MS4 program plan shall include:
- 431 (1) A list of the high-priority stormwater issues the permittee will communicate to the  
 432 public as part of the public education and outreach program;
- 433 (2) The rationale for selection of each high-priority stormwater issue and an  
 434 explanation of how each education or outreach strategy is intended to have a positive  
 435 impact on stormwater discharges;
- 436 (3) Identification of the ~~public~~ target audience to receive each high-priority stormwater  
 437 message;
- 438 (4) Nontraditional permittees may identify staff, students, [ members of the general  
 439 public, ] and other users of facilities operated by the permittee as the target audience  
 440 for education and outreach strategies;
- 441 (5) Traditional permittees may identify staff and students as part of the target audience  
 442 for education and outreach strategies; however, staff shall not be the majority of the  
 443 target audience;
- 444 (6) Staff training required in accordance with Part I E 6 d does not qualify as a strategy  
 445 for public education and outreach;
- 446 (7) The strategies from Table 1 of Part I E 1 d to be used to communicate each high-  
 447 priority stormwater message; and
- 448 ~~(5)~~ (8) The anticipated time periods the messages will be communicated or made  
 449 available to the public.
- 450 g. The annual report shall include the following information:
- 451 (1) A list of the high-priority stormwater issues the permittee addressed in the public  
 452 education and outreach program; ~~and~~
- 453 (2) A list of the summary of the public education and outreach activities conducted for  
 454 the report year, including the strategies used to communicate the identified high-  
 455 priority issues; and
- 456 (3) A description of any changes in high-priority stormwater issues, including,  
 457 strategies used to communicate each high-priority stormwater issue issues or target  
 458 audiences for the public education and outreach plan. The permittee shall provide a  
 459 rationale for any of these changes.
- 460 [ (4) A description of public education and outreach activities conducted that included  
 461 education regarding climate change. ]
- 462 2. Public involvement and participation.
- 463 a. The permittee shall develop and implement procedures for the following:

- 464 (1) The public to report potential illicit discharges, improper disposal, or spills to the  
 465 MS4, complaints regarding land disturbing activities, or other potential stormwater  
 466 pollution concerns;
- 467 (2) The public to provide ~~input~~ comments on the permittee's MS4 program plan;
- 468 ~~(3) Receiving public input or complaints;~~
- 469 ~~(4) (3) Responding to public input comments received on the MS4 program plan or~~  
 470 ~~complaints; and~~
- 471 ~~(5) (4) Maintaining documentation of public input comments received on the MS4~~  
 472 ~~program and associated MS4 program plan and the permittee's response.~~
- 473 b. No later than three months after this permit's effective date, the [ existing ] permittee  
 474 shall ~~develop and maintain a~~ update and maintain the webpage dedicated to the MS4  
 475 program and stormwater pollution prevention. The following information shall be  
 476 posted on this webpage:
- 477 (1) The effective MS4 permit and coverage letter;
- 478 (2) The most current MS4 program plan or location where the MS4 program plan can  
 479 be obtained;
- 480 (3) The annual report for each year of the term covered by this permit no later than 30  
 481 days after submittal to the department;
- 482 (4) For permittees whose regulated MS4 is located partially or entirely in the  
 483 Chesapeake Bay watershed, the most current Chesapeake Bay TMDL action plan or  
 484 location where the Chesapeake Bay TMDL action plan can be obtained;
- 485 (5) For permittees whose regulated MS4 is located partially or entirely in the  
 486 Chesapeake Bay watershed, the Chesapeake Bay TMDL implementation annual  
 487 status reports for each year of the term covered by this permit no later than 30 days  
 488 after submittal to the department;
- 489 (6) A mechanism for the public to report potential illicit discharges, improper disposal,  
 490 or spills to the MS4, complaints regarding land disturbing activities, or other potential  
 491 stormwater pollution concerns in accordance with Part I E 2 a (1); ~~and~~
- 492 ~~(5) (7) Methods for how the public can provide input comments on the permittee's MS4~~  
 493 ~~program plan in accordance with Part I E 2 a (2) and if applicable, the Chesapeake~~  
 494 ~~Bay TMDL action plan in accordance with Part II A 13; and~~
- 495 (8) Federal and state nontraditional permittees with security policies preventing a MS4  
 496 program and stormwater pollution prevention webpage from being publicly accessible  
 497 may utilize an internal staff accessible webpage such as an intranet webpage to meet  
 498 the requirements of Part 1 E 2 b.
- 499 c. ~~The permittee~~ Traditional permittees shall implement no less ~~fewer~~ than four  
 500 activities per year from two or more of the categories listed in Table 2 ~~below~~ to provide  
 501 an opportunity for public involvement to improve water quality and support local  
 502 restoration and clean-up projects.
- 503 d. Nontraditional permittees shall implement, promote, participate in, or coordinate on  
 504 no fewer than four activities per year from two or more of the categories listed in Table  
 505 2 to provide an opportunity for public involvement to improve water quality and support  
 506 local restoration and clean-up projects.

<p>Table 2 Public Involvement Opportunities</p>
---

Public involvement opportunities	Examples (provided as example and are not meant to be all inclusive or limiting)
Monitoring	Establish or support citizen monitoring group
Restoration	Stream or watershed, shoreline, beach, or park clean-up day, <del>adopt a water way</del> <u>adopt-a-waterway</u> program, <u>tree plantings</u> , and <u>riparian buffer plantings</u>
<u>Educational events</u> <u>Public education activities</u>	Booth at community fair, demonstration of stormwater control projects, [ <u>climate change's effects on stormwater management</u> , ] presentation of stormwater materials to schools to meet applicable education Standards of Learning or curriculum requirements, <u>or watershed walks</u> , <del>participation on environmental advisory committees</del>
<u>Public meetings</u>	<u>Public meetings on proposed community stormwater management retrofits, green infrastructure redevelopment, ecosystem restoration projects, TMDL development, voluntary residential low impact development, [ climate change's effects on stormwater management, ] or other stormwater issues</u>
<u>Disposal or collection events</u>	Household hazardous chemicals collection, vehicle fluids collection
<u>Pollution prevention</u>	Adopt-a-storm drain program, implement a storm drain marking program, promote use of residential stormwater BMPs, implement pet waste stations in public areas, adopt-a-street program.

507 ~~d. e.~~ The permittee may coordinate the public involvement opportunities listed in Table  
508 2 with other MS4 permittees; however, each permittee shall be individually responsible  
509 for meeting all of the permit requirements.

510 ~~e. f.~~ The permittee may include staff and students in public participation events;  
511 however, the activity cannot solely include or be limited to staff participants with  
512 stormwater, groundskeeping, and maintenance duties in order for an event to qualify  
513 as a public participation event.

514 g. Staff training required in accordance with Part I E 6 d does not qualify as a public  
515 participation event unless the training activity solicits participation from target  
516 audiences beyond staff or contractors with stormwater, groundskeeping, and  
517 maintenance duties.

518 h. The MS4 program plan shall include:

519 (1) The webpage address where mechanisms for the public to report (i) potential illicit  
520 discharges, improper disposal, or spills to the MS4, (ii) complaints regarding land  
521 disturbing activities, or (iii) other potential stormwater pollution concerns;

522 (2) The webpage address that contains the methods for how the public can provide  
523 input on the permittee's MS4 program; and

524 (3) A description of the public involvement activities to be implemented by the  
525 permittee, the anticipated time period the activities will occur, and a metric for each  
526 activity to determine if the activity is beneficial to water quality. An example of metrics  
527 may include the weight of trash collected from a stream cleanup, or the number of  
528 participants in a hazardous waste collection event, ~~etc.~~

529 ~~f. i.~~ The annual report shall include the following information:

- 530 (1) A summary of any public ~~input~~ comments on the MS4 program received (~~including~~  
531 ~~stormwater complaints~~) and how the permittee responded;
- 532 (2) A summary of stormwater pollution complaints received under the procedures  
533 established in Part I E 2 a (1), excluding [ natural ] flooding complaints, and how the  
534 permittee responded;
- 535 (3) A webpage address to the permittee's MS4 program and stormwater website;
- 536 ~~(3)~~ (4) Federal and state nontraditional permittees with security policies preventing the  
537 MS4 program and stormwater pollution prevention webpage from being publicly  
538 accessible utilizing an internal staff accessible website, such as intranet, shall provide  
539 evidence of the current internal MS4 program and stormwater pollution prevention  
540 webpage;
- 541 (5) A description of the public involvement activities implemented by the permittee [ ,  
542 including any efforts to reach out and engage all economic and ethnic groups ] ;
- 543 [ (6) A description of public education and outreach activities conducted that also  
544 included education regarding climate change; ]
- 545 (4) [ ~~(6)~~ (7) ] A report of the metric as defined for each activity and an evaluation as to  
546 whether or not the activity is beneficial to improving water quality; and
- 547 ~~(5)~~ [ ~~(7)~~ (8) ] The name of other MS4 permittees with whom the permittee collaborated  
548 in the public involvement opportunities.
- 549 3. Illicit discharge detection and elimination.
- 550 a. The permittee shall develop and maintain an accurate MS4 map and information  
551 table as follows:
- 552 (1) An updated map of the ~~storm sewer system~~ MS4 owned or operated by the  
553 permittee within the [ 2020 ] census [ urban areas with a population of least 50,000  
554 and any previous decennial census ] urbanized area [ ~~identified by the 2010 decennial~~  
555 ~~census~~ ] no later than [ 12 24 ] months after the permit effective date that includes, at  
556 a minimum:
- 557 (a) MS4 outfalls discharging to surface waters, except as follows:
- 558 (i) In cases where the outfall is located outside of the MS4 permittee's legal  
559 responsibility, the permittee may elect to map the known point of discharge location  
560 closest to the actual outfall; and
- 561 (ii) In cases where the MS4 outfall discharges to receiving water channelized  
562 underground, the permittee may elect to map the point downstream at which the  
563 receiving water emerges above ground as an outfall discharge location. If there are  
564 multiple outfalls discharging to an underground channelized receiving water, the map  
565 shall identify that an outfall discharge location represents more than one outfall. This  
566 is an option a permittee may choose to use and recognizes the difficulties in accessing  
567 outfalls to underground channelized stream conveyances for purposes of mapping,  
568 screening, or monitoring;.
- 569 (b) A unique identifier for each mapped item required in Part I E 3;
- 570 (c) The name and location of receiving waters to which the MS4 outfall or point of  
571 discharge discharges;
- 572 (d) MS4 regulated service area; and
- 573 (e) ~~stormwater~~ Stormwater management facilities owned or operated by the permittee.
- 574 (2) The permittee shall maintain an outfall information table associated with the ~~storm~~  
575 ~~sewer system~~ MS4 map that includes the following information for each outfall or point

576 of discharge for those cases in which the permittee elects to map the known point of  
 577 discharge in accordance with Part I E 3 a (1) (a). The outfall information table may be  
 578 maintained as a shapefile attribute table. The outfall information table shall contain the  
 579 following:

- 580 (a) A unique identifier as specified on the ~~storm sewer system~~ MS4 map;  
 581 (b) The latitude and longitude of the outfall or point of discharge;  
 582 (c) The estimated regulated acreage draining to the outfall or point of discharge;  
 583 (d) The name of the receiving water;  
 584 (e) The 6th Order Hydrologic Unit Code of the receiving water;  
 585 (f) An indication as to whether the receiving water is listed as impaired in the Virginia  
 586 2016 [ ~~2020~~ 2022 ] 305(b)/303(d) Water Quality Assessment Integrated Report; and  
 587 (g) ~~The predominant land use for each outfall discharging to an impaired water;~~ and  
 588 ~~(h) The name of any EPA approved TMDLs for which the permittee is assigned a~~  
 589 ~~wasteload allocation.~~

590 (3) No later than July 1, 2019 [ ~~12~~ 24 ] months after permit issuance, the permittee  
 591 shall submit to DEQ, a ~~GIS-compatible shapefile of the permittee's MS4 map as~~  
 592 ~~described in Part I E 3 a. If the permittee does not have an MS4 map in a GIS format,~~  
 593 ~~the permittee shall provide the map as a PDF document.~~ format file geodatabase or  
 594 two shapefiles that contain at a minimum:

595 (a) A point feature class or shapefile for outfalls with an attribute table containing outfall  
 596 data elements required in accordance with Part I E 3 a (2); and

597 (b) A polygon feature class or shapefile for the MS4 service area as required in  
 598 accordance with Part I E 3 a (1) (d) with an attribute table containing the following  
 599 information:

600 (i) MS4 operator name;

601 (ii) MS4 permit number (VAR04); and

602 (iii) MS4 service area [ ~~pervious, impervious, and~~ ] total acreage rounded to the nearest  
 603 hundredth.

604 (4) All file geodatabase feature classes or shapefiles shall be submitted in the following  
 605 data format standards:

606 (a) Point data in NAD83 or WGS84 decimal degrees global positional system  
 607 coordinates;

608 (b) Data projected in Virginia Lambert Conformal Conic format;

609 (c) Outfall location accuracy shall be represented in decimal degrees rounded to at  
 610 least the fifth decimal place for latitude and longitude to ensure point location accuracy  
 611 (e.g., 37.61741, -78.15279); and

612 (d) Metadata that shall provide a description of each feature class or shapefile dataset,  
 613 units of measure as applicable, coordinate system, and projection.

614 (5) No later than October 1 of each year, the permittee shall update the ~~storm sewer~~  
 615 system ~~system~~ MS4 map and outfall information table to include any new outfalls constructed  
 616 or TMDLs approved or both during the immediate preceding reporting period.

617 ~~(5)~~ (6) The permittee shall provide written notification to any downstream adjacent  
 618 MS4 of any known physical interconnection established or discovered after the  
 619 effective date of this permit.

620 b. The permittee shall prohibit, through ordinance, policy, standard operating  
 621 procedures, or other legal mechanism, to the extent allowable under federal, state, or

622 local law, regulations, or ordinances, unauthorized nonstormwater discharges into the  
 623 ~~storm sewer system~~ MS4. Nonstormwater discharges or flows identified in 9VAC25-  
 624 890-20 D 3 shall only be addressed if they are identified by the permittee as a  
 625 significant contributor of pollutants discharging to the MS4. Flows that have been  
 626 identified by the department as de minimis discharges are not significant sources of  
 627 pollutants to surface water.

628 c. The permittee shall maintain, implement, and enforce illicit discharge detection and  
 629 elimination (IDDE) written procedures designed to detect, identify, and address  
 630 unauthorized nonstormwater discharges, including illegal dumping, to the ~~small~~ MS4  
 631 to effectively eliminate the unauthorized discharge. Written procedures shall include:

632 (1) A description of the legal authorities, policies, standard operating procedures, or  
 633 other legal mechanisms available to the permittee to eliminate identified sources of  
 634 ongoing illicit discharges, including procedures for using legal enforcement authorities.

635 (2) Dry weather field screening protocols to detect, identify, and eliminate illicit  
 636 discharges to the MS4. The protocol shall include:

637 (a) A prioritized schedule of field screening activities and rationale for prioritization  
 638 determined by the permittee based on such criteria as age of the infrastructure, land  
 639 use, historical illegal discharges, dumping, or cross connections;

640 (b) If the total number of MS4 outfalls is equal to or less than 50, a schedule to screen  
 641 all outfalls annually;

642 (c) If the total number of MS4 outfalls is greater than 50, a schedule to screen a  
 643 minimum of 50 outfalls annually such that no more than 50% are screened in the  
 644 previous 12-month period. The 50% criteria is not applicable if all outfalls have been  
 645 screened in the previous three years; ~~and~~

646 (d) The permittee may adopt a risk-based approach to dry weather screening  
 647 identifying observation points based upon illicit discharge risks upstream of an outfall.  
 648 Observation points may include points of interconnection, manholes, points of  
 649 discharge, conveyances, or inlets suspected to have a high likelihood of receiving illicit  
 650 discharges;

651 (e) Each observation point screened may be counted as one outfall screening activity  
 652 equivalent and counted towards the requirements of Part I E 3 c (2) (b) or (2) (c);  
 653 however, at least 50% of the minimum annual screening events must include outfall  
 654 screening;

655 (f) Illicit discharges reported by the public and subsequent investigations may not be  
 656 counted as screening events; however once the resolution of the investigation and the  
 657 date the investigation was closed has been documented, an observation point may be  
 658 established for future screening events; and

659 (g) A checklist or mechanism to track the following information for dry weather  
 660 screening events:

661 (i) The unique outfall identifier for the outfall or observation point;

662 (ii) Time since the last precipitation event;

663 (iii) The estimated quantity of the last precipitation event;

664 (iv) Site descriptions (e.g., conveyance type and dominant watershed land uses);

665 (v) Observed indicators of possible illicit discharge events, such as floatables,  
 666 deposits, stains, and vegetative conditions (e.g., dying or dead vegetation, excessive  
 667 vegetative growth);

668 (vi) Whether or not a discharge was observed; and

- 669 (vi) ~~(vii)~~ If a discharge was observed, the estimated discharge rate ~~(e.g., width and~~  
670 ~~depth of discharge flow rate)~~ and visual characteristics of the discharge (e.g., odor,  
671 color, clarity, ~~floatables, deposits or stains, vegetation condition, structural condition,~~  
672 ~~and biology)~~ and the physical condition of the outfall; and
- 673 (viii) For observation points, the location, downstream outfall unique identifier, and risk  
674 factors or rationale for establishing the observation point.
- 675 (3) A timeframe upon which to conduct an investigation to identify and locate the  
676 source of any observed unauthorized nonstormwater discharge. Priority of  
677 investigations shall be given to discharges of sanitary sewage and those believed to  
678 be a risk to human health and public safety. Discharges authorized under a separate  
679 VPDES or state permit require no further action under this permit.
- 680 (4) Methodologies to determine the source of all illicit discharges. If the permittee is  
681 unable to identify the source of an illicit discharge within six months of beginning the  
682 investigation then the permittee shall document that the source remains unidentified.  
683 If the observed discharge is intermittent, the permittee shall document that attempts to  
684 observe the discharge flowing were unsuccessful.
- 685 (5) Methodologies for conducting a follow-up investigation for illicit discharges that are  
686 continuous or that permittees expect to occur more frequently than a one-time  
687 discharge to verify that the discharge has been eliminated except as provided for in  
688 Part I E 3 c (4);
- 689 (6) A mechanism to track all illicit discharge investigations to document the following:  
690 (a) The dates that the illicit discharge was initially observed, reported, or both;  
691 (b) The results of the investigation, including the source, if identified;  
692 (c) Any follow-up to the investigation;  
693 (d) Resolution of the investigation; and  
694 (e) The date that the investigation was closed.
- 695 d. The MS4 program plan shall include:
- 696 (1) The MS4 map and outfall information table required by Part I E 3 a. The map and  
697 outfall information table may be incorporated into the MS4 program plan by reference.  
698 The map shall be made available to the department within 14 days upon request;
- 699 (2) Copies of written notifications of ~~new~~ physical interconnections given by the  
700 permittee to other MS4s; and
- 701 (3) The IDDE procedures described in Part I E 3 c.
- 702 e. The annual report shall include:
- 703 (1) A confirmation statement that the MS4 map and outfall information table have been  
704 updated to reflect any changes to the MS4 occurring on or before June 30 of the  
705 reporting year;
- 706 (2) The total number of outfalls and observation points screened during the reporting  
707 period as part of the dry weather screening program; and
- 708 (3) A list of illicit discharges to the MS4, including spills reaching the MS4 with  
709 information as follows:
- 710 (a) The location and source of illicit discharge;
- 711 (b) The dates that the discharge was observed, reported, or both;
- 712 (c) Whether the discharge was discovered by the permittee during dry weather  
713 screening, reported by the public, or other method (describe);
- 714 (d) How the investigation was resolved;



- 715 (e) A description of any follow-up activities; and  
716 (f) The date the investigation was closed.
- 717 4. Construction site stormwater runoff and erosion and sediment control.
- 718 a. The permittee shall utilize its legal authority, such as ordinances, permits, orders,  
719 specific contract language, and interjurisdictional agreements, to address discharges  
720 entering the MS4 from regulated construction site stormwater runoff. The permittee  
721 shall control construction site stormwater runoff as follows:
- 722 (1) If the traditional permittee is a city, county, or town that has adopted a Virginia  
723 Erosion and Sediment Control Program (VESCP), the permittee shall implement the  
724 VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-  
725 44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control  
726 Regulations (9VAC25-840);
- 727 (2) If the traditional permittee is a town that has not adopted a VESCP, implementation  
728 of a VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-  
729 44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control  
730 Regulations (9VAC25-840) by the surrounding county shall constitute compliance with  
731 Part I E 4 a; such town shall notify the surrounding county of erosion, sedimentation,  
732 or other construction stormwater runoff problems;
- 733 (3) If the nontraditional permittee is a state agency; public institution of higher  
734 education, including community colleges, colleges, and universities; or federal entity  
735 and has developed standards and specifications in accordance with the Virginia  
736 Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia)  
737 and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee  
738 shall implement the most recent department approved standards and specifications;  
739 or
- 740 (4) If the nontraditional permittee is a state agency; public institution of higher  
741 education, including community colleges, colleges, and universities; or federal entity  
742 and has not developed standards and specifications in accordance with the Virginia  
743 Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia)  
744 and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee  
745 shall inspect all land disturbing activities as defined in § 62.1-44.15:51 of the Code of  
746 Virginia that result in the disturbance [ activities ] of 10,000 square feet or greater, or  
747 2,500 square feet or greater in accordance with areas designated under the  
748 Chesapeake Bay Preservation Act, as follows:
- 749 (a) During or immediately following initial installation of erosion and sediment controls;  
750 (b) At least once per every two-week period;  
751 (c) Within 48 hours following any runoff producing storm event; and  
752 (d) At the completion of the project prior to the release of any performance bond.
- 753 (5) If the nontraditional permittee is a ~~subdivision of a local government such as a~~  
754 school board or other local government body, the permittee shall inspect those projects  
755 resulting in a land disturbance as defined in § 62.1-44.15.51 of the Code of Virginia  
756 occurring on lands owned or operated by the permittee that result in the disturbance  
757 of 10,000 square feet or greater, 2,500 square feet or greater in accordance with areas  
758 designated under the Chesapeake Bay Preservation Act, or in accordance with more  
759 stringent thresholds established by the local government, as follows:
- 760 (a) During or immediately following initial installation of erosion and sediment controls;  
761 (b) At least once per every two-week period;

- 762 (c) Within 48 hours following any runoff producing storm event; and  
 763 (d) At the completion of the project prior to the release of any performance bond.
- 764 b. The permittee shall require implementation of appropriate controls to prevent  
 765 nonstormwater discharges to the MS4, such as wastewater, concrete washout, fuels  
 766 and oils, and other illicit discharges identified during land disturbing activity inspections  
 767 of the MS4. The discharge of nonstormwater discharges other than those identified in  
 768 9VAC25-890-20 D through the MS4 is not authorized by this state permit.
- 769 c. Employees and contractors serving as plan reviewers, inspectors, program  
 770 administrators, and construction site operators shall obtain the appropriate  
 771 certifications as required under the Virginia Erosion and Sediment Control Law and its  
 772 attendant regulations;
- 773 d. The permittee's MS4 program plan shall include:
- 774 (1) If the permittee implements a an erosion and sediment control program for  
 775 construction site stormwater runoff control program in accordance with Part I E 4 a (1),  
 776 the local ordinance citations for the VESCP program;
- 777 (2) If the permittee ~~implements a~~ is a town that does not implement an erosion and  
 778 sediment control program for construction site stormwater runoff ~~control program~~ in  
 779 accordance with Part I E 4 a (3): (2), the county ordinance citations for the VESCP  
 780 program the town is subject to;
- 781 (3) If the permittee implements annual standards and specifications for erosion and  
 782 sediment control and construction site stormwater runoff in accordance with Part I E 4  
 783 a (3):
- 784 (a) The most recently approved standards and specifications or if incorporated by  
 785 reference, the location where the standards and specifications can be viewed; and
- 786 (b) A copy of the most recent standards and specifications approval letter from the  
 787 department;
- 788 ~~(3)~~ (4) A description of the legal authorities utilized to ensure compliance with Part I E  
 789 4 a ~~to~~ for erosion and sediment control and construction site stormwater runoff control,  
 790 such as ordinances, permits, orders, specific contract language, policies, and  
 791 interjurisdictional agreements;
- 792 ~~(4) Written~~ (5) For traditional permittees, written inspection procedures to ensure the  
 793 VESCP requirements are maintained in accordance with 9VAC25-840-90 A and onsite  
 794 erosion and sediment controls are properly implemented and all associated  
 795 documents utilized during inspection including the inspection schedule in accordance  
 796 with 9VAC25-840-60 B;
- 797 ~~(5) Written procedures for requiring compliance through corrective action or~~  
 798 ~~enforcement action to the extent allowable under federal, state, or local law, regulation,~~  
 799 ~~ordinance, or other legal mechanisms; and~~
- 800 (6) For nontraditional permittees, erosion and sediment control plans or annual  
 801 standards and specifications shall be approved by the department in accordance with  
 802 § 62.1-44.15:55 of the Code of Virginia. Compliance with approved erosion and  
 803 sediment control plans or annual standards and specifications shall be ensured by the  
 804 permittee with written inspection procedures that at minimum include the following:
- 805 (a) An inspection checklist for documenting onsite erosion and sediment control  
 806 structures and systems are properly maintained and repaired as needed to ensure  
 807 continued performance of their intended function; and

808 (b) A list of all associated documents utilized for inspections, including checklists,  
 809 department approved erosion and sediment control plans, or the most recently  
 810 department approved annual standards and specifications, and any other documents  
 811 utilized;

812 (7) Traditional permittees shall maintain written procedures for requiring VESCP  
 813 compliance through corrective action or enforcement action in accordance with § 62.1-  
 814 44.15:58 of the Code of Virginia;

815 (8) Nontraditional permittees shall maintain written procedures for requiring  
 816 compliance with department approved erosion and sediment control plans and annual  
 817 standards and specifications through corrective action or enforcement action to the  
 818 extent allowable under federal, state, or local law, regulation, ordinance, or other legal  
 819 mechanisms; and

820 (9) The roles and responsibilities of each of the permittee's departments, divisions, or  
 821 subdivisions in implementing the erosion and sediment control and construction site  
 822 stormwater runoff control requirements in Part I E 4.

823 d. e. The annual report shall include the following:

824 (1) [ Total number of erosion and sediment control inspections conducted;

825 (2) Total number of each type of compliance action and enforcement action  
 826 implemented; and

827 (3) ] If the permittee implements a construction site stormwater runoff program in  
 828 accordance with Part I E 4 a (3) For nontraditional permittees:

829 (a) A confirmation statement that land disturbing projects that occurred during the  
 830 reporting period have been conducted in accordance with the current department  
 831 approved annual standards and specifications for erosion and sediment control; and

832 (b) If ~~one or more of the~~ any land disturbing projects were ~~not~~ conducted ~~with the~~  
 833 ~~without~~ department approved annual standards and specifications, ~~an explanation as~~  
 834 ~~to why the projects did not conform to the approved standards and specifications~~ a list  
 835 of all land disturbing projects that occurred during the reporting period with erosion  
 836 and sediment control plan approval dates for each project.

837 ~~[ (2) Total number of erosion and sediment control inspections conducted; and~~

838 ~~(3) The total Total number and of each type of compliance action and enforcement~~  
 839 ~~actions action implemented and the type of enforcement actions. ]~~

840 5. Post-construction stormwater management for new development and development on  
 841 prior developed lands.

842 a. The permittee shall address post-construction stormwater runoff that enters the  
 843 MS4 from the following land disturbing activities by implementing a post-construction  
 844 stormwater runoff management program as follows:

845 (1) If the traditional permittee is a city, county, or town, with an approved Virginia  
 846 Stormwater Management Program (VSMP), the permittee shall implement the VSMP  
 847 consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of  
 848 the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as ~~develop~~  
 849 maintain ] an inspection and maintenance program in accordance with ~~Parts~~ Part I E  
 850 5 b and c;

851 (2) If the traditional permittee is a town that has not adopted a VSMP, implementation  
 852 of a VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24  
 853 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) by the  
 854 surrounding county shall constitute compliance with Part I E 5 a; such town shall notify

855 the surrounding county of erosion, sedimentation, or other post-construction  
 856 stormwater runoff problems and [ ~~develop~~ maintain ] an inspection and maintenance  
 857 program in accordance with Part I E 5 b ~~and c~~ and d;

858 (3) If the traditional permittee is a ~~state agency; public institution of higher education~~  
 859 ~~including community colleges, colleges, and universities; or federal entity and has~~  
 860 ~~developed standards and specifications in accordance with the Virginia Stormwater~~  
 861 ~~Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP~~  
 862 ~~Regulations (9VAC25-870), the permittee shall implement the most recent~~  
 863 ~~department approved standards and specifications and as well as~~ develop an  
 864 inspection and maintenance program in accordance with Part I E 5 b ~~and c~~ no later  
 865 than 60 months after receiving permit coverage;

866 (4) If the nontraditional permittee is a state agency; public institution of higher  
 867 education, including community colleges, colleges, and universities; or federal entity  
 868 and has not developed standards and specifications in accordance with the Virginia  
 869 Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and  
 870 Virginia Stormwater Management VSMP Regulations (9VAC25-870), the permittee  
 871 shall implement a post-construction stormwater runoff control program through  
 872 compliance with 9VAC25-870 and with the implementation of a maintenance and the  
 873 most recent department approved standards and specifications and [ ~~develop~~ maintain  
 874 ] an inspection and maintenance program consistent in accordance with Part I E 5 b;  
 875 or

876 (5) If the nontraditional permittee is a ~~subdivision of a local government such as a~~  
 877 ~~school board or other local government body, the permittee shall implement a post-~~  
 878 ~~construction stormwater runoff control program through compliance with 9VAC25-870~~  
 879 ~~or in accordance with more stringent local requirements, if applicable, state agency;~~  
 880 ~~public institution of higher education, including community colleges, colleges, and~~  
 881 ~~universities; or federal entity, and has not developed standards and specifications in~~  
 882 ~~accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of~~  
 883 ~~the Code of Virginia) and VSMP Regulations (9VAC25-870), the permittee shall~~  
 884 ~~implement a post-construction stormwater runoff control program through compliance~~  
 885 ~~with 9VAC25-870 and with the implementation of a maintenance and inspection~~  
 886 ~~program consistent with Part I E 5 b [ no later than 60 months after receiving permit~~  
 887 ~~coverage ] ; or~~

888 (6) If the nontraditional permittee is a school board or other local government body,  
 889 the permittee shall implement a post-construction stormwater runoff control program  
 890 through compliance with 9VAC25-870 or in accordance with more stringent local  
 891 requirements, if applicable, and with the implementation of a maintenance and  
 892 inspection program consistent with Part I E 5 b.

893 b. The permittee shall implement an inspection and maintenance program for those  
 894 stormwater management facilities owned or operated by the permittee ~~that discharges~~  
 895 ~~to the MS4 as follows:~~

896 (1) [ ~~The~~ Within six months of the permit effective date, the ] permittee shall develop  
 897 and maintain written inspection and maintenance procedures in order to ensure  
 898 adequate long-term operation and maintenance of its stormwater management  
 899 facilities. The permittee may use inspection and maintenance specifications available  
 900 from the Virginia Stormwater BMP Clearinghouse or inspection and maintenance

903 plans developed in accordance with the department's Stormwater Local Assistance  
 904 Fund (SLAF) guidelines;

905 (2) Employees and contractors implementing the stormwater program shall obtain the  
 906 appropriate certifications as required under the Virginia Stormwater Management Act  
 907 and its attendant regulations;

908 (3) The permittee shall inspect stormwater management facilities owned or operated  
 909 by the permittee no less frequently than once per year. The permittee may choose to  
 910 implement an alternative schedule to inspect these stormwater management facilities  
 911 based on facility type and expected maintenance needs provided that the alternative  
 912 schedule and rationale is included in the MS4 program plan. The alternative inspection  
 913 frequency shall be no less often than once per five years; and

914 ~~(3)~~ (4) If during the inspection of the stormwater management facility conducted in  
 915 accordance with Part I E 5 b (2), it is determined that maintenance is required, the  
 916 permittee shall conduct the maintenance in accordance with the written procedures  
 917 developed under Part I E 5 b (1).

918 c. For ~~these~~ traditional permittees described in Part I E 5 a (1) ~~or~~ (2), or (3), the  
 919 permittee shall:

920 (1) Implement an inspection and enforcement program for stormwater management  
 921 facilities not owned by the permittee (i.e., privately owned) that includes:

922 (a) An inspection frequency of no less often than once per five years for all privately  
 923 owned stormwater management facilities that discharge into the MS4; and

924 (b) [ Adequate ~~Require adequate~~ ] long-term operation and maintenance by the owner  
 925 of the stormwater management facility by requiring the owner to develop and record a  
 926 maintenance agreement, including an inspection schedule to the extent allowable  
 927 under state or local law or other legal mechanism;

928 (2) Utilize its legal authority for enforcement of the maintenance responsibilities in  
 929 accordance with 9VAC25-870-112 if maintenance is neglected by the owner; ~~and~~

930 (3) The permittee may develop and implement a progressive compliance and  
 931 enforcement strategy provided that the strategy is included in the MS4 program plan;

932 (4) The permittee may utilize the inspection reports provided by the owner of a  
 933 stormwater management facility as part of an inspection and enforcement program in  
 934 accordance with 9VAC25-870-114 C.

935 ~~d. The permittee shall maintain an electronic database or spreadsheet of all known~~  
 936 ~~permittee owned or permittee operated and privately owned stormwater management~~  
 937 ~~facilities that discharge into the MS4. The database shall also include all BMPs~~  
 938 ~~implemented by the permittee to meet the Chesapeake Bay TMDL load reduction as~~  
 939 ~~required in Part II A. A database shall include the following information as applicable:~~

940 ~~(1) The stormwater management facility or BMP type;~~

941 ~~(2) The stormwater management facility or BMPs location as latitude and longitude;~~

942 ~~(3) The acres treated by the stormwater management facility or BMP, including total~~  
 943 ~~acres, pervious acres, and impervious acres;~~

944 ~~(4) The date the facility was brought online (MM/YYYY). If the date brought online is~~  
 945 ~~not known, the permittee shall use June 30, 2005;~~

946 ~~(5) The 6th Order Hydrologic Unit Code in which the stormwater management facility~~  
 947 ~~is located;~~

948 ~~(6) Whether the stormwater management facility or BMP is owned or operated by the~~  
 949 ~~permittee or privately owned;~~

- 950 ~~(7) Whether or not the stormwater management facility or BMP is part of the~~  
 951 ~~permittee's Chesapeake Bay TMDL action plan required in Part II A or local TMDL~~  
 952 ~~action plan required in Part II B, or both;~~
- 953 ~~(8) If the stormwater management facility or BMP is privately owned, whether a~~  
 954 ~~maintenance agreement exists; and~~
- 955 ~~(9) The date of the permittee's most recent inspection of the stormwater management~~  
 956 ~~facility or BMP.~~
- 957 e. ~~The electronic database or spreadsheet shall be updated no later than 30 days after~~  
 958 ~~a new stormwater management facility is brought online, a new BMP is implemented~~  
 959 ~~to meet a TMDL load reduction as required in Part II, or discovered if it is an existing~~  
 960 ~~stormwater management facility.~~
- 961 f. ~~The permittee shall use the DEQ Construction Stormwater Database or other~~  
 962 ~~application as specified by the department to report each stormwater management~~  
 963 ~~facility installed after July 1, 2014, to address the control of post construction runoff~~  
 964 ~~from land disturbing activities for which the permittee is required to obtain a General~~  
 965 ~~VPDES Permit for Discharges of Stormwater from Construction Activities.~~
- 966 g. ~~No later than October 1 of each year, the permittee shall electronically report the~~  
 967 ~~stormwater management facilities and BMPs implemented between July 1 and June~~  
 968 ~~30 of each year using the DEQ BMP Warehouse and associated reporting template~~  
 969 ~~for any practices not reported in accordance with Part I E 5 f including stormwater~~  
 970 ~~management facilities installed to control post-development stormwater runoff from~~  
 971 ~~land disturbing activities less than one acre in accordance with the Chesapeake Bay~~  
 972 ~~Preservation Act regulations (9VAC25-830) and for which a General VPDES Permit~~  
 973 ~~for Discharges of Stormwater from Construction Activities was not required.~~
- 974 h. d. The MS4 program plan shall include:
- 975 (1) If the permittee implements a VSMP in accordance with Part I E 5 a (1) and, (2), or  
 976 (3):
- 977 (a) A copy of the VSMP approval letter issued by the department;
- 978 (b) Written inspection procedures and all associated documents utilized in the  
 979 inspection of privately owned stormwater management facilities; and
- 980 (c) Written procedures for compliance and enforcement of inspection and maintenance  
 981 requirements for privately owned ~~BMPs~~, stormwater management facilities;
- 982 (2) If the permittee implements a post-development stormwater runoff control program  
 983 in accordance with Part I E 5 a ~~(3)~~ (4):
- 984 (a) The most recently approved standards and specifications or if incorporated by  
 985 reference, the location where the standards and specifications can be viewed; and
- 986 (b) A copy of the most recent standards and specifications approval letter from the  
 987 department.;
- 988 (3) A description of the legal authorities utilized to ensure compliance with Part I E 5 a  
 989 for post-construction stormwater runoff control such as ordinances (provide citation as  
 990 appropriate), permits, orders, specific contract language, and interjurisdictional  
 991 agreements;
- 992 (4) Written inspection and maintenance procedures and all other associated template  
 993 documents utilized during inspection and maintenance of stormwater management  
 994 facilities owned or operated by the permittee; and
- 995 (5) The roles and responsibilities of each of the permittee's departments, divisions, or  
 996 subdivisions in implementing the post-construction stormwater runoff control program;

- 997 and (6) The stormwater management facility spreadsheet or database incorporated by  
 998 reference and the location or webpage address where the spreadsheet or database  
 999 can be reviewed.
- 1000 i. e. The annual report shall include the following information:
- 1001 (1) If the traditional permittee implements a Virginia Stormwater Management Program  
 1002 VSMP in accordance with Part I E 5 a (1) ~~and~~, (2), or (3):
- 1003 (a) The number of privately owned stormwater management facility inspections  
 1004 conducted; and
- 1005 (b) The number of enforcement actions initiated by the permittee to ensure long-term  
 1006 maintenance of privately owned stormwater management facilities including the type  
 1007 of enforcement action;
- 1008 (2) Total number of inspections conducted on stormwater management facilities  
 1009 owned or operated by the permittee;
- 1010 (3) A description of the significant maintenance, repair, or retrofit activities performed  
 1011 on the stormwater management facilities owned or operated by the permittee to ensure  
 1012 it continues to perform as designed. This does not include routine activities such as  
 1013 grass mowing or trash collection;
- 1014 (4) A For traditional permittees as specified in Part I E 5 a (1), a confirmation statement  
 1015 that the permittee submitted stormwater management facility information through the  
 1016 Virginia Construction Stormwater General Permit database for those land disturbing  
 1017 activities for which the permittee was required to obtain coverage under the General  
 1018 VPDES Permit for Discharges of Stormwater from Construction Activities in  
 1019 accordance with Part I E 5 f III B 1 or a statement that the permittee did not complete  
 1020 any projects requiring coverage under the General VPDES Permit for Discharges of  
 1021 Stormwater from Construction Activities (9VAC25-880); ~~and~~
- 1022 (5) A confirmation statement that the permittee electronically reported BMPs  
 1023 stormwater management facilities using the DEQ BMP Warehouse in accordance with  
 1024 Part I E 5 g ~~and the date on which the information was submitted III B 1 and 2; and~~
- 1025 (6) A confirmation statement that the permittee electronically reported stormwater  
 1026 management facilities inspected using the DEQ BMP Warehouse in accordance with  
 1027 Part III B 5.
- 1028 6. Pollution prevention and good housekeeping for facilities owned or operated by the  
 1029 permittee within the MS4 service area.
- 1030 a. The permittee shall maintain and implement written good housekeeping procedures  
 1031 for those activities listed in Part I E 6 b at facilities owned or operated by the permittee,  
 1032 such as road, street, and parking lot maintenance; equipment maintenance; and the  
 1033 application, storage, transport, and disposal of pesticides, herbicides, and fertilizers  
 1034 designed to meet the following objectives:
- 1035 (1) Prevent illicit discharges;
- 1036 (2) ~~Ensure the proper disposal~~ permittee staff or contractors properly dispose of waste  
 1037 materials, including landscape wastes and prevent waste materials from entering the  
 1038 MS4;
- 1039 (3) Prevent the discharge of wastewater or ~~permittee vehicle wash water or both~~ not  
 1040 authorized in accordance with 9VAC25-890-20 D 3 u, into the MS4 without  
 1041 authorization under a separate VPDES permit; and

1042 ~~(4) Require implementation of best management practices when discharging water~~  
 1043 ~~pumped from utility construction and maintenance activities; Minimize the pollutants in~~  
 1044 ~~stormwater runoff.~~

1045 b. The permittee shall develop and implement written good housekeeping procedures  
 1046 that meet the objectives established in Part I E 6 a for the following activities:

1047 (1) Road, street, sidewalk, and parking lot maintenance and cleaning;

1048 (a) Within 24 months of permit issuance, permittees that apply anti-icing and deicing  
 1049 agents shall update and implement procedures in accordance with Part I E to include  
 1050 implementation of best management practices for anti-icing and deicing agent  
 1051 application, transport, and storage;

1052 (b) Procedures developed in accordance with Part I E shall prohibit the application of  
 1053 any anti-icing or deicing agent containing urea or other forms of nitrogen or  
 1054 phosphorus;

1055 (2) Renovation and significant exterior maintenance activities (e.g., painting, [ ~~building~~  
 1056 ~~power washing,~~ ] roof resealing, and HVAC coil cleaning) not covered under a  
 1057 separate VSMP construction general permit. The permittee shall develop and  
 1058 implement procedures no later than 36 months after permit issuance;

1059 (3) Discharging water pumped from construction and maintenance activities [ not  
 1060 covered by another permit covering such activities ] ;

1061 (4) Temporary storage of landscaping materials;

1062 ~~(5) Minimize the pollutants in stormwater runoff from bulk storage areas (e.g., salt~~  
 1063 ~~storage, topsoil stockpiles) through the use of best management practices~~  
 1064 Maintenance of permittee owned or operated vehicles and equipment (i.e., prevent  
 1065 pollutant discharges from leaking permittee vehicles and equipment);

1066 ~~(6) Prevent pollutant discharge into the MS4 from leaking municipal automobiles and~~  
 1067 ~~equipment Application of materials, including pesticides and herbicides shall not~~  
 1068 ~~exceed manufacturer's recommendations; and~~

1069 ~~(7) Ensure that the application of materials, including fertilizers and pesticides, is~~  
 1070 ~~conducted in accordance with the Application of fertilizer shall not exceed maximum~~  
 1071 ~~application rates established by applicable nutrient management plans. For areas not~~  
 1072 ~~covered under nutrient management plans where fertilizer is applied, application rates~~  
 1073 ~~shall not exceed manufacturer's recommendations.~~

1074 ~~b. c. The permittee shall require through the use of contract language, training, written~~  
 1075 ~~procedures, or other measures within the permittee's legal authority that contractors~~  
 1076 ~~employed by the permittee and engaging in activities described in Part I E 6 b follow~~  
 1077 ~~established good housekeeping procedures and use appropriate control measures to~~  
 1078 ~~minimize the discharge of pollutants to the MS4.~~

1079 d. The written procedures established in accordance with Part I E 6 a and b shall be  
 1080 utilized as part of the employee training program at ~~Part I E 6 m,~~ and the permittee  
 1081 shall develop a written training plan for applicable field personnel that ensures the  
 1082 following:

1083 (1) Applicable field personnel shall receive training in the prevention, recognition, and  
 1084 elimination of illicit discharges no less often than once per 24 months;

1085 (2) Employees performing road, street, sidewalk, and parking lot maintenance shall  
 1086 receive training in good housekeeping procedures required under Part I E 6 b (1) no  
 1087 less often than once per 24 months;



1088 (3) Employees working in and around facility maintenance, public works, or  
1089 recreational facilities shall receive training in applicable Part I E 6 a and b good  
1090 housekeeping procedures required no less often than once per 24 months;

1091 (4) Employees working in and around high-priority facilities with a stormwater pollution  
1092 prevention plan (SWPPP) shall receive training in applicable site specific SWPPP  
1093 procedures no less often than once per 24 months;

1094 (5) Employees whose duties include emergency spill control and response shall be  
1095 trained in spill control and response. Emergency responders, such as firefighters and  
1096 law-enforcement officers, trained on the handling of spill control and response as part  
1097 of a larger emergency response training shall satisfy this training requirement and be  
1098 documented in the training plan; and

1099 (6) Employees and contractors hired by the permittee who apply pesticides and  
1100 herbicides shall be trained and certified in accordance with the Virginia Pesticide  
1101 Control Act (§ 3.2-3900 et seq. of the Code of Virginia). Certification by the Virginia  
1102 Department of Agriculture and Consumer Services (VDACS) Pesticide and Herbicide  
1103 Applicator program shall constitute compliance with this requirement. Contracts for the  
1104 application of pesticide and herbicides executed after the effective date of this permit  
1105 shall require contractor certification.

1106 e. The permittee shall maintain documentation of each training activity conducted by  
1107 the permittee to fulfill the requirements of Part I E 6 d for a minimum of three years  
1108 after training activity completion. The documentation shall include the following  
1109 information:

1110 (1) The date when applicable employees have completed the training activity;

1111 (2) The number of employees who have completed the training activity; and

1112 (3) The training objectives and good housekeeping procedures required under Part I  
1113 E 6 a covered by training activity.

1114 f. The permittee may fulfill the training requirements in Part I E 6 d, in total or in part,  
1115 through regional training programs involving two or more MS4 permittees; however,  
1116 the permittee shall remain responsible for ensuring compliance with the training  
1117 requirements.

1118 ~~c. Within 12 months of state permit coverage, the permittee shall identify which of the~~  
1119 ~~high-priority facilities have a high potential of discharging pollutants. g. [ Within 12~~  
1120 ~~months of permit coverage, the permittee shall identify any new high-priority facilities~~  
1121 ~~located in expanded 2020 census urban areas with a population of at least 50,000.~~

1122 h. Within 36 months of permit coverage, the permittee shall implement SWPPPs for  
1123 high-priority facilities meeting the conditions of Part I E 6 i and which are located in  
1124 expanded 2020 census urban areas with a population of at least 50,000.

1125 ~~i. ] The permittee shall maintain and implement a site specific stormwater pollution~~  
1126 ~~prevention plan (SWPPP) for each high-priority facility identified. High priority facilities~~  
1127 ~~that have a high potential for discharging pollutants are those facilities that are not~~  
1128 ~~covered under a as defined in 9VAC25-890-1 that does not have or require separate~~  
1129 ~~VPDES permit coverage, and which any of the following materials or activities occur~~  
1130 ~~and are expected to have exposure to stormwater resulting from rain, snow, snowmelt~~  
1131 ~~or runoff:~~

1132 (1) Areas where residuals from using, storing, or cleaning machinery or equipment  
1133 remain and are exposed to stormwater;

1134 (2) Materials or residuals on the ground or in stormwater inlets from spills or leaks;

- 1135 (3) Material handling equipment;
- 1136 (4) Materials or products that would be expected to be mobilized in stormwater runoff
- 1137 during loading or unloading or transporting activities (e.g., rock, salt, fill dirt);
- 1138 (5) Materials or products stored outdoors (except final products intended for outside
- 1139 use where exposure to stormwater does not result in the discharge of pollutants);
- 1140 (6) Materials or products that would be expected to be mobilized in stormwater runoff
- 1141 contained in open, deteriorated, or leaking storage drums, barrels, tanks, and similar
- 1142 containers;
- 1143 (7) Waste material except waste in covered, nonleaking containers (e.g., dumpsters);
- 1144 (8) Application or disposal of process wastewater (unless otherwise permitted); or
- 1145 (9) Particulate matter or visible deposits of residuals from roof stacks, vents, or both
- 1146 not otherwise regulated (i.e., under an air quality control permit) and evident in the
- 1147 stormwater runoff.
- 1148 ~~h. [ h. ]~~ Each SWPPP as required in Part I E 6 e g shall include the following:
- 1149 (1) A site description that includes a site map identifying all outfalls, direction of
- 1150 stormwater flows, existing source controls, and receiving water bodies;
- 1151 (2) A description and checklist of the potential pollutants and pollutant sources;
- 1152 (3) A description of all potential nonstormwater discharges;
- 1153 ~~(4) Written procedures designed to reduce and prevent pollutant discharge~~ A
- 1154 description of all structural control measures, such as stormwater management
- 1155 facilities and other pollutant source controls, applicable to SWPPP implementation
- 1156 (e.g., permeable pavement or oil-water separators that discharge to sanitary sewer
- 1157 are not applicable to the SWPPP), such as oil-water separators, and inlet protection
- 1158 designed to address potential pollutants and pollutant sources at risk of being
- 1159 discharged to the MS4;
- 1160 ~~(5) A description of the applicable training as required in Part I E 6 m~~ A maintenance
- 1161 schedule for all stormwater management facilities and other pollutant source controls
- 1162 applicable to SWPPP implementation described in Part I E 6 h (4);
- 1163 ~~(6) Procedures to conduct an annual comprehensive site compliance evaluation~~ Site
- 1164 specific written procedures designed to reduce and prevent pollutant discharge that
- 1165 incorporate by reference applicable good housekeeping procedures required under
- 1166 Part I E 6 a and b;
- 1167 ~~(7) A description of the applicable training as required in Part I E 6 d (4);~~
- 1168 (8) An inspection frequency of no less often than once per year and maintenance
- 1169 requirements for site specific source controls. The date of each inspection and
- 1170 associated findings and follow-up shall be logged in each SWPPP; and
- 1171 ~~(8) (9) A log of each unauthorized discharge, release, or spill incident reported in~~
- 1172 accordance with Part III IV G including the following information:
- 1173 (a) Date of incident;
- 1174 (b) Material discharged, released, or spilled; and
- 1175 (c) Estimated quantity discharged, released, or spilled;
- 1176 (10) A log of modifications to the SWPPP made as the result of any unauthorized
- 1177 discharge, release, or spill in accordance Part I E 6 j or changes in facility activities
- 1178 and operation requiring SWPPP modification; and
- 1179 (11) The point of contact for SWPPP implementation.

1180 e. [ ~~h. k.~~ ] No later than June 30 of each year, the permittee shall annually review any  
 1181 high-priority facility owned or operated by the permittee for which a an SWPPP has  
 1182 not been developed to determine if the facility ~~has a high potential to discharge~~  
 1183 ~~pollutants as~~ meets any of the conditions described in Part I E 6 e g. If the facility is  
 1184 determined to ~~be a high-priority facility with a high potential to discharge pollutants~~  
 1185 need an SWPPP, the permittee shall develop a an SWPPP meeting the requirements  
 1186 of Part I E 6 d h no later than December 31 of that same year. The permittee shall  
 1187 maintain a list of all high-priority facilities owned or operated by the permittee not  
 1188 required to maintain an SWPPP in accordance with Part I E 6 g and this list shall be  
 1189 available upon request.

1190 f. [ ~~h. l.~~ ] The permittee shall review the contents of any site specific SWPPP no later  
 1191 than 30 days after any unauthorized discharge, release, or spill reported in accordance  
 1192 with Part III IV G to determine if additional measures are necessary to prevent future  
 1193 unauthorized discharges, releases, or spills. If necessary, the SWPPP shall be  
 1194 updated no later than 90 days after the unauthorized discharge.

1195 g. [ ~~k. m.~~ ] The SWPPP shall be kept at the high-priority facility ~~with a high potential to~~  
 1196 ~~discharge~~ and utilized as part of ~~staff~~ employee SWPPP training required in Part I E 6  
 1197 ~~m~~ d (4). The SWPPP and associated documents may be maintained as a hard copy  
 1198 or electronically as long as the documents are available to employees at the applicable  
 1199 site.

1200 h. [ ~~h. n.~~ ] If activities change at a facility such that the facility no longer meets the  
 1201 ~~criteria~~ definition of a high-priority facility ~~with a high potential to discharge pollutants~~  
 1202 ~~as described in Part I E 6 e~~, the permittee may remove the facility from the list of high-  
 1203 priority facilities with a high potential to discharge pollutants.

1204 i. [ ~~m. o.~~ ] If activities change at a facility such that the facility no longer meets the  
 1205 criteria requiring SWPPP coverage as described in Part I E 6 g, the permittee may  
 1206 remove the facility from the list of high-priority facilities that require SWPPP coverage.

1207 [ ~~n. p.~~ ] The permittee shall maintain and implement turf and landscape nutrient  
 1208 management plans that have been developed by a certified turf and landscape nutrient  
 1209 management planner in accordance with § 10.1-104.2 of the Code of Virginia on all  
 1210 lands owned or operated by the permittee where nutrients are applied to a contiguous  
 1211 area greater than one acre. If nutrients are being applied to achieve final stabilization  
 1212 of a land disturbance project, application shall follow the manufacturer's  
 1213 recommendations.

1214 [ g. Within 12 months of permit coverage, the permittee shall identify contiguous areas  
 1215 greater than one acre located in expanded 2020 census urban areas with population  
 1216 of at least 50,000 and within the permittee's MS4 service area requiring turf and  
 1217 landscape nutrient management plans.

1218 r. Within 36 months of permit coverage, the permittee shall implement turf and  
 1219 landscape nutrient management plans on contiguous areas greater than one acre  
 1220 located in expanded 2020 Census urban areas with a population of least 50,000 and  
 1221 within the permittee's MS4 service area. ]

1222 ~~j. Permittees~~ [ ~~e. s.~~ ] If nutrients are being applied to achieve final stabilization of a land  
 1223 disturbance project, application shall follow the manufacturer's recommendations. For  
 1224 newly established turf where nutrients are applied to a contiguous area greater than  
 1225 one acre, the permittee shall implement a nutrient management plan no later than six  
 1226 months after the site achieves final stabilization.

1227 [ ~~p. t.~~ ] Nutrient management plans developed in accordance with Part I E 6 n shall be  
 1228 submitted to the Department of Conservation and Recreation (DCR) for approval.

1229 [ ~~g. u.~~ ] Nutrient management plans that are expired as of the effective date of this  
1230 permit shall be submitted to DCR for renewal within six months after the effective date  
1231 of this permit. Thereafter, all nutrient management plans shall be submitted to DCR at  
1232 least 30 days prior to nutrient management plan expiration. Within 36 months of permit  
1233 coverage, no nutrient management plans maintained by the permittee in accordance  
1234 with Part I E 6 n shall be expired due to DCR documented noncompliance with  
1235 4VAC50-85-130 provided to the permittee.

1236 [ ~~f. v.~~ ] Nutrient management plans may be maintained as a hard copy or electronically  
1237 as long as the documents are available to employees at the applicable site.

1238 [ ~~s. w.~~ ] Nontraditional permittees with lands regulated under § 10.1-104.4 of the Code  
1239 of Virginia, including state agencies, state colleges and universities, and other state  
1240 government entities, shall continue to implement turf and landscape nutrient  
1241 management plans in accordance with this statutory requirement.

1242 ~~k. The permittee shall not apply any deicing agent containing urea or other forms of~~  
1243 ~~nitrogen or phosphorus to parking lots, roadways, and sidewalks, or other paved~~  
1244 ~~surfaces.~~

1245 ~~l. The permittee shall require through the use of contract language, training, standard~~  
1246 ~~operating procedures, or other measures within the permittee's legal authority that~~  
1247 ~~contractors employed by the permittee and engaging in activities with the potential to~~  
1248 ~~discharge pollutants use appropriate control measures to minimize the discharge of~~  
1249 ~~pollutants to the MS4.~~

1250 ~~m. The permittee shall develop a training plan in writing for applicable staff that~~  
1251 ~~ensures the following:~~

1252 ~~(1) Field personnel receive training in the recognition and reporting of illicit discharges~~  
1253 ~~no less than once per 24 months;~~

1254 ~~(2) Employees performing road, street, and parking lot maintenance receive training~~  
1255 ~~in pollution prevention and good housekeeping associated with those activities no less~~  
1256 ~~than once per 24 months;~~

1257 ~~(3) Employees working in and around maintenance, public works, or recreational~~  
1258 ~~facilities receive training in good housekeeping and pollution prevention practices~~  
1259 ~~associated with those facilities no less than once per 24 months;~~

1260 ~~(4) Employees and contractors hired by the permittee who apply pesticides and~~  
1261 ~~herbicides are trained or certified in accordance with the Virginia Pesticide Control Act~~  
1262 ~~(§ 3.2-3900 et seq. of the Code of Virginia). Certification by the Virginia Department of~~  
1263 ~~Agriculture and Consumer Services (VDACS) Pesticide and Herbicide Applicator~~  
1264 ~~program shall constitute compliance with this requirement;~~

1265 ~~(5) Employees and contractors serving as plan reviewers, inspectors, program~~  
1266 ~~administrators, and construction site operators obtain the appropriate certifications as~~  
1267 ~~required under the Virginia Erosion and Sediment Control Law and its attendant~~  
1268 ~~regulations;~~

1269 ~~(6) Employees and contractors implementing the stormwater program obtain the~~  
1270 ~~appropriate certifications as required under the Virginia Stormwater Management Act~~  
1271 ~~and its attendant regulations; and~~

1272 ~~(7) Employees whose duties include emergency response have been trained in spill~~  
1273 ~~response. Training of emergency responders such as firefighters and law enforcement~~  
1274 ~~officers on the handling of spill releases as part of a larger emergency response~~  
1275 ~~training shall satisfy this training requirement and be documented in the training plan.~~

- 1276 n. ~~The permittee shall maintain documentation of each training event conducted by~~  
 1277 ~~the permittee to fulfill the requirements of Part I E 6 m for a minimum of three years~~  
 1278 ~~after the training event. The documentation shall include the following information:~~
- 1279 ~~(1) The date of the training event;~~  
 1280 ~~(2) The number of employees attending the training event; and~~  
 1281 ~~(3) The objective of the training event.~~
- 1282 o. ~~The permittee may fulfill the training requirements in Part I E 6 m, in total or in part,~~  
 1283 ~~through regional training programs involving two or more MS4 permittees; however,~~  
 1284 ~~the permittee shall remain responsible for ensuring compliance with the training~~  
 1285 ~~requirements.~~
- 1286 p. ~~[ t. x. ]~~ The MS4 program plan shall include:
- 1287 (1) ~~The~~ A list of written good housekeeping procedures for the operations and  
 1288 maintenance activities as required by Part I E 6 a and b;
- 1289 (2) A list of all high-priority facilities owned or operated by the permittee required to  
 1290 maintain an SWPPP in accordance with Part I E 6 e, and whether or not the facility  
 1291 has a high potential to discharge g that includes the facility name, facility location, and  
 1292 the location of the SWPPP hardcopy or electronic document being maintained. The  
 1293 SWPPP for each high-priority facility shall be incorporated by reference;
- 1294 (3) A list of ~~lands~~ locations for which turf and landscape nutrient management plans  
 1295 are required in accordance with Part I E 6 ~~i and j~~ n and s, including the following  
 1296 information:
- 1297 (a) The total acreage ~~on which nutrients are applied~~ covered by each nutrient  
 1298 management plan;
- 1299 (b) ~~The date of the most recently approved nutrient management plan for the property;~~  
 1300 and The DCR approval date and expiration date for each nutrient management plan;
- 1301 (c) The location ~~in which the individual turf and landscape nutrient management plan~~  
 1302 is located of the nutrient management plan hardcopy or electronic document being  
 1303 maintained;
- 1304 (4) A summary of mechanisms the permittee uses to ensure contractors working on  
 1305 behalf of the permittees implement the necessary good housekeeping and pollution  
 1306 prevention procedures, and stormwater pollution plans as appropriate; and
- 1307 (5) The written training plan as required in Part I E 6 ~~m~~ d.
- 1308 q. ~~[ t. y. ]~~ The annual report shall include the following:
- 1309 (1) A summary of any ~~operational~~ written procedures developed or modified in  
 1310 accordance with Part I E 6 a and b during the reporting period;
- 1311 (2) ~~A summary of any new SWPPPs developed in accordance Part I E 6 c during the~~  
 1312 ~~reporting period~~ A confirmation statement that all high-priority facilities were reviewed  
 1313 to determine if SWPPP coverage is needed during the reporting period;
- 1314 (3) ~~A summary of any SWPPPs modified in accordance with Part I E 6 f or the rationale~~  
 1315 ~~of any high priority facilities delisted in accordance with Part I E 6 h during the reporting~~  
 1316 ~~period~~ A list of any new SWPPPs developed in accordance Part I E 6 i during the  
 1317 reporting period;
- 1318 (4) A summary of any ~~new turf and landscape nutrient management plans developed~~  
 1319 ~~that includes: (a) Location and the total acreage of each land area; and (b) The date~~  
 1320 ~~of the approved nutrient management plan; and~~ SWPPPs modified in accordance with  
 1321 Part I E 6 j, 6 l, or 6 m;

- 1322 (5) The rationale of any high-priority facilities delisted in accordance with Part I E 6 l
- 1323 or m during the reporting period;
- 1324 (6) The status of each nutrient management plan as of June 30 of the reporting year
- 1325 (e.g., approved, submitted and pending approval, and expired);
- 1326 (7) A list of the training ~~events~~ activities conducted in accordance with Part I E 6 ~~m~~ d,
- 1327 including the following information:
- 1328 (a) The completion date of for the training ~~event~~ activity;
- 1329 (b) The number of employees who ~~attended~~ completed the training ~~event~~ activity; and
- 1330 (c) The ~~objective~~ of objectives and good housekeeping procedures covered by the
- 1331 training ~~event~~ activity.

Part II

TMDL Special Conditions

A. Chesapeake Bay TMDL special condition.

1335 1. The Commonwealth in its Phase I ~~and~~, Phase II, ~~and~~ Phase III Chesapeake Bay TMDL

1336 Watershed Implementation Plans (WIPs) committed to a phased approach for MS4s,

1337 affording MS4 permittees up to three full five-year permit cycles to implement necessary

1338 reductions. This permit is consistent with the Chesapeake Bay TMDL and the Virginia

1339 Phase I ~~and~~, Phase II ~~WIPs~~, ~~and~~ Phase III ~~WIPs~~ to meet the Level 2 (L2) scoping run for

1340 existing developed lands as it represents an implementation of an additional ~~35%~~ 60% of

1341 L2 as specified in the ~~2010~~ Phase I ~~and~~, Phase II, ~~and~~ Phase III WIPs. In combination with

1342 the ~~5.0%~~ 40% reduction of L2 that has already been achieved, a total reduction ~~at the end~~

1343 ~~of this permit term~~ no later than October 31, 2028, of ~~40%~~ 100% of L2 [ ~~will~~ shall ] be

1344 achieved. Conditions of future permits will be consistent with the TMDL or WIP conditions

1345 in place at the time of permit issuance.

Table 3a								
Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the James River, Lynnhaven, and Little Creek Basins								
		A	B	C	D	E	F <u>E</u>	G <u>E</u>
Pollutant	Subsource	Loading rate (lbs/ac/yr) <sup>1</sup>	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres) <sup>2</sup>	Load(lbs/yr) <sup>3</sup>	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	Percentage of L2 required reduction by 6/30/2023	40% <u>100%</u> cumulative reduction Required by 6/30/2023 <u>10/31/2028</u> (lbs/yr) <sup>4</sup>	Sum of 40% <u>100%</u> cumulative reduction (lb/yr) <sup>5</sup>
Nitrogen	Regulated	9.39			9%	40%		

	urban impervious							
	Regulated urban pervious	6.99			6%	40%		
Phosphorus	Regulated urban impervious	1.76			16%	40%		
	Regulated urban pervious	0.5			7.25%	40%		
Total suspended solids	Regulated urban impervious	676.94			20%	40%		
	Regulated urban pervious	101.08			8.75%	40%		

<sup>1</sup>Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.

<sup>2</sup>To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

<sup>3</sup>Column C = Column A x Column B.

<sup>4</sup>Column ~~F~~ E = Column C x Column D ~~x Column E~~.

<sup>5</sup>Column ~~G~~ E = The sum of the subsources cumulative reduction required by ~~6/30/23~~ 10/31/2028 (lbs/yr) as calculated in Column ~~F~~ E.

1346 2. The following definitions apply to Part II of this state permit for the purpose of the  
 1347 Chesapeake Bay TMDL special condition for discharges in the Chesapeake Bay  
 1348 Watershed:

1349 "Existing sources" means pervious and impervious urban land uses served by the MS4  
 1350 as of June 30, 2009.

1351 "New sources" means pervious and impervious urban land uses served by the MS4  
 1352 developed or redeveloped on or after July 1, 2009.

1353 "Pollutants of concern" or "POC" means total nitrogen, and total phosphorus, and total  
 1354 suspended solids.

1355 "Transitional sources" means regulated land disturbing activities that are temporary in  
 1356 nature and discharge through the MS4.

1357 3. Reduction requirements for permittees previously covered under the General VPDES  
 1358 Permit for Discharges of Stormwater from MS4 effective November 1, 2018. No later than  
 1359 the expiration date of this permit October 31, 2028, the permittee shall reduce the load of  
 1360 total nitrogen, and total phosphorus, and total suspended solids from existing developed  
 1361 lands served by the MS4 as of June 30, 2009, within the 2010 Census urbanized areas  
 1362 by at least ~~40%~~ 100% of the Level 2 (L2) Scoping Run Reductions. The ~~40%~~ 100%  
 1363 reduction is the sum of (i) the first phase reduction of 5.0% of the L2 Scoping Run  
 1364 Reductions based on the lands located within the 2000 Census urbanized areas required  
 1365 by June 30, 2018; (ii) the second phase reduction of at least 35% of the L2 Scoping Run  
 1366 based on lands within the 2000 Census urbanized areas required by June 30, 2023; and  
 1367 (iii) the second phase reduction of at least 40% of the L2 Scoping Run, which shall only  
 1368 apply to the additional lands that were added by the 2010 expanded Census urbanized  
 1369 areas required by June 30, 2023; and (iv) the third phase reduction of least 60% of the L2  
 1370 Scoping Run based on lands within the 2000 and 2010 expanded Census urbanized areas  
 1371 required by October 31, 2028. The required reduction shall be calculated using Tables 3a,  
 1372 3b, 3c, and 3d ~~below~~ as applicable:

Table 3b Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the Potomac River Basin								
		A	B	C	D	E	F E	G E
Pollutant	Subsource	Loading rate (lbs/ac/yr) <sup>1</sup>	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres) <sup>2</sup>	Load (lbs/yr) <sup>3</sup>	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	Percentage of L2 required reduction by 6/30/2023	40% <u>100%</u> cumulative reduction required by 6/30/2023 <u>10/31/2028</u> (lbs/yr) <sup>4</sup>	Sum of 40% <u>100%</u> cumulative reduction (lb/yr) <sup>5</sup>
Nitrogen	Regulated urban impervious	16.86			9%	40%		
	Regulated	10.07			6%	40%		



	urban pervious							
Phosphorus	Regulated Urban Impervious	1.62			16%	40%		
	Regulated urban pervious	0.41			7.25%	40%		
Total suspended solids	Regulated urban impervious	1171.32			20%	40%		
	Regulated urban pervious	175.8			8.75%	40%		

<sup>1</sup>Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2

<sup>2</sup>To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

<sup>3</sup>Column C = Column A x Column B.

<sup>4</sup>Column F = Column C x Column D ~~x Column E~~.

<sup>5</sup>Column G = The sum of the subsource cumulative reduction required by ~~6/30/23~~ 10/31/2028 (lbs/yr) as calculated in Column F.

Table 3c  
Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the Rappahannock River Basin

		A	B	C	D	E	<u>F</u>	<u>G</u>
Pollutant	Subsource	Loading rate (lbs/ac/yr) <sup>1</sup>	Existing developed lands as of 6/30/09 served by the MS4	Load (lbs/yr) <sup>3</sup>	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	Percentage of L2 required reduction by 6/30/2023	40% <u>100%</u> cumulative reduction Required by 6/30/202	Sum of 40% <u>100%</u> cumulative reduction (lb/yr) <sup>5</sup>

			within the 2010 CUA (acres) <sup>2</sup>				<del>3</del> 10/31/20 28 (lbs/yr) <sup>4</sup>	
Nitrogen	Regulat ed urban impervio us	9.38			9%	40%		
	Regulat ed urban pervious	5.34			6%	40%		
Phosphor us	Regulat ed urban impervio us	1.41			16%	40%		
	Regulat ed urban pervious	0.38			7.25%	40%		
Total suspend ed-solids	Regulat ed urban impervio us	423.97			20%	40%		
	Regulat ed urban pervious	56.04			8.75%	40%		

<sup>1</sup>Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.

<sup>2</sup>To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

<sup>3</sup>Column C = Column A x Column B.

<sup>4</sup>Column ~~F~~ E = Column C x Column D x ~~Column E~~.

<sup>5</sup>Column ~~G~~ F = The sum of the subsource cumulative reduction required by ~~6/30/23~~ 10/31/2028 (lbs/yr) as calculated in Column ~~F~~ E.

Table 3d Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the York River and Poquoson Coastal Basin								
		A	B	C	D	E	F	G
Pollutant	Subsource	Loading rate (lbs/ac/yr) <sup>1</sup>	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres) <sup>2</sup>	Load (lbs/yr) <sup>3</sup>	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	Percentage of L2 required reduction by 6/30/2023	40% 100% cumulative reduction required by 6/30/2023 10/31/2028 (lbs/yr) <sup>4</sup>	Sum of 40% 100% cumulative reduction (lb/yr) <sup>5</sup>
Nitrogen	Regulated urban impervious	7.31			9%	40%		
	Regulated urban pervious	7.65			6%	40%		
Phosphorus	Regulated urban impervious	1.51			16%	40%		
	Regulated urban pervious	0.51			7.25%	40%		
Total suspended solids	Regulated urban impervious	456.68			20%	40%		
	Regulated	72.78			8.75%	40%		

	urban pervious						
<p><sup>1</sup>Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.</p> <p><sup>2</sup>To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.</p> <p><sup>3</sup>Column C = Column A x Column B.</p> <p><sup>4</sup>Column <del>F</del> <u>E</u> = Column C x Column D <del>x Column E</del>.</p> <p><sup>5</sup>Column <del>G</del> <u>F</u> = The sum of the subsorce cumulative reduction required by <del>6/30/23</del> <u>10/31/2028</u> (lbs/yr) as calculated in Column <del>F</del> <u>E</u>.</p>							

- 1376 4. No later than ~~the expiration date of this permit October 31, 2028~~, the permittee shall
- 1377 offset ~~40%~~ 100% of the increased loads from new sources initiating construction between
- 1378 July 1, 2009, and ~~June 30, 2019~~ October 31, 2023, and designed in accordance with
- 1379 9VAC25-870 Part II C (9VAC25-870-93 et seq.) if the following conditions apply:
- 1380 a. The activity disturbed one acre or greater; and
- 1381 b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is
- 1382 equivalent to an average land cover condition of 16% impervious cover.
- 1383 The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent pollutant load
- 1384 for new sources of nitrogen ~~and total suspended solids for new sources~~ meeting the
- 1385 requirements of this condition.
- 1386 5. No later than ~~the expiration date of this permit October 31, 2028~~, the permittee shall
- 1387 offset the increased loads from projects grandfathered in accordance with 9VAC25-870-
- 1388 48 that begin construction after July 1, 2014, if the following conditions apply:
- 1389 a. The activity disturbs one acre or greater; and
- 1390 b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is
- 1391 equivalent to an average land cover condition of 16% impervious cover.
- 1392 The permittee shall utilize Table 4 ~~below~~ to develop the equivalent pollutant load for
- 1393 grandfathered sources of nitrogen ~~and total suspended solids for grandfathered sources~~
- 1394 meeting the requirements of this condition.

Table 4 Ratio of Phosphorus Loading Rate to Nitrogen and <del>Total Suspended Solids</del> Loading Rates for Chesapeake Bay Basins			
Ratio of Phosphorus to Other POCs (Based on All Land Uses 2009 Progress Run)	Phosphorus Loading Rate (lbs/acre)	Nitrogen Loading Rate (lbs/acre)	<del>Total Suspended Solids Loading Rate (lbs/acre)</del>
James River Basin, Lynnhaven, and Little Creek Basins	1.0	5.2	<del>420.9</del>
Potomac River Basin	1.0	6.9	<del>469.2</del>
Rappahannock River Basin	1.0	6.7	<del>320.9</del>

York River Basin (including Poquoson Coastal Basin)	1.0	9.5	531.6
---	-----	-----	-------

- 1395 6. Reductions achieved in accordance with the General VPDES Permit for Discharges of  
1396 Stormwater from Small Municipal Separate Storm Sewer Systems effective July 1, 2013,  
1397 and November 1, 2018, shall be applied toward the total reduction requirements to  
1398 demonstrate compliance with Part II A 3, A 4, and A 5.
- 1399 7. 40% of L2 reductions for total nitrogen and total phosphorus shall [ at a minimum, ] be  
1400 maintained by the permittee during the permit term.
- 1401 8. Reductions shall be achieved in each river basin as calculated in Part II A 3 or for  
1402 reductions in accordance with Part II A 4 and A 5 in the basin in which the new source or  
1403 grandfathered project occurred.
- 1404 ~~8.~~ 9. Loading and reduction values greater than or equal to 10 pounds calculated in  
1405 accordance with Part II A 3, A 4, and A 5 shall be calculated and reported to the nearest  
1406 pound without regard to mathematical rules of precision. Loading and reduction values of  
1407 less than 10 pounds reported in accordance with Part II A 3, A 4, and A 5 shall be  
1408 calculated and reported to two significant digits.
- 1409 9. 10. Reductions required in Part II A 3, A 4, and A 5 shall be achieved through one or  
1410 more of the following:
- 1411 a. BMPs approved by the Chesapeake Bay Program;  
1412 b. BMPs approved by the department; or  
1413 c. A trading program described in Part II A 10.
- 1414 ~~10.~~ 11. The permittee may acquire and use total nitrogen and total phosphorus credits in  
1415 accordance with § 62.1-44.19:21 of the Code of Virginia ~~and total suspended solids in~~  
1416 ~~accordance with § 62.1-44.19:21.1 of the Code of Virginia~~ for purposes of compliance with  
1417 the required reductions in Table 3a, Table 3b, Table 3c, and Table 3d of Part II A 3; Part  
1418 II A 4; and Part II A 5, provided the use of credits has been approved by the department.  
1419 The exchange of credits is subject to the following requirements:
- 1420 a. The credits are generated and applied to a compliance obligation in the same  
1421 calendar year;  
1422 b. The credits are generated and applied to a compliance obligation in the same  
1423 tributary;  
1424 c. The credits are acquired no later than June 1 immediately following the calendar  
1425 year in which the credits are applied;  
1426 d. No later than June 1 immediately following the calendar year in which the credits  
1427 are applied, the permittee certifies on an MS4 Nutrient Credit Acquisition Form that  
1428 the permittee has acquired the credits; and
- 1429 e. Total nitrogen and total phosphorus credits shall be either point source credits  
1430 generated by point sources covered by the Watershed Permit for Total Nitrogen and  
1431 Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed  
1432 general permit issued pursuant to § 62.1-44.19:14 of the Code of Virginia; or nonpoint  
1433 source credits certified pursuant to § 62.1-44.19:20 of the Code of Virginia; ;
- 1434 ~~f. Sediment credits shall be derived from one of the following:~~
- 1435 ~~(1) Implementation of BMP in a defined area outside of an MS4 service area, in which~~  
1436 ~~case the necessary baseline sediment reduction for such defined area shall be~~  
1437 ~~achieved prior to the permittee's use of additional reductions as credit; or~~

- 1438 ~~(2) A point source wasteload allocation established by the Chesapeake Bay total~~  
 1439 ~~maximum daily load, in which case the credit is the difference between the wasteload~~  
 1440 ~~allocation specified as an annual mass load and any lower monitored annual mass~~  
 1441 ~~load that is discharged as certified on an MS4 Sediment Credit Acquisition Form.~~
- 1442 ~~g. Sediment credits shall not be associated with phosphorus credits used for~~  
 1443 ~~compliance with the stormwater nonpoint nutrient runoff water quality criteria~~  
 1444 ~~established pursuant to § 62.1-44.15:28 of the Code of Virginia.~~
- 1445 ~~11. No later than 12 months after the permit effective date, the permittee shall submit an~~  
 1446 ~~updated Chesapeake Bay TMDL action plan for the reductions required in Part II A 3, A~~  
 1447 ~~4, and A 5 that includes the following information:~~
- 1448 ~~a. Any new or modified legal authorities, such as ordinances, permits, policy, specific~~  
 1449 ~~contract language, orders, and interjurisdictional agreements, implemented or needing~~  
 1450 ~~to be implemented to meet the requirements of Part II A 3, A 4, and A 5.~~
- 1451 12. Chesapeake Bay TMDL action plan requirements.
- 1452 a. Permittees applying for initial coverage under this general permit shall submit a draft  
 1453 first phase Chesapeake Bay TMDL action plan to the department no later than October  
 1454 31, 2028, unless the department grants a later date. The required reduction shall be  
 1455 calculated using Tables 3a, 3b, 3c, and 3d as applicable. The first phase action plan  
 1456 shall achieve a minimum reduction of least 40% of the L2 Scoping Run based on lands  
 1457 within the 2000 and 2010 expanded Census urbanized areas no later than October  
 1458 31, 2033. The action plan shall include the following information:
- 1459 ~~b. (1) The load and cumulative reduction calculations for each river basin calculated~~  
 1460 ~~in accordance with Part II A 3, A 4, and A 5 [ - ; ]~~
- 1461 ~~c. The total reductions achieved as of July 1, 2018, for each pollutant of concern in~~  
 1462 ~~each river basin.~~
- 1463 ~~d. A list of BMPs implemented prior to July 1, 2018, to achieve reductions associated~~  
 1464 ~~with the Chesapeake Bay TMDL including:~~
- 1465 ~~(1) The date of implementation; and~~  
 1466 ~~(2) The reductions achieved.~~
- 1467 ~~e. (2) The BMPs to be implemented by the permittee prior to the expiration of this~~  
 1468 ~~permit to meet the cumulative achieve 40% of the reductions calculated in Part II A 3,~~  
 1469 ~~A 4, and A 5, including as applicable 13 a:~~
- 1470 ~~(1) (a) Type of BMP;~~  
 1471 ~~(2) (b) Project name;~~  
 1472 ~~(3) (c) Location;~~  
 1473 ~~(4) (d) Percent removal efficiency for each pollutant of concern; and~~  
 1474 ~~(5) (e) Calculation of the reduction expected to be achieved by the BMP calculated~~  
 1475 ~~and reported in accordance with the methodologies established in Part II A § 9 for~~  
 1476 ~~each pollutant of concern; [ and ]~~
- 1477 [ (3) A preliminary schedule for implementation of the BMPs included in the  
 1478 Chesapeake Bay TMDL action plan; and
- 1479 (4) A summary of any comments received as a result of public participation required  
 1480 in Part II A 14, the permittee's response, identification of any public meetings to  
 1481 address public concerns, and any revisions made to Chesapeake Bay TMDL action  
 1482 plan as a result of public participation. ]

- 1483 ~~f. A summary of any comments received as a result of public participation required in~~  
 1484 ~~Part II A 12, the permittee's response, identification of any public meetings to address~~  
 1485 ~~public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a~~  
 1486 ~~result of public participation.~~
- 1487 12. b. For permittees previously covered under the General VPDES Permit for the  
 1488 Discharge of Stormwater from MS4 effective November 1, 2018, no later than 12  
 1489 months after the permit effective date, the permittee shall submit a third phase  
 1490 Chesapeake Bay TMDL action plan for the reductions required in Part II A 3, A 4, and  
 1491 A 5 that includes the following information:
- 1492 (1) Any new or modified legal authorities, such as ordinances, permits, policy, specific  
 1493 contract language, orders, and interjurisdictional agreements, implemented or needing  
 1494 to be implemented to meet the requirements of Part II A 3, A 4, and A 5.
- 1495 (2) The load and cumulative reduction calculations for each river basin calculated in  
 1496 accordance with Part II A 3, A 4, and A 5.
- 1497 (3) The total reductions achieved as of November 1, 2023, for each pollutant of  
 1498 concern in each river basin.
- 1499 (4) A list of BMPs implemented prior to November 1, 2023, to achieve reductions  
 1500 associated with the Chesapeake Bay TMDL, including:
- 1501 (a) The date of implementation; and  
 1502 (b) The reductions achieved.
- 1503 (5) The BMPs to be implemented by the permittee within 60 months of the effective  
 1504 date of this permit to meet the cumulative reductions calculated in Part II A 3, A 4, and  
 1505 A 5, including as applicable:
- 1506 (a) Type of BMP;  
 1507 (b) Project name;  
 1508 (c) Location;  
 1509 (d) Percent removal efficiency for each pollutant of concern; [ and ]  
 1510 (e) Calculation of the reduction expected to be achieved by the BMP calculated and  
 1511 reported in accordance with the methodologies established in Part II A 9 for each  
 1512 pollutant of concern; and
- 1513 [ (f) A preliminary schedule for implementation of the BMPs included in the  
 1514 Chesapeake Bay TMDL action plan. ]
- 1515 (6) A summary of any comments received as a result of public participation required  
 1516 in Part II A 13, the permittee's response, identification of any public meetings to  
 1517 address public concerns, and any revisions made to Chesapeake Bay TMDL action  
 1518 plan as a result of public participation.
- 1519 13. Prior to submittal of the action plan required in Part II A 44 12 [ a and ] b, [ the permittee  
 1520 permittees ] shall provide an opportunity for public comment for no fewer than 15 days on  
 1521 the additional BMPs proposed to meet the reductions not previously approved by the  
 1522 department in the first third phase Chesapeake Bay TMDL action plan for no less than 15  
 1523 days.
- 1524 ~~13. For each reporting period, the corresponding annual report shall include the following~~  
 1525 ~~information:~~
- 1526 [ 14. Chesapeake Bay TMDL implementation annual status report. ]
- 1527 ~~a. A list of BMPs implemented during the reporting period but not reported to the DEQ~~  
 1528 ~~BMP Warehouse in accordance with Part I E 5 g and the estimated reduction of~~

1529 pollutants of concern achieved by each and reported in pounds per year; Permittees  
1530 previously covered under the General VPDES Permit for Discharges of Stormwater  
1531 from MS4 effective November 1, 2018, shall submit a Chesapeake Bay TMDL  
1532 implementation annual status report in a method (i.e., how the permittee must submit)  
1533 and format (i.e., how the report shall be laid out) as specified by the department no  
1534 later than October 1 of each year. The report shall cover the previous year from July  
1535 1 to June 30.

1536 b. If the permittee acquired credits during the reporting period to meet all or a portion  
1537 of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were  
1538 acquired; Following notification from the department of the start date for the required  
1539 electronic submission of Chesapeake Bay TMDL implementation annual status  
1540 reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after  
1541 that date shall be electronically submitted to the department in compliance with  
1542 9VAC25-31-1020 and this section. There shall be at least a three-month notice  
1543 provided between the notification from the department and the date after which such  
1544 forms and reports must be submitted electronically.

1545 c. The progress, using the final design efficiency of the BMPs, toward meeting the  
1546 required cumulative reductions for total nitrogen, total phosphorus, and total  
1547 suspended solids; and The year two Chesapeake Bay TMDL implementation annual  
1548 status report shall contain a summary of any public comments on the Chesapeake  
1549 Bay TMDL action plan received and how the permittee responded.

1550 d. A list of BMPs that are planned to be implemented during the next reporting period.  
1551 Each Chesapeake Bay TMDL implementation annual status report shall include the  
1552 following information:

1553 (1) A list of Chesapeake Bay TMDL action plan BMPs, not including annual practices,  
1554 implemented prior to the reporting period that includes the following information for  
1555 reported BMP:

1556 (a) The number of BMPs for each BMP type;

1557 (b) The estimated reduction of pollutants of concern achieved by each BMP type and  
1558 reported in pounds of pollutant reduction per year; and

1559 (c) A confirmation statement that the permittee electronically reported Chesapeake  
1560 Bay TMDL action plan BMPs inspected using the DEQ BMP Warehouse in accordance  
1561 with Part III B 5.

1562 (2) A list of newly implemented BMPs including annual practices implemented during  
1563 the reporting period that includes the following information for each reported BMP or  
1564 a statement that no BMPs were implemented during the reporting period:

1565 (a) The BMP type and a description of the location for each BMP;

1566 (b) The estimated reduction of pollutants of concern achieved by each BMP and  
1567 reported in pounds of pollutant reduction per year; and

1568 (c) A confirmation statement that the permittee electronically reported BMPs using the  
1569 DEQ BMP Warehouse in accordance with Part III B 3.

1570 e. If the permittee acquired credits during the reporting period to meet all or a portion  
1571 of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were  
1572 acquired.

1573 f. Pollutant load reductions generated by annual practices, such as street and storm  
1574 drain cleaning, shall only be applied to the compliance year in which the annual  
1575 practice was implemented.



1576 g. The progress, using the final design efficiency of the BMPs, toward meeting the  
 1577 required cumulative reductions for total nitrogen and total phosphorus.

1578 h. Any revisions made to the Chesapeake Bay TMDL action plan.

1579 i. A list of BMPs that are planned to be implemented during the next reporting period.

1580 [ 15. Within 60 months after permit issuance, the permittee shall update the Phase III  
 1581 Chesapeake Bay TMDL action plan to offset the increased loads from new sources  
 1582 initiating construction between July 1, 2009, and October 31, 2023, that are located in the  
 1583 expanded 2020 census urban areas with a population of at least 50,000, and within the  
 1584 permittee's MS4 service area, and designed in accordance with 9VAC25-870 Part II C  
 1585 (9VAC25-870-93 et seq.), if the following conditions apply:

1586 a. The activity disturbed one acre or greater; and

1587 b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is  
 1588 equivalent to an average land cover condition of 16% impervious cover.

1589 c. The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent nitrogen  
 1590 pollutant load for new sources meeting the requirements of this condition.

1591 16. Within 60 months after permit issuance, the permittee shall update the Phase III  
 1592 Chesapeake Bay TMDL action plan to offset the increased loads from projects  
 1593 grandfathered in accordance with 9VAC25-870-48 that are located in the expanded 2020  
 1594 Census urban areas with a population of least 50,000, and within the permittee's MS4  
 1595 service area, and began construction after July 1, 2014, if the following conditions apply:

1596 a. The activity disturbs one acre or greater; and

1597 b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is  
 1598 equivalent to an average land cover condition of 16% impervious cover.

1599 c. The permittee shall utilize Table 4 of Part II A 6 to develop the equivalent nitrogen  
 1600 pollutant load for grandfathered sources meeting the requirements of this condition. ]

1601 B. Local TMDL special condition.

1602 1. The permittee Permittees applying for initial coverage under this general permit shall  
 1603 develop a local TMDL action plan designed to reduce loadings for pollutants of concern if  
 1604 the permittee discharges the pollutants of concern to an impaired water for which a TMDL  
 1605 has been approved by the U.S. Environmental Protection Agency (EPA) prior to October  
 1606 31, 2023, and in which an individual or aggregate wasteload has been allocated to the  
 1607 permittee. The permittee shall develop action plans to meet the conditions of Part II B 4,  
 1608 B 5, B 6, B 7, and B 8 as applicable. Each local TMDL action plan shall be provided to the  
 1609 department no later than October 31, 2028, unless the department grants a later date.

1610 2. Permittees previously covered under the General VPDES Permit for Discharges of  
 1611 Stormwater from MS4 effective November 1, 2018, shall develop and maintain a local  
 1612 TMDL action plan designed to reduce loadings for pollutants of concern if the permittee  
 1613 discharges the pollutants of concern to an impaired water for which a TMDL has been  
 1614 approved by the U.S. Environmental Protection Agency (EPA) as described in Part II B 4  
 1615 a and 1 2 a and 2 b:

1616 a. For TMDLs approved by the EPA prior to July 1, 2013 2018, and in which an  
 1617 individual or aggregate wasteload has been allocated to the permittee, the permittee  
 1618 shall develop and initiate or update as applicable the previously approved local TMDL  
 1619 action plans to meet the conditions of Part II B-3, B 4, B-5, B 6, and B 7, and B 8, as  
 1620 applicable, no later than 18 months after the permit effective date and continue  
 1621 implementation of the action plan; and. Updated action plans shall include:

1622 (1) An evaluation of the results achieved by the previous action plan; and

1623 (2) Any adaptive management strategies incorporated into updated action plans based  
 1624 on action plan evaluation.

1625 b. For TMDLs approved by EPA on or after July 1, 2013 2018, and prior to ~~June 30,~~  
 1626 2018 October 31, 2023, and in which an individual or aggregate wasteload has been  
 1627 allocated to the permittee, the permittee shall develop and initiate implementation of  
 1628 action plans to meet the conditions of Part II ~~B-3, B 4, B 5, B 6, and B 7, and B 8,~~ as  
 1629 applicable for each pollutant for which wasteloads have been allocated to the  
 1630 permittee's MS4 no later than 30 months after the permit effective date.

1631 ~~2. 3.~~ The permittee shall complete implementation of the TMDL action plans as [ ~~seen as~~  
 1632 ~~practicable determined by the schedule~~ ]. TMDL action plans may be implemented in  
 1633 multiple phases over more than one permit cycle using the adaptive iterative approach  
 1634 provided adequate progress is achieved in the implementation of BMPs designed to  
 1635 reduce pollutant discharges in a manner that is consistent with the assumptions and  
 1636 requirements of the applicable TMDL.

1637 ~~3. 4.~~ Each local TMDL action plan developed by the permittee shall include the following:

- 1638 a. The TMDL project name;
- 1639 b. The EPA approval date of the TMDL;
- 1640 c. The wasteload allocated to the permittee (individually or in aggregate), and the
- 1641 corresponding percent reduction, if applicable;
- 1642 d. Identification of the significant sources of the pollutants of concern discharging to
- 1643 the permittee's MS4 [ ~~and~~ ] that are not covered under a separate VPDES permit. For
- 1644 the purposes of this requirement, a significant source of pollutants of concern means
- 1645 a discharge where the expected pollutant loading is greater than the average pollutant
- 1646 loading for the land use identified in the TMDL;
- 1647 e. The BMPs designed to reduce the pollutants of concern in accordance with ~~Parts~~
- 1648 Part II B-4, B 5, and B 6, B 7, and B 8;
- 1649 f. Any calculations required in accordance with Part II ~~B-4, B 5, or B 6, B 7, or B 8;~~
- 1650 g. For action plans developed in accordance with Part II ~~B-4 and B 5, B 6, and B 8,~~ an
- 1651 outreach strategy to enhance the public's education (including employees) on methods
- 1652 to eliminate and reduce discharges of the pollutants; and
- 1653 h. A schedule of anticipated actions planned for implementation during this permit
- 1654 term.

1655 ~~4. 5.~~ Bacterial TMDLs.

1656 a. ~~If the permittee is an approved VSMP authority, the permittee~~ Traditional permittees  
 1657 shall select and implement at least three of the strategies listed in Table 5 ~~below~~  
 1658 designed to reduce the load of bacteria to the MS4. Selection of the strategies shall  
 1659 correspond to sources identified in Part II B ~~3 4~~ d.

1660 b. ~~If the permittee is not an approved VSMP authority, the permittee~~ Nontraditional  
 1661 permittees shall select at least one strategy listed in Table 5 ~~below~~ designed to reduce  
 1662 the load of bacteria to the MS4 relevant to sources of bacteria applicable within the  
 1663 MS4 regulated service area. Selection of the strategies shall correspond to sources  
 1664 identified in Part II B ~~3 4~~ d.

Table 5 Strategies for Bacteria Reduction Stormwater Control/Management Strategy	
Source	Strategies (provided as an example and not meant to be all inclusive or limiting)

Domestic pets (dogs and cats)	<p>Provide signage to pick up dog waste, providing pet waste bags and disposal containers.</p> <p>Adopt and enforce pet waste ordinances or policies, or leash laws or policies.</p> <p>Place dog parks away from environmentally sensitive areas.</p> <p>Maintain dog parks by removing disposed of pet waste bags and cleaning up other sources of bacteria.</p> <p>Protect riparian buffers and provide unmanicured vegetative buffers along streams to dissuade stream access.</p>
Urban wildlife	<p>Educate the public on how to reduce food sources accessible to urban wildlife (e.g., manage restaurant dumpsters and grease traps, residential garbage, feed pets indoors).</p> <p>Install storm drain inlet or outlet controls.</p> <p>Clean out storm drains to remove waste from wildlife.</p> <p>Implement and enforce urban trash management practices.</p> <p>Implement rooftop disconnection programs or site designs that minimize connections to reduce bacteria from rooftops</p> <p>Implement a program for removing animal carcasses from roadways and properly disposing of the same (either through proper storage or through transport to a licensed facility).</p>
Illicit connections or illicit discharges to the MS4	<p>Implement an enhanced dry weather screening and illicit discharge, detection, and elimination program beyond the requirements of Part I E 3 to identify and remove illicit connections and identify leaking sanitary sewer lines infiltrating to the MS4 and implement repairs.</p> <p>Implement a program to identify potentially failing septic systems.</p> <p>Educate the public on how to determine whether their septic system is failing.</p> <p>Implement septic tank inspection and maintenance program.</p> <p>Implement an educational program beyond any requirements in Part I E 1 though E 6 to explain to citizens why they should not dump materials into the MS4.</p>
Dry weather urban flows (irrigations, <del>car washing</del> <u>car washing</u> , powerwashing, etc.)	<p>Implement public education programs to reduce dry weather flows from storm sewers related to lawn and park irrigation practices, <del>car washing</del> <u>car washing</u>, powerwashing and other nonstormwater flows.</p> <p>Provide irrigation controller rebates.</p> <p>Implement and enforce ordinances or policies related to outdoor water waste.</p> <p>Inspect commercial trash areas, grease traps, washdown practices, and enforce corresponding ordinances or policies.</p>

Birds (Canadian geese, gulls, pigeons, etc.)	Identify areas with high bird populations and evaluate deterrents, population controls, habitat modifications and other measures that may reduce bird-associated bacteria loading. Prohibit feeding of birds.
Other sources	Enhance maintenance of stormwater management facilities owned or operated by the permittee. Enhance requirements for third parties to maintain stormwater management facilities. Develop BMPs for locating, transporting, and maintaining portable toilets used on permittee-owned sites. Educate third parties that use portable toilets on BMPs for use. Provide public education on appropriate recreational vehicle dumping practices.

- 1665 ~~5.~~ 6. Local sediment, phosphorus, and nitrogen TMDLs.
- 1666 a. The permittee shall reduce the loads associated with sediment, phosphorus, or
- 1667 nitrogen through implementation of one or more of the following:
- 1668 (1) One or more of the BMPs from the Virginia Stormwater BMP Clearinghouse listed
- 1669 in 9VAC25-870-65 or other approved BMPs found on the Virginia Stormwater BMP
- 1670 Clearinghouse website;
- 1671 (2) One or more BMPs approved by the Chesapeake Bay Program. Pollutant load
- 1672 reductions generated by annual practices, such as street and storm drain cleaning,
- 1673 shall only be applied to the compliance year in which the annual practice was
- 1674 implemented; or
- 1675 (3) Land disturbance thresholds lower than Virginia's regulatory requirements for
- 1676 erosion and sediment control and post development stormwater management.
- 1677 b. The permittee may meet the local TMDL requirements for sediment, phosphorus,
- 1678 or nitrogen through BMPs implemented or sediment, phosphorus, or nitrogen credits
- 1679 acquired. BMPs implemented and nutrient and sediment credits acquired to meet the
- 1680 requirements of the Chesapeake Bay TMDL in Part II A may also be utilized to meet
- 1681 local TMDL requirements as long as the BMPs are implemented or the credits are
- 1682 generated in the watershed for which local water quality is impaired.
- 1683 c. The permittee shall calculate the anticipated load reduction achieved from each
- 1684 BMP and include the calculations in the action plan required in Part II B ~~3~~ 4 f.
- 1685 d. No later than 36 months after the effective date of this permit, the permittee shall
- 1686 submit to the department an update on the progress made toward achieving [ local
- 1687 TMDL ] action plan goals and the anticipated end dates by which the permittee will
- 1688 meet each ~~WLA~~ wasteload allocation for sediment, phosphorus, or nitrogen. The
- 1689 proposed end date may be developed in accordance with Part II B ~~2~~ 3.
- 1690 ~~6.~~ 7. Polychlorinated biphenyl (PCB) TMDLs.
- 1691 a. For each PCB TMDL action plan, the permittee shall include an inventory of
- 1692 potentially significant sources of PCBs owned or operated by the permittee that drains
- 1693 to the MS4 that includes the following information:
- 1694 (1) Location of the potential source;
- 1695 (2) Whether or not the potential source is from current site activities or activities
- 1696 previously conducted at the site that have been terminated (i.e., legacy activities); and

1697 (3) A description of any measures being implemented or to be implemented to prevent  
1698 exposure to stormwater and the discharge of PCBs from the site.

1699 b. If at any time during the term of this permit, the permittee discovers a previously  
1700 unidentified significant source of PCBs within the permittee's MS4 regulated service  
1701 area, the permittee shall notify DEQ in writing within 30 days of discovery.

1702 c. As part of its annual reporting requirements, the permittee shall submit results of  
1703 any action plan PCB monitoring or product testing conducted and any adaptive  
1704 management strategies that have been incorporated into the updated action plan  
1705 based upon monitoring or product testing results if the permittee has elected to perform  
1706 monitoring or product testing or both.

1707 8. Chloride TMDLs.

1708 a. [ ~~Traditional~~ No later than 36 months after the permit effective date, ] permittees  
1709 shall develop an anti-icing and deicing agent education and outreach strategy that  
1710 identifies target audiences for increasing awareness of anti-icing and deicing agent  
1711 application impacts on receiving waters and encourages implementation of enhanced  
1712 BMPs for application, handling, and storage of anti-icing and de-icing agents used for  
1713 snow and ice management.

1714 b. [ ~~Traditional permittee anti-icing~~ Anti-icing ] and deicing agent education and  
1715 outreach strategies shall contain a schedule to implement two or more of the strategies  
1716 listed in Part I E 1 d Table 1 per year to communicate to target audiences the  
1717 importance of responsible anti-icing and deicing agent application, transport, and  
1718 storage.

1719 c. No later than 36 months after permit issuance, the permittee shall review good  
1720 housekeeping procedures for anti-icing and deicing agent application, handling,  
1721 storage, and transport activities required under Part I E 6 b (1) (a) and identify a  
1722 minimum of two strategies for implementing enhanced BMPs that promote efficient  
1723 management and application of anti-icing and deicing agents while maintaining public  
1724 safety.

1725 ~~7.~~ 9. Prior to submittal of the action plan required in Part II B 4 2, the permittee shall provide  
1726 an opportunity for public comment ~~proposed~~ for no fewer than 15 days on the proposal  
1727 to meet the local TMDL action plan requirements for no less than 15 days.

1728 ~~8.~~ 10. The MS4 program plan as required by Part I B of this permit shall incorporate each  
1729 local TMDL action plan. Local TMDL action plans may be incorporated by reference into  
1730 the MS4 program plan provided that the program plan includes the date of the most recent  
1731 local TMDL action plan and identification of the location where a copy of the local TMDL  
1732 action plan may be obtained.

1733 ~~9.~~ 11. For each reporting period, each annual report shall include a summary of actions  
1734 conducted to implement each local TMDL action plan.

1735 C. Inspection and maintenance of ecosystem restoration projects used for TMDL compliance.

1736 1. Within 36 months of permit issuance the permittee shall develop and maintain written  
1737 inspection and maintenance procedures in order to ensure adequate long-term operation  
1738 and maintenance of ecosystem restoration projects as defined in 9VAC25-890-1 and  
1739 implemented as part of a TMDL action plan developed in accordance with Part II A, B, or  
1740 both. The permittee may utilize inspection and maintenance protocols developed by the  
1741 Chesapeake Bay Program or inspection and maintenance plans developed in accordance  
1742 with the department's Stormwater Local Assistance Fund (SLAF) guidelines.

1743 2. The permittee shall inspect ecosystem restoration projects owned or operated by the  
 1744 permittee and implemented as part of a current TMDL action plan developed in  
 1745 accordance with Part II A or B no less than once every 60 months.

1746 Part III

1747 Conditions Applicable to All State and VPDES Permits DEQ BMP Warehouse Reporting

1748 A. For the purpose of Part III of this permit, "best management practice" or "BMP" means a  
 1749 practice that achieves quantifiable nitrogen, phosphorus, or total suspended solids reductions,  
 1750 including stormwater management facilities, ecosystem restoration projects, annual practices,  
 1751 and other practices approved by the department for reducing nitrogen, phosphorus, and total  
 1752 suspended solids pollutants.

1753 B. No later than October 1 of each year the permittee shall electronically report BMPs  
 1754 implemented and inspected as applicable between July 1 and June 30 of each year using the  
 1755 DEQ BMP Warehouse.

1756 [ ~~1. Traditional permittees specified in Part I E 5 a (1) shall use the DEQ Construction~~  
 1757 ~~Stormwater Database or other application as specified by the department to report each~~  
 1758 ~~stormwater management facility installed after July 1, 2014, to address the control of~~  
 1759 ~~post-construction runoff from land disturbing activities for which the permittee is required~~  
 1760 ~~to obtain a General VPDES Permit for Discharges of Stormwater from Construction~~  
 1761 ~~Activities. ]~~

1762 [ ~~2. 1. ] The permittee shall use the associated reporting template for stormwater~~  
 1763 ~~management facilities not reported in accordance with Part III B 1, including stormwater~~  
 1764 ~~management facilities installed to control post-development stormwater runoff from land~~  
 1765 ~~disturbing activities less than one acre in accordance with the Chesapeake Bay~~  
 1766 ~~Preservation Area Designation and Management Regulations (9VAC25-830), if~~  
 1767 ~~applicable, and for which a General VPDES Permit for Discharges of Stormwater from~~  
 1768 ~~Construction Activities was not required.~~

1769 [ ~~3. 2. ] The permittee shall use the DEQ BMP Warehouse to report BMPs that were not~~  
 1770 ~~reported in accordance with Part III B 1 or B 2 and were implemented as part of a TMDL~~  
 1771 ~~action plan to achieve nitrogen, phosphorus, and total suspended solids reductions in~~  
 1772 ~~accordance with Part II A or B.~~

1773 [ ~~4. 3. ] The permittee shall use the DEQ BMP Warehouse to report any BMPs that were~~  
 1774 ~~not reported in accordance with Part III B 1, B 2, or B 3.~~

1775 [ ~~5. 4. ] The permittee shall use the DEQ BMP Warehouse to report the most recent~~  
 1776 ~~inspection date for BMPs in accordance with Part I E 5 b or 5 c, or in accordance with~~  
 1777 ~~Part II C and the most recent associated TMDL action plan.~~

1778 [ ~~5. Traditional permittees specified in Part I E 5 a (1) shall use the DEQ Construction~~  
 1779 ~~Stormwater Database or other application as specified by the department to report each~~  
 1780 ~~stormwater management facility installed after July 1, 2014, to address the control of~~  
 1781 ~~post-construction runoff from land disturbing activities for which the permittee is required~~  
 1782 ~~to obtain a General VPDES Permit for Discharges of Stormwater from Construction~~  
 1783 ~~Activities. ]~~

1784 C. The following information for each BMP reported in accordance with Part III B 1, B 2, B 3, or B  
 1785 4 shall be reported to the DEQ BMP Warehouse as applicable:

1786 1. The BMP type;

1787 2. The BMP location as decimal degree latitude and longitude;

1788 3. The acres treated by the BMP, including total acres and impervious acres;

- 1789 4. The date the BMP was brought online (MM/YYYY). If the date brought online is not  
 1790 known, the permittee shall use 06/2005;
- 1791 5. The 6th Order Hydrologic Unit Code in which the BMP is located;
- 1792 6. Whether the BMP is owned or operated by the permittee or privately owned;
- 1793 7. Whether or not the BMP is part of the permittee's Chesapeake Bay TMDL action plan  
 1794 required in Part II A or local TMDL action plan required in Part II B, or both;
- 1795 8. If the BMP is privately owned, whether a maintenance agreement exists;
- 1796 9. The date of the permittee's most recent inspection of the BMP; and
- 1797 10. Any other information specific to the BMP type required by the DEQ BMP Warehouse  
 1798 (e.g., linear feet of stream restoration).
- 1799 D. No later than October 1 of each year the DEQ BMP Warehouse shall be updated if an  
 1800 existing BMP is discovered between July 1 and June 30 that was not previously reported to the  
 1801 DEQ BMP Warehouse.

#### Part IV

##### Conditions Applicable to All State and VPDES Permits

1804 NOTE: Discharge monitoring is not required for compliance purposes by this general permit.  
 1805 If the operator chooses to monitor stormwater discharges for informational or screening purposes,  
 1806 the operator does not need to comply with the requirements of ~~Parts III~~ Part IV A, B, or C.

#### 1807 A. Monitoring.

- 1808 1. Samples and measurements taken for the purpose of monitoring shall be representative  
 1809 of the monitoring activity.
- 1810 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part  
 1811 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless  
 1812 other procedures have been specified in this state permit. Analyses performed according  
 1813 to test procedures approved under 40 CFR Part 136 shall be performed by an  
 1814 environmental laboratory certified under regulations adopted by the Department of  
 1815 General Services (1VAC30-45 or 1VAC30-46).
- 1816 3. The operator shall periodically calibrate and perform maintenance procedures on all  
 1817 monitoring and analytical instrumentation at intervals that will ensure accuracy of  
 1818 measurements.

#### 1819 B. Records.

- 1820 1. Monitoring records and reports shall include:
- 1821 a. The date, exact place, and time of sampling or measurements;
- 1822 b. The individuals who performed the sampling or measurements;
- 1823 c. The dates and times analyses were performed;
- 1824 d. The individuals who performed the analyses;
- 1825 e. The analytical techniques or methods used; and
- 1826 f. The results of such analyses.
- 1827 2. The operator shall retain records of all monitoring information, including all calibration  
 1828 and maintenance records and all original strip chart recordings for continuous monitoring  
 1829 instrumentation, copies of all reports required by this state permit, and records of all data  
 1830 used to complete the registration statement for this state permit, for a period of at least  
 1831 three years from the date of the sample, measurement, report, or request for coverage.  
 1832 This period of retention shall be extended automatically during the course of any

1833 unresolved litigation regarding the regulated activity or regarding control standards  
 1834 applicable to the operator, or as requested by the ~~board~~ department.

1835 C. Reporting monitoring results.

1836 1. The operator shall submit the results of the monitoring as may be performed in  
 1837 accordance with this state permit with the annual report unless another reporting schedule  
 1838 is specified elsewhere in this state permit.

1839 2. Monitoring results shall be reported on a discharge monitoring report (DMR); on forms  
 1840 provided, approved, or specified by the department; or in any format provided that the  
 1841 date, location, parameter, method, and result of the monitoring activity are included.  
 1842 Following notification from the department of the start date for the required electronic  
 1843 submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and  
 1844 reports submitted after that date shall be electronically submitted to the department in  
 1845 compliance with 9VAC25-31-1020 and this section. There shall be at least a three-month  
 1846 notice provided between the notification from the department and the date after which  
 1847 such forms and reports must be submitted electronically.

1848 3. If the operator monitors any pollutant specifically addressed by this state permit more  
 1849 frequently than required by this state permit using test procedures approved under 40 CFR  
 1850 Part 136 or using other test procedures approved by the U.S. Environmental Protection  
 1851 Agency or using procedures specified in this state permit, the results of this monitoring  
 1852 shall be included in the calculation and reporting of the data submitted in the DMR or  
 1853 reporting form specified by the department.

1854 4. Calculations for all limitations that require averaging of measurements shall utilize an  
 1855 arithmetic mean unless otherwise specified in this state permit.

1856 D. Duty to provide information. The operator shall furnish within a reasonable time, any  
 1857 information that the ~~board~~ department may request to determine whether cause exists for  
 1858 modifying, revoking and reissuing, or terminating this state permit or to determine compliance with  
 1859 this state permit. The ~~board,~~ department, or EPA may require the operator to furnish, upon  
 1860 request, such plans, specifications, and other pertinent information as may be necessary to  
 1861 determine the effect of the wastes from ~~his~~ the permittee's discharge on the quality of surface  
 1862 waters, or such other information as may be necessary to accomplish the purposes of the CWA  
 1863 and Virginia Stormwater Management Act. The operator shall also furnish to the ~~board,~~  
 1864 department, or EPA upon request, copies of records required to be kept by this state permit.

1865 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any  
 1866 progress reports on, interim and final requirements contained in any compliance schedule of this  
 1867 state permit shall be submitted no later than 14 days following each schedule date.

1868 F. Unauthorized stormwater discharges. Pursuant to § 62.1-44.5 of the Code of Virginia,  
 1869 except in compliance with a state permit issued by the department, it shall be unlawful to cause  
 1870 a stormwater discharge from a MS4.

1871 G. Reports of unauthorized discharges. Any operator of a ~~small~~ MS4 who discharges or  
 1872 causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or  
 1873 deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a  
 1874 reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part  
 1875 302, or § 62.1-44.34:19 of the Code of Virginia that occurs during a 24-hour period into or upon  
 1876 surface waters or who discharges or causes or allows a discharge that may reasonably be  
 1877 expected to enter surface waters shall notify the department of the discharge immediately (see  
 1878 Part IV I 4) upon discovery of the discharge, but in no case later than within 24 hours after said  
 1879 discovery. A written report of the unauthorized discharge shall be submitted to the department  
 1880 within five days of discovery of the discharge. The written report shall contain:



- 1881 1. A description of the nature and location of the discharge;  
 1882 2. The cause of the discharge;  
 1883 3. The date on which the discharge occurred;  
 1884 4. The length of time that the discharge continued;  
 1885 5. The volume of the discharge;  
 1886 6. If the discharge is continuing, how long it is expected to continue;  
 1887 7. If the discharge is continuing, what the expected total volume of the discharge will be;  
 1888 and  
 1889 8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present  
 1890 discharge or any future discharges not authorized by this state permit.

1891 Discharges reportable to the department under the immediate reporting requirements of other  
 1892 regulations are exempted from this requirement.

1893 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge,  
 1894 including a "bypass" (in Part III IV U) or "an upset," (in Part III IV V), should occur from a facility  
 1895 and the discharge enters or could be expected to enter surface waters, the operator shall promptly  
 1896 notify (see Part IV I 4), in no case later than within 24 hours, the department by telephone after  
 1897 the discovery of the discharge. This notification shall provide all available details of the incident,  
 1898 including any adverse effects on aquatic life and the known number of fish killed. The operator  
 1899 shall reduce the report to writing and shall submit it to the department within five days of discovery  
 1900 of the discharge in accordance with Part III IV I 2. Unusual and extraordinary discharges include  
 1901 any discharge resulting from:

- 1902 1. Unusual spillage of materials resulting directly or indirectly from processing operations;  
 1903 2. Breakdown of processing or accessory equipment;  
 1904 3. Failure or taking out of service some or all of the facilities; and  
 1905 4. Flooding or other acts of nature.

1906 I. Reports of noncompliance.

1907 1. The operator shall report any noncompliance which that may adversely affect surface  
 1908 waters or may endanger public health.

1909 ~~1. a.~~ [ ~~An oral A~~ ] report to the department shall be provided within 24 hours from the  
 1910 time the operator becomes aware of the circumstances. The following shall be  
 1911 included as information that shall be reported within 24 hours under ~~this subdivision~~  
 1912 Part IV I:

1913 ~~a.~~ (1) Any unanticipated bypass; and

1914 ~~b.~~ (2) Any upset that causes a discharge to surface waters.

1915 ~~2. b.~~ A written report shall be submitted within five days and shall contain:

1916 ~~a.~~ (1) A description of the noncompliance and its cause;

1917 ~~b.~~ (2) The period of noncompliance, including exact dates and times, and if the  
 1918 noncompliance has not been corrected, the anticipated time it is expected to continue;  
 1919 and

1920 ~~c.~~ (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the  
 1921 noncompliance. The department may waive the written report on a case-by-case basis  
 1922 for reports of noncompliance under Part III IV I if the [ ~~oral~~ ] report has been received  
 1923 within 24 hours and no adverse impact on surface waters has been reported.

1924 ~~3. 2.~~ The operator shall report all instances of noncompliance not reported under Part III  
 1925 ~~4 or 2 IV I 1 b,~~ in writing, as part of the annual reports that are submitted. The reports shall  
 1926 contain the information listed in Part III IV I 2.

1927 NOTE: ~~3.~~ The immediate (within 24 hours) reports required in Part III IV G, H, and I shall  
 1928 be made to the department. Reports may be made by telephone, email, ~~or fax, or online~~  
 1929 at [ <https://www.deq.virginia.gov/get-involved/pollution-respons>  
 1930 [https://www.deq.virginia.gov/our-programs/pollution-response/pollution-data-and-](https://www.deq.virginia.gov/our-programs/pollution-response/pollution-data-and-reporting)  
 1931 [reporting](https://www.deq.virginia.gov/our-programs/pollution-response/pollution-data-and-reporting) ]. For reports outside normal working hours, ~~leaving a recorded message shall~~  
 1932 ~~fulfill the immediate reporting requirement~~ the online portal shall be used. For  
 1933 emergencies, call the Virginia Department of Emergency Management ~~maintains a 24-~~  
 1934 ~~hour telephone service~~ Management's Emergency Operations Center (24-hours) at 1-800-  
 1935 468-8892.

1936 4. Where the operator becomes aware of a failure to submit any relevant facts, or submittal  
 1937 of incorrect information in any report, including a registrations statement, to the  
 1938 department, the operator shall promptly submit such facts or correct information.

1939 J. Notice of planned changes.

1940 1. The operator shall give notice to the department as soon as possible of any planned  
 1941 physical alterations or additions to the permitted facility. Notice is required only when:

1942 a. The operator plans an alteration or addition to any building, structure, facility, or  
 1943 installation that may meet one of the criteria for determining whether a facility is a new  
 1944 source in 9VAC25-870-420:

1945 b. The operator plans an alteration or addition that would significantly change the  
 1946 nature or increase the quantity of pollutants discharged. This notification applies to  
 1947 pollutants that are not subject to effluent limitations in this state permit; or

1948 2. The operator shall give advance notice to the department of any planned changes in  
 1949 the permitted facility or activity that may result in noncompliance with state permit  
 1950 requirements.

1951 K. Signatory requirements.

1952 1. Registration statement. All registration statements shall be signed as follows:

1953 a. For a corporation: by a responsible corporate officer. For the purpose of this chapter,  
 1954 a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-  
 1955 president of the corporation in charge of a principal business function, or any other  
 1956 person who performs similar policy-making or decision-making functions for the  
 1957 corporation, or (ii) the manager of one or more manufacturing, production, or operating  
 1958 facilities, provided the manager is authorized to make management decisions that  
 1959 govern the operation of the regulated facility including having the explicit or implicit  
 1960 duty of making major capital investment recommendations, and initiating and directing  
 1961 other comprehensive measures to assure long term compliance with environmental  
 1962 laws and regulations; the manager can ensure that the necessary systems are  
 1963 established or actions taken to gather complete and accurate information for state  
 1964 permit application requirements; and where authority to sign documents has been  
 1965 assigned or delegated to the manager in accordance with corporate procedures;

1966 b. For a partnership or sole proprietorship: by a general partner or the proprietor,  
 1967 respectively; or

1968 c. For a municipality, state, federal, or other public agency: by either a principal  
 1969 executive officer or ranking elected official. For purposes of this chapter, a principal  
 1970 executive officer of a public agency includes:

1971 (1) The chief executive officer of the agency, or

- 1972 (2) A senior executive officer having responsibility for the overall operations of a  
1973 principal geographic unit of the agency.
- 1974 2. Reports and other information. All reports required by state permits, including annual  
1975 reports, and other information requested by the ~~board~~ or department shall be signed by a  
1976 person described in Part ~~III~~ IV K 1, or by a duly authorized representative of that person.  
1977 A person is a duly authorized representative only if:
- 1978 a. The authorization is made in writing by a person described in Part ~~III~~ IV K 1;  
1979 b. The authorization specifies either an individual or a position having responsibility for  
1980 the overall operation of the regulated facility or activity such as the position of plant  
1981 manager, operator of a well or a well field, superintendent, position of equivalent  
1982 responsibility, or an individual or position having overall responsibility for  
1983 environmental matters for the operator. (A duly authorized representative may thus be  
1984 either a named individual or any individual occupying a named position.); and  
1985 c. The signed and dated written authorization is submitted to the department.
- 1986 3. Changes to authorization. If an authorization under Part ~~III~~ IV K 2 is no longer accurate  
1987 because a different individual or position has responsibility for the overall operation of the  
1988 MS4, a new authorization satisfying the requirements of Part ~~III~~ IV K 2 shall be submitted  
1989 to the department prior to or together with any reports, or information to be signed by an  
1990 authorized representative.
- 1991 4. Certification. Any person signing a document under Part ~~III~~ IV K 1 or K 2 shall make the  
1992 following certification:
- 1993 "I certify under penalty of law that this document and all attachments were prepared under  
1994 my direction or supervision in accordance with a system designed to assure that qualified  
1995 personnel properly gather and evaluate the information submitted. Based on my inquiry of  
1996 the person or persons who manage the system, or those persons directly responsible for  
1997 gathering the information, the information submitted is, to the best of my knowledge and  
1998 belief, true, accurate, and complete. I am aware that there are significant penalties for  
1999 submitting false information, including the possibility of fine and imprisonment for knowing  
2000 violations."
- 2001 L. Duty to comply. The operator shall comply with all conditions of this state permit. Any state  
2002 permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the  
2003 Clean Water Act, except that noncompliance with certain provisions of this state permit may  
2004 constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act.  
2005 Permit noncompliance is grounds for enforcement action; for state permit termination, revocation  
2006 and reissuance, or modification; or denial of a state permit renewal application.
- 2007 The operator shall comply with effluent standards or prohibitions established under § 307(a)  
2008 of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish  
2009 these standards or prohibitions or standards for sewage sludge use or disposal, even if this state  
2010 permit has not yet been modified to incorporate the requirement.
- 2011 M. Duty to reapply. If the operator wishes to continue an activity regulated by this state permit  
2012 after the expiration date of this state permit, the operator shall submit a new registration statement  
2013 at least 90 days before the expiration date of the existing state permit, unless permission for a  
2014 later date has been granted by the ~~board~~ department. The ~~board~~ department shall not grant  
2015 permission for registration statements to be submitted later than the expiration date of the existing  
2016 state permit.
- 2017 N. Effect of a state permit. This state permit does not convey any property rights in either real  
2018 or personal property or any exclusive privileges, nor does it authorize any injury to private property  
2019 or invasion of personal rights, or any infringement of federal, state or local law or regulations.

2020 O. State law. Nothing in this state permit shall be construed to preclude the institution of any  
 2021 legal action under, or relieve the operator from any responsibilities, liabilities, or penalties  
 2022 established pursuant to any other state law or regulation or under authority preserved by § 510 of  
 2023 the Clean Water Act. Except as provided in state permit conditions on "bypassing" ( in Part III IV  
 2024 U), and "upset" ( in Part III IV V) nothing in this state permit shall be construed to relieve the  
 2025 operator from civil and criminal penalties for noncompliance.

2026 P. Oil and hazardous substance liability. Nothing in this state permit shall be construed to  
 2027 preclude the institution of any legal action or relieve the operator from any responsibilities,  
 2028 liabilities, or penalties to which the operator is or may be subject under §§ 62.1-44.34:14 through  
 2029 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

2030 Q. Proper operation and maintenance. The operator shall at all times properly operate and  
 2031 maintain all facilities and systems of treatment and control (and related appurtenances), which  
 2032 are installed or used by the operator to achieve compliance with the conditions of this state permit.  
 2033 Proper operation and maintenance also includes effective plant performance, adequate funding,  
 2034 adequate staffing, and adequate laboratory and process controls, including appropriate quality  
 2035 assurance procedures. This provision requires the operation of back-up or auxiliary facilities or  
 2036 similar systems, which are installed by the operator only when the operation is necessary to  
 2037 achieve compliance with the conditions of this state permit.

2038 R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of  
 2039 treatment or management of pollutants shall be disposed of in a manner so as to prevent any  
 2040 pollutant from such materials from entering surface waters and in compliance with all applicable  
 2041 state and federal laws and regulations.

2042 S. Duty to mitigate. The operator shall take all reasonable steps to minimize or prevent any  
 2043 discharge in violation of this state permit that has a reasonable likelihood of adversely affecting  
 2044 human health or the environment.

2045 T. Need to halt or reduce activity not a defense. It shall not be a defense for an operator in an  
 2046 enforcement action that it would have been necessary to halt or reduce the permitted activity in  
 2047 order to maintain compliance with the conditions of this state permit.

2048 U. Bypass.

2049 1. "Bypass," as defined in 9VAC25-870-10, means the intentional diversion of waste  
 2050 streams from any portion of a treatment facility. The operator may allow any bypass to  
 2051 occur that does not cause effluent limitations to be exceeded, but only if it also is for  
 2052 essential maintenance to ensure efficient operation. These bypasses are not subject to  
 2053 the provisions of Part III IV U 2 and U 3 .

2054 2. Notice.

2055 a. Anticipated bypass. If the operator knows in advance of the need for a bypass, the  
 2056 operator shall submit prior notice to the department, if possible at least 10 days before  
 2057 the date of the bypass.

2058 b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass  
 2059 as required in Part III IV I.

2060 3. Prohibition of bypass.

2061 a. Except as provided in Part III IV U 1, bypass is prohibited, and the board or  
 2062 department may take enforcement action against an operator for bypass, unless:

2063 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property  
 2064 damage;

2065 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary  
 2066 treatment facilities, retention of untreated wastes, or maintenance during normal

2067 periods of equipment downtime. This condition is not satisfied if adequate back-up  
 2068 equipment should have been installed in the exercise of reasonable engineering  
 2069 judgment to prevent a bypass that occurred during normal periods of equipment  
 2070 downtime or preventive maintenance; and

2071 (3) The operator submitted notices as required under Part III IV U 2.

2072 b. The department may approve an anticipated bypass, after considering its adverse  
 2073 effects, if the department determines that it will meet the three conditions listed in Part  
 2074 III IV U 3 a.

2075 V. Upset.

2076 1. An "upset," as defined in 9VAC25-870-10, means an exceptional incident in which there  
 2077 is unintentional and temporary noncompliance with technology based state permit effluent  
 2078 limitations because of factors beyond the reasonable control of the operator. An upset  
 2079 does not include noncompliance to the extent caused by operational error, improperly  
 2080 designed treatment facilities, inadequate treatment facilities, lack of preventive  
 2081 maintenance, or careless or improper operation.

2082 2. An upset constitutes an affirmative defense to an action brought for noncompliance with  
 2083 technology-based state permit effluent limitations if the requirements of Part III IV V 4 are  
 2084 met. A determination made during administrative review of claims that noncompliance was  
 2085 caused by upset, and before an action for noncompliance, is not a final administrative  
 2086 action subject to judicial review.

2087 3. An upset does not include noncompliance to the extent caused by operational error,  
 2088 improperly designed treatment facilities, inadequate treatment facilities, lack of preventive  
 2089 maintenance, or careless or improper operation.

2090 4. An operator who wishes to establish the affirmative defense of upset shall demonstrate,  
 2091 through properly signed, contemporaneous operating logs, or other relevant evidence  
 2092 that:

2093 a. An upset occurred and that the operator can identify the causes of the upset;

2094 b. The permitted facility was at the time being properly operated;

2095 c. The operator submitted notice of the upset as required in Part III IV I; and

2096 d. The operator complied with any remedial measures required under Part III IV S.

2097 5. In any enforcement proceeding the operator seeking to establish the occurrence of an  
 2098 upset has the burden of proof.

2099 W. Inspection and entry. The operator shall allow the department ~~as the board's designee,~~  
 2100 EPA, or an authorized representative (including an authorized contractor), upon presentation of  
 2101 credentials and other documents as may be required by law, to:

2102 1. Enter upon the operator's premises where a regulated facility or activity is located or  
 2103 conducted, or where records must be kept under the conditions of this state permit;

2104 2. Have access to and copy, at reasonable times, any records that must be kept under the  
 2105 conditions of this state permit;

2106 3. Inspect and photograph at reasonable times any facilities, equipment (including  
 2107 monitoring and control equipment), practices, or operations regulated or required under  
 2108 this state permit; and

2109 4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance  
 2110 or as otherwise authorized by the Clean Water Act and the Virginia Stormwater  
 2111 Management Act, any substances or parameters at any location.

2112 For purposes of this subsection, the time for inspection shall be deemed reasonable during  
2113 regular business hours, and whenever the facility is discharging. Nothing contained herein  
2114 shall make an inspection unreasonable during an emergency.

2115 X. State permit actions. State permits may be modified, revoked and reissued, or terminated  
2116 for cause. The filing of a request by the operator for a state permit modification, revocation and  
2117 reissuance, or termination, or a notification of planned changes or anticipated noncompliance  
2118 does not stay any state permit condition.

2119 Y. Transfer of state permits.

2120 1. State permits are not transferable to any person except after notice to the department.  
2121 Except as provided in Part III IV Y 2, a state permit may be transferred by the operator to  
2122 a new operator only if the state permit has been modified or revoked and reissued, or a  
2123 minor modification made, to identify the new operator and incorporate such other  
2124 requirements as may be necessary under the Virginia Stormwater Management Act and  
2125 the Clean Water Act.

2126 2. As an alternative to transfers under Part III IV Y 1, this state permit may be automatically  
2127 transferred to a new operator if:

2128 a. The current operator notifies the department at least 30 days in advance of the  
2129 proposed transfer of the title to the facility or property;

2130 b. The notice includes a written agreement between the existing and new operators  
2131 containing a specific date for transfer of state permit responsibility, coverage, and  
2132 liability between them; and

2133 c. The department does not notify the existing operator and the proposed new operator  
2134 of its intent to modify or revoke and reissue the state permit. If this notice is not  
2135 received, the transfer is effective on the date specified in the agreement mentioned in  
2136 Part III IV Y 2 b.

2137 Z. Severability. The provisions of this state permit are severable, and if any provision of this  
2138 state permit or the application of any provision of this state permit to any circumstance is held  
2139 invalid, the application of such provision to other circumstances, and the remainder of this state  
2140 permit, shall not be affected thereby.

**FACT SHEET**  
**REISSUANCE OF A GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWAER FROM**  
**SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS**  
**Effective November 1, 2023**

The Virginia State Water Control Board has under consideration the reissuance of a Virginia Pollutant Discharge Elimination System (VPDES) General Permit for point source discharges of stormwater from small municipal separate storm sewer systems (MS4s) to the surface waters of the Commonwealth of Virginia.

Permit Number: VAR04

Name of Permittee: Any operator of a qualifying small municipal separate storm sewer system with point source discharges to the surface waters of the Commonwealth of Virginia.

Facility Location: Commonwealth of Virginia

Receiving Waters: Surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in Board regulations which prohibit such discharges.

On the basis of preliminary review and application of lawful standards and regulations, the State Water Control Board proposes to reissue the VPDES General Permit subject to certain conditions. The Board has determined that this category of discharges is appropriately controlled under a general permit. The category of discharges to be included involves facilities with the same or similar types of operations that discharge the same or similar types of stormwater. The general permit requires that all covered facilities develop, implement, and enforce a Municipal Separate Stormwater Sewer System (MS4) program designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable MEP, to protect water quality, and to satisfy the appropriate water quality requirements of the State Water Control Law and its attendant regulations.

The permit requires the permittee to maintain and implement an MS4 program such that the discharge of pollutants from the MS4 is "reduced to the maximum extent practicable (MEP)". MEP for this permit term has been established by the Virginia Department of Environmental Quality (DEQ or "the department") as the implementation of the MS4 program requirements in Part I, the Chesapeake Bay and the TMDL special conditions in Part II, and Best Management Practice (BMP) Warehouse Reporting in Part III of the permit. MEP established under this permit constitutes adequate progress in meeting water quality standards and satisfies the appropriate water quality requirements of the State Water Control Law and its attendant regulations for this permit term.

The Clean Water Act Section 402(p)(3)(B)(iii) specifies that National Pollutant Discharge Elimination System (NPDES) permits for discharges from MS4s "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods" rather than through end of pipe limitations typically associated with point source discharges.

The department considers narrative effluent limitations requiring implementation of Best Management Practices (BMPs), rather than numeric limits, to be the appropriate form of effluent limitations for MS4s. CWA section 402(p)(3)(b)(iii) establishes a process for narrative rather than numeric effluent limits for MS4s, for example, by reference to "management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." 33 U.S.C. 1342(p)(3)(B)(iii). Additionally, it is not presently technically feasible to establish numeric effluent limits for MS4 stormwater discharges due to the highly variable stormwater flow and sources of pollutants from each of these systems. Water quality based effluent limits are based on low flow conditions for end-of-pipe discharges. Low flow condition assessments are not applicable to stormwater discharges from an MS4. For example, the highest concentrations are often found in the first flush, which are not low flow conditions. Stormwater discharges are also variable based on the storm event itself, with varying flow conditions on a two-year, ten-year, or 100-year event.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 2

MS4 operators need flexibility to optimize reductions in stormwater pollutants on a location-by-location basis given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Continued implementation of MS4 programs through an adaptive, iterative process allow MS4 permittees to evaluate those specific strategies that work best for reducing pollutants associated with stormwater discharges from their MS4. Permittees must still comply with the requirements of the permit, and through time, adaptive management of the MS4 program results in reduced pollutant loads from the MS4. Selection of strategies to demonstrate compliance with the permit conditions is left to the permittee under the guidance of the regulation. The MS4 program plan acts as an implementation tool to demonstrate compliance with the terms of the permit. The permittee can modify the MS4 program through the adaptive, iterative approach which provides them the flexibility necessary to deal with unique circumstances specific to their MS4. This approach is consistent with the comprehensive permitting approach of the US Environmental Protection Agency's (EPA) Small MS4 Remand Rule described above.

Due to the nature of an MS4, stormwater discharge is received from a variety of sources including both public and private properties. Since MS4s are operated by federal, state, and local government entities, the authority to regulate discharges to the MS4 may be limited. In order to reduce pollutants to the MEP, permittees should use the BMPs under the legal authorities available to them to control the discharge of pollutants to and from the MS4. This includes, but is not limited to statutes, ordinances, regulations, permits, policies, and contract language.

The department has determined that the most economically and environmentally feasible method for MS4s to meet the requirements established by this permit is through the implementation of BMPs using an iterative process over a series of permit cycles. MS4 BMPs may consist of structural stormwater controls as well as ordinances, policies, procedures, planning and other programmatic efforts aimed at reducing pollutant loads that are designed with the ultimate compliance goal of meeting the requirements established by this permit.

Section 9VAC25-870-460 provides for the use of BMPs to control or abate the discharge of pollutants when numeric effluent limitations are infeasible. The Department finds that at this time numeric effluent limits are infeasible given current technologies and legal authority limitations. The determination of the appropriateness for establishing BMPs as permit conditions in lieu of numeric effluent limits is consistent with the Clean Water Act. § 40 CFR 122.44 (k) of the Code of Federal Regulations provides for the use of BMPs to control or abate the discharge of pollutants when numeric effluent limitations are infeasible or when authorized under section 402(p) of the Clean Water Act for the control of stormwater discharges.

In selecting the BMP approach, the Department utilized the recommendations found in EPA's guidance document *Interim Permitting Approach for Water Quality-Based Effluent Limitations in Stormwater Permits* (EPA833-D-96-001 September 1996) to develop a permit that requires the iterative implementation of BMPs. The iterative process allows the permittee the flexibility to select, implement, evaluate and modify its scheme of BMPs to ensure implementation of the most effective BMPs in reducing the discharge of pollutants.

This permit establishes conditions that refine the implementation of the permittee's long-term MS4 program in an iterative manner that represents reasonable further progress consistent with the water quality requirements established under the CWA. Conditions in this permit are generally in the form of comprehensive programs implemented on a system-wide basis to control sources of pollution rather than targeted treatment methods. At a local level, these types of programs consist of various components, including pollution prevention measures, management or removal techniques, stormwater monitoring, use of legal authority, and other appropriate means necessary to control the quality and quantity of stormwater discharged from the MS4.

In some instances, it may be appropriate for the permittee to consider and implement engineered permanent structural stormwater management facilities. However, the large number of MS4 outfall locations, the



## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 3

unavailability of land in highly developed areas and intermittent and varied discharge conditions, do not allow for the efficient use of large scale design or for the use of ‘end of pipe treatment’. Therefore, conditions in this permit stress the use of a source reduction and pollution prevention approaches for the reduction of pollutants in stormwater discharges. These approaches are supported on the basis that the quality of stormwater discharge from the MS4 is dependent on the sources of pollutants that contribute to the system through runoff. Minimizing pollutant sources reduces the pollutant loading in MS4 discharges.

Under this permit, the permittee is required to submit an updated Chesapeake Bay TMDL action plan no later than 12 months after the permit effective date for the reduction required in the permit. For Local TMDLs approved by the EPA prior to July 1, 2018 and for which an individual or aggregate wasteload has been allocated to the permittee, the permittee is required to update the previously approved local TMDL action plans to meet the conditions of Part I.E.2.c); E.2.d); E.2.e); and E.2.f) as applicable no later than 18 months after the permit effective date and continue implementation of the action plan. For TMDLs approved by the EPA on or after July 1, 2018 and prior to the permit effective date, in which an individual or aggregate wasteload has been allocated to the permittee, the permittee is required to develop and initiate implementation of action plans to meet the conditions of Parts I.E.2.c); E.2.d); E.2.e) and E.2.f) as applicable for each pollutant for which wasteloads have been allocated to the permittee’s MS4 no later than 30 months after the permit effective date. TMDL action plans shall be developed consistent with the assumptions and requirements of applicable TMDLs and incorporate an iterative, BMP-based approach consistent with the discussion above.

#### Public involvement in permit reissuance:

A public hearing was held at the following location: Department of Environmental Quality, Piedmont Regional office, 4949-A Cox Road, Glen Allen VA 23060. The notice of the public comment period/public hearing were published in the Richmond Times Dispatch, and the Virginia Register. During the public comment period, DEQ staff reviewed comments received, drafted responses, and made revisions to the final permit regulation as appropriate. The State Water Control Board adopted the general permit regulation on August XX, 2023. The regulation is effective for all covered facilities on November 1, 2023. Every authorization to discharge under this general permit will expire October 31, 2028.

#### The staff contact at Central Office DEQ is:

Jeffrey Selengut  
Virginia Department of Environmental Quality  
P.O. Box 1105  
Richmond, Virginia 23218  
(804) 659-1314  
[Jeffrey.Selengut@deq.virginia.gov](mailto:Jeffrey.Selengut@deq.virginia.gov)

#### **Activities covered by this general permit**

This general permit authorizes the point source discharges of stormwater from small municipal storm sewer systems (MS4) to surface waters of the Commonwealth of Virginia. A small MS4 is regulated if it is owned or operated by a federal, state, tribal, or local government entity and is located in an urbanized area as determined by the 2010 census performed by the U.S. Bureau of the Census; is designated by the Board pursuant to 9VAC25-870-400 B.1.b; or is based upon a petition under 9VAC25-870-400 B.2. If the small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated. A small MS4 operator may alternatively choose to apply for and obtain coverage under an individual permit as allowed by 9VAC 25-870-400

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 4

C.2. Additionally, the Board may waive the requirements for a regulated small MS4 to obtain permit coverage if the criteria list in 9VAC25-870-400 B.4 or 5 are met.

Any operator is authorized to discharge to surface waters of the Commonwealth of Virginia under this general permit if the owner submits and receives acceptance by the Board of the registration statement per 9VAC25-890-30, submits any permit fee required by 9VAC25-870-700, if applicable, complies with the requirements of 9VAC25-890-40, and provided that the Department has not notified the owner that the discharge is not eligible for coverage because of one of the following:

1. The permittee is required to obtain an individual permit in accordance with 9VAC25-870-410 B.3;
2. The permittee is proposing discharges to surface waters specifically named in other regulations that prohibit such discharges;
3. The permittee fails to implement BMPs to reduce pollutants to the maximum extent practicable (MEP) standard to demonstrate progress toward meeting the water quality requirements as listed in 9 VAC 25-31-220 D.1.a

The regulation also contains section 9VAC25-890-20 K which allows for continuation of permit coverage when an owner authorized to discharge under the general permit submits a complete and timely registration statement and is not violating conditions under the expiring or expired general permit.

### Considerations

#### **Interim Guidance on Census Elimination of “Urbanized Area” Definition**

The US Census Bureau has adopted new “urban area” criteria for the 2020, which significantly deviates from previous decennial census “urbanized area” criteria and effectively eliminates the distinction between “urbanized area” and “urban clusters” established by previous decennial censuses. This change in terminology from “urbanized area” to “urban area” has implications impacting applicability of the 2020 census for Phase II MS4 automatic designation since 40 CFR specifically references “urbanized area,” not “urban area.” DEQ has adopted the Environmental Protection Agency’s proposed Rules change documented in the Federal Register Vol. 87, No. 231, published on December 2, 2002. This rule change eliminates the term “urbanized area” and replaces it with “Urban areas with a population of 50,000 or more people as determined by the latest Decennial Census by the Bureau of the Census.” This change is reflected in permit language found in the flowing sections of the permit; 9VAC25-890-1. Definitions, Part I.E.3.a(1), Part I.E.6.g-h and q-r, and Part II.A.

#### **Commonwealth of Virginia Chapter 356 of the 2022 Acts of Assembly (Senate Bill 657)**

SB 657 was passed during the 2022 Session of the General Assembly. This bill limits the authority of the State Water Control Board under Chapters 3.1 (State Water Control Law), 24 to the issuance of regulations and transfers the Board’s existing authority to issue permits and orders to DEQ. The Governor signed this bill into law on April 11, 2022 (SB657 – Chapter 356 of the 2022 Acts of Assembly) and these changes became effective July 1, 2022. The State Water Control Board adopted regulatory amendments to 9VAC25-890 on August 25, 2022, and affirmed changes to be incorporated into 9VAC25-890 resulting from Chapter 356 of the 2022 Acts of Assembly (Senate Bill 657). Revisions to the regulations include those necessary to address changes to the authority of the State Water Control Board to issue and enforce permits. Changes to the regulations included changing designations from “board” to “department” where appropriate; adding definitions of “Board” and “Department”; and the repeal of the delegation of authority provisions.

**Commonwealth of Virginia Chesapeake Bay TMDL Phase III Watershed Implementation Plan (WIP)**

On August 12, 2019, the Chesapeake Bay Program Principals' Staff Committee (PSC) approved the process, timeline, and proposed Phase III WIP language for developing the Phase III WIP sediment targets. Virginia included the PSC-approved language in its final Phase III WIP on Page 29, Section 5.2 (Sediment Targets). This language states in part, "*Sediment loads are managed in the Bay TMDL to specifically address the water clarity/submerged aquatic vegetation (SAV) water quality standards. Intuitively, it makes sense that the more sediment suspended in the water, the less makes it down to the SAV. Interestingly, research in the Chesapeake Bay has shown that the water clarity/SAV water quality standard is generally more responsive to nutrient load reductions than it is to reduction in sediment loads. This is because the algae that are fueled by the nutrients can block as much, or more, light from reaching the SAV as suspended sediments. The sediment targets will not affect the BMPs called for in the WIP, and are not intended to be the driver for implementation moving forward...*"

On November 22, 2022 the DEQ department Director submitted a letter to the EPA Region 3 Regional Administrator stating: "*Based upon the Department of Environmental Quality's (DEQ) understanding of the PSC-approved language, DEQ intends to reissue its MS4 individual permits without the previously required sediment load reductions. The reissued individual permits will continue to include the required nutrient (i.e., total nitrogen and total phosphorus) load reductions at a much accelerated rate to focus on achieving the needed nitrogen and phosphorous reduction. In addition, DEQ intends to revise MS4 general permit regulation to remove the previously required sediment load reductions. The amended general permit regulation will continue to include the required nutrient load reductions.*"

Based upon the above referenced Virginia Phase III WIP and November 22, 2022 letter, the proposed general permit Chesapeake Bay TMDL special condition (Part II A) has been revised, removing previously required sediment reductions under the 2018 general permit DEQ brought these revisions to the attention of the SWCB on November 29, 2022, at which time the Board authorized DEQ to hold a public hearing and a 60-day public comment period specifically soliciting comment on the proposed removal of the sediment reduction requirements under the Chesapeake Bay TMDL special condition.

This proposed general permit maintains sediment reduction BMP Warehouse reporting requirements under Part III since sediment reduction tracking for permittee BMP implementation is still necessary for Chesapeake Bay Program reporting purposes and Chesapeake Bay TMDL modeling efforts.

**Summary of Substantive Changes:**

1. Adding definitions for common MS4 terminology and modifying the high-priority facility definition.
2. Requiring electronic submission of registration statements and annual reports after at least three months' notice provided by the Department in accordance with 9VAC25-31-1020.
3. Adding permit conditions specific to traditional and nontraditional MS4 permittees to address existing permit conditions that are inherently not applicable to nontraditional permittees or not practicable for nontraditional permittee implementation.
4. Requiring third phase Chesapeake Bay TMDL action plan submittal and completion of 100% of required nitrogen, phosphorus, and sediment reductions no later than 10/31/2028.
5. Requiring Chesapeake Bay TMDL implementation annual status reports be maintained as separate documents from annual reports and posted to the permittee's publicly accessible stormwater webpage.
6. Requiring permittees to provide MS4 maps in a GIS shapefile format and no longer allowing pdf format to satisfy this requirement and establishing data standards for GIS shapefile submission.
7. Adding provisions allowing permittees to adopt a risk-based approach to dry weather screening identifying observation points based upon illicit discharge risks upstream of an outfall. Each observation point screened may be counted as one outfall screening activity equivalent; however, 50% of the

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 6

- minimum annual screening events must include outfalls. These provisions are voluntary, and permittees may choose to adopt this approach at their discretion.
8. Removing electronic BMP database requirements as these requirements are duplicative of BMP Warehouse reporting requirements.
  9. Moving BMP warehouse reporting conditions to new permit section (Part III) and adding reporting requirements for ecosystem restoration projects.
  10. Reformatting and integrating good housekeeping requirements:
    - a. For written procedures, differentiating between the objectives each procedure shall meet and activities that require procedures.
    - b. Incorporating existing good housekeeping permit conditions into written procedure requirements and improving linkage to contract language and training requirements.
    - c. Removed subjectivity from SWPPP applicability, clarified SWPPP requirements, and integrated utilization of applicable written good housekeeping procedures.
  11. Requiring good housekeeping written procedures for the following activities:
    - a. Requiring permittees that apply anti-icing and deicing agents to update road, street, sidewalk, and parking lot procedures to include implementation of best management practices for anti-icing and deicing agent application, transport, and storage.
    - b. Requiring permittees to develop written procedures for renovation and significant exterior maintenance activities.
    - c. Clarifying written good housekeeping procedures for temporary storage of landscaping materials, recognizing that long-term bulk storage meets the definition of high-priority facility.
  12. Requiring DCR approval and renewal of nutrient management plans.
  13. Requiring chloride TMDL Action Plans where applicable.
  14. Requiring inspection and maintenance procedures for ecosystem restoration projects.
  15. Removing sediment reduction requirements from the Chesapeake Bay TMDL special condition.
  16. Added the requirement for permittees to submit registration statements electronically 90 days after notification from the department as required by 9VAC25-31-102 Implementation of electronic reporting requirements for VPDES Permittees.
  17. Various permit sections were impacted by the requirement to address the 2020 Census expanded urban areas. Addition requirements were added to the definition, illicit discharge detection and elimination (MCM3), post construction stormwater management for new development and development on prior developed lands (MCM5), pollution prevention and good housekeeping (MCM6), and the Chesapeake Bay special condition sections along with schedules, where appropriate, to implement existing the MS4 program elements in the newly designated areas.

### Summary of Requirements, Rationale and Changes

#### CHAPTER 890

Updated the chapter title to “*VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4S)*” for consistency with other VPDES general permit chapter title convention.

#### 9VAC 25-890-1 Definitions

Added “*the Virginia Stormwater Management Program (VSMP) Regulation*” to the heading of 9VAC25-890-1. Definitions for clarity.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 7

Added “*Annual practices*” means a nonstructural best management practice such as street or storm drain cleaning that reduces pollution for one compliance year upon implementation.” This definition was added to provide clarification that pollutant reductions generated by annual practices are creditable towards one compliance year for TMDL action plans and annual practices must be implemented in the specific compliance year in order to receive pollutant reduction credit for that specific year (i.e. pollutant reductions generated must correspond to one compliance year). Reductions generated may vary year-to-year and will be dependent on the extent of annual practice implementation. For example, a permittee must sweep the same number lane miles year-to-year in order to generate the same amount of pollutant reductions. Also, storm sewer cleaning pollutant reductions may be dependent on the amount of sedimentation in the sewer being cleaned and sewer cleaning implemented in years after a sewer was initially cleaned should be expected to yield lower pollutant reduction in most cases (i.e. estimated pollutant reductions achieved by this practice may be difficult to calculate for action plan purposes).

Added “*Ecosystem restoration projects*” means practices implemented to reestablish and maintain natural systems that prevent, reduce, or remediate pollutant loadings. Examples of ecosystem restoration projects include stream restoration, shoreline restoration, land-use conversion, and reforestation.” This permit introduces the term ecological restoration projects in Part II C and Part III of this permit in order to recognize the regulatory distinction between ecosystem restoration projects and stormwater management facilities as defined in 9VAC25-870-1:

Modified the definition of “*High-priority facilities*,” to include the following:

Added the qualifier “*with drainage to any permitted MS4*” to “*facilities owned or operated by the permittee*,” recognizing drainage to an MS4 is important for classifying high-priority facilities (HPFs). A facility should not be considered a HPF if the facility has no drainage to an MS4 since the potential to discharge pollutants to an MS4 is nonexistent.

The following modifications were made to activities defining high-priority facilities HPFs:

(ii) Added “*cleaning*” to equipment storage and maintenance.

(iii) Added “*long-term bulk*” to materials storage as a qualifier to distinguish large permanent storage areas such as facility maintenance yards that continuously store building materials from smaller temporary material storage areas such as temporary on-site storage of construction and maintenance supplies. These activities should either have written good housekeeping procedures or separate SWPPP requirements covered under the stormwater construction general permit (CGP).

(iv) Added “*herbicide and fertilizer*” to pesticide storage recognizing these storage materials carry risks for pollutant discharges.

(v) This provision was removed as it is more generalized and overlaps other activities defining HPFs.

(vii) Replaced “*salt*” with “*anti-icing and deicing agent*” to include all chemicals used for anti-icing and deicing and for consistency with Virginia Salt Management Strategies (SaMS). Added “*handling and transfer*” to “*salt storage*” recognizing these activities carry risks for pollutant discharges.

(ix) Added “*washing*” and “*salvage*” to “*vehicle maintenance*,” recognizing these activities carry risks for pollutant discharges. Removed “*storage*” since every parking lot should not be construed to meet the definition of HPF. “*Salvage*” was also added to distinguish parking lots from damaged vehicle storage which have higher risk for leaking and pollutant discharges.

Modified the definition of MS4 regulated service area to include reference to urban areas with a population of at least 50,000 people.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 8

Added “*Nontraditional MS4 permittee*” or “*nontraditional permittee*” means a government entity that operates a regulated MS4 that is not under the authority of a county board of supervisors, a city council, or a town council.”

Added “*Traditional MS4 permittee*” or “*traditional permittee*” means a local government that operates a regulated MS4 under the authority of a county board of supervisors, a city council, or a town council.”

Traditional and nontraditional are two categories of Phase II MS4 permittees and these terms have been in common use within the MS4 program for many years. This permit introduces the terms traditional and nontraditional permittee as qualifier for several permit conditions throughout the permit recognizing the differences in jurisdictional authority between traditional local governments and all other government entities considered nontraditional permittees. Traditional permittees are limited to counties, cities, and towns. Nontraditional permittees may include but are not limited to operators of state and federal facilities such as transportation infrastructure, college campuses, hospitals, correctional facilities, military installations, administrative campuses, and research facilities. Nontraditional permittees may also include local authority operators for facilities such as public schools and other regional authorities that may operate an MS4. Traditional and nontraditional permittee differences necessitated the need for distinct permit conditions for traditional and nontraditional permittees for ordinance development, public education and outreach and public participation target audiences, Erosion and Sediment Control and VSMP program administration, and TMDL special conditions.

#### **9VAC 25-890-10 Purpose; Effective Date of the State Permit**

B. Updated the effective and expiration date of the general permit.

#### **9VAC 25-890-15 Applicability of Incorporated References Based on the Dates That They Became Effective**

Updated the Title 40 CFR publication date to July 1, 2022.

#### **9VAC 25-890-20 Authorization to Discharge**

A. removed “*small municipal separate storm sewer system;*” for clarity.

B. Added routine external building washdown to maintain consistency with other VPDES permits.

#### **D.3 Updates:**

g - Added “*managed in manner to avoid instream impact,*” for clarification.

q – Added “*freshwater and managed in manner to avoid instream impact;*” for clarification and consistency with DEQ Guidelines for the Release of Swimming Pool Water (October 12, 2012).

r – Modified “*street wash waters,*” to “*Street and pavement wash waters that do not contain cleaning additives or are otherwise managed in a manner to avoid instream impact;*” for clarification.

s – Added “*emergency;*” qualifier to firefighting activities.

t – Added “*discharges or flows of water for fire prevention or firefighting training activities managed in a manner to avoid instream impact in accordance with § 9.1-207.1 of the Code of Virginia;*” for clarification.

u – Added “*in accordance with § 15.2-2114.1 of the Code of Virginia to Discharges from noncommercial fundraising car washes if the washing uses only biodegradable, phosphate-free, water-based cleaners;*” for clarification.

K. updated dates for consistent timeframes with new permit cycle.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 9

#### **9VAC 25-890-30 – Registration Statement**

A.2 – Revised registration due date to October 1, 2023.

Added B.5 - *“If the MS4 is operated under the authority of a city council or a county board of supervisors, indicate if public school facilities are included in the application;”* in order to confirm county and city MS4 programs cover public schools that do not separate general permit coverage.

B.10 – Updated to require third phase Chesapeake Bay TMDL action plan.

#### **9VAC 25-890-40 – General Permit**

As part of the 2023 general permit, a variety of non-substantive revisions have been made to clarify requirements, re-organize permit conditions to enhance the reader’s ability to understand the requirements of the permit, and establish practically enforceable permit conditions. Below is a list of the substantive changes and or permit condition rationale for *“Part I – Discharge Authorization and Special Conditions, Part II TMDL Special Conditions, Part III DEQ BMP Warehouse Reporting, and Part IV Conditions Applicable to All State and VPDES Permits:”*

A. This special condition describes the authorization and coverage under the small MS4 General Permit.

B. The permit requires the permittee to develop, implement and enforce an MS4 program such that the discharge of pollutants from the MS4 is “reduced to the maximum extent practicable (MEP). MEP for this permit term has been established by DEQ as the implementation of the minimum control measures in Part I.E. and the Chesapeake Bay and local TMDL requirements in Part II of the permit. This section recognizes that MEP established under this permit constitutes adequate progress in meeting water quality standards and satisfies the appropriate water quality requirements of the State Water Control Law and its attendant regulations.”

The Clean Water Act Section 402(p)(3)(B)(iii) specifies that National Pollutant Discharge Elimination System (NPDES) permits for discharges from MS4s *“shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods;”* rather than through end of pipe limitations typically associated with point source discharges.

The department considers narrative effluent limitations requiring implementation of Best Management Practices (BMPs), rather than water quality based standards, to be the appropriate form of effluent limitations for MS4s. CWA section 402(p)(3)(b)(iii) establishes a process for narrative rather than numeric effluent limits for MS4s, for example, by reference to *“management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.”* 33 U.S.C. 1342(p)(3)(B)(iii). Additionally, it is not technically feasible to establish numeric effluent limits for MS4 stormwater discharges due to the highly variable stormwater flow and sources of pollutants from each the systems. Water quality based effluent limits are based on low flow conditions for end-of-pipe discharges. Low flow condition assessments are not applicable to stormwater discharges from an MS4. For example, the highest concentrations are often found in the first flush, which are not low flow conditions. Stormwater discharges are also variable based on the storm event itself, with varying flow conditions on a two-year, ten-year, or 100-year event.

MS4 operators need flexibility to optimize reductions in stormwater pollutants on a location-by-location basis given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Continued implementation of MS4 programs through an adaptive, iterative process allows MS4

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 10

permittees to evaluate those specific strategies that work best for reducing pollutants associated with stormwater discharges from their MS4. Permittees must still comply with the requirements of the permit, and through time, adaptive management of the MS4 program results in reduced pollutant loads from the MS4. Part I.C, D, and E establish the minimum requirements of the MS4 program. Selection of strategies to demonstrate compliance with the permit conditions is left to the permittee. The MS4 program plan acts as an implementation tool to demonstrate compliance with the terms of the permit. The permittee can modify the MS4 program through the adaptive, iterative approach which provides them the flexibility necessary to deal with unique circumstances specific to their MS4. This approach is consistent with the comprehensive permitting approach of EPA's Small MS4 Remand Rule described above.

Due to the nature of an MS4, stormwater discharge is received from a variety of sources including both public and private properties. Since MS4s are operated by federal, state, and local government entities, the authority to regulate discharges to the MS4 may be limited. In order to reduce pollutants to the MEP, permittees should use the legal authorities available to them to control the discharge of pollutants to and from the MS4. This includes, but is not limited to statutes, ordinances, regulations, permits, policies, contract language.

#### **C. MS4 Program Plan**

An operator of a regulated small MS4 is required to develop, implement, and enforce a stormwater management program. The MS4 program plan is to be used as a tool to implement the requirements of the permit described in Part I.E (Minimum Control Measures) and Part II.A and B (TMDL Special Conditions for the Chesapeake Bay and local receiving waters). The MS4 program plan can and should be updated through the adaptive, iterative process by the permittees including the revision or replacement of BMPs and strategies in compliance with the requirements of the permit.

Existing permittees permitted under the 2018 MS4 general permit, are required to update their program plans in accordance with the requirements of the 2023 general permit. Revisions to the MS4 program plan are expected throughout the permit cycle as part of the iterative process to reduce pollutant loading to the MEP and protect water quality. The changes to the MS4 program plan do not require modification of the permit but require the permittee to summarize revisions made to the MS4 program plan as part of the annual report described in Part I.D.2. With this revised for requirement MS4 program implementation, the underlying permit requirements are not changed, only the strategy used by the permittee to comply with the permitting requirement. Note that permittees receiving initial coverage under the 2023 general permit are required to submit a schedule of program development that does not exceed the expiration date of this general permit to the Department within 6 months of permit coverage.

C.2 – Changed the “*expiration date of this permit;*” to “*October 31, 2028, unless the department grants a later date;*” for permit consistency and recognizing new permittees may have less than five years to fully implement an a comprehensive MS4 program plan.

#### **D. Annual reporting requirements**

In accordance with 9VAC25-870-400 D.7, permittees are required to submit an annual report to the Department by October 1<sup>st</sup> of each year that describes the implementation of the MS4 program for the immediate preceding reporting period of July 1<sup>st</sup> through June 30<sup>th</sup>. The annual report will include those annual reporting items for each MCM, a signed certification statement by a responsible official or his designee, an overall evaluation of the MS4 program implementation to determine the program's effectiveness and determine whether changes are needed to the program. The annual report will also include a status update for local TMDL action plan implementation, as applicable. For newly permitted programs, permittees are required to submit an annual status update as the program is developed.



## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 11

The annual report will no longer include a status update for Chesapeake Bay TMDL implementation. Chesapeake Bay TMDL implementation annual status reports are now required to be maintained as separate document in accordance with Part I D.6. and shall be posted to the permittee's stormwater webpage in accordance with Part I E.2.b.(5) to promote transparency and allow both DEQ and other interested parties to easily track Chesapeake Bay TMDL progress towards achieving 100% reductions by October 31, 2028. The required contents of each Chesapeake Bay TMDL implementation annual status report are located in Part II.A.13.

1. Added annual reporting clarification on “*method, (i.e. how the permittee must submit) and format (i.e. how the report shall be laid out)*” and specified “*the required content of the annual report is specified in Part I E and Part II B.*” The method annual report submittal “Nform” is being developed by the department and guidance for will provided to permittees on Nform annual report submittals once the MS4 Nform module is fully developed for roll-out and permittee use. Nform permittee reporting is part of the department's strategy to fulfill EPA's e-reporting rule published on November 2, 2020. The rule requires electronic reporting of MS4 annual reports and NOIs by December 21, 2025.

2. Added, “*Following notification from the department of the start date for the required electronic submission of annual reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically;*” for further clarification on Nform submittal roll-out.

Removed 4. - “*For those permittees with requirements established under Part II A, the annual report shall include a status report on the implementation of the Chesapeake Bay TMDL action plan in accordance with Part II A of this permit including any revisions to the plan.*” Annual reporting requirements for the Chesapeake Bay TMDL have been moved to Part II A of this permit. This permit introduces a new requirement that Chesapeake Bay TMDL implementation annual status updates be maintained as separate documents on permittee webpages.

6. Added additional clarification that “*the MS4 program plan, annual reports, the Chesapeake Bay TMDL action plan, and Chesapeake Bay TMDL implementation annual status reports, shall be maintained as separate documents;*” primarily to promote public transparency. Removed submitted to the department as required by this permit as separate documents as Part I D 1 and Part II A 14 already cover reporting method and format.

## **E. Minimum control measures (MCM)**

### **1. Public education and outreach**

Following 9VAC25-870-400 D.2.a, and 40 CFR 122.34(b)(1), this general permit requires the permittee to implement public education and outreach programs. The permit requires the permittee to identify three high priority stormwater issues on which to educate the public including the importance of the issue and what actions the public can take to minimize the impact associated with the stormwater issue. The permit identifies a variety of strategies that the permittee can use in the messaging. To ensure a diverse audience receives the message, the permittee must choose at least two of the messaging strategies.

The 2023 permit requires the message to focus on water quality and stormwater pollution issues. This general permit continues to allow for coordination between MS4 operators and requires evaluation of the delivery methods to ensure that the target audiences are adequately reached.

b. Added “*litter control, BMP maintenance, anti-icing and de-icing agent application, planned green infrastructure redevelopment, planned ecosystem restoration;*” to expand examples of high priority issues.

d. Added “*target audience;*” to clarify that a high priority issue might be targeted towards a specific audience which may include the general public.

Table 1:

- Added “*or GIS story maps;*” to Media Materials strategies.
- Added “*Public Education Activities;*” to the strategies with “*Booth at community fair, demonstration of stormwater control projects, presentation of stormwater materials to schools to meet applicable education standards of learning or curriculum requirements, or watershed walks;*” listed as examples.
- Added “*Public Meetings*” to the strategies with “*Public meetings on proposed community stormwater management retrofits, green infrastructure redevelopment, ecological restoration, TMDL development, voluntary residential low impact development, and other stormwater issues;*” listed as examples.

**f. MS4 program plan shall include:**

Updated (3) – identification of “*target audience*” rather than “*public audience.*”

Added (4) – “*Nontraditional permittees may identify staff, students, and other facility users operated by the permittee as the target audience for education and outreach strategies.*” This added clarification will help nontraditional permittees to better define targeted audiences.

Added (5) – “*Traditional permittees may identify staff and students as part of the target audience for education and outreach strategies; however, staff shall not be the majority of the target audience.*” This added clarification will help permittees better define target audiences while differentiating target audiences for traditional and nontraditional permittees.

Added (6) – “*Staff training required in accordance with Part I E 6 d does not qualify as a strategy for public education and outreach.*” This added clarification reinforces the intent of the public education requirements and that education and outreach programs with all staff as the targeted audience are to be included in the good housekeeping training program.

**g. The annual report shall include the following information:**

Added (2) - “*A summary of the public education and outreach activities conducted for the report year, including the strategies used to communicate the identified high-priority issues.*” This summary is meant to specify the strategies implemented during to communicate high-priority issues during the report year.

(3) Revised language to “*A description of any changes in high priority stormwater issues, strategies used to communicate high-priority stormwater issues, or target audiences for the public education and outreach plan. The permittee shall provide a rationale for any of the above changes.*” The revised language clarifies the expectations for documenting an iterative education and outreach program.

**2. Public participation and involvement**

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 13

9VAC25-870-400 D.2.b and 40 CFR 122.34(b)(2) require the permittee to provide for public participation and public involvement of the MS4 program. The permittee is required to develop procedures for the public to report illicit discharges to the MS4, receive public input on the MS4 program or complaints regarding stormwater management pertaining to the MS4, and respond to input and complaints. Additionally, permittees are required to develop and maintain webpages dedicated to the MS4 program and stormwater pollution prevention so that information can be readily available to the public, or at a minimum inform the public how the information can be accessed. Language has been added for those facilities under security provisions restricting public facing websites to allow compliance with the webpage provisions.

Consistent with EPA's Electronic Reporting Rule, published October 22, 2015 and November 2, 2020, the Department is in the process of developing and finalizing tools to assist permittees in submitting their reports via electronic portals. This will allow for information to flow from the permittee to the EPA as efficiently as possible. As such, the permit has provisions for electronic reporting as tools and options are made available.

This general permit also requires the permittee to engage in a minimum of four local activities pertaining to improvement of water quality and support of local restoration and clean-up projects. The permit provides a list of opportunities with examples that permittees may choose from for implementation. To ensure that the permittee engages in diverse activities, the permittee must choose from at least two different opportunities.

Note: public meetings can satisfy requirements for MCM1 and MCM2 activities provided that the permittee has documentation that clearly describes both the MCM1 education and the MCM2 public participation elements.

a. The permittee shall develop and implement procedures for the following:

(2) Changed "*input*" to "*comments*;" for consistency with public comment requirements.

Removed (3) – "*Receiving public input or complaints*." This provision was redundant with Part I E 2 a (1) and (2) requirements and may inadvertently require permittees to capture input or complaints beyond the scope of this permit for issues such as flooding which this permit does not address.

(4) Removed "*or complaints*;" as this is duplicative of preceding language and permittees do not need differentiate between public comments and complaints on program plans. Changed "*comments received*;" from "*input received*"

b. Webpage dedicated to the MS4 program and stormwater pollution prevention: updated the requirement to include "*update and maintain*" from "*develop and maintain*;" recognizing existing permittees have already developed this webpage.

Added (4) - "For permittees whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, the most current Chesapeake Bay TMDL action plan or location where the Chesapeake Bay TMDL action plan can be obtained."

Added (5) - "*For permittees whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, the Chesapeake Bay TMDL implementation annual status reports for each year of the term covered by this permit no later than 30 days after submittal to the department*;" to add Bay action plan

and annual status reports to publically accessible website to allow for public transparency, involvement and input.

(7) Added “*and if applicable, the Chesapeake Bay TMDL action plan in accordance with Part II A 13*” for clarification.

Added (8) “*Federal and state permittees with security policies preventing a MS4 program and stormwater pollution prevention webpage from being publically available may utilize an internal staff accessible webpage such as an intranet webpage to meet the requirements of Part I E 2 b;*” to provide a mechanism for government entities with restrictive security policies such as DOD and correctional facilities to demonstrate compliance with MS4 program webpage requirements.

Updated c. To address “traditional permittees.”

Added d. - “*Nontraditional permittees shall implement, promote, participate in, or coordinate on no less than four activities per year from two or more of the categories listed in Table 2 below to provide an opportunity for public involvement to improve water quality and support local restoration and clean-up projects;*” to clarify the distinction between traditional and non-traditional permittee expectations for this requirement recognizing nontraditional permittees often have narrowly defined target audiences, more limited resources, and may benefit from partnering with traditional permittees and other organizations for providing target audiences with participation events.

Table 2:

- Added language under Restoration examples “*Stream, watershed, shoreline, beach, or park clean-up day, adopt-a-water way program, tree plantings, and riparian buffer plantings*” to expand strategy examples.
- Revised “*Public Education Events*” with removal of “*participation on environmental advisory committees*” since this strategy was expanded on with the addition of “*Public Meetings*” strategy category.
- Added “*Public Meetings*” and examples, “*Public meetings on proposed community stormwater management retrofits, green infrastructure redevelopment, ecological restoration, TMDL development, voluntary residential low impact development, and other stormwater issues;*” to expand upon potential stormwater related public meetings.

Added f. - “*The Permittee may include staff and students in public participation events; however, the activity cannot solely include or be limited to staff participants with stormwater, grounds keeping, and maintenance duties in order for an event to qualify as a public participation event.*” This added clarification will help permittees better define target audiences public participation events, which may include but not solely be comprised of staff.

Added g. - “*Staff training required in accordance with Part I E 6 d does not qualify as a public participation event unless the training activity solicits participation from target audiences beyond staff or contractors with stormwater, grounds keeping, and maintenance duties*” This added clarification distinguishes between public participation events and training which should be included as part of the good housekeeping training program.

**i. The annual report shall include the following information:**

(1) Clarified language to be specific to public comments on MS4 program plan.

Added (2) “*A summary of stormwater pollution complaints received under the procedures established in Part I E 2 a (1) (excluding flooding complaints) and how the permittee responded;*” for clarification.

(4) Added “*Federal and state permittees with security policies preventing the MS4 program and stormwater pollution prevention webpage from being publically available utilizing an internal staff accessible website such as intranet shall provide evidence of the current internal MS4 program and stormwater pollution prevention webpage;*” to provide a mechanism for government entities with restrictive security policies to demonstrate compliance with MS4 program webpage requirements and consistency in the annual reporting requirements.

### **3. Illicit discharge detection and elimination**

Following 9VAC 25-870-400 D.2.c and 40 CFR 122.34(b)(3)., the 2023 permit continues to require that permittees implement a program to detect and eliminate illicit discharges to the MS4. As part of the program, permittees are required to submit an updated map within 24 months of the effective date of this permit. Thereafter, permittees are to maintain an updated map of the MS4, and provide an annual certification that any required updates to the map and information tables were made by October 1 of the appropriate reporting year. The permit requires an MS4 system map to include outfalls, the regulated service area, receiving waters, stormwater management facilities, and associated information. Most of the information table requirements remain unchanged from the 2018 permit, however, GIS-compatible formats have been specified for programmatic consistency across all permittees.

The department will use the map and outfall table information when reviewing MS4 program annual reports, during identification of illicit discharges, and other general purposes. Mapping information may also be used in the development of local TMDLs by the Department. Additionally, for those permittees located within the Chesapeake Bay watershed, the maps will be used in delineation of the MS4 service area as part of the Chesapeake Bay Watershed modeling efforts.

As part of the illicit discharge and detection program, permittees are required to implement a dry weather screening program and establish procedures for responding to reports or discoveries of illicit discharges. The 2023 general permit adds an option for up to 50% of the dry weather screenings be allocated to a risk-based approach in which permittees identify observation points, which may include outfalls or points of interconnection and specified points upstream of an outfall that have historically relevant or significant cause for potential increased discharge concerns. Based on the size and nature of the service area, permittees are still required to screen up to 50 outfalls (or all, if less than 50 outfalls within the MS4), with up to 50% of the screening points identified as part of the risk-based approach. This general permit also clarifies specific items to be observed and documented during the screening event, in line with EPA guidance and identification of potential illicit discharges not present at the time of the dry weather screening event.

#### **a. MS4 map and information table:**

(1) Revised language to “*An updated map of the MS4 owned or operated by the permittee within the 2020 census urban areas with a population of at least 50,000 and any previous decennial census urbanized area no later than 24 months after the permit effective date;*” for clarification.

FACT SHEET

General Permit for Small MS4s

Effective November 1, 2023

Page 16

(1) The above revised language requires permittee MS4 maps “*be updated no later than 12 months after the permit effective date;*” in recognizing no significant changes to the MS4 map are required by this permit reissuance and also recognizes the need for the department to obtain up to date MS4 mapping data for Chesapeake Bay TMDL and DEQ Electronic Data Mapper (EDM) initiatives.

(2) Revised language to “*The permittee shall maintain an outfall information table associated with the MS4 map that includes the following information for each outfall or point of discharge for those cases in which the permittee elects to map the known point of discharge in accordance with Part I E 3 a (1) (a). The outfall information table may be maintained as a shapefile attribute table. The outfall information table shall contain the following:*” to clarify the use of GIS-compatible data tables and what information is required for the outfall information table.

(f). Revised language from “2016” to “2020” to reflect updated 305(b)/303(d) Water Quality Assessment Integrated Report, referencing the most current report available.

Removed (g) since a predominant land use generalization is not a helpful data element for the permittee or the department.

(3) Revised language to “*No later than 12 months after permit issuance, the permittee shall submit to DEQ, a format file geodatabase or two shapefiles that contain at a minimum...*” to specify required GIS-compatible formats for GIS data submittals to ensure the department receives updated GIS data from permittees.

(3) Removed “*If the permittee does not have an MS4 map in a GIS compatible format, the permittee shall provide the map as a PDF document*” since open-source geospatial data software is available for use to permittees.(3) Added (a) and (b):

“(a) *A point feature class or shapefile for outfalls with an attribute table containing outfall data elements required in accordance with Part I E 3 a (1) (a), (b), and (c) and Part I E 3 a (2); and*

(b) *A polygon feature class or shapefile for MS4 service area as required in accordance with Part I E 3 a (1) (d) with an attribute table containing the following information:*

(i) *MS4 operator name;*

(ii) *MS4 permit number (VAR04); and*

(iii) *MS4 service area total acreage rounded to the nearest hundredth.” to detail GIS-compatible formats for map submittals, to ensure consistency and adequate detail of the MS4 service area and data.”*

(3) (a) and (b) were added to specify data fields required for GIS data submittals.

(4) Modified to specify the following data standards:

“(4) *All file geodatabase feature classes or shapefiles shall meet the following data format standards:*

(a) *Point data collected in NAD83 or WGS84 decimal degrees global positional system coordinates;*

*(b) Data projected in Virginia Lambert Conformal Conic projection;*

*(c) Outfall location accuracy shall be represented in decimal degrees rounded to at least the fifth decimal place for latitude and longitude to ensure point location accuracy (e.g. 37.61741, -78.15279); and*

*(d) Metadata shall provide a description of each feature class or shapefile dataset, units of measure as applicable, coordinate system, and projection.”*

(4) Modifications are to ensure all GIS data submitted to the department meets specified minimum standards and as well as to ensure data consistency across permittee GIS data submittals.

(5) Revised to specify *“No later than October 1 of each year, the permittee shall update the MS4 map and outfall information table to include any new outfalls constructed or TMDLs approved or both during the immediate preceding reporting period.”*

c. IDDE written procedures: (2) dry weather screening protocols:

Added (d) - *“The permittee may adopt a risk-based approach to dry weather screening identifying observation points based upon illicit discharge risks upstream of an outfall. Observation points may include points of interconnection, manholes, points of discharge, conveyances, or inlets suspected to have a high likelihood of receiving illicit discharges;”* to expand the dry weather screening program to incorporate an option for a risk based approach that goes beyond the outfall, based upon historical knowledge and land use, allows for a more targeted approach. This risk-based option may allow for better resource allocation and a potentially more productive and directed screening efforts.

Added (e) - *“Each observation point screened may be counted as one outfall screening activity equivalent and counted towards the requirements of Part I E.3.c.(2)(b) or (c); however, at least 50% of the minimum annual screening events must include outfall screening;”* to further support the potential implementation of a partial risk based screening approach while maintaining a fundamental reference point for comparison and programmatic stability.

Added (f) - *“Illicit discharges reported by the public and subsequent investigations may not be counted as screening events; however once the resolution of the investigation and the date the investigation was closed has been documented, an observation point may be established for future screening events;”* to clarify that publically reported illicit discharges are not counted toward the dry weather screening program; however, they can be utilized to determine a future risk based observation points.

(g) Tracking:

(i) - Revised language *“The unique identifier for the outfall or observation point;”* to allow for tracking and usage of observation points, as described in Part I E.3.c.(2)(d), in a risk based approach to the dry weather screening program.

Updated (v) – *“Observed indicators of possible illicit discharge events such as, floatables, deposits, stains, and vegetative conditions (e.g., dying or dead vegetation, excessive vegetative growth, etc.).”* These illicit discharge indicators were moved from Part I E.3.c.(2)(g)(vi) to clarify indicators of illicit discharges should be noted and tracked for all dry-weather screening events.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 18

Updated (vii) – “*If a discharge was observed, the estimated discharge rate and visual characteristics of the discharge (e.g., odor, color, clarity) and the physical condition of the outfall;*” for clarification.

Added (viii) – “*For observation points, the location, downstream outfall unique identifier, and risk factors or rationale for establishing the observation point;*” applicable to the use observation points for clarification.

Permittees should reference the EPA and Center for Watershed Protection 2004 [IDDE Guidance Manual for Program Development and Technical Assessments](#) for more detail on what specific items should be reviewed and the rationale behind those items. If an illicit discharge is observed, the estimated discharge rate, visual characteristics of the discharge and the physical condition of the outfall shall be documented and tracked by the permittee.

d. The MS4 program plan shall include:

d. – Changed “*information table*” to “*outfall information table;*” for consistency and clarification.

e. The annual report shall include:

(1) Added “*outfall*” to “*information table.*”

(2) Added “*observation points;*” for annual reporting if the permittee elects to identify observation points

(3) A list of illicit discharges to the MS4 including spills reaching the MS4 with information as follows:

(a) Added “*location*” for geographic reference of the “*source of the illicit discharge.*”

4. Construction stormwater runoff control - Added “*erosion and sediment;*” to title of Part I E.4. for consistency with Erosion and Sediment Control Law used to satisfy many elements of MCM4.

Following 9VAC25-870-400 D.2.d and 40 CFR 122.34(b) (4), MS4 permittees are required to implement a program to control runoff associated with construction activities. Polluted stormwater runoff from active construction sites often flows to MS4s and ultimately is discharged into local waterbodies.

Stormwater discharges from construction sites generally include sediment and other pollutants such as phosphorus, nitrogen, pesticides, petroleum derivatives, construction chemicals, and solid wastes that may become mobilized when land surfaces are disturbed. The Virginia Erosion and Sediment Control (VESC) regulations (9VAC 25-840) contain the criteria and requirements entities must meet for land disturbing activities related to development or redevelopment (development on prior developed lands). This 2023 general permit requires traditional MS4 permittees to continue implementation of an ESC program in accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51) and the attendant regulations.

This general permit requires nontraditional permittees to continue implementation of the most recently department approved annual standards and specifications for erosion sediment control. Projects not covered under annual standards and specifications must comply with an erosion and sediment control authority approved erosion and sediment control plan and the permittee must inspect all land disturbing activities as defined in § 62.1-44.15:51 of the Code of Virginia that result in the disturbance activities of



## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 19

10,000 square feet or greater, or 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay Preservation Area.

The VESC regulations and the Virginia Erosion and Sediment Control Law provide for among other programmatic requirements, specific provisions to:

- Require the use of an ordinance or other regulatory mechanism mandating the use of erosion and sediment controls (§ 62.1-44.15:54 and 9VAC25-840-90).
- The establishment of appropriate sanctions to ensure compliance (9VAC25-840-90).
- Require construction site operators to implement appropriate erosion and sediment control measures (§ 62.1-44.15:55 and 9VAC25-840-40).
- Require plan review procedures that account for water quantity as well as water quality where appropriate (§ 62.1-44.15:55 and 9VAC25-840-40).
- Require procedures for site stormwater management facility inspection and maintenance (9VAC25-840-60).

This 2023 general permit further draws a distinction between traditional and non-traditional permittees, as MS4 permittees may have varying legal and program authorities. Local governments are responsible for implementing the Virginia Erosion and Sediment Control Program (VESC) for private and local public projects within their jurisdictions. The Department is the VESC authority for projects implemented by state agencies and federal entities and is responsible for plan review and compliance inspections.

It should be noted that in accordance with Section 62.1-44.15.56 VESC law, state agencies must and federal entities may submit ESC Annual Standards and Specification to the Department for review and approval which allows them to implement the VESC for their projects. Under the ESC Annual Standards and Specification program, DEQ remains the VESC authority and maintains oversight of the program for these projects; however, the ESC Annual Standards and Specification program allows those entities to implement an ESC program similarly to a local government in such that they are able to approve their own ESC plans and must conduct inspections of projects. The ESC Annual Standards and Specifications program must conform to meet the minimum requirements of the VESC law and VESC regulations.

All MS4 permittees are still required to implement an ESC program for runoff associated with construction activities; however, in keeping with the 2018 permit, this permit includes requirements based on the VESC authority for each potential type of MS4 permittee as follows:

- Cities, counties, or towns with an approved VESC;
- Towns that rely on the surrounding county to implement the VESC;
- State agencies or federal entities with Department approved annual standards and specifications for erosion and sediment control;
- State agencies or federal entities without Department approved annual standards and specifications; and
- Subdivisions of local government that operate as separate entities from the local government itself (i.e., school boards)

The 2023 general permit, continues to have programmatic requirements incorporated by reference for the purposes of streamlining current regulatory requirements. Note that in 2016, the Virginia General Assembly passed legislation that consolidated the VESC law and the Virginia Stormwater Management Act (2016 Va. Acts Ch. 758.). Under this law, the Department is required to promulgate regulations that combine the VESC

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 20

regulations and the VSMP regulations to make the requirements more consistent, among other things. These regulatory changes are in the process of development and implementation; however, it is likely that the next iteration of the general permit and local government ordinances and programs will require revisions. Additionally, Virginia has seen multiple legislative initiatives related to stormwater over the past several years. The potential for contradictory requirements in the MS4 general permit and future regulation is minimized by incorporating regulatory requirement by reference.

#### a. (1), (2), (3), (4), and (5):

Each section of Part I E.4.a. incorporates the terms “*traditional*” and “*nontraditional*” where applicable for clarification.

(5) Removed “*subdivision of a local government such as a*” in reference to school boards or other local government bodies since school boards are separate local government entities from city councils and county boards of supervisors.

c. – Moved from Part I E.6. “*Employees and contractors serving as plan reviewers, inspectors, program administrators, and construction site operators shall obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations.*” This language was moved from minimum control measure 6 training requirements as this certification pertains more to minimum control measure 4: construction stormwater runoff inspection requirements than to minimum control measure 6: pollution prevention and good house-keeping training requirements.

#### **d. The permittee's MS4 program plan shall include:**

(1) - Updated to “*If the permittee implements a an erosion and sediment control program for construction site stormwater runoff in accordance with Part I E 4 a (1), the local ordinance citations for the VESCP program*” for clarification.

(2) - Updated to “*If the permittee is a town that does not implement an erosion and sediment control program for construction site stormwater runoff in accordance with Part I E 4 a (2), the county ordinance citations for the VESCP program the town is subject to*” for clarification.

(3) – Updated to “*If the permittee implements annual standards and specifications for erosion and sediment control and construction site stormwater runoff in accordance with Part I E 4 a (3)*” for clarification.

(5) - Modified to apply to traditional permittee inspection written procedures requirements consistent with VESCP programmatic requirements established by 9VAC25-840-90.A and inspection requirements established by 9VAC25-840-60.B.

Added (6) – “*For nontraditional permittees, erosion and sediment control plans or annual standards and specifications shall be approved by the Department in accordance with § 62.1-44.15:55. Compliance with approved erosion and sediment control plans or annual standards and specifications shall be ensured by the permittee with written inspection procedures that at minimum include the following;*

*(a) An inspection checklist for documenting onsite erosion and sediment control structures and systems are properly maintained and repaired as needed to insure continued performance of their intended function; and*

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 21

*(b) A list of all associated documents utilized for inspections including inspection schedules, checklists, department approved erosion and sediment control plans, the most recently department approved annual standards and specifications, and any other documents utilized.”*

(6) (a) and (b) were added in an effort to differentiate written procedures requirements for traditional and nontraditional permittees. TAC DEQ technical liaisons indicated that corrective actions for minimum control measure 4 are common for nontraditional permittees. (6) (a) and (b) were added to better define minimum requirements for the content needed in written procedures for nontraditional MS4s. The 2018 general permit provides little detail on what content is required in written procedures in order to resolve systemic compliance issues that may stem from vague permit conditions.

(7) - Modified to apply to traditional permittee corrective action and enforcement action written procedures requirements consistent with VESCP programmatic requirements established by § 62.1-44.15:58.

(8) - Added *“Nontraditional permittees shall maintain written procedures for requiring compliance with department approved erosion and sediment control plans and annual standards and specifications through corrective action or enforcement action”* to clarify corrective action and enforcement action written procedures expectations for nontraditional permittees.

(9) – Language clarified.

#### **e. The annual report shall include the following information:**

(1) Clarified this provision applies to nontraditional permittees with (a) applying to projects covered under current department approved annual standards and specifications for erosion and sediment control and (b) applying to projects covered under department approved erosion and sediment control plans.

(2) Language clarified.

(3) Language clarified and redundancy eliminated.

#### **5. Post-construction stormwater management for new development and development on prior developed lands**

Following 9VAC25-870-400 D.2.e and 40 CFR 122.34(b)(5), MS4 permittees must implement a program to address post construction stormwater runoff from new development and redevelopment projects. Post construction stormwater management in areas undergoing new development or redevelopment is necessary because runoff from these areas has been shown to significantly affect receiving waterbodies. Post construction runoff has the potential to cause substantial impacts in two forms: increased discharge of pollutants and increased quantity of water discharging to a receiving stream. The Virginia Stormwater Management Program (VSMP) regulations contain specific water quantity and quality criteria that must be met for new development and redevelopment projects. The 2023 general permit requires MS4 permittees to continue implementation of a post development stormwater program. The post development stormwater program must include strategies which may include both structural and non-structural BMPs in accordance with 9VAC870-63 and 9VAC25-870-65. Permittees must use an ordinance or other regulatory mechanism to address post-construction stormwater runoff as required in 9VAC25-870-106. The post development stormwater program must ensure adequate long term operation and maintenance of post-construction BMPs under 9VAC25-870-112 and 9VAC25-870-114.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 22

The 2018 permit referenced the Virginia Stormwater Program requirements, but did not differentiate between permittees with varying types of legal and program authorities. In Virginia, local governments with an MS4 program are responsible for implementing the Virginia Stormwater Management Program (VSMP) for private and local public projects within their jurisdictions including plan review and inspections. The Department is the VSMP authority for projects implemented by state agencies and federal entities and is responsible for plan review and compliance inspections.

In accordance with Section 62.1-44.15.31 of the Virginia Stormwater Management Act, state agencies are required to and federal entities may submit Annual Standards and Specifications consistent with the Virginia Stormwater Management Program. DEQ retains the authority of the stormwater management program with oversight, however, these entities are authorized to approve their own stormwater management plans and must conduct inspections. The Stormwater Annual Standards and Specifications program must conform to meet the minimum requirements of the Virginia Stormwater Management Act and VSMP regulations.

The 2023 permit has been revised to reflect the type of stormwater management authority that the permittee may have recognizing the differences between traditional and nontraditional permittees. This permit allows for progressive compliances and enforcement strategies which refer to a series of escalating activities permittees may use to achieve compliance (compliance assistance, warning letters, NOVs, enforcement actions). These are the same categories identified under MCM 4, which are:

- Cities, counties, or towns with an approved VSMP;
- Towns that rely on the surrounding county to implement the VSMP;
- State agencies or federal entities with Department approved annual standards and specifications for stormwater management;
- State agencies or federal entities without Department approved annual standards and specifications;
- and
- Local governments that operate as separate entities from the traditional local government itself (i.e., school boards)

For the same reasons explained in the construction stormwater runoff requirements in MCM 4, the post construction stormwater requirements have been streamlined to incorporate by reference the VSMA and VSMP regulations.

Requirements for development and implementation of a stormwater management facility inspection program from the 2018 permit have been retained. These conditions require that permittee owned stormwater management facilities be inspected once per year; and if the permittee is a VSMP authority then the privately owned stormwater management facilities must be inspected once per five years. The permit also includes a provision under which a permittee can propose an alternative inspection frequency for permittee owned BMPs that is less than once per year. The VSMP regulations require inspections at a frequency of once per five years. DEQ believes that in certain circumstances such as when a BMP is first installed or maintenance is performed, inspections of once per year may not be necessary, and the permittee may want to focus resources in other areas. As such, an alternative frequency with the appropriate rationale can be implemented, but by no means can the reduced frequency be less than once per five years, as required by the VSMP regulations.

The 2018 permit included requirements for the use of the DEQ Construction Stormwater Database or other application as specified by DEQ, to report each stormwater management facility installed after July 1, 2014 that is used to control post construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities. Additionally, the 2018 permit included reporting requirements for permittees to report all other stormwater management facilities

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 23

and BMPs to the DEQ BMP Warehouse. These requirements did not define the term of “BMP” in the context of MCM 5 and the 2023 permit BMP Warehouse Reporting requirements have been moved to Part III and “BMP” has been defined in the context of this new section to include stormwater management facilities, ecological restoration projects, and annual practices. Part III also replaces the conditions in the 2018 permit that required permittees to annually certify that the electronic spreadsheets were maintained. Reporting for stormwater management facilities using a spreadsheet or database is no longer required for the purposes of this permit although DEQ recognizes some permittees may want to retain this spreadsheet or database for asset management purposes.

a. (1), (2), (3), (4), (5), and (6):

Each section of Part I E.5.a. incorporates the terms “traditional” and “nontraditional” where applicable for clarification.

Added (3) – *“If the traditional permittee is a city, county, or town receiving initial permit coverage during the permit term and must obtain VSMP approval from the State Water Control Board, the permittee shall implement the VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as develop an inspection and maintenance program in accordance with Parts I E 5 b and c no later than 60 months after receiving permit coverage;”* in the event that a new Phase II MS4 traditional permittee is designated and issued permit coverage and does not already have an established VSMP. § 62.1-44.15:27. of the Code of Virginia requires all localities that operate a regulated MS4 adopt a VSMP.

b.- Revised language from *“that discharges to the MS4 as follows”* to *“as follows”* for conciseness and clarity, as stormwater management facilities within the MS4 service area owned or operated by the permittee are more often inherently part of the permittee’s MS4 and shall be included in an inspection and maintenance program and reported to the BMP Warehouse in Part III.

(1) – Added *“The permittee may use inspection and maintenance specifications available from the Virginia Stormwater BMP Clearinghouse or inspection and maintenance plans developed in accordance with the department’s Stormwater Local Assistance Fund (SLAF) guidelines”* for clarification that permittees may rely on established BMP specifications and monitoring plans to satisfy this requirement. (2) - Inspections shall be conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1; a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the department in accordance with 9VAC25-850.

Moved (2) from Part I E.6 – *“Employees and contractors implementing the stormwater program shall obtain the appropriate certifications as required under the Virginia Stormwater Management Act and its attendant regulations.”* These stormwater certification requirements are related to MCM 5 inspection procedures more so than MCM 6 training procedures. This move was done similarly to certification requirements for erosion and sediment control being moved from MCM 6 to MCM 4. These certification requirements were moved to MCM 4 and MCM 5 recognizing consolidation efforts taking place for 9VAC25-840, 9VAC25-850, and 9VAC25-870.

c. For traditional permittees described in Part I E 5 a (1), (2), or (3), the permittee shall:

Added (4) - *“The permittee may utilize the inspection reports provided by the owner of a stormwater management facility as part of an inspection and enforcement program in accordance with 9VAC25-870-*

114” to clarify that a permittee may incorporate inspection reports provided by the owner of a stormwater management facility, in their inspection and compliance program for consistency with VSMP requirements.

**Removed provision formerly under d.** - *“The permittee shall maintain an electronic database or spreadsheet of all known permittee-owned or permittee-operated and privately owned stormwater management facilities that discharge into the MS4. The database shall also include all BMPs implemented by the permittee to meet the Chesapeake Bay TMDL load reduction as required in Part II A. A database shall include the following information as applicable.”* Stormwater management facilities are reported, tracked, and updated by the permittee in the DEQ BMP Warehouse. Reporting requirements for the BMP Warehouse are now located in Part III. Data elements specified in d. (1), (2), (3), (4), (5), (6), (7), (8), and (9) have been moved to Part III. In (3), pervious acreage was not moved to Part III since the BMP Warehouse does not track pervious acreage; however, this information is ascertained by the department using total and impervious acreages for Chesapeake Bay TMDL modeling purposes.

**Removed provision formerly under e.** – Updates to the BMP Warehouse are required annually in Part III.

**Moved f. and g. provisions to Part III.**

**d. The MS4 program plan shall include:**

d. Language clarified and removed *“(6) The stormwater management facility spreadsheet or database incorporated by reference and the location or webpage address where the spreadsheet or database can be reviewed”* as maintaining this spreadsheet or database id no longer required.

**e. The annual report shall include the following information:**

e. Language clarified and added *“(6) A confirmation statement that the permittee electronically reported stormwater management facilities inspected using the DEQ BMP Warehouse in accordance with Part III B 5”* in order to capture BMP inspection data in the BMP Warehouse.

6. Pollution prevention and good housekeeping for facilities owned or operated by the permittee

Following 9VAC25-870-400 D.2.f and 40 CFR 122.34(b) (6), MS4 permittees are required to continue implementation of a pollution prevention and good housekeeping program. The title of the section has been revised to reflect that the conditions of this MCM apply to those facilities that are owned or operated by the permittee. Pollution prevention and good housekeeping are key elements for minimizing the impact from any activity exposed to stormwater that has the potential to discharge to surface waters. The minimum control measure requires the small MS4 permittee to evaluate and revise, as appropriate, standard operating procedures to help ensure a reduction in the amount and type of pollution that collects at municipal facilities and is discharged into local waterways.

In the 2018 permit required permittees maintain written good housekeeping procedures for a variety of objectives and activities listed in Part I E.6.a; however, this permit condition was unclear on what activities needed to be included in generalized procedures based on MCM 6 objectives (e.g. prevent illicit discharges, improper disposal, etc.). Through permittee audits and inspections DEQ has found that following MCM 6 good housekeeping procedures is a common compliance issue. This can be for a variety reasons such as written procedures may meet permit requirements but are too vague to be useful to applicable permittee staff or contractors. Another common issue is that elements applicable to the permittee’s MS4 can be scattered through-out a comprehensive

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 25

environmental manual making it difficult and sometimes very unlikely that permittee staff and contractors will piece together the common threads of procedures applicable to the MS4.

The written procedures for MCM 6 good housekeeping were overhauled and split into two sections (a. and b.). a. lays-out the objectives each procedure shall meet and b. lays out each activity requiring written good housekeeping procedures. This restructuring was done in order to give permittees clearer permit conditions and set expectations for clear and concise written procedures that are easily followed by permittee staff and contractors.

In order to promote contractor implementation of permittee good housekeeping procedures requirements for contract language have been moved to directly follow written procedure requirements (Part I E.6.c.). MCM 6 staff training requirements have also been moved to Part I E.6.d. for cohesion of written procedures with contract language and training plans to promote further integration of Part I E.6.a., b., c., and d.

This permit was also reformatted to include MCM 6 provisions that lacked integration with good housekeeping procedures such as incorporation of the provision prohibiting the use of anti-icing and deicing agents containing urea or other forms of nitrogen and phosphorus and following nutrient management plans. This permit also reduces redundancies of SWPPP requirements and good housekeeping procedures and distinguishes between long-term bulk material storage; an activity that defines high-priority facilities that may need a SWPPP and temporary landscaping storage which should be covered under good house-keeping procedures. This permit also encourages incorporating applicable good housekeeping procedures into SWPPPs to avoid redundant effort to achieve permit conditions. Effective implementation of good housekeeping procedures and training may in some cases eliminate the need for some facility SWPPPs. This permit also removes the term “*high potential to discharge pollutants*” from several provisions on SWPPP applicability and requirements as this qualifier has been misconstrued and has led to compliance actions stemming from differences in opinion on what may be a “high potential to discharge pollutants.” This revision should promote compliance certainty for permittees.

Lastly, this permit clarifies that DCR is the nutrient management plan approval and renewal authority and provisions have been included for requiring approval from DCR for new plans and renewal of plans prior to expiration.

a. - Reformatted to “*The permittee shall maintain and implement written good housekeeping procedures for those activities listed in Part I E 6 b at facilities owned or operated by the permittee*” to specify the objectives of each good housekeeping procedure required under Part I E 6 b.

a. - Moved elements of the following language: “*such as road, street, and parking lot maintenance; equipment maintenance; and the application, storage, transport, and disposal of pesticides, herbicides, and fertilizers.*” Road, street, and parking lot maintenance required written procedures are established in Part I E 6 b (1). Equipment maintenance required written procedures are established Part I E 6 b (5) and equipment maintenance is an activity meeting definition of a high priority facility. Written procedures for the application of pesticides, herbicides, and fertilizer are established in Part I E 6 b (6) and (7) and pesticides, herbicides, and fertilizer storage is an activity meeting the definition of a high priority facility.

(4) - “*Minimize the pollutants in stormwater runoff*” was removed from several listed activities and added to Part I E.6.a. procedure objectives to reduce redundancy.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 26

b. - Reformatted to *“The permittee shall develop and implement written good housekeeping procedures that meet the objectives established in Part I E 6 a for the following activities”* to specify the activities requiring written procedures that meet the objectives of Part I E 6 a.

(1) – Added *“sidewalk”* to road, street, and parking lot procedures for clarification.

(a) - Added *“Within 24 months of permit issuance, the permittee shall update and implement procedures in accordance with this subsection to include implementation of best management practices for anti-icing and deicing agent application, transport, and storage”* to ensure best management practices for anti-icing and deicing agents are incorporated into road, street, sidewalk, and parking lot procedures.

(b) - Incorporated *“Procedures developed in accordance with this subsection shall prohibit the application of any anti-icing or deicing agent containing urea or other forms of nitrogen or phosphorus”* into road, street, sidewalk, and parking lot procedures (prohibition formerly in Part I E 6 k).

(2) - Added *“Renovation and significant exterior maintenance activities (e.g., painting, building power-washing, roof resealing, and HVAC coil cleaning) not covered under a separate VSMP construction general permit. The permittee shall develop and implement procedures no later than 36 months of permit issuance.”* These activities have been found by DEQ to be common compliance issues.

(3) - Removed *“utility”* to include pumped water from all construction and maintenance activities. DEQ has developed *Guidelines for Management of Street Wastes Collected During Stormwater Conveyance System Cleaning* to be posted on the DEQ MS4 webpage.

(4) – Added *“Temporary storage of landscaping materials”* to recognize illicit discharge potential from landscaping materials and distinguish from long-term bulk material storage which is an activity that defines high priority facilities. Removed *“salt storage”* since anti-icing storage is covered under Part I E 6 b (1).

(5) - Replaced *“municipal automobiles”* with *“permittee owned or operated vehicles”* recognizing nontraditional permittees are not municipal.

(6) – Revised to *“Application of materials, including pesticides, and herbicides shall not exceed manufacturer’s recommendations”* for clarification recognizing that permittees may apply less than manufacturer’s recommendation.

(7) – Revised to *“Application of fertilizer shall not exceed maximum application rates established by applicable nutrient management plans. For areas not covered under nutrient management plans where fertilizer is applied, application rates shall not exceed manufacturer’s recommendations”* in order to integrate nutrient management plans with good housekeeping procedures.

c. - Moved from Part I E 6 l to emphasize link between established procedures and contract language.

d., e., and f. - Moved from Part I E 6 m, n, and o to emphasize link between established procedures and training plan.

Added new g. for clarification related to the 2020 census expanded areas.



FACT SHEET

General Permit for Small MS4s

Effective November 1, 2023

Page 27

Added new h. for clarification related to the 2020 census expanded areas. Relettered existing g to i: Revised for clarification and removed “*high potential for discharging pollutants*” language to reduce subjective misinterpretation of the objective criteria established in Part I E.6.g (1), (2), (3), (4), (5), (6), (7), (8), and (9).

Relettered existing h to j. Each SWPPP as required in Part I E 6 c Part I E 6 g shall include the following:

Added q. for clarification related to the 2020 census expanded areas.

Added r. for clarification related to the 2020 census expanded areas.

Added (4) and (5):

*“(4) A description of all structural control measures such as stormwater management facilities and other pollutant source controls applicable to SWPPP implementation (e.g., permeable pavement or oil-water separators that discharge to sanitary sewer are not applicable to the SWPPP) such as oil-water separators, and inlet protection designed to address potential pollutants and pollutant sources at risk of being discharged to the MS4”*

*“(5) A maintenance schedule of all stormwater management facilities and other pollutant source controls applicable to SWPPP implementation described in Part I E 6 h (4).”*

(4) and (5) were added to capture pertinent information for SWPPP implementation.

Formerly (6): Removed “*Procedures to conduct an annual comprehensive site compliance evaluation*” since annual inspections are already required in Part I E.6.h (8).

Added (10) and (11):

*“(10) A log of modifications to the SWPPP made as the result of any unauthorized discharge, release, or spill in accordance Part I E 6 j or changes in facility activities and operation requiring SWPPP modification; and*

*(11) The point of contact for SWPPP implementation.”*

(10) and (11) were added to capture pertinent information for SWPPP implementation and in order for permittee staff and DEQ to be informed on staff responsible for SWPPP implementation.

i. – Added “*The permittee shall maintain a list of all high-priority facilities owned or operated by the permittee not required to maintain a SWPPP in accordance with Part I E 6 g and this list shall be available upon request*” for tracking high priority facilities that shall be reviewed to determine if SWPPP coverage is needed.

l. - Replaced “*criteria*” with “*definition*” of a high-priority facility since it is a defined term and the criteria in Part I E 6 g determine if a high priority facility needs SWPPP coverage.

m. Added “*If activities change at a facility such that the facility no longer meets the criteria requiring SWPPP coverage as described in Part I E 6 g, the permittee may remove the facility from the list of high-priority facilities that require SWPPP coverage,*” to distinguish changes in activities that no longer meet the definition of a high priority facility described in Part I E.6.l from activity changes that no longer meet the criteria for SWPPP coverage described in this section.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 28

o. - Added “*For newly established turf where nutrients are applied to a contiguous area greater than one acre, the permittee shall implement a nutrient management plan no later than six months after the site achieves final stabilization,*” to establish timeframe to implement nutrient management plans on newly established turf greater than one acre.

p. - Added “*Nutrient management plans developed in accordance with Part I E 6 n shall be submitted to the Department of Conservation and Recreation (DCR) for approval,*” to establish DCR as the nutrient management plan approval authority.

q. - Added “*Nutrient management plans that are expired as of the effective date of this permit shall be submitted to DCR for renewal no later than six months after the effective date of this permit. Thereafter, all nutrient management plans shall be submitted to DCR at least 30 days prior to nutrient management plan expiration. Within 36 months of permit coverage, no nutrient management plans maintained by the permittee in accordance with Part I E 6 n shall be expired due to DCR documented noncompliance with 4VAC50-85-130 provided to the permittee,*” to clarify nutrient management plans must be renewed by DCR and establish a timeframe renewing expired nutrient management plans.

#### **Former sections k. through o. integrated into various sections of MCM 6, MCM 5, and MCM 4.**

r. - Added “*Nutrient management plans may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site,*” to clarify nutrient management plan record keeping requirements.

#### **t. The MS4 program plan shall include:**

(1) - Changed to require “*list of written good housekeeping procedures*” so the program plan doesn’t have to be updated with every procedure update.

(2) - Added the following data elements to the list of high priority facilities with SWPPP coverage, “*facility name, facility location, and the location of the SWPPP hardcopy or electronic document being maintained*” for tracking purposes.

(3) – Changed “*lands*” to “*locations*” for clarification.

(a) – Changed “*on which nutrients are applied*” to “*covered by each nutrient management plan*” for clarification.

(b) – Changed “*The date of the most recently approved nutrient management plan for the property*” to “*The DCR approval date and expiration date for each nutrient management plan*” for clarification.

(c) – Changed “*The location in which the individual turf and landscape nutrient management plan is located*” to “*The location of the nutrient management plan hardcopy or electronic document being maintained*” for clarification.

#### **u. The annual report shall include the following:**

(1) – Changed “*operational*” to “*written*” for consistency.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 29

(2) – Changed “*A summary of any new SWPPPs developed in accordance Part I E 6 c during the reporting period*” to “*A confirmation statement that all high-priority facilities were reviewed to determine if SWPPP coverage is needed during the reporting period*” in order to improve value of annual reporting element and reduce reporting burden.

(3) – Changed “summary” to “list” to promote itemization annual reporting elements for e-reporting purposes and limit narratives to providing rationale modification of SWPPPs and delisting of any high-priority facilities.

Formerly (4) - Removed “*location, total acreage, and date approved for nutrient management plans*” as these data elements are captured in the program plan.

(4) and (5):

“(4) *A summary of any SWPPPs modified in accordance with Part I E 6 j, l, or m.*

(5) *The rationale of any high-priority facilities delisted in accordance with Part I E 6 l or m during the reporting period.*”

(4) and (5) were split to distinguish modified SWPPPs to from SWPPPs no longer needed.

(6) – Changed “*summary of new nutrient management plans*” to “*The status of each nutrient management plan as of June 30 of the reporting year (e.g., approved, submitted and pending approval, and expired)*” to promote annual reporting itemization and streamlining reporting elements as well as to ensure nutrient management plans are renewed in a timely manner.

(7) - Changed “*training event*” to “*training activity*” recognizing permittee utilization of online training modules and recorded webinars for training requirements.

## **Part II TMDL Special Conditions**

### **A. Chesapeake Bay TMDL Special Condition**

MS4 permittees are required to reduce the loadings of nutrients from existing sources (pervious and impervious regulated urban lands developed prior to July 1, 2009) equivalent to the Level 2 (L2) scoping run reductions simulated in the Chesapeake Bay Watershed Model. Level 2 implementation equates to an average reduction of 9% of nitrogen loads and 16% of phosphorus loads from impervious regulated acres and 6% of nitrogen loads and 7.25% of phosphorus loads from pervious regulated acres beyond 2009 progress loads and beyond urban nutrient management reductions for pervious regulated acreage. Calculations are based on an average tributary loading rate.

In the Phase I and II Watershed Implementation Plans (WIPs) and the Chesapeake Bay TMDL, the Commonwealth and EPA committed to using a phased approach for the MS4 sector affording MS4 permittees three full five year permit cycles to implement necessary reductions as follows:

- 5% of L2 achieved by the end of the first permit term;
- 35% of the necessary reductions in the second permit term (totaling at least 40% of the necessary reductions no later than the end of the second permit term); and

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 30

- 60% of the necessary reductions from the third permit term (totaling 100% of the necessary reductions no later than the end of the third permit term).

Due to multiple delays in permit reissuance, three full permit terms now extends beyond the Chesapeake Bay Program partnership's 2025 goal for implementation of all controls necessary to meet the TMDL. Under the Phase I and II WIPs, Virginia has recognized the right to adjust this plan and take different approaches to meet the 2025 goal. Virginia is committed to a phased approach that allows MS4 permittees the time necessary to fully implement nutrient reductions necessary to meet the Chesapeake Bay TMDL wasteload allocations.

The "first permit term" in which the 5% reduction is required became effective on July 1, 2013 and expired on June 30, 2018. During the 2013 permit cycle ("first permit cycle"), each MS4 permittee was required to develop and submit for approval a Chesapeake Bay TMDL Action Plan that included BMPs and strategies to reduce existing source loadings of total nitrogen, total phosphorus, and total suspended solids by 5% of the required L2 reductions no later than the permit's expiration of June 30, 2018. DEQ received and approved Chesapeake Bay Action Plans from each existing small MS4 permittee for the proposed reductions to meet the 5% of L2 reduction requirement or greater. The "second permit term" in which the 35% reductions and the cumulative 40% reductions (addition of the first term 5% and the second term 35% requirements) became effective November 1, 2018 and expires October 31, 2023. The "third permit term" in which the final 60% reductions and the cumulative 100% (addition of the first term 5%, second term 35% and third term 60% requirements) is covered by this permit. Tables 3a-3d have been updated to show the required cumulative 100% reductions.

Nutrient loadings associated with construction and post-construction from new sources are addressed through the implementation of the ESC Law, the Stormwater Management Act, the Chesapeake Bay Preservation Act and their attendant regulations and compliance with MCMs 4 and 5 (Part I.E.4 and 5) in this permit. These regulatory programs represent a framework that will provide the State and EPA with reasonable assurance that the pollutant reductions necessary to address the Chesapeake Bay TMDL will be met. By implementing the requirements for the control of post-construction runoff from new and redevelopment, this general permit implements the Commonwealth's strategies for addressing increased loads associated with growth.

Since July 1, 2009, the Commonwealth has implemented post development criteria considered to be nutrient neutral. Until July 1, 2014, localities had the option of implementing the state's criteria of 0.45 lbs. of total phosphorus per acre per year based on the states average land cover condition of 16% impervious cover or adopting an alternative criterion that was reflective of their local land cover conditions. While many localities implemented the Commonwealth's post development criteria, some MS4 localities choose to adopt an alternative land cover condition greater than 16% as allowed. As of July 1, 2014, the Commonwealth established that all new sources meet a post development criterion of 0.41 pounds per acre per year of total phosphorus for new development. Use of an adopted land cover condition to determine loading from new sources is no longer allowed except under two specific circumstances allowed in the VSMP regulations as projects that are "grandfathered" or meet "time limits of applicability" requirements. Both of these project circumstances have associated sunset dates. Additionally, any increased loads from projects associated with these two circumstances, must be offset by the MS4 permittee as described above. As part of the Chesapeake Bay TMDL Special Condition, MS4 permittees that authorized new source pollutant loads between July 1, 2009 and June 30, 2014 at rates higher than the 16% average land cover condition must offset the increased load calculated as the difference between the pollutant load generated at 16% average land cover condition and pollutant load generated at the adopted land cover condition for the source.

Additionally, by the expiration of this permit, permittees must also provide for reductions from any adjustments as a result of changes to the MS4 service area within the 2010 Census. Compliance with reductions in loading rate will be measured based on the total required reductions as calculated using the tables in Parts II.A of the general permit and the reported implementation of BMPs.

### **Removal of Sediment Reduction Requirements**

As explained in the above Considerations section on the Virginia Chesapeake Bay TMDL Phase III WIP (Page 5), sediment reduction requirements have been removed from Part II A of this general permit and permittees will not be required to achieve 60% of L2 sediment reductions. This revision is consistent with Virginia’s Phase III WIP as well as the Principals’ Staff Committee’s August 12, 2019 final decision. BMP implementation in order to achieve 100% of L2 nutrient reductions will achieve additional sediment reductions, however sediment reduction requirements will no longer drive BMP implementation. Sediment reductions achieved by permittee BMP implementation will continue to be tracked in accordance with BMP Warehouse reporting requirements under Part III.

1. - Updated to include Phase III WIP and 100% of L2 reductions to be achieved by October 31, 2028.
2. - Removed total suspended solids from the definition of “Pollutants of concern”
3. – Updated to include *“the third phase reduction of least 60% of the L2 Scoping Run based on lands within the 2000 and 2010 expanded Census urbanized areas required by October 31, 2028”* to achieve a cumulative 100% of L2 reductions and removed total suspended solids.

Tables 3a, b, c, and d - Updated to calculate 100% of L2 reductions and removed total suspended solids.

4. and 5. – Updated to require offset for 100% from projects resulting in total phosphorous loads greater than 0.45 lb/acre/year for new sources and grandfathered projects no later than October 31, 2028.
6. – Added *“November 1, 2018”* permit term for cumulative total reduction requirements.

Added 7. *“Forty percent (40%) of L2 reductions for total nitrogen and total phosphorous shall at a minimum be maintained by the permittee during the permit term.”* The addition of this language will ensure that, at a minimum the required reductions achieved by the first and second permit terms are maintained and do not fall below the minimum required cumulative reductions.

### **12. Chesapeake Bay TMDL action plan requirements.**

#### **Added a.**

*a. Permittees applying for initial coverage under this general permit shall submit a draft first phase Chesapeake Bay TMDL action plan to the department no later than October 31, 2028, unless the department grants a later date. The required reduction shall be calculated using Tables 3a, 3b, 3c, and 3d as applicable. The first phase action plan shall achieve a minimum reduction of least 40% of the L2 Scoping Run based on lands within the 2000 and 2010 expanded Census urbanized areas no later than October 31, 2033. The action plan shall include the following information:*

*(1) The load and cumulative reduction calculations for each river basin calculated in accordance with Part II A 3, A 4, and A 5.*

*(2) The BMPs to be implemented by the permittee to achieve 40% of the reductions calculated in Part II A 13 a:*

*(a) Type of BMP;*

*(b) Project name;*

*(c) Location;*

*(d) Percent removal efficiency for each pollutant of concern; and*

*(e) Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 9 for each pollutant of concern.”*

a. was added to provide expectations for new permittees to submit a draft first phase Chesapeake Bay TMDL action plan by October 31, 2028 to achieve 40% of L2 reductions by the end of the next permit term or October 31, 2033.

**Added 14. Chesapeake Bay TMDL implementation annual status report.**

*“a. Permittees previously covered under the General VPDES Permit for the Discharge of Stormwater from MS4 effective November 1, 2018 shall submit a Chesapeake Bay TMDL implementation annual status report in a method, (i.e. how the permittee must submit) and format (i.e. how the report shall be laid out) as specified by the department no later than October 1 of each year. The report shall cover the previous year from July 1 to June 30.*

*b. Following notification from the department of the start date for the required electronic submission of Chesapeake Bay TMDL implementation annual status reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.*

*c. The year two Chesapeake Bay TMDL implementation annual status report shall contain a summary of any public comments on the Chesapeake Bay TMDL Action Plan received and how the permittee responded.*

*d. Each Chesapeake Bay TMDL implementation annual status report shall include the following information:*

*(1) A list of Chesapeake Bay TMDL action plan BMPs (not including annual practices) implemented prior to the reporting period that includes the following information for reported BMP;*

*(a) The number of BMPs for each BMP type;*

*(b) The estimated reduction of pollutants of concern achieved by each BMP type and reported in pounds of pollutant reduction per year; and*

*(c) A confirmation statement that the permittee electronically reported Chesapeake Bay TMDL action plan BMPs inspected using BMP Warehouse in accordance with Part III B 5.*

*(2) A list of newly implemented BMPs including annual practices implemented during the reporting period that includes the following information for each reported BMP or a statement that no BMPs were implemented during the reporting period*

*(a) The BMP type and a description of the location for each BMP;*

## FACT SHEET

General Permit for Small MS4s

Effective November 1, 2023

Page 33

*(b) The estimated reduction of pollutants of concern achieved by each BMP and reported in pounds of pollutant reduction per year; and*

*(c) A confirmation statement that the permittee electronically reported BMPs using the DEQ BMP Warehouse in accordance with Part III B 3.*

*e. If the permittee acquired credits during the reporting period to meet all or a portion of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were acquired;*

*f. Pollutant load reductions generated by annual practices such as street and storm drain cleaning shall only be applied to the compliance year in which the annual practice was implemented.*

*g. The progress, using the final design efficiency of the BMPs, toward meeting the required cumulative reductions for total nitrogen, total phosphorus, and total suspended solids.; and*

*h. Any revisions made to the Chesapeake Bay TMDL action plan.*

*i. A list of BMPs that are planned to be implemented during the next reporting period.”*

### **Added 15 Offsets for Development in 2020 Census Expanded Area.**

Development within this expanded area that does not meet the 0.45 lbs/acre phosphorus criteria, needs to be evaluated for offset pollutant reductions. These projects may exceed the assumed loadings of the Chesapeake Bay TMDL. This permit requires that those excess loads be characterized with the expectation that offsets will be provided in the next permit cycle.

### **Added 16 Offsets for Grandfathered Projects.**

This requirement clarifies when additional reductions in the 2020 expanded urban areas from ‘Grandfathered’ projects are required. Projects that may be ‘Grandfathered’ as per the VSMP regulation may require additional nutrient reductions based on the criteria given in the provision. Development within this expanded area that does not meet the 0.45 lbs/acre phosphorus criteria, needs to be evaluated for offset pollutant reductions. These projects may exceed the assumed loadings of the Chesapeake Bay TMDL. This permit requires that those excess loads be characterized with the expectation that offsets will be provided in the next permit cycle.

The annual report will no longer include a status update for Chesapeake Bay TMDL implementation. Chesapeake Bay TMDL implementation annual status reports are now required to be maintained as separate document in accordance with Part I D.6. and shall be posted to the permittee’s stormwater webpage in accordance with Part I E.2.b.(5) to promote transparency and allow both DEQ and other interested parties to easily track Chesapeake Bay TMDL progress towards achieving 100% reductions by October 31, 2028. The required contents of each Chesapeake Bay TMDL implementation annual status report are located in Part II.A.14. Status report should include all BMPs implemented to date to meet the Chesapeake Bay TMDL reduction requirements.

### **B. Local TMDL Special Condition.**

Permittees are required to update previously developed TMDL action plans for those pollutants for which they were given a wasteload allocation in a TMDL approved by EPA prior to July 1, 2018 and develop TMDL action plans for those pollutants for which they were given a wasteload allocation in a TMDL approved by EPA between July 1, 2018 and June 30, 2023. Permittees are not required to develop action plans during this permit term for TMDLs approved by EPA after July 1, 2023 as requiring such would be a self-modifying permit condition.

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 34

Permittees may obtain a list of EPA approved TMDLs and the associated approvals dates from the Department's website:

(<https://www.deq.virginia.gov/our-programs/water/water-quality/tmdl-development/approved-tmdls>) or by contacting Department staff.

Permittees may use the adaptive, iterative process to achieve wasteload allocations over multiple permit terms. However, permittees are required to provide the Department an estimate of the date by which wasteload allocations for sediment, nitrogen, and phosphorus will be achieved.

The 2018 permit required permittees to develop TMDL action plans and included a list of items to be addressed in the action plan but did not specify BMPs acceptable for implementation. The 2023 permit includes a section of requirements to be included in all TMDL action plans as well as requirements for specific pollutants for which a TMDL has been developed as follows: bacteria, nutrients, sediment, PCBs, and Chloride. Each pollutant specific section identifies the acceptable BMPs that permittees may implement as part of the TMDL action plan.

The permit does not require specific actions in impaired streams without a TMDL. Many of the Commonwealth's urban impairments are benthic and until a stressor analysis has been completed as part of the TMDL, appropriate actions cannot be adequately determined.

For TMDLs for bacteria impairments, a table of sources and related reduction strategies is included in the permit. For those permittees that are an approved VSMP authority, at least three of the strategies must be implemented. It is expected that through a robust IDDE program and public education efforts the contribution of anthropogenic sources of bacteria in impaired waters from the MS4s will be reduced. For permittees that are not an approved VSMP authority, at least one strategy must be implemented. The Department decided to create differing requirements based on whether a permittee is an VSMP authority due to varying extend of authorities of the two categories of permittees. Permittees that are not an approved VSMP authority include those non-traditional MS4 permittees such as state agencies, federal entities, and institutes of higher education. These non-traditional MS4 permittees have limited legal authorities, are not able to implement ordinances, usually constitute a relatively small footprint compared to the traditional (local government) MS4 permittees, and do not have access to all of the options available to traditional permittees listed in the table.

For local TMDLs for nitrogen, phosphorus, and sediment impairments, permittees are able to pick a variety of BMPs previously reviewed and approved for use through the Virginia BMP Clearinghouse or the Chesapeake Bay Program. BMPs approved under both the Clearinghouse and Bay Program have to undergo a rigorous review and approval process. The Virginia BMP Clearinghouse included those BMPs approved for use to meet Virginia's post development stormwater quality criteria which are reviewed by technical experts. As part of the Clearinghouse approval specifications, an associated nitrogen and phosphorus reduction efficiency is assigned. The Bay Program uses an expert panel to review and recommend BMPs for approval to achieve reduction of loads to the Chesapeake Bay watershed. Under the Bay Program, reduction efficiencies for nitrogen, phosphorus and sediment are typically assigned to BMPs. When sediment reduction efficiencies are not available permittees may use the Chesapeake Bay Program retrofit curves using runoff storage to establish a reduction efficiency for sediment, or other applicable sediment reduction efficiency protocols. Many local nutrient and/or sediment TMDL's can be met with a single project (e.g. stream restoration). If the TMDL cannot be met with a single project, additional projects are required.

To address WLAs for PCBs, permittees are required to identify potentially significant sources of PCBs owned or operated by the permittee that drain to the MS4. As part of the identification process, permittees must determine if the activities have been terminated and identify any measures being implemented or planned to be implemented to limit exposure to stormwater. Additionally, if during the term of the permit, the permittee discovers a source of PCBs



## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 35

draining within the MS4 service area that is not owned or operated by the permittee, the permittee is required to notify the Department.

To address WLAs for Chloride, traditional permittees are required to develop an anti-icing and de-icing agent education and outreach strategy. This strategy must contain a schedule that implements two or more of the strategies listed in Part I.E.1.d Table 1. Permittees shall also review standard operating procedures for anti-icing and de-icing agent application, handling, storage and transport activities and identify enhanced BMPs to make efficient management decisions regarding the use and storage of anti-icing and de-icing agents while promoting public safety.

1. - Added *“Permittees applying for initial coverage under this general permit shall develop a draft local TMDL action plan designed to reduce loadings for pollutants of concern if the permittee discharges the pollutants of concern to an impaired water for which a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) prior to October 31, 2023, and in which an individual or aggregate wasteload has been allocated to the permittee. The permittee shall develop action plans to meet the conditions of Part II B 4, B 5, B 6, B 7, and B 8 as applicable. Each local TMDL action plan shall be provided to the department no later than October 31, 2028, unless the department grants a later date”* to distinguish new permittee conditions from existing permittee conditions.

2. – Modified to *“Permittees previously covered under the General VPDES Permit for Discharges of Stormwater from MS4 effective November 1, 2018 shall develop and maintain a local TMDL action plan designed to reduce loadings for pollutants of concern if the permittee discharges the pollutants of concern to an impaired water for which a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) as described in Part II B 2 a and 2 b”* to distinguish new permittee conditions from existing permittee conditions.

a. – Added *“Updated action plans shall include:*

*(1) An evaluation of the results achieved by the previous action plan; and*

*(2) Any adaptive management strategies incorporated into updated action plans based on action plan evaluation.”*

(1) and (2) added to demonstrate progress for updated local TMDL action plans.

#### **5. Bacterial TMDLs.**

a. – Changed *“If the permittee is an approved VSMP authority, the permittee”* to *“Traditional permittees”* for clarification.

b. – Changed *“If the permittee is not an approved VSMP authority, the permittee”* to *“nontraditional permittees”* for clarification.

#### **6. Local sediment, phosphorus, and nitrogen TMDLs.**

a.(2) – Added *“Pollutant load reductions generated by annual practices such as street and storm drain cleaning shall only be applied to the compliance year in which the annual practice was implemented”* for clarification.

b. – Revised to *“The permittee may meet the local TMDL requirements for sediment, phosphorus, or nitrogen through BMPs implemented or sediment, phosphorus, or nitrogen credits acquired. BMPs implemented and nutrient and sediment credits acquired to meet the requirements of the Chesapeake Bay TMDL in Part II A may*

*also be utilized to meet local TMDL requirements as long as the BMPs are implemented or the credits are generated in the watershed for which local water quality is impaired.” For clarification.*

#### **7. Polychlorinated biphenyl (PCB) TMDLs.**

Added c. - *“Results of any action plan PCB monitoring or product testing conducted and any adaptive management strategies that have been incorporated into the updated action plan based upon monitoring or product testing results.”* This language ensures a reporting element if such testing or monitoring is undertaken.

#### **Added 8. Chloride TMDLs.**

*“a. Traditional permittees shall develop an anti-icing and deicing agent education and outreach strategy that identifies target audiences for increasing awareness of anti-icing and deicing agent application impacts on receiving waters and encourages implementation of enhanced BMPs for application, handling, and storage of anti-icing and de-icing agents used for snow and ice management.*

*b. Traditional permittee anti-icing and deicing agent education and outreach strategies shall contain a schedule to implement two or more of the strategies listed in Part I E 1 d Table 1 per year to communicate to target audiences the importance of responsible anti-icing and deicing agent application, transport, and storage.*

*c. No later than 36 months after permit issuance, the permittee shall review good housekeeping procedures for anti-icing and deicing agent application, handling, storage, and transport activities required under Part I E 6 b (1) (a) and identify a minimum of two strategies for implementing enhanced BMPs that promote efficient management and application of anti-icing and deicing agents while maintaining public safety.”*

On May 23, 2018, EPA approved Virginia’s first Chloride TMDL for Accotink Creek in Fairfax County. This TMDL assigned a wasteload allocation to MS4s in the Accotink Creek watershed which requires MS4s permittees to develop a TMDL action plan in accordance with Part II B. This permit establishes chloride TMDL action plan requirements. In addition to requirements under Part I E 6 b (1) (a) permittees that must develop a chloride TMDL action plan for implementation of additional BMPs for anti-icing and deicing agent application, storage, and transport. The Virginia Salt Management Strategies (SaMS) guidance document may be utilized by permittees to determine which strategies best suit their system. Traditional permittees must also develop an anti-icing and deicing agent education and outreach strategy and implement this strategy recognizing potential for residential and commercial anti-icing and deicing agent over-application. Nontraditional permittees were not considered for action plan public education requirements due to the lack of residential and commercial properties that drain to nontraditional MS4s.

#### **Added C. Inspection and maintenance of ecosystem restoration projects used for TMDL compliance.**

*“1. Within 36 months of permit issuance the permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of ecosystem restoration projects as defined in 9VAC25-890-1 and implemented as part of a TMDL action plan developed in accordance with Part II A, B, or both. The permittee may utilize inspection and maintenance protocols developed by the Chesapeake Bay Program or inspection and maintenance plans developed in accordance with the department’s Stormwater Local Assistance Fund (SLAF) guidelines.*

*2. The permittee shall inspect ecosystem restoration projects owned or operated by the permittee and implemented as part of a current TMDL action plan developed in accordance with Part II A or B no less than once every 60 months.”*

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 37

Added C. to establish ecosystem restoration project inspection and maintenance requirements for projects implemented for TMDL action plans. The 2018 permit only required inspection and maintenance procedures for stormwater management facilities as defined in 9VAC25-870-10. Inspection and maintenance of ecosystem restoration projects implemented as part of a TMDL action plan is crucial for permittees to maintain reductions achieved by these projects in order to maintain compliance with Part II TMDL Special Conditions and Part III BMP Warehouse reporting requirements.

#### **Added Part III DEQ BMP Warehouse Reporting.**

*“A. For the purpose of Part III of this permit, best management practice or BMP means a practice that achieves quantifiable nitrogen, phosphorus, or total suspended solids reductions including stormwater management facilities, ecosystem restoration projects, annual practices, and other practices approved by the department for reducing nitrogen, phosphorus, and total suspended solids pollutants.*

*B. No later than October 1 of each year the permittee shall electronically report BMPs implemented and inspected as applicable between July 1 and June 30 of each year using the DEQ BMP Warehouse.*

*1. Traditional permittees specified in Part I E 5 a (1) shall use the DEQ Construction Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post-construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities.*

*2. The permittee shall use the associated reporting template for stormwater management facilities not reported in accordance with Part III B 1 including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in accordance with the Chesapeake Bay Preservation Act regulations (9VAC25-830) if applicable and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required.*

*3. The permittee shall use the DEQ BMP Warehouse to report BMPs that were not reported in accordance with Part III B 1 or 2 and were implemented as part of a TMDL action plan to achieve nitrogen, phosphorus, and total suspended solids reductions in accordance with Part II A or B.*

*4. The permittee shall use the DEQ BMP Warehouse to report any BMPs that were not reported in accordance with Part III B 1, 2, or 3.*

*5. The permittee shall use the DEQ BMP Warehouse to report the most recent inspection date for BMPs in accordance with Part I E 5 b or c, or in accordance with Part II C and the most recent associated TMDL action plan.*

*C. The following information for each BMP reported in accordance with Part III B 1, 2, 3, or 4 shall be reported to the DEQ BMP Warehouse as applicable:*

*1. The BMP type;*

FACT SHEET

General Permit for Small MS4s

Effective November 1, 2023

Page 38

2. *The BMP location as decimal degree latitude and longitude;*
3. *The acres treated by the BMP, including total acres and impervious acres;*
4. *The date the BMP was brought online (MM/YYYY). If the date brought online is not known, the permittee shall use 06/2005;*
5. *The 6th Order Hydrologic Unit Code in which the BMP is located;*
6. *Whether the BMP is owned or operated by the permittee or privately owned;*
7. *Whether or not the BMP is part of the permittee's Chesapeake Bay TMDL action plan required in Part II A or local TMDL action plan required in Part II B, or both;*
8. *If the BMP is privately owned, whether a maintenance agreement exists;*
9. *The date of the permittee's most recent inspection of the BMP; and*
10. *Any other information specific to the BMP type required by the DEQ BMP Warehouse (e.g., linear feet of stream restoration).*

*D. No later than October 1 of each year the DEQ BMP Warehouse shall be updated if an existing BMP is discovered between July 1 and June 30 that was not previously reported to the DEQ BMP Warehouse.”*

The 2018 permit required all permittee “BMPs” to be reported to the BMP Warehouse; however, the definition of “BMP” in 9VAC25-870-10 does not provide needed context for this condition and since this requirement was in Part I E 5 d (post-construction stormwater management) it is unclear whether the term “BMP” is limited to stormwater management facilities or if “BMP” applies to a broader scope of pollutant reduction practices. BMP is defined within the context of Part III to include stormwater management facilities, ecosystem restoration projects, and annual practices such as street cleaning. The requirements of the 2018 permit were moved to Part III since both practices implemented for new development in accordance with Part I E 5 as well as practices implemented for TMDL purposes in accordance with Part II should be tracked in the BMP Warehouse and reported to the Chesapeake Bay Program for modeling purposes.

**Part IV Applicable to all State and VPDES Permits.**

C.2. – Added “*Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically*” to satisfy e-reporting requirements.

**Administrative**

## FACT SHEET

### General Permit for Small MS4s

Effective November 1, 2023

Page 39

The general permit has a fixed term of five years. Every authorization under this general permit will expire at the same time and all authorizations will be renewed on the same date, provided a complete registration statement has been filed prior to the general permit's expiration date.

All operators desiring to be covered by this general permit must register with the Department by filing a registration statement and paying applicable fees. Small MS4s that are discharging to surface waters on the effective date of this general permit, and which have not been issued an individual VPDES permit, may submit the registration statement. During the term of this general permit, any small MS4s identified by the Department as regulated or that become regulated based on newly designated urbanized areas as part of the 2020 census shall submit a registration statement within 180 days of notice of designation or a later date a designated by the Board.

This general permit does not cover the discharge of stormwater associated with industrial activities or construction activities. Additionally, this general permit does not authorize non-stormwater discharges except those authorized under 9VAC25-890-20 D.3. Any operator not wishing to be covered or limited by this general permit may make application for an individual VSMP/VPDES permit, in accordance with VSMP/VPDES procedures, stating the reasons supporting the request.

This general permit does not apply to any new or increased discharge that will result in significant effects to the receiving waters. That determination is made in accordance with the State Water Control Board's Anti-degradation Policy contained in the Virginia Water Quality Standards, 9VAC25-260-30. Compliance with this general permit will maintain the Water Quality Standards adopted by the Board.

## FACT SHEET

General Permit for Small MS4s

Effective November 1, 2023

Page 40

All facilities that the board determines are eligible for coverage under this general permit will be authorized to discharge under the terms and conditions of the permit after a complete registration statement is submitted, the applicable permit fee is paid, and the Department sends a copy of the general permit to the applicant. If this general permit is inappropriate, the applicant will be so notified.

Office of Regulatory Management  
Economic Review Form

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC25-890
<b>VAC Chapter title(s)</b>	General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems
<b>Action title</b>	Reissuance of a general permit for the discharge of stormwater from small municipal separate storm sewer systems
<b>Date this document prepared</b>	7/17/23
<b>Regulatory Stage (including Issuance of Guidance Documents)</b>	Final

**Cost Benefit Analysis**

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

**VPDES general permits expire every 5 years and must be re-issued in order for permit coverage to be available to new permittees and existing covered permittees. If the general permit is not re-issued, the regulated community will need to obtain an individual permit to conduct the regulated activity. For this reason, the costs associated with obtaining an individual permit are compared with the costs associated with general permit coverage. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity.**

**Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)**

<p>(1) Direct &amp; Indirect Costs &amp; Benefits (Monetized)</p>	<p>Direct Costs:</p> <p>Regulating discharges of stormwater from small municipal separate storm sewer systems (MS4s) through the reissuance of a general permit regulation is an alternate streamlined approach that is used to regulate entities that conduct similar activities. A benefit of this general permit is its lower cost to permittees relative to the cost of obtaining an individual permit. Registration of new MS4s under the general permit costs \$16,000 over a complete permit cycle (\$4,000 initial application fee and \$3,000/year maintenance fee for the final 4 years of coverage). Reissuance of coverage under the general permit fee costs \$15,000 over a complete permit cycle (\$0 application fee and \$3,000/year maintenance fee over 5 years). If this general permit were not available, these MS4s would be required to obtain an individual permit VPDES permit. Coverage of new MS4s under an individual permit costs approximately \$32,900 over a complete permit cycle (\$8,000 application fee, \$6,000/year maintenance fee for the final 4 years of coverage and approximately \$900 for publication of a public notice). Reissuance of the individual permit costs \$30,900 over a complete permit cycle (\$0 application fee, \$6,000/year maintenance fee over 5 years and approximately \$900 for publication of a public notice).</p> <p>The availability of the general permit represents a cost savings of approximately 51% compared to coverage under an individual permit (\$16,000 vs. \$32,900 for a new facility and \$15,000 vs \$30,900 for reissued coverage). There are currently 100 MS4 facilities covered under this permit representing a total savings of approximately \$1.6M for the permit sector in the first permit term (\$15,900x100 facilities). The incorporation of 2020 Census maps in the general permit regulation potentially requires the permitting of up to 9 new jurisdictions, however a final determination of how many jurisdictions are impacted cannot be made until site inspections have been make to establish the existence of an MS4 system. For any newly permitted MS4 systems, the general permit reflects a cost savings of \$16,900 in the first permit cycle.</p> <p>These costs do not account for the longer lead time to obtain an individual permit and the increased burden on DEQ staff resources that would result.</p> <p>Direct costs of individual modifications to the current general permit include:</p> <ul style="list-style-type: none"> <li>• 9VAC25-890-40 – Annual Reporting – Added requirement to utilize the electronic reporting platform specified by the Department as required by EPA’s electronic reporting initiative.</li> </ul>
---	---



	<p>Direct Costs: No direct economic cost to regulated entities expected beyond additional administrative time permittees may spend to adjust reporting procedures.</p> <p>Direct Benefits: Permittees may see benefits from switching from a paper-based reporting format to a completely electronic format, in materials cost as well as time spent preparing and submitting reports and registration statements.</p> <p>Indirect Costs: None to the permittee</p> <p>Indirect Benefits: Electronic reporting format eliminates the necessity for producing a hard copy report saving resources.</p> <ul style="list-style-type: none"> <li>• 9VAC25-890-40 Part I.E.1 – Public Education and Outreach – Added specific options for traditional and non-traditional permittees in selecting high-priority issues.</li> </ul> <p>Direct Costs: No direct economic cost to regulated entities.</p> <p>Direct Benefits: No direct economic benefit to regulated entities.</p> <p>Indirect Costs: None to the permittee</p> <p>Indirect Benefits: None to the permittee.</p> <ul style="list-style-type: none"> <li>• 9VAC25-890-40 Part I.E.2 – Public Involvement and Participation – Added a requirement to update the permittees’ stormwater webpage with TMDL information as well as reporting requirements if specific activities were undertaken regarding climate change or all economic and ethnic groups.</li> </ul> <p>Direct Costs: No direct economic cost to regulated entities.</p> <p>Direct Benefits: No direct economic benefit to regulated entities.</p> <p>Indirect Costs: None to the permittee</p> <p>Indirect Benefits: None to the permittee.</p> <ul style="list-style-type: none"> <li>• 9VAC25-890-40 Part I E.3 – IDDE – Added requirement form maps to be submitted in GIS format specified by the Department and update screening checklists.</li> </ul> <p>Direct Costs: No direct cost to regulated entities.</p>
--	---

	<p>Direct Benefits: None to the regulated entities.</p> <p>Indirect Costs: There may be operating procedures that change because of GIS and screening changes.</p> <p>Indirect Benefits: None to the permittee.</p> <ul style="list-style-type: none"> <li>• 9VAC25-890 Part I.E.4 – Construction site stormwater runoff and erosion and sediment control – Added requirement for employees and contractor certifications in VESC program.</li> </ul> <p>Direct Costs: None to the Permittee.</p> <p>Direct Benefits: No direct economic benefits to regulated entities.</p> <p>Indirect Costs: There may be operating procedures that change because of the changed language.</p> <p>Indirect Benefits: None to the permittee.</p> <ul style="list-style-type: none"> <li>• 9VAC25-890 Part. I E.5 – Post-Construction stormwater management for new development and development on prior developed lands - Added requirement for employees and contractor certifications in VESC program.</li> </ul> <p>Direct Costs: None to the Permittee.</p> <p>Direct Benefits: No direct economic benefits to regulated entities.</p> <p>Indirect Costs: There may be operating procedures that change because of the changed language.</p> <p>Indirect Benefits: None to the permittee.</p> <ul style="list-style-type: none"> <li>• 9VAC25-890 Part I.E.6 – Pollution prevention and good housekeeping – Added new language for written good housekeeping procedures, 2020 census expanded areas, swppp and nutrient management plan development.</li> </ul> <p>Direct Costs: There may be some costs associated with the development of SWPPPs and nutrient management plans because of the EPA requirement to address the 2020 Census expanded urban areas within permittee MS4 service areas.</p> <p>Direct Benefits: None to the regulated entities.</p>
--	--

Indirect Costs: There may be operating and administrative procedures that change because of the changed language.

Indirect Benefits: None for the permittee.

- 9VAC25-890 Part II.A – Chesapeake Bay TMDL – Updated the pollutant reduction requirements, added language because of the EPA requirement to address the 2020 Census expanded urban areas, and removed the Total Suspended Solids (TSS) pollutant reduction requirements.

Direct Costs: While the pollutant reduction requirements were increased. This does not represent a new regulatory requirement. This increase is consistent with the Commonwealth’s Phase I, II and III Watershed Implementation Plans as submitted to and approved by EPA. The Chesapeake Bay required reductions were consistently envisioned to be achieved in a series of three increments.

Direct Benefits: While it is difficult to assess individual permittee benefits for the removal of the TSS pollutant reduction requirements, as a sector, the Department expects that MS4s will see a significant benefit of approximately \$10 M.

Indirect Costs: There may be operating and administrative procedures that change because of the changed language.

Indirect Benefits: None for the permittee.

- 9VAC25-890 Part II.B – Local TMDLs – Added new requirements to updating TMDL action plans, and annual reporting.

Direct Costs: No direct economic cost to regulated entities expected beyond additional administrative time permittees may spend to adjust reporting procedures.

Direct Benefits: None to regulated entities.

Indirect Costs: None to the regulated entities.

Indirect Benefits: None for the permittees.

	<ul style="list-style-type: none"> <li>9VAC25-890 Part II.C – Inspection and Maintenance of ecosystem restoration projects – Added language to ensure that ecosystem restoration projects are brought into permittee BMP inspection and maintenance activities.</li> </ul> <p>Direct Costs: No direct economic cost to regulated entities.</p> <p>Direct Benefits: No direct economic benefit to regulated entities.</p> <p>Indirect Costs: None to the permittee</p> <p>Indirect Benefits: None to the permittee.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) see above	(b) See above
(3) Net Monetized Benefit	See above	
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources	9VAC25-870-800 (application fees) and 9VAC25-870-830 (maintenance fees).	

**Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Maintaining the current requirements would have no direct economic cost to regulated entities.</p> <p>Indirect Costs: Maintaining the current requirements would have no indirect economic cost to regulated entities.</p> <p>Direct Benefits: Maintaining the current requirements would have no direct economic benefits to the regulated entities.</p> <p>Indirect Benefits: Maintaining the current requirements would have no indirect economic cost to regulated entities.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) NA	(b) NA
(3) Net Monetized Benefit	NA	
(4) Other Costs & Benefits (Non-Monetized)	NA	
(5) Information Sources	NA	

**Table 1c: Costs and Benefits under Alternative Approach(es)**

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs:  DEQ is not aware of any alternatives to the current proposal other than (1) reissuance of the current general permit with no modifications and (2) allowing the general permit regulation to lapse and issuing individual permits.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) NA	(b) NA
(3) Net Monetized Benefit	NA	
(4) Other Costs & Benefits (Non-Monetized)	n/a	
(5) Information Sources	NA	

**Impact on Local Partners**

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 2: Impact on Local Partners**

(1) Direct & Indirect Costs & Benefits (Monetized)	This general permit regulates localities that operate MS4 facilities. Localities are subject to the same direct costs and benefits from the reissuance of the permit as detailed in table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) see table 1a	(b) see table 1a
(3) Other Costs & Benefits (Non-Monetized)	see table 1a	
(4) Assistance	n/a	
(5) Information Sources	see table 1a	

### **Impacts on Families**

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 3: Impact on Families**

(1) Direct & Indirect Costs & Benefits (Monetized)	There is no potential impact of the proposed regulatory action on the institution of the family and family stability.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) n/a	(b) n/a
(3) Other Costs & Benefits (Non-Monetized)	n/a	
(4) Information Sources	n/a	

**Impacts on Small Businesses**

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 4: Impact on Small Businesses**

(1) Direct & Indirect Costs & Benefits (Monetized)	N/A. This general permit regulates public entities and no small businesses are regulated under this general permit.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) n/a	(b) n/a
(3) Other Costs & Benefits (Non-Monetized)	n/a	
(4) Alternatives	n/a	
(5) Information Sources	n/a	

## Changes to Number of Regulatory Requirements

**Table 5: Regulatory Reduction**

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

### *Change in Regulatory Requirements*

<b>VAC Section(s) Involved</b>	<b>Initial Count</b>	<b>Additions</b>	<b>Subtractions</b>	<b>Net Change</b>
9VAC25-890-40 Part I C	15	1	1	0
9VAC25-890-40 Part I D	10	2	1	+1
9VAC25-890-40 Part I E 1	22	2	0	+2
9VAC25-890-40 Part I E 2	27	3	1	+2
9VAC25-890-40 Part I E 3	60	4	1	+3
9VAC25-890-40 Part I E 4	28	3	1	+2
9VAC25-890-40 Part I E 5	30	2	13	-11
9VAC25-890-40 Part I E 6	75	36	19	+17
9VAC25-890-40 Part II A	58	19	14	+5
9VAC25-890-40 Part II B	34	9	0	+9
9VAC25-890-40 Part II C	0	2	0	+2
9VAC25-890-40 Part III	16	11	0	+11

All of the requirements being added to the regulation are required for consistency with the Environmental Protection Agency's MS4 General Permit.

### *Cost Reductions or Increases (if applicable)*

<b>VAC Section(s) Involved</b>	<b>Description of Regulatory Requirement</b>	<b>Initial Cost</b>	<b>New Cost</b>	<b>Overall Cost Savings/Increases</b>
9VAC25-193	Cost of individual permit vs general permit regulation	Individual permit cost if general permit is not reissued-\$32,900	General permit cost \$16,000	The general permit represents a savings of \$16,900 per facility or a \$1.6M for the permit sector in the first



				<p>permit term for the sector over a 5-year permit term based on the 100 facilities currently covered by the general permit. The additional provisions required by the renewed general permit would also be included in any individual permits issued so they do not represent an increase in requirements/costs over the individual permit alternative.</p>
--	--	--	--	--

*Other Decreases or Increases in Regulatory Stringency (if applicable)*

<b>VAC Section(s) Involved</b>	<b>Description of Regulatory Change</b>	<b>Overview of How It Reduces or Increases Regulatory Burden</b>
n/a	n/a	The regulatory burden of reissuing the general permit is much reduced compared to requiring an individual permit. See 1a above.

*Length of Guidance Documents (only applicable if guidance document is being revised)*

<b>Title of Guidance Document</b>	<b>Original Length</b>	<b>New Length</b>	<b>Net Change in Length</b>
n/a			

**TAB D**



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Travis A. Voyles  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

**MEMORANDUM**

TO: State Water Control Board Members

FROM: Neil Zahradka, Office of Land Application Programs Manager 

DATE: July 25, 2023

SUBJECT: Request to Proceed to Notice of Public Comment and Hearing on Proposed Amendments to the Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management (9VAC25-192-10 et seq.)

**Introduction**

At the August 23, 2023 meeting, the Virginia Department of Environmental Quality (DEQ or the Department) staff intends to bring to the State Water Control Board (Board) a request to proceed to notice of public comment and hearing on proposed amendments to the Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management (9VAC25-192-10 et seq.). These changes are being proposed to allow for the reissuance of the general permit under this regulation, which will expire on November 15, 2024.

**Statutory Authority**

Section 62.1-44.17:1 of the Code of Virginia authorizes the Board to establish and implement the general permit for confined animal feeding operations having 300 or more animal units and utilizing a liquid manure collection and storage system. This Code section includes provisions that the Board must, at a minimum, include in its regulations for permitting confined animal feeding operations under a general permit.

## **Background**

The VPA Regulation and General Permit for Animal Feeding Operations and Animal Waste Management (9VAC25-192-10 et seq.) first became effective on November 16, 1994, with the term of the general permit being ten (10) years. Since 1994, the regulation has been reissued two times, the last becoming effective on November 16, 2014. This regulatory action will authorize the fourth ten (10) year term of the general permit.

There are currently 110 animal feeding operations covered under the general permit. This regulation governs the pollutant management activities of animal wastes at animal feeding operations not covered by an individual VPA permit or a Virginia Pollutant Discharge Elimination System permit, as well as animal waste utilized or stored by animal waste end-users.

Permitted animal feeding operations may operate and maintain treatment works for waste storage, treatment, or recycling, and may perform land application of manure, wastewater, compost, or sludges. The general permit is the primary permit mechanism used to cover animal feeding operations which confine livestock, such as, but not limited to, swine, sheep, and dairy and beef cattle across the Commonwealth.

## **Notice of Intended Regulatory Action and Technical Advisory Committee**

A Notice of Intended Regulatory Action (NOIRA) was published in the Virginia Register of Regulations on January 30, 2023. A 60-day public comment period followed which ended on March 31, 2023. The majority of the 10 commenters were requesting to participate on the Technical Advisory Committee (TAC) and in favor of reissuing the general permit in 2024. The comments can be found in the “public comment” section of the Town Hall document that is attached to this memo.

The Department utilized the participatory approach by forming an ad hoc TAC. The Department held two (2) public noticed meetings on June 21, 2023 and July 12, 2023. A list of the members of the TAC is attached to this memo. The TAC discussed amendments to the regulation, which included defined terms, groundwater monitoring requirements, animal waste storage requirements, Nutrient Management Plan (NMP) submittal (by the permittee), and conditions applicable to the permit found in Part II of the general permit. The regulation with proposed amendments is attached, with added text underlined and deleted text struck through. A concise list of the proposed language changes is provided in the “Detail of Changes” section of the attached Agency Background Document (Form TH-08).

A summary of the significant amendments can be found below and are in the following major subject areas: defined terms, groundwater monitoring requirements, animal waste storage requirements, NMP submittal (by the permittee), and conditions applicable to the permit found in Part II of the general permit.

## Defined Terms

The proposed amendments to Section 10 (9VAC25-192-10. Definitions.) include the addition of five new defined terms, moving the definitions of two terms from other sections in the regulation to the section, and revising five definitions. The new defined terms include: “*general permit*,” “*land application*,” “*permittee*,” “*State Water Control Law*,” and “*treatment works*.” The terms “*local government ordinance form*” and “*seasonal high water table*” are currently defined multiple times in various sections of the regulation. The proposed amendments move the definitions to Section 10.

The five defined terms that already exist in the current regulation include: “*agricultural stormwater discharge*,” “*animal feeding operation*,” “*confined animal feeding operation*,” “*director*,” and “*nutrient management plan*.” The proposed amendments make the definitions consistent with the State Water Control Law, other regulations, and the amendments being proposed during this regulatory action.

The additions and amendments to the definitions section will facilitate a better understanding of the terms used throughout the regulation. These amendments will also make this regulation consistent with the VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-10 et seq.). The members of the TAC generally supported the addition of terms and amendments to the definitions.

## Groundwater Monitoring Requirements

The proposed amendments include adding three conditions to the groundwater monitoring requirements for the permittee. One describes when a permittee is required to submit a groundwater monitoring action plan. The Department currently requests that a permittee prepare a groundwater monitoring plan when monitoring results for any monitored parameter demonstrate potential noncompliance; adding it to the permit conditions codifies the requirement. The members of the TAC generally supported the addition of the condition.

The second permit condition outlines which parameters must be analyzed by a laboratory accredited under the Virginia Environmental Laboratory Accreditation Program (VELAP). Laboratory accreditation is required before any environmental analyses performed by a commercial environmental laboratory may be used for the purposes of the State Water Control Law. 1VAC30-46-20. Since this requirement is already in place; adding it to the permit conditions makes the requirement clear to the permittee. The members of the TAC generally supported the addition of the condition.

The third permit condition changes the frequency of groundwater monitoring. The proposed amendment increases the frequency from once every three years to once every year. This will not have any practical effect on permittees, as the frequency in the general permit is currently inconsistent with the Virginia Department of Conservation and Recreation (DCR)\_ NMP - Special Conditions (added to all NMPs written for a VPA-permitted animal feeding operation).

The NMP Special Conditions require annual monitoring and a permittee must comply with the most restrictive frequency stated either in the general permit or the NMP. Consistency between the general permit and the NMP will eliminate confusion for the permittee. The members of the TAC were initially split on their support for this amendment. Following discussion at the second TAC meeting regarding DEQ's analysis of the benefit of annual monitoring, no members of the TAC objected to the condition.

#### Animal Waste Storage Requirements

The proposed amendments include the addition of language to specify that federal maps are to be used to determine the 100-year floodplain when siting waste storage facilities. The addition of this language will make this regulation consistent with the VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-10 et seq.). The members of the TAC generally supported the amendment.

The proposed amendments to the general permit outline what is considered adequate storage of semi-solid and solid waste. This language is being added to provide clarification to the permittee. The members of the TAC generally supported the amendment of these conditions.

The proposed amendments include a new special condition that addresses situations where animal waste storage can be threatened by emergencies such as fire or flood. The new condition provides criteria for the land application of animal waste outside of the land application schedule found in the NMP so long as land application information is documented, and the Department is notified. This condition provides permittees with clear requirements related to waste storage and land application when the permittee is faced with an emergency. The addition of this permit condition will make this regulation consistent with the VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-10 et seq.). The members of the TAC generally supported the addition of the condition.

The proposed amendments require notification to the Department prior to the closure of a liquid waste storage facility. This notification is an addition to an existing permit condition related to the closure of a waste storage facility. Adding this notification will facilitate the ability for Department staff to provide compliance assistance and proper closure procedures to the permittee. The members of the TAC generally supported the addition of the condition.

#### NMP Submittal (by the permittee)

The proposed amendments add a requirement for the permittee to submit revised NMPs approved by DCR before the expiration date of the previous NMP. The permittee is currently required to provide a copy of the approved NMP with the registration statement, and Department practice has been to require subsequent submittal of the current DCR approved NMP, following revisions. The addition of this language makes the requirement clear to the permittee. The members of the TAC generally supported the addition of the condition.

### Permit Conditions (Part II of the General Permit)

The proposed amendments re-organize and renumber the conditions found in Part II of Section 70 (the contents of the general permit). The amendments to Part II will make this regulation consistent with the VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-10 et seq.). The members of the TAC generally supported the amendment of these conditions.

### Attachments

1. VPA Regulation and General Permit for Animal Feeding Operations and Animal Waste Management Technical Advisory Committee Members
2. Exempt Action Proposed Regulation Agency Background Document (Form TH-08)
3. Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management Proposed Amendments (9VAC25-192-10 et seq.)
4. VPA Animal Feeding Operation General Permit - Animal Waste Fact Sheet (for use by unpermitted end-users of animal waste transferred from a permitted animal feeding operation) - effective 11/2024 draft

### Contact Information

Betsy K. Bowles  
(804) 659-1913  
[betsy.bowles@deq.virginia.gov](mailto:betsy.bowles@deq.virginia.gov)

VPA Regulation and General Permit for Animal Feeding Operations and Animal  
Waste Management  
**Technical Advisory Committee Members, Alternates and Technical Support**

Committee/Agency Lead:

Betsy K. Bowles – Animal Feeding Operations Program Coordinator

Agricultural Organization:

Robert O. Britt – Virginia Pork Council

Brad Copenhaver or Cliff Williamson – Virginia Agribusiness Council

Eric Paulson – Virginia State Dairymen's Association

Jim Riddell – Virginia Cattlemen's Association

Stefanie Taillon or Tony Banks – Virginia Farm Bureau Federation

Farmer:

Jeremy Moyer – Oakmulgee Dairy Farm

Roy Van Der Hyde – Van Der Hyde Dairy Farm

Michael Wright – Oakland Farm

Environmental:

Patrick J. Fanning or Joe Wood – Chesapeake Bay Foundation

Mark Frondorf – Shenandoah Riverkeeper

---

Technical Support to TAC from Other State Agencies:

DCR: Seth Mullins

VDACS: Darrell Marshall





[townhall.virginia.gov](http://townhall.virginia.gov)

## Exempt Action: Proposed Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC25-192 et seq.
<b>VAC Chapter title(s)</b>	Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management
<b>Action title</b>	<b>2024 Reissue and amend, as necessary, the Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management</b>
<b>Date this document prepared</b>	August 2, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The State Water Control Board is proposing this action to reissue and amend, as necessary, the existing Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management (9VAC25-192-10 et seq.). Section 62.1-44.17:1 of the Code of Virginia, states that the Board shall adopt a general VPA permit to cover animal feeding operations having 300 or more animal units utilizing a liquid manure collection and storage system. The current VPA regulation and general permit expires on November 15, 2024. This regulation governs the pollutant management activities of animal wastes at animal feeding operations not covered by a Virginia Pollutant Discharge Elimination System permit and animal waste utilized or stored by animal waste end-users. These animal feeding operations may operate and maintain treatment works for waste storage, treatment, or recycling and may perform land application of manure, wastewater, compost, or sludges. The general permit is the primary permit mechanism used to cover animal feeding operations which confine livestock, such as, but

not limited to, swine, dairy and beef cattle across the Commonwealth. During this action, language has been amended to update the incorporation by reference date of 40 CFR references in the regulation as necessitated by changes to the Federal Rules.

### Mandate and Impetus

*Identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

The impetus of the regulatory change is § 62.1-44.15 (5b) of the Code of Virginia, which states, "All certificates issued by the Board under this chapter shall have fixed terms. ... The term of a Virginia Pollution Abatement permit shall not exceed 10 years, except that the term of a Virginia Pollution Abatement permit for confined animal feeding operations shall be 10 years." The general permit issued through this regulation must be reissued in order to meet the requirements of § 62.1-44.17:1 of the Code of Virginia and continue the general permit coverage of confined animal feeding operations. This regulation expires on November 15, 2024, and must be reissued to cover the existing animal feeding operations and any new animal feeding operations. There are currently 110 animal feeding operations covered under the general permit. If the regulation is not reissued in a timely manner, the operations that are covered under the general permit, as well as any new operations that need a permit, will be required to seek an individual VPA permit, which require more time to develop and issue, and impose a greater burden and costs on permittees and increased administrative burden on DEQ.

### 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.*

- AFO - Animal Feeding Operations
- CFR - Code of Federal Regulations
- DCR - Department of Conservation and Recreation
- DEQ or department - Department of Environmental Quality
- NMP - Nutrient Management Plan
- VPA - Virginia Pollution Abatement

### Legal Basis

*Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

In 1994, the Virginia General Assembly passed House Bill 222 (codified at § 62.1-44.17:1 of the Code of Virginia) establishing the general permit for confined animal feeding operations. The Act required the State Water Control Board to adopt the general permit, establish provisions for issuing the general permits and establish criteria for the design and operation of the confined AFOs. Section 62.1-44.17:1 of the Code of Virginia authorizes the State Water Control Board to establish and implement the general permit for confined AFOs having 300 or more animal units utilizing a liquid manure collection and storage

system. The regulation and general permit first became effective on November 16, 1994. Since 1994, the regulation has been reissued two times, the last becoming effective on November 16, 2014. Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (§ 2.2-4006 A 8 of the Code of Virginia).

**Purpose**

*Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

The purpose of this action is to reissue and amend, as necessary, the existing VPA Regulation and General Permit for Animal Feeding Operations and Animal Waste Management. The general permit expires on November 15, 2024, and must be reissued to cover the existing animal feeding operations and any new animal feeding operations. This action is needed in order to maintain permitting requirements for pollutant management activities of animal wastes at animal feeding operations not covered by a Virginia Pollutant Discharge Elimination System permit and animal waste utilized or stored by animal waste end-users. The goal is to update the regulation and the general permit to be consistent with the VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630) and protect water quality.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.*

This action is primarily a reissuance of the existing general permit and does not include significant changes; however, the following items are included in this regulatory proposal:

1. Definitions. The proposal includes the addition of five new defined terms, the inclusion in Section 10 of two already defined terms, and the amendment of five defined terms. The additions and amendments to the definitions section will facilitate a better understanding of the terms used throughout the regulation sections.
2. Groundwater monitoring requirements. The proposal includes three amendments to the groundwater monitoring requirements for the permittee, including:
  - a. Addition of a permit condition describing when a permittee is required to submit a groundwater monitoring action plan;
  - b. A permit condition amendment outlines which parameters must be analyzed by a laboratory accredited under the Virginia Environmental Laboratory Accreditation Program; and,
  - c. A permit condition amendment increases the frequency of groundwater monitoring from once every three years to once every year. The proposed amendment will have no practical effect on the permittees as this condition brings the regulation into alignment with conditions currently required by the Virginia Department of Conservation and Recreation (DCR) special conditions applicable to permitted animal feeding operations.
3. Animal Waste Storage Requirements. The proposal includes amendments to conditions applicable to animal waste storage, including:
  - a. Addition of language to clarify which tools are to be used to determine the floodplain when siting waste storage facilities;
  - b. Amended permit conditions outlining what is considered adequate storage of semi-solid and solid waste;
  - c. Addition of a permit condition that addresses situations where animal waste storage can be threatened by emergencies such as fire or flood; and,
  - d. Addition of a permit condition that requires notification to the department prior to the closure of a liquid waste storage facility.

4. Nutrient Management Plan (NMP) Submittal. The proposal includes amended permit language to add the requirement for the permittee to submit NMP revisions approved by DCR to the department before the expiration date of the previous NMP.
5. Permit Conditions in Part II of the general permit. The proposal includes amending, re-organizing, and the renumbering the conditions found in Part II of Section 70 (the contents of the general permit). The amendments to Part II will make this regulation consistent with the VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-10 et seq.).
6. The continuation of permit coverage language will be amended to remove the dates and to make it consistent with language in the VPA Regulation and General Permit for Poultry Waste Management.
7. During this action, language will be amended to update the incorporation by reference date of 40 CFR references in the regulation.

**Issues**

*Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

---

The primary advantage of the proposed regulatory action is the reissuance of the regulation that will allow for animal feeding operations to be covered under a general permit instead of each animal feeding operation having to apply for coverage under an individual permit. The general permit contains provisions appropriate for the protection of state waters, while limiting the time and resources required for an animal feeding operation to apply for a permit and the department to issue the permit. This is an advantage for the public, the regulated community, and the Commonwealth. There are no disadvantages of the proposed regulatory action.

**Requirements More Restrictive than Federal**

*Please identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

---

There are no applicable federal requirements for animal feeding operations that do not discharge or propose to discharge to state waters. The VPA Regulation and General Permit for Animal Feeding Operations and Animal Waste Management is a state program with requirements included in the regulation necessary to meet state statutory requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

---

Other State Agencies Particularly Affected:

This general permit regulation affects the Virginia Department of Conservation and Recreation since this regulation includes requirements for Nutrient Management Plans. The requirements for developing Nutrient Management Plans fall under the purview of the Virginia Department of Conservation and Recreation.

**Localities Particularly Affected:**

This general permit regulation affects the entire state; no localities are identified to be particularly affected by this regulatory action.

**Other Entities Particularly Affected:**

This general permit regulation affects the permitted livestock growers and unpermitted and permitted end-users of animal waste. No other entities are identified to be particularly affected by this regulatory action.

**Regulatory Flexibility Analysis**

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.*

Currently, 110 animal feeding operations are covered under this general permit. One alternative to the reissuance of the VPA Regulation and General Permit for Animal Feeding Operations and Animal Waste Management is to issue an individual VPA permit to each animal feeding operation which confines 300 or more animal units utilizing a liquid manure collection and storage system. However, due to the number of animal feeding operations currently required to obtain a VPA permit, it is not practical to issue an individual VPA permit to each animal feeding operation. Operations that do not qualify for coverage under the general permit will be issued an individual VPA permit. This general permit regulation provides the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity.

**Public Comment Received**

*Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
James E. Riddell - Virginia Cattleman's Association	Requested to serve on TAC	James E. Riddell was recommended and approved to be a member of the Technical Advisory Committee.
Eric Paulson - Virginia State Dairyman's Association	Requested to serve on TAC	Eric Paulson was recommended and approved to be a member of the Technical Advisory Committee.

Commenter	Comment	Agency response
Brad Copenhaver - Virginia Agribusiness Council	Requested to serve on TAC	Brad Copenhaver was recommended and approved to be a member of the Technical Advisory Committee and Cliff Williamson to serve as the alternate.
Tom Dunlap - James River Association	<p>1. Include technology and protocols that identify and source groundwater contamination; include bacteria monitoring; establish limits on other parameters ammonia nitrogen, nitrate nitrogen, pH, conductivity in impacted groundwater.</p> <p>2. Identify and close unlined earthen waste storage facilities constructed prior to December 1, 1998;</p> <p>3. Re-evaluate freeboard height in light of increased frequency and severity of precipitation events; and schedule the closure or remediation of existing manure impoundments that are in close proximity to surface water or groundwater or that sit in groundwater.</p>	<p>These comments were shared and discussed with the members of the Technical Advisory Committee.</p> <p>The proposed regulation includes amendments to the groundwater monitoring section to include an increase in frequency of monitoring to mirror the frequency required by the NMP, requirements to follow if there is evidence of noncompliance and sampling and analysis requirements.</p> <p>The general permit contains design and engineering specifications which must be met by all permittees when constructing a waste storage structure. The specifications for compacted soil structures ensure that the structures are not designed to leak. The date, December 1, 1998, found in permit special conditions related to waste storage is the effective date of amendments that were made to the regulation based on changes to the Code of VA § 62.1-44.17:1. The date was inserted into the regulation to make it clear when certain requirements became effective. The liner thickness and permeability specification requirements were in the regulation prior to the amendments that became effective on December 1, 1998, and therefore were in effect for waste storage structures constructed prior to December 1, 1998.</p> <p>The 25-year, 24-hour storm event rainfall number is determined by NOAA (National Weather Service - NWS) using historic rainfall data. The current language in the regulation allows for any changes made by NOAA based on the precipitation data.</p>
Patrick Fanning - Chesapeake Bay Foundation	<p>1. Requested to serve on TAC;</p> <p>2. DEQ require practices in the 10-year AFO VPA General Permit that will in fact lead to the necessary nitrogen, phosphorus, and sediment reductions for the sector;</p> <p>3. DEQ should include language in the General Permit requiring fencing reporting (reported) to DEQ;</p>	<p>Patrick Fanning was recommended and approved to be a member of the Technical Advisory Committee and Joe Wood to serve as the alternate.</p> <p>These comments were shared and discussed with the members of the Technical Advisory Committee.</p>

Commenter	Comment	Agency response
	<p>4. DEQ should also include provisions that will require operators with 20 or more bovines to adopt stream exclusion systems by 2028 or at least no later than the date that practice becomes mandatory;</p> <p>5. DEQ should consider requiring all six priority practices; (1) nutrient management, (2) animal waste management systems, (3) conservation plans, (4) barnyard runoff control systems, (5) stream fencing on pastures, and (6) vegetated buffers on pastures;</p> <p>6. DEQ require groundwater monitoring at all liquid waste storage facilities, rather than just those constructed after December 1, 1998;</p> <p>7. DEQ should consider whether the existing parameters for monitoring sufficiently cover the realm of pollutants that could reach state waters through liquid waste storage facilities;</p> <p>8. DEQ should consider requiring groundwater monitoring more frequently than once every three years and the results of such sampling should be reported to DEQ;</p> <p>9. DEQ must incorporate additional mechanisms to dictate necessary thresholds for monitoring and required steps a facility must take in the event of any exceedance;</p> <p>10. modified the permit to require that waste transfer records be submitted to DEQ (see 9 VAC 25-630-50 Part I C 3). DEQ should incorporate the same change here;</p> <p>11. DEQ should also consider adding language to the permit requiring the submission of NMPs to DEQ;</p> <p>12. The terms of the current permit nowhere require that an NMP be unexpired, nor that it be annually re-evaluated; and</p> <p>13. DEQ should address how it intends to resolve these comments related to inspections and enforcement as part of the</p>	<p>The Committee discussed the limited scope of this general permit as established by State Water Control Law.</p> <p>This regulation requires that the permittee manage animal waste and nutrients from the activities being covered under the general permit. The regulation includes conditions that require the management of waste on the site to include the livestock confinement area and the nutrients from the waste in storage and in land application. While the regulations do not specifically say that a barnyard runoff control system is required the regulation does require the permittee to manage runoff so as not to discharge to state waters. Although a conservation plan requirement is outside of the scope of the regulation, if tillage practices are included in the NMP it is necessary to implement the tillage practices. By definition, a pasture is not considered confinement; therefore, stream fencing on pastures, and vegetated buffers on pastures are outside of the scope of this regulation prescribed by the State Water Control Law.</p> <p>The Code of Virginia §62.1-44.17:1 states that ground water shall be monitored at new earthen waste storage facilities constructed to an elevation below the seasonal high water table or within one foot thereof.</p> <p>Currently, DEQ can inspect the waste transfer records and request copies if necessary. There is a method and option for poultry waste transfers to be used to obtain credit for nutrient movement out of the watershed. There is no option for Virginia to obtain credit in the Bay model for other animal waste transfers; therefore, there is no impetus to require the data to be reported to DEQ.</p> <p>The 2015 EPA Ag Assessment comments were related to DEQ timing of inspections during the year, expired NMPs and inconsistent inspection report forms. DEQ and DCR staff determined that the inconsistencies in the reported NMP numbers were due to outdated information being tracked in the DCR NMP database. DEQ staff were already using the report forms with the same information, but at first glance may have appeared different because of things</p>

Commenter	Comment	Agency response
	<p>stakeholder process. (related to 2015 EPA Ag Assessment.</p>	<p>like page borders or the information being on a different page. The following changes have been implemented: new DEQ inspection report forms; DCR is now encouraging the addition of the DEQ permit numbers on the NMPs; and regular updates to the DCR database based on new information provided by DEQ.</p> <p>DEQ's implementation of inspection and enforcement procedures are not components of the regulatory requirements of AFO owners or animal waste end-users and are therefore not in the text of the regulation.</p> <p>The proposed regulation includes amendments to the groundwater monitoring section and conditions related to submittal of nutrient management plans. Refer to response to the James River Association's comments.</p>
<p>Stefanie Taillon - Virginia Farm Bureau Federation</p>	<p>1. Requested to serve on TAC 2. Requested that the regulation remain the same</p>	<p>Stefanie Taillon was recommended and approved to be a member of the Technical Advisory Committee and Tony Banks to serve as the alternate.</p>
<p>Mark Frondorf - Shenandoah Riverkeeper and Betsy Nicholas - Potomac Riverkeeper Network</p>	<p>1. Requested for Mark Frondorf to serve on TAC; 2. Must not allow groundwater discharges in this permit; require all General Purpose (GP) covered liquid manure lagoons to conduct routine groundwater monitoring; establish e. coli, Cryptosporidium, ammonium, and other pollutants and pathogens found in dairy and swine manure; 3. Incorporate clean up thresholds and reporting requirements in the event that monitoring data or other information indicates that a manure storage lagoon or, liquid manure spills, or repeated land application has contaminated groundwater or surface water; 4. Setting a schedule for closure or immediate remediation of existing manure impoundments that are in close proximity to surface water or groundwater, or that sit in groundwater; 5. Setting a schedule for closure of manure impoundments that have compacted soil and/or leaking</p>	<p>Mark Frondorf was recommended and approved to be a member of the Technical Advisory Committee.</p> <p>These comments were shared and discussed with the members of the Technical Advisory Committee.</p> <p>The Committee discussed the limited scope of this general permit as established by State Water Control Law.</p> <p>The regulation contains requirements for reporting spills or any non-compliance, the requirements are found in Part II of the general permit contents (9VAC25-192-70). If there is unusual monitoring data (groundwater, waste, or soils), the permittee may be required to repeat monitoring and could further be required to submit an action plan. Additionally, the regulation contains requirements that if the permittee cannot maintain compliance with the general permit then the permittee may be required to obtain an individual permit.</p> <p>The regulation does not allow for waste storage structures to be built in the 100-year flood plain. Prior to December 1, 1998, the</p>



Commenter	Comment	Agency response
	<p>liners; Establish routine liner integrity testing and inspections;</p> <p>6. Require more frequent (annual or semi-annual) groundwater monitoring and electronic submittal of results to DEQ on e-DMRs;</p> <p>7. Require groundwater monitoring plans to be certified by a professional engineer or qualified DEQ staff prior to permit reissuance;</p> <p>8. Increase freeboard heights to account for expected larger rainfall events. The current permit requires 1 foot, up to and including a 25-year, 24-hour storm. The Department should evaluate whether higher freeboard requirements will be needed over the 10-year term of the permit, or whether to issue the permit every five years instead;</p> <p>9. Require electronic submission of initial and current nutrient management plans to VDEQ as they are updated;</p> <p>10. Expand the amount of information contained in NMPs to enable the department to determine whether the state is meeting its agriculture-related local and Chesapeake Bay TMDL implementation milestones. To the extent possible, this information should be submitted electronically to enable accurate and efficient analysis by the Department and the Department of Conservation and Recreation; and</p> <p>11. Write the draft AFO Permit in a way that will protect the Chesapeake Bay.</p>	<p>structures could be sited in the 100-year flood plain but had to be protected from inundation.</p> <p>The proposed regulation includes amendments to the groundwater monitoring section and conditions related to submittal of nutrient management plans.</p> <p>The general permit prescribes the conditions by which groundwater wells are to be placed and monitored, thus the regulatory mechanism does not utilize a separate groundwater monitoring plan. If a permittee is required to obtain an individual permit, more detailed groundwater monitoring requirements are considered.</p> <p>DEQ scans all submitted files for upload into the DEQ electronic filing system. Many of the permittees would not have the capability to submit the NMP in an electronic format.</p> <p>DCR administers the regulation that governs nutrient management plans; thus, requirements for the plan content are outside of the scope of this regulatory action.</p> <p>Refer to the response to the Chesapeake Bay Foundation's and the James River Association's comments.</p>
<p>Robin Broder - Waterkeepers Chesapeake and Gabby Ross - Assateague Coastal Trust</p> <p>(Waterkeepers Chesapeake submits comments on</p>	<p>1. Requested for Mark Frondorf to serve on TAC;</p> <p>2. Must not allow groundwater discharges in this permit; require all General Purpose (GP) covered liquid manure lagoons to conduct routine groundwater monitoring; establish e. coli, Cryptosporidium, ammonium, and other pollutants and pathogens found in dairy and swine manure;</p>	<p>Mark Frondorf was recommended and approved to be a member of the Technical Advisory Committee.</p> <p>These comments were shared and discussed with the members of the Technical Advisory Committee.</p> <p>The Committee discussed the limited scope of this general permit as established by State Water Control Law.</p>

Commenter	Comment	Agency response
<p>behalf of the Waterkeepers listed on letterhead and supports the comments submitted by Potomac Riverkeeper Network, Shenandoah Riverkeeper, James Riverkeeper, and Environmental Integrity Project)</p>	<p>3. Incorporate clean up thresholds and reporting requirements in the event that monitoring data or other information indicates that a manure storage lagoon or, liquid manure spills, or repeated land application has contaminated groundwater or surface water;</p> <p>4. Setting a schedule for closure or immediate remediation of existing manure impoundments that are in close proximity to surface water or groundwater, or that sit in groundwater;</p> <p>5. Setting a schedule for closure of manure impoundments that have compacted soil and/or leaking liners; Establish routine liner integrity testing and inspections;</p> <p>6. Require more frequent (annual or semi-annual) groundwater monitoring and electronic submittal of results to DEQ on e-DMRs;</p> <p>7. Require groundwater monitoring plans to be certified by a professional engineer or qualified DEQ staff prior to permit reissuance;</p> <p>8. Increase freeboard heights to account for expected larger rainfall events. The current permit requires 1 foot, up to and including a 25-year, 24-hour storm. The Department should evaluate whether higher freeboard requirements will be needed over the 10-year term of the permit, or whether to issue the permit every five years instead;</p> <p>9. Require electronic submission of initial and current nutrient management plans to VDEQ as they are updated;</p> <p>10. Expand the amount of information contained in NMPs to enable the department to determine whether the state is meeting its agriculture-related local and Chesapeake Bay TMDL implementation milestones. To the extent possible, this information should be submitted electronically to enable accurate and efficient analysis by the Department and the</p>	<p>The proposed regulation includes amendments to the groundwater monitoring section and conditions related to submittal of nutrient management plans.</p> <p>Refer to the response to the Chesapeake Bay Foundation's, the James River Association's, the Shenandoah Riverkeeper's and Potomac Riverkeeper Network's comments.</p>

Commenter	Comment	Agency response
	Department of Conservation and Recreation; and 11. Write the draft AFO Permit in a way that will protect the Chesapeake Bay.	
<p>Courtney Bernhardt, Meg Parrish - Environmental Integrity Project;</p> <p>David Reed, Evan Isaacson - Chesapeake Legal Alliance;</p> <p>Mark Frondorf - Shenandoah Riverkeeper; and Betsy Nicholas - Potomac Riverkeeper Network</p> <p>(These comments are submitted on behalf of the Environmental Integrity Project, Chesapeake Legal Alliance, Waterkeepers Chesapeake, the Shenandoah Riverkeeper, and the Potomac Riverkeeper Network)</p>	<p>1. Requested to serve on TAC; Must not allow groundwater discharges in this permit; require all General Purpose (GP) covered liquid manure lagoons to conduct routine groundwater monitoring; establish e. coli, Cryptosporidium, ammonium, and other pollutants and pathogens found in dairy and swine manure;</p> <p>2. Incorporate clean up thresholds and reporting requirements in the event that monitoring data or other information indicates that a manure storage lagoon or, liquid manure spills, or repeated land application has contaminated groundwater or surface water;</p> <p>3. Setting a schedule for closure or immediate remediation of existing manure impoundments that are in close proximity to surface water or groundwater, or that sit in groundwater;</p> <p>4. Setting a schedule for closure of manure impoundments that have compacted soil and/or leaking liners; Establish routine liner integrity testing and inspections;</p> <p>5. Require more frequent (annual or semi-annual) groundwater monitoring and electronic submittal of results to DEQ on e-DMRs;</p> <p>6. Require groundwater monitoring plans to be certified by a professional engineer or qualified DEQ staff prior to permit reissuance;</p> <p>7. Increase freeboard heights to account for expected larger rainfall events. The current permit requires 1 foot, up to and including a 25-year, 24-hour storm. The Department should evaluate whether higher freeboard requirements will be needed over the 10-year term of the permit, or whether to issue the permit every five years instead;</p>	<p>The Director appointed members from different industries and sectors and backgrounds to the TAC while maintaining balanced representation and limited the number of members appointed to the TAC to ten members; therefore, Courtney Bernhardt was not appointed to the TAC.</p> <p>These comments were shared and discussed with the members of the Technical Advisory Committee.</p> <p>The Committee discussed the limited scope of this general permit as established by State Water Control Law.</p> <p>The proposed regulation includes amendments to the groundwater monitoring section and conditions related to submittal of nutrient management plans.</p> <p>Refer to the response to the Chesapeake Bay Foundation's, the James River Association's, the Shenandoah Riverkeeper's and Potomac Riverkeeper Network's comments.</p>

Commenter	Comment	Agency response
	<p>8. Require electronic submission of initial and current nutrient management plans to VDEQ as they are updated;</p> <p>9. Expand the amount of information contained in NMPs to enable the department to determine whether the state is meeting its agriculture-related local and Chesapeake Bay TMDL implementation milestones. To the extent possible, this information should be submitted electronically to enable accurate and efficient analysis by the Department and the Department of Conservation and Recreation.</p>	
<p>Hannah Conner - Center for Biological Diversity</p>	<p>1. Requested to serve on TAC;</p> <p>2. Must not allow groundwater discharges in this permit; require all General Purpose (GP) covered liquid manure lagoons to conduct routine groundwater monitoring; establish e. coli, Cryptosporidium, ammonium, and other pollutants and pathogens found in dairy and swine manure;</p> <p>3. Incorporate clean up thresholds and reporting requirements in the event that monitoring data or other information indicates that a manure storage lagoon or, liquid manure spills, or repeated land application has contaminated groundwater or surface water;</p> <p>4. Setting a schedule for closure or immediate remediation of existing manure impoundments that are in close proximity to surface water or groundwater, or that sit in groundwater;</p> <p>5. Setting a schedule for closure of manure impoundments that have compacted soil and/or leaking liners; Establish routine liner integrity testing and inspections;</p> <p>6. Require more frequent (annual or semi-annual) groundwater monitoring and electronic submittal of results to DEQ on e-DMRs;</p> <p>7. Require groundwater monitoring plans to be certified by a professional engineer or qualified</p>	<p>The Director appointed members from different industries and sectors and backgrounds to the TAC while maintaining balanced representation and limited the number of members appointed to the TAC to ten members; therefore, Hannah Connor was not appointed to the TAC.</p> <p>These comments were shared and discussed with the members of the Technical Advisory Committee.</p> <p>The Committee discussed the limited scope of this general permit as established by State Water Control Law.</p> <p>The proposed regulation includes amendments to the groundwater monitoring section and conditions related to submittal of nutrient management plans.</p> <p>All documents pertaining to the permit are subject to the Freedom of Information Act and therefore available.</p> <p>DEQ is working to accommodate for different languages spoken by the permittees. Information being documented related to their preferred language will allow staff to determine if a translator or translated documents are necessary.</p> <p>Refer to the response to the Chesapeake Bay Foundation's, the James River Association's, the Shenandoah Riverkeeper's and Potomac Riverkeeper Network's comments.</p>

Commenter	Comment	Agency response
	<p>DEQ staff prior to permit reissuance;</p> <p>8. Increase freeboard heights to account for expected larger rainfall events. The current permit requires 1 foot, up to and including a 25-year, 24-hour storm. The Department should evaluate whether higher freeboard requirements will be needed over the 10-year term of the permit, or whether to issue the permit every five years instead;</p> <p>9. Require electronic submission of initial and current nutrient management plans to VDEQ as they are updated;</p> <p>10. Expand the amount of information contained in NMPs to enable the department to determine whether the state is meeting its agriculture-related local and Chesapeake Bay TMDL implementation milestones. To the extent possible, this information should be submitted electronically to enable accurate and efficient analysis by the Department and the Department of Conservation and Recreation;</p> <p>11. Write the draft AFO Permit in a way that will protect the Chesapeake Bay;</p> <p>12. Continuing to improve public access to all permitting, compliance, public complaint, and state inspection and violation documents for all AFOs.</p> <p>13. Improving language access by making all permitting materials available, at a minimum, in both English and Spanish languages.</p>	

**Public Participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. The Board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small

businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail or email to Betsy Bowles at P.O. Box 1105, Richmond, VA 23218; [betsy.bowles@deq.virginia.gov](mailto:betsy.bowles@deq.virginia.gov). Phone: 804-659-1913. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at (<http://www.townhall.virginia.gov>). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

### Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Please include citations to the specific section(s) of the regulation that are changing.*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-192-10 (Definitions)	N/A	Introduction to definition section that explains when definitions are pertinent to the regulation.	Amended the introductory language to read: "The following words and terms when used in this regulation shall have the meanings defined in the State Water Control Law and the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) unless the context clearly indicates otherwise, except that for the purposes of this chapter:" Removed citation for State Water Control Law (since the definition along with the citation are being added to the definition Section); and added the name "Virginia Pollution Abatement (VPA)" to the permit reg regulation. Amended the introduction language for clarification. Made minor changes based on the Style Manual developed by the Registrar's Office.
9VAC25-192-10 (Definitions)	N/A	This definition is currently contained in section 9VAC25-192-10.	Amended "Agricultural stormwater discharge" to add the word "land" to clarify the definition. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-192-10 (Definitions)	N/A	This definition is currently contained in section 9VAC25-192-10.	Amended “Animal feeding operation” for consistency with the definition in the Code of Virginia § 62.1-44.17:1. Permits for confined animal feeding operations.
9VAC25-192-10 (Definitions)	N/A	This definition is currently contained in section 9VAC25-192-10.	Amended “Confined animal feeding operation” for consistency with the other definitions.
9VAC25-192-10 (Definitions)	N/A	This definition is currently contained in section 9VAC25-192-10.	Amended “Director” for consistency with other regulations.
9VAC25-192-10 (Definitions)	N/A	N/A	Added a definition for “General permit” to clarify the meaning when the term is used throughout the regulation. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections.
9VAC25-192-10 (Definitions)	N/A	N/A	Added a definition for “Land application” to clarify the meaning when the term is used throughout the regulation. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections.
9VAC25-192-10 (Definitions)	N/A	This definition is currently contained in the conditions located throughout the regulation.	Added a definition for “Local government ordinance form”. Definition was stated in numerous subdivisions within the regulation; it was removed from conditions and moved to the definition section. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections.
9VAC25-192-10 (Definitions)	N/A	N/A	Amended definition of Nutrient management plan. Amended “the” to “this” in front of “general permit” for consistency with the rest of the regulation.
9VAC25-192-10 (Definitions)	N/A	N/A	Added a definition for “Permittee” to clarify the meaning when the term is used throughout the regulation. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections.
9VAC25-192-10 (Definitions)	N/A	This definition is currently contained in the conditions located in the contents of the general permit (9VAC25-192-70 and 90).	Added “Seasonal high water table” definition. Definition was stated in numerous subdivisions within the regulation; it was removed from conditions and moved to the definition

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			section. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections.
9VAC25-192-10 (Definitions)	N/A	N/A	Added a definition for “State Water Control Law” to clarify the meaning when the term is used throughout the regulation. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections.
9VAC25-192-10 (Definitions)	N/A	N/A	Added a definition for “Treatment works” to clarify when the term is used in the definition of an animal feeding operation and throughout the regulation. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections.
9VAC25-192-10 (Definitions)	N/A	This definition is currently contained in section 9VAC25-192-10.	Moved the definition for “Vegetated buffer” to get the definition in alphabetical order within the Section.
N/A	9VAC25-192-15 (Applicability of incorporated references based on the dates that they became effective)	N/A	Added this section to make it clear which version of the Code of Federal Regulations is effective. The addition of this section will ensure that those subject to this regulation will know which version of the Code of Federal Regulations is pertinent to the cited condition in the regulation.
9VAC25-192-20 (Purpose; effective date of permit)	N/A	The current language outlines what is governed by this regulation. The current regulation became effective on November 16, 2014, and will expire on November 15, 2024.	<p>Amended Section title: Purpose; effective date of the general permit.</p> <p>Amended subsection A: added the title of the regulation and parentheses around the term “general permit” to allow for the use of “general permit” throughout the regulation to mean the VPA regulation and general permit for animal feeding operations and animal waste management. Made additional amendments to clarify who is subject to this regulation.</p> <p>Added “The owners of” and replaced “operate” with “run”. Made changes to language to clarify who is authorized to manage pollutants.</p>



Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p>Amended subsection B: to read: "This general permit will become effective on November 16, 2024. This general permit will expire on November 15, 2034." Amended dates to allow for continuation of coverage under the General Permit and allow for the reissuance of the regulation and thereby extend the ability to provide coverage under the general permit for another 10 years.</p>
<p>9VAC25-192-25 (Duty to comply)</p>	<p>N/A</p>	<p>The current language outlines the duty to comply with the regulation.</p>	<p>Amended subsections A and B:                      A. No person shall operate an animal feeding operation with 300 or more animal units utilizing a liquid manure collection and storage system after July 1, 2000, without having submitted a registration statement as provided in 9VAC25-192-60 or being covered by a Virginia Pollutant Discharge Elimination System (VPDES) permit or an individual Virginia Pollution Abatement (VPA) permit.                      B. The owner shall comply with all conditions of the general permit and the requirements of this regulation.</p> <p>Amended subsections A and B to be consistent with the language subsection I of the Code of Virginia § 62.1-44.17:1. Permits for confined animal feeding operations.</p>
<p>9VAC25-192-50 (Authorization to manage pollutants)</p>	<p>N/A</p>	<p>The current language outlines who and under what circumstances is subject to the regulation and what is authorized by the permit. The current section refers to the water quality standards regulation but does not cite the regulation.</p> <p>The current regulation allows for the continuation of the general permit coverage.</p>	<p>Amended subsections A, B and C. Made changes to language in subsection A to make it clear who is authorized to manage pollutants. Spelled out acronyms (VPA and VPDES). Added the citation for the specific water quality standards regulation and amended condition language to make it consistent with other regulations. Made the term industrial wastes consistent with term defined in Chapter 32. Deleted the language describing the Local Government Ordinance Form (moved to definition section). Moved subdivision 5 a of subsection A to make the formatting consistent with the other subdivisions in this section. Made minor changes based on the Style Manual developed</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p>by the Registrar’s Office. Added “VPA” to places where individual permit is stated. Removed citation in subdivision A 6 and B 2 d related to the training requirements. Subsection C. Added “general” to the tagline. Removed the dates and revised the language for consistency with language in other general permits including the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-30).</p>
<p>9VAC25-192-60. (Registration statement)</p>	<p>N/A</p>	<p>The current language outlines the requirements to become covered under the general permit and the information that must be submitted to be considered a complete registration statement (permit application).</p>	<p>Amended language in this section to bring consistency to the terms in the regulation. Replaced “VPA General Permit” with “general permit” (as defined). This language change allows for the use of “general permit” throughout this section to mean the VPA regulation and general permit for animal feeding operations and animal waste management. In subsection A, deleted “facility” throughout section and replaced with “animal feeding operation.” Deleted the language describing the Local Government Ordinance Form (moved to definition section). In subsection B, deleted “facility” and replaced with “animal waste end-user.” Corrected citation in subsection C. Made minor changes based on the Style Manual developed by the Registrar’s Office. Amended language to provide clarity throughout this section.</p>
<p>9VAC25-192-70. (Contents of the general permit)</p>	<p>N/A</p>	<p>The current language contains the requirements of the general permit. The current regulation will expire on November 15, 2024.</p>	<p>Made minor changes based on the Style Manual developed by the Registrar’s Office. Amended language based on the authority of the State Water Control Board (deleted “board” - replaced with “department” where appropriate) in accordance with Senate Bill 657 as enacted by the 2022 General Assembly.</p> <p>Amended effective date for General Permit to read “November 16, 2024” and expiration date to read “November 15, 2034.” Amended date</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p>for reissuance of General Permit. Amending this date will allow for the reissuance of the regulation and thereby extend the ability to provide coverage under the general permit for another 10 years.</p> <p>Amended the name of Part II in the authorization language.</p>
9VAC25-192-70 (Contents of the general permit) Parts I, II and III	N/A	There is inconsistent language in the current regulation.	<p>Replaced “VPA General Permit” with “general permit” (as defined). This language change allows for the use of “general permit” throughout this section to mean the VPA regulation and general permit for animal feeding operations and animal waste management.</p> <p>Replaced “facility” throughout section and replaced with “animal feeding operation.” Amended language to provide clarity throughout this section. Added the word “individual” to VPA permit to clarify the permit type.</p>
9VAC25-192-70 (Contents of the general permit) Part I	N/A	<p>The current section did not have Part I labeled.</p> <p>The tables are in the regulation but not labeled.</p>	<p>Labeled Part I and the name above subsection A. Added this label to facilitate the reader of the contents of the general permit.</p> <p>Added labels and references to the three tables in subsection A of Part I. Added the labels to facilitate the reader of the contents of the general permit.</p>
9VAC25-192-70 (Contents of the general permit) Part I subsection A 6, 7 and Table 1	N/A	<p>The current regulation requires groundwater monitoring at earthen liquid waste storage facilities constructed to a bottom elevation that is below the seasonal high water table.</p> <p>It specifies requirements for installing monitoring wells, monitoring requirements, and a frequency of 1 sample every 3 years.</p>	<p>Added two conditions related to groundwater monitoring. One permit condition describes when a permittee is required to submit a groundwater monitoring action plan. This process is already required by the department; adding it to the permit makes it clear to the permittee in what cases that the action plan is expected.</p> <p>The other condition outlines which parameters must be analyzed by a laboratory accredited under the Virginia Environmental Laboratory Accreditation Program (VELAP) in accordance with 1VAC30-46-20. This requirement is already in place; adding it to the permit conditions makes it clear to the permittee.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			Amended the frequency of the groundwater monitoring from once every three years to once every year. The frequency in the current general permit will be consistent with the Virginia Department of Conservation and Recreation Nutrient Management Plan (NMP) - Special Conditions (added to all NMPs written for a VPA permitted AFO). This provides consistency with the NMP and better protection to water quality.
9VAC25-192-70 (Contents of the general permit) Part I subsection B	N/A	The overall requirements for storage exist in the current regulation.	Amended subsection tagline to assist with reorganizing the conditions into specific subject matters. New tagline: "Site design, storage, and operation requirements". The conditions have been separated from the animal waste transfer and utilization and other general conditions to facilitate a clearer understanding of the requirements. Adding the tagline helps distinguish the subsections. This addition also makes this regulation consistent with the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-70 (Contents of the general permit) Part I subsection B	N/A	The special conditions exist but are not organized into specific subject areas.	Made the following changes to the subdivisions: B 1 through B 10 were not renumbered Original B 17 is now B 11 Original B 11 is now C 1 Original B 12 is now C 2 Original B 13 is now C 3 Original B 14 is now C 4 New Condition C 5 Original B 15 is now C 6 Original B 16 is now C 7 Original B 18 is now D Conditions are being kept, some were amended, and many were moved to a specific subsection and renumbered. The site conditions have been separated from the animal waste transfer and utilization conditions and the condition related to training to facilitate a clearer understanding of the requirements. These amendments also make this regulation consistent

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			with the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-70 (Contents of the general permit) Part I subsection B 2	N/A	The specifics for determining the 100-year floodplain are not contained in the regulation.	Added clarification as to which tools are to be used to determine the floodplain when siting animal waste storage facilities. Adding the language ensures that the permittee will know what tools must be used to make this determination. This addition also makes this regulation consistent with the other VPA general permit regulation- VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-70 (Contents of the general permit) Part I subsection B 8	N/A	A minimum of 2-ft separation distance to the seasonal high water table required.	No change to the requirement; moved definition of “seasonal high water table” in this section because it was added to the definition section of the regulation.
9VAC25-192-70 (Contents of the general permit) Part I subsection B 8	N/A	Storage requirements are in the existing regulation.	Added language related to the storage of semi-solid and solid waste to clarify what is considered adequate storage.
9VAC25-192-70 (Contents of the general permit) Part I subsection B 11	N/A	Waste storage closure requirements are in the existing regulation.	Moved closure requirements from B.17 and added a notification to the department prior to the closure of a liquid waste storage facility. This notification is an addition to an existing permit condition related to the closure of a waste storage facility. Adding this notification will facilitate the ability for department staff to provide compliance assistance and proper closure procedures to the permittee.
9VAC25-192-70 (Contents of the general permit) Part I (new) subsection C	N/A	The subsection and tagline do not exist. The overall requirements for animal waste use and transfer exist in the current regulation.	Added a new subsection. New tagline: “Animal waste use and transfer requirements”. The conditions have been separated from the site design, storage, and operations related to waste storage and the condition related to training to facilitate a clearer understanding of the requirements. Adding the tagline helps distinguish the subsections. This addition also makes this regulation consistent with the other VPA general permit

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-70 (Contents of the general permit) Part I (new) subsection C 2	N/A	The permittee shall implement an NMP.	Amended new condition (C 2) to add the requirement for the permittee to submit NMP revisions approved by DCR before the expiration date of the previous NMP. The permittee is currently required to provide a copy of the current DCR approved NMP; adding this requirement makes it clear to the permittee of the expectation.
9VAC25-192-70 (Contents of the general permit) Part I (new) subsection C 3	N/A	Waste shall not be land applied with buffer zones. Buffer zone maintenance requirements are specified.	Amended new condition (C 3) to remove the word “permanent” from the condition. “Permanent” is in the definition of the term “vegetated buffer” found in Section 10. This improves clarity and understanding for the permittees.
9VAC25-192-70 (Contents of the general permit) Part I (new) subsection C 5	N/A	The requirement to report unusual or extraordinary discharges is required by the permit.	Added a new condition (new C 5) to clarify requirements in cases of waste storage emergencies such as fire or flood. The new condition provides criteria for the land application of animal waste outside of the land application schedule found in the nutrient management plan, so long as land application information is documented, and the Department is notified. This condition provides permittees with clear requirements related to waste storage and land application when the permittee is faced with an emergency. Added this condition to be consistent with the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-70 (Contents of the general permit) Part I (new) subsection D	N/A	The permittee training requirement is in the existing regulation.	New subsection D. This amendment makes this condition consistent with the rest of the conditions in Section 70.
9VAC25-192-70 (Contents of the general permit) Part II	N/A	Part II of Section 70 contains conditions applicable to VPA permits.	Part II was amended, re-organized and renumbered to be consistent with the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p>There are no substantive changes to the conditions that are applicable to the general permit.</p> <p>Made the following changes to Part II:                      A and B were amended                      Original C is now B 2                      Original D is now A 4 and C 3 &amp; 4                      Original E is now F                      Original F is now H                      Original G is now F 1                      Original H now covered by G                      Original I is now covered by Q                      Original J is now covered by Q and R                      Original K now covered by G                      Original L is now O                      Original M is now covered by N                      Original N is now W                      Original O is now J                      Original P is now M                      Original Q is now V                      Original R is now covered by S                      Original S is amended to cover all permit actions                      Original T was only slightly amended                      Original U was only slightly amended                      Original V is now O                      Original W is now P                      Original X is now E</p> <p>New D, I, K, L, and M are conditions that are in 9VAC25-32 which are applicable to all VPA permits.</p> <p>To provide clarity and convenience for owners of animal feeding operations and animal waste end-users who have a general permit, all of the applicable conditions are compiled in Part II.</p>
9VAC25-192-70 (Contents of the general permit) Part III subsection A	N/A	The tables are in the regulation but not labeled.	Added labels and references to the three tables in subsection A of Part III. Added the labels to facilitate the reader of the contents of the general permit.
9VAC25-192-70 (Contents of the general permit) Part III subsection	N/A	The current regulation requires groundwater monitoring at earthen liquid waste storage facilities constructed to a bottom	Added two conditions related to groundwater monitoring. One permit condition describes when a permittee is required to submit a groundwater monitoring action plan. This process is already required by the department;

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
A 6, 7, and Table 1		<p>elevation that is below the seasonal high water table.</p> <p>It specifies requirements for installing monitoring wells, monitoring requirements, and a frequency of 1 sample every 3 years.</p>	<p>adding it to the permit makes it clear to the permittee in what cases that the action plan is expected.</p> <p>The other condition outlines which parameters must be analyzed by a laboratory accredited under the Virginia Environmental Laboratory Accreditation Program (VELAP) in accordance with 1VAC30-46-20. This requirement is already in place; adding it to the permit conditions makes it clear to the permittee.</p> <p>Amended the frequency of the groundwater monitoring to increase the monitoring frequency from once every three years to once every year. The frequency in the general permit will be consistent with the Nutrient Management Plan (NMP) - Special Conditions (added to all NMPs written for a VPA permitted AFO).</p>
9VAC25-192-70 (Contents of the general permit) Part III subsection B	N/A	The overall requirements for storage exist in the current regulation.	Amended subsection tagline to assist with reorganizing the conditions into specific subject matters. New tagline: "Site design, storage, and operation requirements". The conditions have been separated from the animal waste transfer and utilization and other general conditions to facilitate a clearer understanding of the requirements. Adding the tagline helps distinguish the subsections. This addition also makes this regulation consistent with the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-70 (Contents of the general permit) Part III subsection B	N/A	The special conditions exist but are not organized into specific subject areas.	Made the following changes to the subdivisions: B 1 through B 10 were not renumbered Original B 17 is now B 11 Original B 11 is now C 1 Original B 12 is now C 2 Original B 13 is now C 3 Original B 14 is now C 4 New Condition C 5 Original B 15 is now C 6 Original B 16 is now C 7 Original B 18 is now D



Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p>Conditions are being kept, some were amended, and many were moved to a specific subsection and renumbered. The site conditions have been separated from the animal waste transfer and utilization conditions and other special conditions to facilitate a clearer understanding of the requirements. These amendments also make this regulation consistent with the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).</p>
<p>9VAC25-192-70 (Contents of the general permit) Part III subsection B 2</p>	<p>N/A</p>	<p>The specifics for determining the 100-year floodplain are not contained in the regulation.</p>	<p>Added clarification as to which tools are to be used to determine the floodplain when siting animal waste storage facilities. Adding the language ensures that the permittee will know what tools must be used to make this determination. This addition also makes this regulation consistent with the other VPA general permit regulation- VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).</p>
<p>9VAC25-192-70 (Contents of the general permit) Part III subsection B 8</p>	<p>N/A</p>	<p>A minimum of 2-ft separation distance to the seasonal high water table required.</p>	<p>No change to the requirement; moved definition of “seasonal high water table” from this section because it was added to the definition section of the regulation.</p>
<p>9VAC25-192-70 (Contents of the general permit) Part III subsection B 8</p>	<p>N/A</p>	<p>Storage requirements are in the existing regulation.</p>	<p>Added permit language related to the storage of semi-solid and solid waste to clarify what is considered adequate storage.</p>
<p>9VAC25-192-70 (Contents of the general permit) Part III subsection B 11</p>	<p>N/A</p>	<p>Waste storage closure requirements are in the existing regulation.</p>	<p>Moved closure requirements from B.17 and added a notification to the department when the permittee closes a liquid waste storage facility. This notification is an addition to an existing permit condition related to the closure of a waste storage facility. Adding this notification will facilitate the ability for department staff to provide compliance assistance and proper closure procedures to the permittee.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-192-70 (Contents of the general permit) Part III subsection B	N/A	Waste storage closure requirements are in the existing regulation.	Added a notification to the department prior to the closure of a liquid waste storage facility. This notification is an addition to an existing permit condition related to the closure of a waste storage facility. Adding this notification will facilitate the ability for department staff to provide compliance assistance and proper closure procedures to the permittee.
9VAC25-192-70 (Contents of the general permit) Part III (new) subsection C	N/A	The subsection and tagline do not exist. The overall requirements for animal waste use and transfer exist in the current regulation.	Added a new subsection. New tagline: "Animal waste use and transfer requirements". The conditions have been separated from the site design, storage, and operations related to waste storage and the condition related to training to facilitate a clearer understanding of the requirements. Adding the tagline helps distinguish the subsections. This addition also makes this regulation consistent with the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-70 (Contents of the general permit) Part III (new) subsection C 2	N/A	The permittee shall implement an NMP.	Amended new condition (C 2) to add the requirement for the permittee to submit NMP revisions approved by DCR before the expiration date of the previous NMP. The permittee is currently required to provide a copy of the current DCR approved NMP; adding this requirement makes it clear to the permittee of the expectation.
9VAC25-192-70 (Contents of the general permit) Part III (new) subsection C 5	N/A	The requirement to report unusual or extraordinary discharges is required by the permit.	Added a new condition to clarify requirements in cases of waste storage emergencies such as fire or flood. The new condition provides criteria for the land application of animal waste outside of the land application schedule found in the nutrient management plan, so long as land application information is documented, and the Department is notified. This condition provides permittees with clear requirements related to waste storage and land application when the permittee is faced with an emergency. Added this condition to be consistent with the other VPA general permit regulation - VPA Regulation and

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-70 (Contents of the general permit) Part III (new) subsection C 5	N/A	Waste shall not be land applied within buffer zones. Buffer zone maintenance requirements are specified.	Amended new condition (C 3) to remove the word “permanent” from the condition. Permanent is in the definition of the term “vegetated buffer” found in Section 10. This improves clarity and understanding for permittees.
9VAC25-192-70 (Contents of the general permit) Part III (new) subsection D	N/A	The permittee training requirement is in the existing regulation.	New subsection. This amendment makes this condition consistent with the rest of the conditions in Section 70.
9VAC25-192-80 (Tracking and accounting requirements for animal waste end-users)	N/A	The regulation contains the recordkeeping requirements for animal waste end-users.	Amended language in this section to bring consistency to the terms in the regulation. Added the different permit types to subsection A. Made the entity plural in subdivisions A 1 a and A 2 a. Made minor changes based on the Style Manual developed by the Registrar’s Office. Amended language based on the authority of the State Water Control Board (deleted “board”- replaced with “department”, where appropriate) in accordance with Senate Bill 657 enacted by the 2022 General Assembly.
9VAC25-192-90 (Utilization and storage requirements)	N/A	The regulation contains the utilization and storage requirements for animal waste end-users.	Amended Section title to: Storage and land application requirements for transferred animal waste. Added the different permit types to subsections A, B, and C. Amended language in this section to bring consistency to the terms in the regulation.
9VAC25-192-90 (Utilization and storage requirements)	N/A	The regulation currently contains conditions for waste storage.	Changed animal waste to semi-solid and solid waste in subdivision in B 1 to clarify the storage requirements and make it consistent with the requirements in Section 70.
9VAC25-192-90 (Utilization and storage requirements)	N/A	The definition exists in the current regulation.	Removed definition of “seasonal high water table” from this section because it was added to the definition section of the regulation.
9VAC25-192-90 (Utilization and storage requirements)	N/A	The regulation currently contains conditions for waste storage.	Added language related to the storage of semi-solid and solid waste to clarify what is considered adequate storage.
9VAC25-192-90 (Utilization	N/A	The specifics for determining the 100-year	Added clarification as to which tools are to be used to determine the

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
and storage requirements)		floodplain are not contained in the regulation.	floodplain when siting animal waste storage facilities. Adding the language ensures that the regulated end-user will know what tools must be used to make this determination. This addition also makes this regulation consistent with Section 70 of this regulation and the other VPA general permit regulation- VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-90 (Utilization and storage requirements)	N/A	The table in Section 90 does not have a label	Added a label and reference to the table in subsection C. Added the label to facilitate the reader of this Section.
9VAC25-192-90 (Utilization and storage requirements)	N/A	The requirements for buffer zones exist in Section 90.	Amended new condition (C 3) to remove the word “permanent” from the condition. “Permanent” is in the definition of the term “vegetated buffer” found in Section 10.
9VAC25-192-90 (Utilization and storage requirements)	N/A	The current language in Section 90 does not provide options during an emergency.	Added a new condition (new C 4) to clarify requirements in cases of waste storage emergencies, such as fire or flood. The new condition provides criteria for the land application of animal waste outside of the land application schedule found in the nutrient management plan, so long as land application information is documented and the Department is notified. This condition provides permittees with clear requirements related to waste storage and land application when the regulated end-user is faced with an emergency. Added this condition to be consistent with Section 70 of this regulation and the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50).
9VAC25-192-90 (Utilization and storage requirements)	N/A	The current section refers to the water quality standards regulation but does not cite the regulation. The current section refers to the State Water Control Law and includes the specific citation.	Subsection E: Added the citation for the specific water quality standards regulation and amended condition language for consistency with the rest of this regulation and other regulations. Removed citation for State Water Control Law (since the definition along with the citation are being added to the definition Section) and to make it

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			consistent with the rest of this regulation.
9VAC25-192-90 (Utilization and storage requirements)	N/A	The requirement refers to the Board instead of the department.	Subsection F: Amended language based on the authority of the State Water Control Board (deleted "board"-replaced with "department", where appropriate) Board Bill consistent with Senate Bill 657 enacted by the General Assembly in 2022.
FORMS	N/A	The current effective forms are consistent with the current regulation.	Revised forms and Animal Waste Fact Sheet for consistency with the changes made to 9VAC25-192-60, 9VAC25-192-80 and 9VAC25-192-90. Revising the registration statements and the Animal Waste Fact Sheet will provide forms consistent with the changes made to sections previously mentioned.

**Family Impact**

*In accordance with § 2.2-606 of the Code of Virginia, please assess the potential 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.*

It is not anticipated that an amendment to this regulation will have any impacts on the family and family stability.

1 **Project 7432 - Exempt Proposed- for August 23, 2023 State Water Control Board meeting**  
2 **2024 Reissue and amend, as necessary, the Virginia Pollution Abatement (VPA)**  
3 **Regulation and General Permit for Animal Feeding Operations and Animal Waste**  
4 **Management**

5 Chapter 192

6 Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding  
7 Operations and Animal Waste Management

8 **9VAC25-192-10. Definitions.**

9 The following words and terms when used in this chapter regulation shall have the meanings  
10 defined in the State Water Control Law (~~§ 62.1-44.2 et seq. of the Code of Virginia~~) and the  
11 Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) unless the context clearly  
12 indicates otherwise, except that for the purposes of this chapter:

13 "Agricultural stormwater discharge" means a precipitation-related discharge of manure, litter,  
14 or process wastewater that has been applied on land areas under the control of an animal feeding  
15 operation or under the control of an animal waste end-user in accordance with a nutrient  
16 management plan approved by the Virginia Department of Conservation and Recreation and in  
17 accordance with site specific nutrient management practices that ensure appropriate agricultural  
18 land utilization of the nutrients in the manure, litter, or process wastewater.

19 "Animal feeding operation" means a lot or facility, together with any associated treatment  
20 works, where both of the following conditions are met:

21 1. Animals have been, are, or will be stabled or confined and fed or maintained for a total  
22 of 45 days or more in any 12-month period; and

23 2. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the  
24 normal growing season over any portion of the operation of the lot or facility.

25 Two or more animal feeding operations under common ownership are a single animal feeding  
26 operation for the purposes of determining the number of animals at an operation, if they adjoin  
27 each other, or if they use a common area or system for the disposal of ~~wastes~~ liquid waste.

28 "Animal waste" means liquid, semi-solid, and solid animal manure and process wastewater,  
29 compost, or sludges associated with animal feeding operations including the final treated wastes  
30 generated by a digester or other manure treatment technologies.

31 "Animal waste end-user" or "end-user" means any recipient of transferred animal waste who  
32 stores or who utilizes the waste as fertilizer, fuel, feedstock, livestock feed, or other beneficial use  
33 for an operation under his control.

34 "Animal waste fact sheet" means the document that details the requirements regarding  
35 utilization, storage, and management of animal waste by end-users. The fact sheet is approved  
36 by the department.

37 "Beneficial use" means a use that is of benefit as a substitute for natural or commercial  
38 products and does not contribute to adverse effects on health or environment.

39 "Board" means the State Water Control Board. When used outside the context of the  
40 promulgation of regulations, including regulations to establish general permits, "board" means the  
41 Department of Environmental Quality.

42 "Confined animal feeding operation," means, for the purposes of this regulation, has the same  
43 meaning as an "animal feeding operation."

44 "Department" means the Department of Environmental Quality.

45 "Director" means the Director of the Virginia Department of Environmental Quality, or his  
46 designee an authorized representative.

47 "General permit" means the Virginia Pollution Abatement Regulation and General Permit for  
48 Animal Feeding Operations and Animal Waste Management, 9VAC25-192.

49 "Land application" means, for the purposes of this regulation, the distribution of animal waste  
50 by spreading or spraying on the surface of the land, injecting below the surface of the land, or  
51 incorporating into the soil with a uniform application rate for the purpose of fertilizing crops or  
52 vegetation or conditioning the soil. The fields or sites used for the land application of animal waste  
53 in accordance with this regulation are not considered to be treatment works. Deposition of animal  
54 waste by an animal is not land application.

55 "Local government ordinance form" means a notification from the governing body of the  
56 county, city or town where the animal feeding operation is located that the animal feeding  
57 operation is consistent with all ordinances adopted pursuant to Chapter 22 (§15.2-2200 et seq.)  
58 of Title 15.2 of the Code of Virginia.

59 "Nutrient management plan" or "NMP" means a plan developed or approved by the  
60 Department of Conservation and Recreation that requires proper storage, treatment, and  
61 management of animal waste and limits accumulation of excess nutrients in soils and leaching or  
62 discharge of nutrients into state waters; except that for an animal waste end-user who is not  
63 covered under the this general permit, the requirements of 9VAC25-192-90 constitute the NMP.

64 "Organic source" means any nutrient source including, but not limited to, manures, biosolids,  
65 compost, and waste or sludges from animals, humans, or industrial processes, but for the  
66 purposes of this regulation it excludes waste from wildlife.

67 "Permittee" means the owner or operator of an animal feeding operation or animal waste end-  
68 user whose animal waste management activities are covered under this general permit.

69 "Seasonal high water table" means that portion of the soil profile where a color change has  
70 occurred in the soil as a result of saturated soil conditions or where soil concretions have formed.  
71 Typical colors are gray mottlings, solid gray, or black. The depth in the soil at which these  
72 conditions first occur is termed the seasonal high water table.

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

75 "Treatment works" means (i) a waste holding pond or tank used to store manure prior to land  
76 application or, (ii) a lagoon or treatment facility used to digest or reduce the solids or nutrients.

77 "Vegetated buffer" means a permanent strip of dense perennial vegetation established  
78 parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of  
79 slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients  
80 or pollutants from leaving the field and reaching surface waters.

81 "Waste nutrient analysis rate" means a land application rate for animal waste approved by the  
82 board as specified in this regulation.

83 "Waste storage facility" means (i) a waste holding pond or tank used to store manure prior to  
84 land application, (ii) a lagoon or treatment facility used to digest or reduce the solids or nutrients,  
85 or (iii) a structure used to store manure or waste.

86 ~~"Vegetated buffer" means a permanent strip of dense perennial vegetation established~~  
87 ~~parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of~~  
88 ~~slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients~~  
89 ~~or pollutants from leaving the field and reaching surface waters.~~

90 "300 animal units" means 300,000 pounds of live animal weight, or the following numbers and  
91 types of animals:

- 92 a. 300 slaughter and feeder cattle;
- 93 b. 200 mature dairy cattle (whether milked or dry cows);
- 94 c. 750 swine each weighing over 25 kilograms (approximately 55 pounds);
- 95 d. 150 horses;
- 96 e. 3,000 sheep or lambs;
- 97 f. 16,500 turkeys;
- 98 g. 30,000 laying hens or broilers.

99 **9VAC25-192-15. Applicability of incorporated references based on the dates that they**  
100 **became effective.**

101 Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set  
102 forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and  
103 incorporated by reference, that regulation shall be as it exists and has been published as of July  
104 1, 2023.

105 **9VAC25-192-20. Purpose; effective date of the general permit.**

106 A. ~~This~~ The Virginia Pollution Abatement Regulation and General Permit for Animal Feeding  
107 Operations and Animal Waste Management (general permit) regulation governs the pollutant  
108 management activities at animal feeding operations having 300 or more animal units utilizing a  
109 liquid manure collection and storage system not covered by a Virginia Pollutant Discharge  
110 Elimination System (VPDES) permit and animal waste utilized or stored by animal waste end-  
111 users. ~~These~~ The owners of animal feeding operations may ~~operate~~ run and maintain treatment  
112 works for waste storage, treatment, or recycling and may perform land application of manure,  
113 wastewater, compost, or sludges.

114 B. This general permit will become effective on November 16, ~~2014~~ 2024. This general permit  
115 will expire ~~40 years from the effective date~~ on November 15, 2034.

116 **9VAC25-192-25. Duty to comply.**

117 A. ~~Any~~ No person who manages or proposes to manage pollutants regulated by ~~9VAC25-192~~  
118 shall operate an animal feeding operation with 300 or more animal units utilizing a liquid manure  
119 collection and storage system after July 1, 2000, without having submitted a registration statement  
120 as provided in 9VAC25-192-60 or being covered by a Virginia Pollutant Discharge Elimination  
121 System (VPDES) permit or an individual Virginia Pollution Abatement (VPA) permit ~~comply with~~  
122 ~~the applicable requirements of this chapter.~~

123 B. ~~In order to manage pollutants from an animal feeding operation, the owner shall be required~~  
124 ~~to obtain coverage under the Virginia Pollution Abatement (VPA) general permit or an individual~~  
125 ~~VPA permit provided that the owner has not been required to obtain a Virginia Pollutant Discharge~~  
126 ~~Elimination System (VPDES) permit. The owner shall comply with all conditions of this general~~  
127 ~~permit and the requirements of this chapter and the permit regulation.~~



128 C. An animal waste end-user shall comply with the technical requirements outlined in  
129 9VAC25-192-80 and 9VAC25-192-90.

130 **9VAC25-192-50. Authorization to manage pollutants.**

131 A. Owner of an animal feeding operation. ~~Any~~ An owner governed by of an animal feeding  
132 operation that is subject to this general permit is hereby authorized to manage pollutants at the  
133 animal feeding operations provided that the owner files the a registration statement of in  
134 accordance with 9VAC25-192-60, complies with the requirements of 9VAC25-192-70, and  
135 provided that:

136 1. The owner has not been required to obtain a Virginia Pollutant Discharge Elimination  
137 System (VPDES) permit or an individual Virginia Pollution Abatement (VPA) permit  
138 according to subdivision 2 of 9VAC25-32-260.

139 2. The operation of the animal feeding operation shall not contravene the Water Quality  
140 Standards, 9VAC25-260, as amended, and adopted by the board, or any provision of the  
141 State Water Control Law. There shall be no point source discharge of wastewater to  
142 surface waters of the state except in the case of a storm event greater than the 25-year,  
143 24-hour storm. Agricultural stormwater discharges are permitted. Domestic sewage shall  
144 not be managed under this general permit. Industrial waste wastes shall not be managed  
145 under this general permit, except for wastes that have been approved by the department  
146 and are managed in accordance with 9VAC25-192-70.

147 3. The owner of any proposed pollutant management activities or those which have not  
148 previously been issued a valid Virginia Pollution Abatement (VPA) general permit or an  
149 individual VPA permit or Virginia Pollutant Discharge Elimination System (VPDES) permit  
150 must attach a Local Government Ordinance Form to the registration statement, the Local  
151 Government Ordinance Form (a notification from the governing body of the county, city or  
152 town where the operation is located that the operation is consistent with all ordinances  
153 adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia).

154 4. The owner shall obtain Department of Conservation and Recreation approval of a  
155 nutrient management plan for the animal feeding operation prior to the submittal of the  
156 registration statement. The owner shall attach to the registration statement a copy of the  
157 approved nutrient management plan and a copy of the letter from the Department of  
158 Conservation and Recreation certifying approval of the nutrient management plan that  
159 was developed by a certified nutrient management planner in accordance with § 10.1-  
160 104.2 of the Code of Virginia. The owner shall implement the approved nutrient  
161 management plan.

162 5. ~~a.~~ The owner shall give notice of the registration statement to all owners or residents of  
163 property that adjoins the property on which the animal feeding operation will be located.

164 a. Such notice shall include (i) the types and maximum number of animals which will  
165 be maintained at the animal feeding operation and (ii) the address and phone number  
166 of the appropriate department regional office to which comments relevant to the  
167 registration statement may be submitted. This notice requirement is waived whenever  
168 registration is for the purpose of renewing coverage under this general permit and no  
169 expansion is proposed and the department has not issued any special order or consent  
170 order relating to violations under this existing general permit.

171 b. Any person may submit written comments on the proposed operation to the  
172 department within 30 days of the date of the filing of the registration statement. If, ~~on~~  
173 ~~the basis of~~ based on such written comments or his review, the director determines

174 that the proposed operation will not be capable of complying with the provisions of the  
175 this general permit, then the director shall require the owner to obtain an individual  
176 VPA permit for the operation. Any such determination by the director shall be made in  
177 writing and mailed to the owner not more than 45 days after the filing of the registration  
178 statement or, if in the director's sole discretion additional time is necessary to evaluate  
179 comments received from the public, then not more than 60 days after the filing of the  
180 registration statement.

181 6. ~~As required by § 62.1-44.17:1 F of the Code of Virginia, each~~ Each owner of a facility  
182 an animal feeding operation covered by this general permit shall have completed the  
183 training program offered or approved by the department in the two years prior to submitting  
184 the registration statement for general permit coverage, or shall complete such training  
185 within one year after the registration statement has been submitted for general permit  
186 coverage. All permitted owners shall complete the training program at least once every  
187 three years.

188 B. Animal waste end-user. An animal waste end-user shall comply with the requirements  
189 outlined in 9VAC25-192-80 and 9VAC25-192-90.

190 1. When an animal waste end-user does not comply with the requirements of 9VAC25-  
191 192-80 and 9VAC25-192-90, the department may choose to do ~~any or all of~~ the following:

- 192 a. Initiate enforcement action based upon the violation of the regulation;
- 193 b. Require the animal waste end-user to register for coverage under ~~the~~ this general  
194 permit or apply for an individual VPA permit; and
- 195 c. ~~Require the animal waste end-user to apply for the a VPA individual permit; or~~
- 196 d. Take other actions set forth in the VPA Permit Regulation (9VAC25-32).

197 2. ~~An~~ When an animal waste end-user ~~governed by~~ is required to register for coverage  
198 under this general permit, the end-user is hereby authorized to manage ~~pollutants relating~~  
199 ~~to the utilization and storage of~~ store animal waste provided that the animal waste end-  
200 user files the registration statement of 9VAC25-192-60, complies with the requirements of  
201 9VAC25-192-70, and:

202 a. The animal waste end-user has not been required to obtain a an individual VPA  
203 ~~individual~~ permit according to subdivision 2 of 9VAC25-32-260;

204 b. The activities of the animal waste end-user shall not contravene the Water Quality  
205 Standards, 9VAC25-20-260, as amended, and adopted by the board, or any provision  
206 of the State Water Control Law (~~§ 62.1-44 et seq. of the Code of Virginia~~). There shall  
207 be no point source discharge of wastewater to surface waters of the state except in  
208 the case of a storm event greater than the 25-year, 24-hour storm. Agricultural  
209 stormwater discharges are permitted. Domestic sewage shall not be managed under  
210 this general permit. Industrial ~~waste~~ wastes shall not be managed under this general  
211 permit, except for wastes that have been approved by the department and are  
212 managed in accordance with 9VAC25-192-70;

213 c. The animal waste end-user shall obtain Department of Conservation and Recreation  
214 approval of a nutrient management plan for land application sites where animal waste  
215 will be utilized or stored and managed prior to the submittal of the registration  
216 statement. The animal waste end-user shall attach to the registration statement a copy  
217 of the approved nutrient management plan and a copy of the letter from the  
218 Department of Conservation and Recreation certifying approval of the nutrient

219 management plan that was developed by a certified nutrient management planner in  
220 accordance with § 10.1-104.2 of the Code of Virginia. The animal waste end-user shall  
221 implement the approved nutrient management plan; and

222 d. ~~As required by § 62.1-44.17:1 F of the Code of Virginia, each~~ Each permitted animal  
223 waste end-user shall complete a training program offered or approved by the  
224 department within one year of filing the registration statement for general permit  
225 coverage. All permitted animal waste end-users shall complete a training program at  
226 least once every three years.

227 C. Continuation of general permit coverage.

228 1. ~~Any owner that was authorized to manage pollutants under the general permit issued~~  
229 ~~in 2004 and that submits a complete registration statement on or before November 15,~~  
230 ~~2014, is authorized to continue to manage pollutants under the terms of the 2004 general~~  
231 ~~permit until such time as the board either:~~ In any case where the board, through no fault  
232 of the owner or permittee, does not issue the next consecutive general permit with an  
233 effective date on or before the expiration date of the expiring general permit, the following  
234 applies:

235 a. Any owner that was authorized to manage pollutants under this general permit and  
236 that submits a complete registration statement in accordance with 9VAC25-192-60 on  
237 or before the expiration date of the expiring general permit coverage, is authorized to  
238 continue to manage pollutants under the terms of the previously issued general permit.  
239 The conditions of the expiring general permit and any requirements of coverage  
240 granted under it shall continue in force until the effective date of the next consecutive  
241 general permit and until such time as the board either:

242 a. b. Issues coverage to the owner or permittee under this the next consecutive general  
243 permit; or

244 b. c. Notifies the owner or permittee that coverage under this the next consecutive  
245 general permit is denied.

246 2. When the permittee that was covered under the expiring or expired general permit has  
247 violated or is violating the conditions of that general permit, the ~~board~~ department may  
248 choose to do ~~any or all of~~ the following:

249 a. Initiate enforcement action based upon the expiring or expired general permit;

250 b. Issue a notice of intent to deny coverage under the reissued general permit. If the  
251 general permit coverage is denied, then the owner ~~would then~~ will be required to cease  
252 the activities authorized by the expiring or expired general permit or be subject to  
253 enforcement action for operating without a general permit;

254 c. Issue an individual VPA permit with appropriate conditions; ~~or~~ and

255 d. Take other actions set forth in the VPA Permit Regulation (9VAC25-32).

256 D. Receipt of this general permit does not relieve any permittee of the responsibility to comply  
257 with any other applicable federal, state, or local statute, ordinance, or regulation.

## 258 **9VAC25-192-60. Registration statement.**

259 A. The owner of an animal feeding operation. ~~In order to~~ To be covered under ~~the~~ this general  
260 permit, the owner shall file a complete VPA General Permit Registration Statement for the  
261 management of pollutants at animal feeding operations in accordance with this chapter. The

262 registration statement shall be deemed complete for registration under ~~the VPA General Permit~~  
263 this general permit if it contains the following information:

264 1. The animal feeding operation owner's name, mailing address, email address (if  
265 available), and telephone number;

266 2. The name, mailing address, email address (if available), and telephone number of the  
267 operator or contact person other than the owner, if applicable;

268 3. The farm name (if applicable) and location of the animal feeding operation;

269 4. The best time of day and day of the week to contact the operator or the contact person;

270 5. If The permit number, if the facility animal feeding operation has an existing general  
271 permit, individual VPA permit, or VPDES permit number, ~~the permit number~~;

272 6. The type or types of animals (e.g., dairy cattle, slaughter and feeder cattle, swine, other)  
273 and the maximum number and average weight of the type or types of animals to be  
274 maintained at the animal feeding operation;

275 7. The types of wastes that will be managed at the facility animal feeding operation and  
276 how much of each type of waste will be managed;

277 8. If waste will be transferred off-site, then the type of waste and how much will be  
278 transferred;

279 9. The owner of any ~~proposed pollutant management activities~~ animal feeding operation  
280 that will manage animal waste or those which have not previously been issued a valid  
281 general permit, an individual VPA permit or VPDES permit must attach the Local  
282 Government Ordinance Form to the registration statement, ~~the Local Government~~  
283 Ordinance Form (the notification from the governing body of the county, city or town where  
284 the operation is located that the operation is consistent with all ordinances adopted  
285 pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia);

286 10. A copy of the nutrient management plan approved by the Department of Conservation  
287 and Recreation;

288 11. A copy of the Department of Conservation and Recreation nutrient management plan  
289 approval letter that also certifies that the plan was developed by a certified nutrient  
290 management planner in accordance with § 10.1-104.2 of the Code of Virginia; and

291 12. The following certification: "I certify that notice of the registration statement has been  
292 given to all owners or residents of property that adjoins the property on which the animal  
293 feeding operation will be located. This notice included the types and numbers of animals  
294 ~~which~~ that will be maintained at the facility animal feeding operation and the address and  
295 phone number of the appropriate Department of Environmental Quality regional office to  
296 which comments relevant to ~~the~~ this general permit may be submitted. (The preceding  
297 certification is waived if the registration is for renewing coverage under ~~the~~ this general  
298 permit, and no expansion of the operation is proposed, and the department has not issued  
299 any special order or consent order relating to violations under the existing general permit.)  
300 I certify under penalty of law that all the requirements of the board for ~~the~~ this general  
301 permit are being met and that this document and all attachments were prepared under my  
302 direction or supervision in accordance with a system designed to assure that qualified  
303 personnel properly gather and evaluate the information submitted. Based on my inquiry of  
304 the person or persons who manage the system or those persons directly responsible for  
305 gathering the information, the information submitted is to the best of my knowledge and  
306 belief true, accurate, and complete. I am aware that there are significant penalties for

307 submitting false information including the possibility of fine and imprisonment for knowing  
308 violations."

309 B. The animal waste end-user. ~~In order to~~ To be covered under the this general permit, the  
310 animal waste end-user shall file a complete VPA General Permit Registration Statement in  
311 accordance with this chapter. The registration statement shall be deemed complete for  
312 registration under ~~the VPA General Permit~~ this general permit if it contains the following  
313 information:

314 1. The animal waste end-user's name, mailing address, email address (if available), and  
315 telephone number;

316 2. The name (if applicable) and location ~~of the facility~~ where the animal waste will be  
317 utilized, stored, or managed;

318 3. The best time of day and day of the week to contact the animal waste end-user;

319 4. ~~If~~ The permit number, if the facility animal waste end-user has an existing general  
320 permit, an individual VPA permit or VPDES permit number, the permit number;

321 5. If ~~confined~~ animals are ~~located at the facility~~ also confined, then indicate the type or  
322 types of animals (e.g., dairy cattle, slaughter and feeder cattle, swine, other) and the  
323 maximum number and average weight of the type or types of animals;

324 6. The types of wastes that will be managed ~~at the facility~~ by the animal waste end-user  
325 and how much of each type of waste will be managed;

326 7. If waste will be transferred off-site, then the type of waste and how much will be  
327 transferred;

328 8. A copy of the nutrient management plan approved by the Department of Conservation  
329 and Recreation;

330 9. A copy of the Department of Conservation and Recreation nutrient management plan  
331 approval letter that also certifies that the plan was developed by a certified nutrient  
332 management planner in accordance with § 10.1-104.2 of the Code of Virginia; and

333 10. The following certification: "I certify under penalty of law that all the requirements of  
334 the board for ~~the~~ this general permit are being met and that this document and all  
335 attachments were prepared under my direction or supervision in accordance with a system  
336 designed to assure that qualified personnel properly gather and evaluate the information  
337 submitted. Based on my inquiry of the person or persons who manage the system or those  
338 persons directly responsible for gathering the information, the information submitted is to  
339 the best of my knowledge and belief true, accurate, and complete. I am aware that there  
340 are significant penalties for submitting false information including the possibility of fine and  
341 imprisonment for knowing violations."

342 C. The registration statement shall be signed in accordance with ~~Part II F of~~ 9VAC25-32-70  
343 1.

344 **9VAC25-192-70. Contents of the general permit.**

345 Any owner or animal waste end-user whose registration statement is accepted by the ~~board~~  
346 department will receive the following general permit and shall comply with the requirements  
347 therein and be subject to the VPA ~~permit regulation~~ Permit Regulation, 9VAC25-32.

348 General Permit No.: VPG1  
349 Effective Date: November 16, ~~2014~~ 2024  
350 Expiration Date: November 15, ~~2024~~ 2034

351 GENERAL PERMIT FOR POLLUTANT MANAGEMENT ACTIVITIES FOR ANIMAL  
352 FEEDING OPERATIONS AND ANIMAL WASTE MANAGEMENT

353 AUTHORIZATION TO MANAGE POLLUTANTS UNDER THE VIRGINIA POLLUTION  
354 ABATEMENT PROGRAM AND THE VIRGINIA STATE WATER CONTROL LAW

355 In compliance with the provisions of the State Water Control Law and State Water Control  
356 Board regulations adopted pursuant thereto, owners of animal feeding operations having 300 or  
357 more animal units utilizing a liquid manure collection and storage system, and animal waste end-  
358 users are authorized to manage pollutants within the boundaries of the Commonwealth of Virginia,  
359 except where board regulations prohibit such activities.

360 The authorized pollutant management activities shall be in accordance with the registration  
361 statement, supporting documents submitted to the Department of Environmental Quality, this  
362 cover page, Part I-Pollutant Management and Monitoring Requirements for Animal Feeding  
363 Operations, Part II-Conditions Applicable to ~~all VPA Permits~~ this General Permit, and Part III-  
364 Pollutant Management and Monitoring Requirements for Animal Waste End-Users, as set forth  
365 herein.

366 Part I

367 Pollutant Management and Monitoring Requirements for Animal Feeding Operations

368 A. Pollutant management and monitoring requirements.

369 1. During the period beginning with ~~the~~ this general permit's effective date and lasting until  
370 ~~the~~ this general permit's expiration date, the permittee is authorized to manage pollutants  
371 at the location or locations identified in the registration statement and the ~~facility's~~  
372 approved nutrient management plan written for the animal feeding operation.

373 2. At earthen liquid waste storage facilities constructed after December 1, 1998, to an  
374 elevation below the seasonal high water table or within one foot thereof, groundwater  
375 monitoring wells shall be installed. A minimum of one up gradient and one down gradient  
376 well shall be installed at each earthen waste storage facility that requires groundwater  
377 monitoring. Existing wells may be utilized to meet this requirement if properly located and  
378 constructed.

379 3. All ~~facilities~~ animal feeding operations previously covered under a general permit, an  
380 individual VPA permit or VPDES permit that required groundwater monitoring shall  
381 continue monitoring consistent with the requirements listed below regardless of where  
382 they are located relative to the seasonal high water table.

383 4. At ~~facilities~~ animal feeding operations where groundwater monitoring is required, the  
384 following conditions apply:

385 a. One data set shall be collected from each well prior to any waste being placed in  
386 the storage facility.

387 b. The static water level shall be measured prior to bailing well water for sampling.

388 c. At least three well volumes of groundwater shall be withdrawn immediately prior to  
 389 sampling each monitoring well.

390 5. In accordance with subdivisions 2 and 3 of this subsection, the groundwater shall be  
 391 monitored by the permittee at the monitoring wells as specified below in Table 1 of Part I.  
 392 Additional groundwater monitoring may be required in the facility's approved nutrient  
 393 management plan written for the animal feeding operation.

394 6. If groundwater monitoring results for any monitored parameter demonstrate potential  
 395 noncompliance with this general permit related to the waste storage facility, then the  
 396 permittee shall submit an approvable groundwater monitoring action plan that outlines  
 397 appropriate measures to be taken to address the noncompliance. The groundwater  
 398 monitoring action plan shall be submitted to the department within 30 days of obtaining  
 399 the monitoring results.

400 7. The analysis of the groundwater samples for ammonia nitrogen and nitrate nitrogen  
 401 shall be performed by a laboratory accredited under the Virginia Environmental Laboratory  
 402 Accreditation Program (VELAP) in accordance with 1VAC30-46-20. Field sampling,  
 403 testing, and measurement of the static water level, pH, and conductivity where the sample  
 404 is taken are not subject to the VELAP requirement.

TABLE 1.  
GROUNDWATER MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Static Water Level	NL	Ft	1/3 years <del>year</del>	Measured
Ammonia Nitrogen	NL	mg/L	1/3 years <del>year</del>	Grab
Nitrate Nitrogen	NL	mg/L	1/3 years <del>year</del>	Grab
pH	NL	SU	1/3 years <del>year</del>	Grab
Conductivity	NL	<del>umhos/cm</del> umhos/cm	1/3 years <del>year</del>	Grab

NL = No limit, this is a monitoring requirement only.

405 6. 8. Soil at the land application sites shall be monitored as specified below in Table 2 of  
 406 Part I. Additional soils monitoring may be required in the facility's approved nutrient  
 407 management plan written for the animal feeding operation.

TABLE 2.  
SOILS MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
pH	NL	SU	1/3 years	Composite
Phosphorus	NL	ppm or lbs/ac	1/3 years	Composite
Potash	NL	ppm or lbs/ac	1/3 years	Composite

Calcium	NL	ppm or lbs/ac	1/3 years	Composite
Magnesium	NL	ppm or lbs/ac	1/3 years	Composite

NL = No limit, this is a monitoring requirement only.

SU = Standard Units

408 7. 9. Soil monitoring shall be conducted at a depth of between 0-6 inches, unless otherwise  
 409 specified in the facility's approved nutrient management plan written for the animal feeding  
 410 operation.

411 8. 10. Waste shall be monitored as specified ~~below~~ in Table 3 of Part I. Additional waste  
 412 monitoring may be required in the facility's approved nutrient management plan written for  
 413 the animal feeding operation.

TABLE 3.  
WASTE MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Total Kjeldahl Nitrogen	NL	*	1/year	Composite
Ammonia Nitrogen	NL	*	1/year	Composite
Total Phosphorus	NL	*	1/year	Composite
Total Potassium	NL	*	1/year	Composite
Calcium	NL	*	1/year	Composite
Magnesium	NL	*	1/year	Composite
Moisture Content	NL	%	1/year	Composite

NL = No limit, this is a monitoring requirement only.

\*Parameters for waste may be reported as a percent, as lbs/ton or lbs/1000 gallons, or as ppm where appropriate.

414 9. 11. Analysis of soil and waste shall be according to methods specified in the facility's  
 415 approved nutrient management plan written for the animal feeding operation.

416 ~~10.~~ 12. All monitoring data collected as required by this section and any additional  
 417 monitoring shall be maintained on site for a period of five years and shall be made  
 418 available to department personnel upon request.

419 B. Other Site design, storage, and operations requirements or special conditions.

420 1. Any liquid manure collection and storage facility shall be designed and operated to (i)  
 421 prevent point source discharges of pollutants to state waters except in the case of a storm  
 422 event greater than the 25-year, 24-hour storm and (ii) provide adequate waste storage  
 423 capacity to accommodate periods when the ground is frozen or saturated, periods when  
 424 land application of nutrients should not occur due to limited or nonexistent crop nutrient  
 425 uptake, and periods when physical limitations prohibit the land application of waste.

426 2. Waste storage facilities constructed after December 1, 1998, shall not be located on a  
 427 100-year floodplain. For the purposes of determining the 100-year floodplain, a Federal



428 Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), a FEMA  
429 Letter of Map Amendment (LOMA), or a FEMA Letter of Map Revision (LOMR) shall be  
430 used.

431 3. Earthen waste storage facilities constructed after December 1, 1998, shall include a  
432 properly designed and installed liner. Such liner shall be either a synthetic liner of at least  
433 20 mils thickness or a compacted soil liner of at least one foot thickness with a maximum  
434 permeability rating of 0.0014 inches per hour. A Virginia licensed professional engineer or  
435 an employee of the Natural Resources Conservation Service of the United States  
436 Department of Agriculture with appropriate engineering approval authority shall certify that  
437 the siting, design, and construction of the waste storage facility comply with the  
438 requirements of this general permit. This certification shall be maintained on site.

439 4. At earthen waste storage facilities constructed below the seasonal high water table, the  
440 top surface of the waste must be maintained at a level of at least two feet above the water  
441 table.

442 5. All liquid waste storage ~~or treatment~~ facilities shall maintain at least one foot of freeboard  
443 at all times, up to and including a 25-year, 24-hour storm.

444 6. For new waste storage ~~or treatment~~ facilities constructed after November 16, 2014, the  
445 facilities shall be constructed, operated, and maintained in accordance with the applicable  
446 practice standard adopted by the Natural Resources Conservation Service of the U.S.  
447 Department of Agriculture and approved by the department. A Virginia licensed  
448 professional engineer or an employee of the Natural Resources Conservation Service of  
449 the U.S. Department of Agriculture with appropriate engineering approval authority shall  
450 certify that the siting, design, and construction of the waste storage facility comply with the  
451 requirements of this general permit. This certification shall be maintained on site.

452 7. The permittee shall notify the department's regional office at least 14 days prior to (i)  
453 animals being initially placed in the confined facility animal feeding operation or (ii) the  
454 utilization of any new waste storage ~~or treatment~~ facilities.

455 8. Semi-solid and solid waste shall be stored in a manner that prevents contact with  
456 surface water and groundwater. Waste that is stockpiled outside for more than 14 days  
457 shall be kept in a waste storage facility or at a site that provides adequate storage.  
458 Adequate storage shall, at a minimum, include the following:

459 a. Waste shall be covered to protect it from precipitation and wind;

460 b. Stormwater shall not run onto or under the stored waste;

461 c. A minimum of two feet separation distance to the seasonal high water table or an  
462 impermeable barrier shall be used under the stored waste. All waste storage facilities  
463 that use an impermeable barrier shall maintain a minimum of one foot separation  
464 between the seasonal high water table and the impermeable barrier. "~~Seasonal high~~  
465 ~~water table~~" means that portion of the soil profile where a color change has occurred  
466 in the soil as a result of saturated soil conditions or where soil concretions have  
467 formed. Typical colors are gray mottlings, solid gray, or black. The depth in the soil at  
468 which these conditions first occur is termed the seasonal high water table.  
469 Impermeable barriers shall be constructed of at least 12 inches of compacted clay, at  
470 least four inches of reinforced concrete, or another material of similar structural  
471 integrity that has a minimum permeability rating of 0.0014 inches per hour ( $1 \times 10^{-6}$   
472 centimeters per second); and

473 d. For waste that is not stored in a waste storage facility or under roof, the storage site  
474 must be at least 100 feet from any surface water, intermittent drainage, wells,  
475 sinkholes, rock outcrops, and springs. For semi-solid and solid waste that is stored on  
476 an impermeable barrier and where any stormwater runoff is collected in the waste  
477 storage facility, the semi-solid and solid waste can be stored adjacent to the waste  
478 storage facility regardless of the location of the waste storage facility so long as any  
479 surface water, intermittent drainage, wells, sinkholes, rock outcrops, and springs are  
480 protected from runoff from the stored semi-solid and solid waste.

481 Semi-solid and solid waste that is stored on an impermeable barrier and where any  
482 stormwater runoff is collected in a waste storage facility is considered adequate storage  
483 and is therefore not required to be covered.

484 9. All equipment needed for the proper operation of the permitted ~~facilities~~ animal feeding  
485 operations shall be maintained in good working order. The manufacturer's operating and  
486 maintenance manuals shall be retained for references to allow for timely maintenance and  
487 prompt repair of equipment when appropriate. The permittee shall periodically inspect for  
488 leaks on equipment used for land application of waste.

489 10. When wastes are treated by a digester or other manure treatment technologies, the  
490 waste treatment process shall be approved by the department and shall be managed by  
491 ~~a facility~~ the owner of an animal feeding operation covered under this general permit and  
492 in accordance with the following conditions:

493 a. All treated wastes generated by a digester or other manure treatment technologies  
494 must be managed through an approved nutrient management plan or transferred to  
495 another entity in accordance with animal waste transfer requirements in Part 1 ~~B-15 C~~  
496 6 and ~~46~~ 7.

497 b. When ~~a facility~~ an animal feeding operation covered under this general permit  
498 generates a treated waste from animal waste and other feedstock, the permittee shall  
499 maintain records related to the production of the treated waste.

500 (1) If off-site wastes are added to generate the treated waste, then the permittee shall  
501 record the following items:

502 (a) The amount of waste brought to the ~~facility~~ animal feeding operation; and

503 (b) From whom and where the waste originated.

504 (2) For all treated wastes generated by the ~~facility~~ animal feeding operation, the  
505 permittee shall record the following items:

506 (a) The amount of treated waste generated;

507 (b) The nutrient analysis of the treated waste; and

508 (c) The final use of the treated waste.

509 (3) Permittees shall maintain the records required by Part I B 10 b (1) and (2) on site  
510 for a period of three years. All records shall be made available to department personnel  
511 upon request.

512 11. When the waste storage facility is no longer needed, the permittee shall close it in a  
513 manner that (i) minimizes the need for further maintenance and (ii) controls, minimizes, or  
514 eliminates, to the extent necessary to protect human health and the environment, the  
515 postclosure escape of uncontrolled leachate, surface runoff, or waste decomposition  
516 products to the groundwater, surface water, or the atmosphere. Prior to closure, the

517 permittee shall notify the department of any plans to close a liquid waste storage facility.  
518 At closure, the permittee shall remove all waste residue from the animal waste storage  
519 facility. Removed waste materials shall be utilized according to the approved NMP.

520 C. Animal waste use and transfer requirements.

521 ~~11. 1.~~ Animal waste generated by this facility an animal feeding operation that is subject  
522 to this general permit shall not be applied to fields owned by or under the operational  
523 control of either the permittee or a legal entity in which the permittee has an ownership  
524 interest unless the fields are included in the facility's approved nutrient management plan  
525 written for the animal feeding operation.

526 ~~12. 2.~~ The permittee shall implement a nutrient management plan (NMP) developed by a  
527 certified nutrient management planner in accordance with § 10.1-104.2 of the Code of  
528 Virginia and approved by the Department of Conservation and Recreation and maintain  
529 the plan NMP on site. All revised and Department of Conservation and Recreation  
530 approved NMPs shall be submitted to the department prior to the expiration of the previous  
531 NMP. The NMP shall address the form, source, amount, timing, and method of application  
532 of nutrients on each field to achieve realistic production goals, while minimizing nitrogen  
533 and phosphorus loss to ground and surface waters. The terms of the NMP shall be  
534 enforceable through this general permit. The NMP shall contain at a minimum the following  
535 information:

- 536 a. Site map indicating the location of the waste storage facilities and the fields where  
537 waste will be applied;
- 538 b. Site evaluation and assessment of soil types and potential productivities;
- 539 c. Nutrient management sampling including soil and waste monitoring;
- 540 d. Storage and land area requirements;
- 541 e. Calculation of waste application rates; and
- 542 f. Waste application schedules.

543 ~~13. 3.~~ Waste shall not be land applied within buffer zones. Buffer zones at waste  
544 application sites shall, at a minimum, be maintained as follows:

- 545 a. Distance from occupied dwellings not on the permittee's property: 200 feet (unless  
546 the occupant of the dwelling signs a waiver of the buffer zone);
- 547 b. Distance from water supply wells or springs: 100 feet;
- 548 c. Distance from surface water courses: 100 feet (without a permanent vegetated  
549 buffer) or 35 feet (if a permanent vegetated buffer exists). Other site-specific  
550 conservation practices may be approved by the department that will provide pollutant  
551 reductions equivalent or better than the reductions that would be achieved by the 100-  
552 foot buffer or 35-foot wide vegetated buffer;
- 553 d. Distance from rock outcropping (except limestone): 25 feet;
- 554 e. Distance from limestone outcroppings: 50 feet; and
- 555 f. Waste shall not be applied in such a manner that it would discharge to sinkholes that  
556 may exist in the area.

557 ~~14. 4.~~ The following land application records shall be maintained:

- 558 a. The identification of the land application field sites where the waste is utilized or  
559 stored;
- 560 b. The application rate;
- 561 c. The application dates; and
- 562 d. What crops have been planted.

563 These records shall be maintained on site for a period of five years after the date the  
564 application is made and shall be made available to department personnel upon request.

565 5. In cases where a waste storage facility is threatened by emergencies such as fire or  
566 flood or where these conditions are imminent, animal waste can be land applied outside  
567 of the spreading schedule outlined in the NMP written for an animal feeding operation. If  
568 this occurs, then the owner of the animal feeding operation shall document the land  
569 application information in accordance with Part I C 4 and notify the department in  
570 accordance with Part II F 3.

571 ~~15.~~ 6. Animal waste generated by ~~this facility~~ an animal feeding operation that is subject  
572 to this general permit may be transferred from the permittee to another person if one or  
573 more of the following conditions are met:

574 a. Animal waste generated by ~~this facility~~ an animal feeding operation that is subject  
575 to this general permit may be transferred off-site for land application or another  
576 acceptable use approved by the department, if:

577 (1) The sites where the animal waste will be utilized are included in ~~this permitted~~  
578 facility's the animal feeding operation's approved nutrient management plan; or

579 (2) The sites where the animal waste will be utilized are included in another permitted  
580 facility's entity's approved nutrient management plan.

581 b. Animal waste generated by ~~this facility~~ an animal feeding operation that is subject  
582 to this general permit may be transferred off-site without identifying in the permittee's  
583 approved nutrient management plan the fields where such waste will be utilized, if one  
584 of the following conditions are met:

585 (1) The animal waste is registered with the Virginia Department of Agriculture and  
586 Consumer Services in accordance with regulations adopted pursuant to subdivision A  
587 2 of § 3.2-3607 of the Code of Virginia; or

588 (2) When the permittee transfers to another person more than 10 tons of solid or semi-  
589 solid animal waste (solid or semi-solid animal waste contains less than 85% moisture)  
590 or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85%  
591 or more moisture) in any 365-day period, the permittee shall maintain records in  
592 accordance with Part I ~~B-16~~ C 7.

593 ~~16.~~ 7. Animal waste may be transferred from a permittee to another person without  
594 identifying the fields where such waste will be utilized in the permittee's approved nutrient  
595 management plan if the following conditions are met:

596 a. When a permittee transfers to another person more than 10 tons of solid or semi-  
597 solid animal waste (solid or semi-solid animal waste contains less than 85% moisture)  
598 or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85%  
599 or more moisture) in any 365-day period, the permittee shall provide that person with:

600 (1) Permittee's name, address, and permit number;

- 601 (2) A copy of the most recent nutrient analysis of the animal waste; and  
602 (3) An animal waste fact sheet.
- 603 b. When a permittee transfers to another person more than 10 tons of solid or semi-  
604 solid animal waste (solid or semi-solid animal waste contains less than 85% moisture)  
605 or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85%  
606 or more moisture) in any 365-day period, the permittee shall keep a record of the  
607 following:
- 608 (1) The ~~recipient~~ recipient's name and address;  
609 (2) The amount of animal waste received by the person;  
610 (3) The date of the transaction;  
611 (4) The nutrient analysis of the animal waste;  
612 (5) The locality in which the recipient intends to utilize the animal waste (i.e., nearest  
613 town or city and zip code);  
614 (6) The name of the stream or waterbody, if known, to the recipient that is nearest to  
615 the animal waste utilization or storage site; and  
616 (7) The signed waste transfer records form acknowledging the receipt of the following:  
617 (a) The animal waste;  
618 (b) The nutrient analysis of the animal waste; and  
619 (c) An animal waste fact sheet.
- 620 c. Permittees shall maintain the records required by Part I ~~B-16~~ C 7 a and b for at least  
621 three years after the date of the transaction and shall make them available to  
622 department personnel upon request.

623 ~~17. When the waste storage or treatment facility is no longer needed, the permittee shall~~  
624 ~~close it in a manner that (i) minimizes the need for further maintenance and (ii) controls,~~  
625 ~~minimizes, or eliminates, to the extent necessary to protect human health and the~~  
626 ~~environment, the postclosure escape of uncontrolled leachate, surface runoff, or waste~~  
627 ~~decomposition products to the groundwater, surface water, or the atmosphere. At closure,~~  
628 ~~the permittee shall remove all waste residue from the animal waste storage or treatment~~  
629 ~~facility. Removed waste materials shall be utilized according to the approved NMP.~~

630 ~~18. D. As required by § 62.1-44.17:1 F of the Code of Virginia, each~~ Each permittee covered  
631 under this general permit shall have completed the training program offered or approved by the  
632 department in the two years prior to submitting the registration statement for this general permit  
633 coverage; or shall complete such training within one year after the registration statement has been  
634 submitted for this general permit coverage. All permittees shall complete the training program at  
635 least once every three years.

## 636 Part II

### 637 Conditions Applicable to ~~all VPA Permits~~ this General Permit

#### 638 A. ~~Sampling and analysis methods~~ Monitoring.

639 1. Samples and measurements taken as required by this general permit shall be  
640 representative of the ~~volume and nature of the~~ monitored activity.

641 ~~2. Unless otherwise specified in this permit all sample preservation methods, maximum~~  
642 ~~holding times and analysis methods for pollutants~~ Groundwater monitoring shall comply  
643 ~~with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of~~  
644 ~~Pollutants~~ be conducted according to procedures listed under (40 CFR Part 136) unless  
645 ~~otherwise specified in this general permit.~~

646 ~~3. The sampling and analysis program to demonstrate compliance with the permit shall at~~  
647 ~~a minimum, conform to Part I of this permit.~~

648 ~~4. The permittee shall periodically calibrate and perform maintenance procedures on all~~  
649 ~~monitoring and analytical instrumentation at intervals that will ensure accuracy of~~  
650 ~~measurements.~~

651 ~~4. If the permittee monitors any pollutant at the locations designated herein more~~  
652 ~~frequently than required by this general permit, using approved analytical methods as~~  
653 ~~specified above, the results of such monitoring shall be included in the calculation and~~  
654 ~~reporting of the values required in the project report. Such increased frequency shall also~~  
655 ~~be reported.~~

656 ~~B. Recording of results~~ Records. ~~For each measurement or sample taken pursuant to the~~  
657 ~~requirements of this permit, the permittee shall record the following information:~~

658 ~~1. The date, exact place and time of sampling or measurements;~~ Records of monitoring  
659 ~~information shall include:~~

660 ~~2. The persons who performed the sampling or measurements;~~

661 ~~3. The dates analyses were performed;~~

662 ~~4. The persons who performed each analysis;~~

663 ~~5. The analytical techniques or methods used; and~~

664 ~~6. The results of such analyses and measurements.~~

665 ~~a. The date, exact place and time of sampling or measurements;~~

666 ~~b. The name of the individuals who performed the sampling or measurements;~~

667 ~~c. The dates analyses were performed;~~

668 ~~d. The name of the individuals who performed each analysis;~~

669 ~~e. The analytical techniques or methods used with supporting information such as~~  
670 ~~observations, readings, calculations and bench data; and~~

671 ~~f. The results of such analyses.~~

672 ~~2. The permittee shall retain records of all monitoring information, including all calibration~~  
673 ~~and maintenance records and all original strip chart recordings for continuous monitoring~~  
674 ~~instrumentation, copies of all reports required by this general permit, and records of all~~  
675 ~~data used to complete the application for this general permit for a period of at least three~~  
676 ~~years from the date of the sample, measurement, report or application. This period of~~  
677 ~~retention may be extended by request of the department at any time.~~

678 ~~C. Records retention~~ Reporting monitoring results. ~~All records and information resulting from~~  
679 ~~the monitoring activities~~ If reporting is required by Part I or Part III of this general permit, including  
680 ~~all records of analyses performed and calibration and maintenance of instrumentation and~~  
681 ~~recording from continuous monitoring instrumentation~~ the permittee shall follow the requirements  
682 ~~of this subsection~~ be retained on site for five years from the date of the sample, measurement or

683 report. This period of retention shall be extended automatically during the course of any  
684 unresolved litigation regarding the regulated activity or regarding control standards applicable to  
685 the permittee, or as requested by the director.

686 1. The permittee shall submit the results of the monitoring required by this general permit  
687 not later than the 10th day of the month after the monitoring takes place, unless another  
688 reporting schedule is specified elsewhere in this general permit. Monitoring results shall  
689 be submitted to the department's regional office.

690 2. Monitoring results shall be reported on forms provided or specified by the department.

691 3. If the permittee monitors the pollutant management activity, at a sampling location  
692 specified in this general permit, for any pollutant more frequently than required by this  
693 general permit using approved analytical methods, the permittee shall report the results  
694 of this monitoring on the monitoring report.

695 4. If the permittee monitors the pollutant management activity, at a sampling location  
696 specified in this general permit, for any pollutant that is not required to be monitored by  
697 the general permit, and uses approved analytical methods, the permittee shall report the  
698 results with the monitoring report.

699 5. Calculations for all limitations that require averaging of measurements shall utilize an  
700 arithmetic mean unless otherwise specified in this general permit.

701 D. Additional monitoring by permittee Duty to provide information. If the permittee monitors  
702 any pollutant at the locations designated herein more frequently than required by this permit, using  
703 approved analytical methods as specified above, the results of such monitoring shall be included  
704 in the calculation and reporting of the values required in the project report. Such increased  
705 frequency shall also be reported. The permittee shall furnish to the department, within a  
706 reasonable time, any information which the director may request to determine whether cause  
707 exists for modifying, revoking and reissuing, or terminating this general permit, or to determine  
708 compliance with this general permit. The permittee shall also furnish to the department, upon  
709 request, copies of records required to be kept by the permittee. Plans, specifications, maps,  
710 conceptual reports, and other relevant information shall be submitted as requested by the director  
711 prior to commencing construction.

712 E. Reporting requirements Unauthorized discharges. Except in compliance with this general  
713 permit, or another issued by the department, it shall be unlawful for any person to:

714 1. If, for any reason, the permittee does not comply with one or more limitations, standards,  
715 monitoring or management requirements specified in this permit, the permittee shall  
716 submit to the department at least the following information: Discharge into state waters  
717 sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

718 a. A description and cause of noncompliance;

719 b. The period of noncompliance, including exact dates and times or the anticipated  
720 time when the noncompliance will cease; and

721 c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the  
722 noncompliance. Whenever such noncompliance may adversely affect state waters or  
723 may endanger public health, the permittee shall submit the above required information  
724 by oral report within 24 hours from the time the permittee becomes aware of the  
725 circumstances and by written report within five days. The director may waive the  
726 written report requirement on a case-by-case basis if the oral report has been received  
727 within 24 hours and no adverse impact on state waters has been reported.

728 2. ~~The permittee shall report any unpermitted, unusual or extraordinary discharge which~~  
729 ~~enters or could be expected to enter state waters. The permittee shall provide information,~~  
730 ~~specified in Part II E 1 a through c, regarding each such discharge immediately, that is, as~~  
731 ~~quickly as possible upon discovery, however, in no case later than 24 hours. A written~~  
732 ~~submission covering these points shall be provided within five days of the time the~~  
733 ~~permittee becomes aware of the circumstances covered by this paragraph. Otherwise~~  
734 ~~alter the physical, chemical, or biological properties of such state waters and make them~~  
735 ~~detrimental to the public health, or to animal or aquatic life, or to the use of such waters~~  
736 ~~for domestic or industrial consumption, or for recreation, or for other uses.~~

737 NOTE: ~~The immediate (within 24 hours) reports required in Parts II E 1 and 2 may be made~~  
738 ~~to the department's regional office. Reports may be made by telephone or by fax. For reports~~  
739 ~~outside normal working hours, a message shall fulfill the immediate reporting requirement. For~~  
740 ~~emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone~~  
741 ~~service at 1-800-468-8892.~~

742 F. ~~Signatory requirements~~ Notice of planned changes, and reports of unauthorized  
743 discharges, unusual or extraordinary discharges, noncompliance, and compliance schedules.  
744 Any registration statement or certification required by this permit shall be signed as follows:

745 1. ~~For a corporation, by a responsible corporate official~~ Notice of planned changes. ~~For~~  
746 ~~purposes of this section, a responsible corporate official means (i) a president, secretary,~~  
747 ~~treasurer, or vice-president of the corporation in charge of a principal business function,~~  
748 ~~or any other person who performs similar policy or decision-making functions for the~~  
749 ~~corporation, or (ii) the manager of one or more manufacturing, production, or operating~~  
750 ~~facilities employing more than 250 persons or having gross annual sales or expenditures~~  
751 ~~exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents~~  
752 ~~has been assigned or delegated to the manager in accordance with corporate procedures.~~

753 a. The permittee shall give notice to the department as soon as possible of any  
754 planned physical alterations or additions to the design or operation of the pollutant  
755 management activity.

756 b. The permittee shall give at least 10 days advance notice to the department of any  
757 planned changes in the permitted facility or activity that may result in noncompliance  
758 with the general permit requirements.

759 2. ~~For a municipality, state, federal or other public agency by either a principal executive~~  
760 ~~officer or ranking elected official~~ Reports of unauthorized discharges. ~~(A principal~~  
761 ~~executive officer of a federal, municipal, or state agency includes the chief executive~~  
762 ~~officer of the agency or head executive officer having responsibility for the overall~~  
763 ~~operation of a principal geographic unit of the agency.)~~ Any permittee who discharges or  
764 causes or allows (i) a discharge of sewage, industrial wastes, other wastes, or any noxious  
765 or deleterious substance into or upon state waters in violation of Part II E, or (ii) a discharge  
766 that may reasonably be expected to enter state waters in violation of Part II E shall notify  
767 the department of the discharge immediately upon discovery of the discharge, but in no  
768 case later than 24 hours after said discovery. A written report of the unauthorized  
769 discharge shall be submitted to the department within five days of discovery of the  
770 discharge. The written report shall contain:

771 a. A description of the nature and location of the discharge;

772 b. The cause of the discharge;

773 c. The date on which the discharge occurred;



774 d. The length of time that the discharge continued;  
775 e. The volume of the discharge;  
776 f. If the discharge is continuing, how long it is expected to continue;  
777 g. If the discharge is continuing, what the expected total volume of the discharge will  
778 be; and  
779 h. Any steps planned or taken to reduce, eliminate, and prevent a recurrence of the  
780 present discharge or any future discharges not authorized by this general permit.

781 Discharges reportable to the department under the immediate reporting requirements of  
782 other regulations are exempted from this requirement.

783 ~~3. For a partnership or sole proprietorship, by a general partner or proprietor respectively~~  
784 Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge  
785 including a bypass or upset should occur from a treatment works and the discharge enters  
786 or could be expected to enter state waters, the permittee shall promptly notify, in no case  
787 later than 24 hours, the department by telephone after the discovery of the discharge. This  
788 notification shall provide all available details of the incident, including any adverse effects  
789 on aquatic life and the known number of fish killed. The permittee shall reduce the report  
790 to writing and shall submit it to the department within five days of discovery of the  
791 discharge in accordance with Part II F 4 b. Unusual and extraordinary discharges include  
792 but are not limited to any discharge resulting from:

793 a. Unusual spillage of materials resulting directly or indirectly from processing  
794 operations;  
795 b. Breakdown of processing or accessory equipment;  
796 c. Failure or taking out of service some or all of the treatment works; and  
797 d. Flooding or other acts of nature.

798 4. Reports of noncompliance. The permittee shall report any noncompliance which may  
799 adversely affect state waters or may endanger public health.

800 a. An oral report shall be provided within 24 hours from the time the permittee becomes  
801 aware of the circumstances. The following shall be included as information which shall  
802 be reported within 24 hours under this paragraph:

803 i. Any unanticipated bypass; and  
804 ii. Any upset which causes a discharge to surface waters.

805 b. A written report shall be submitted within five days and shall contain:

806 i. A description of the noncompliance and its cause;  
807 ii. The period of noncompliance, including exact dates and times, and, if the  
808 noncompliance has not been corrected, the anticipated time it is expected to continue;  
809 and

810 iii. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the  
811 noncompliance.

812 The department may waive the written report on a case-by-case basis for reports of  
813 noncompliance under Part II F 4 if the oral report has been received within 24 hours  
814 and no adverse impact on state waters has been reported.

815 c. The permittee shall report all instances of noncompliance not reported under Part II  
816 F 4 a or b in writing at the time the next monitoring reports are submitted. The reports  
817 shall contain the information listed in Part II F 4 b.

818 NOTE: The immediate (within 24 hours) reports required in Part II F may be made to the  
819 department's regional office. For reports outside normal working hours, leave a message  
820 and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia  
821 Department of Emergency Management maintains a 24-hour telephone service at 1-800-  
822 468-8892.

823 5. Reports of compliance or noncompliance with, or any progress reports on, interim and  
824 final requirements contained in any compliance schedule of this general permit shall be  
825 submitted no later than 14 days following each schedule date.

826 G. Change in management of pollutants Proper operation and maintenance. All pollutant  
827 management activities authorized by this permit shall be made in accordance with the terms and  
828 conditions of the permit. The permittee shall submit a new registration statement 30 days prior to  
829 all expansions, production increases, or process modifications, that will result in the management  
830 of new or increased pollutants be responsible for the proper operation and maintenance of all  
831 treatment works, systems and controls which are installed or used to achieve compliance with the  
832 conditions of this permit. Proper operation and maintenance includes effective plant performance,  
833 adequate funding, adequate staffing, and adequate laboratory and process controls, including  
834 appropriate quality assurance procedures. The management of any pollutant at a level greater  
835 than that identified and authorized by this permit, shall constitute a violation of the terms and  
836 conditions of this permit.

837 H. Treatment works operation and quality control Signatory requirements.

838 1. Design and operation of facilities or treatment works and disposal of all wastes shall be  
839 in accordance with the registration statement filed with the department. The permittee has  
840 the responsibility of designing and operating the facility in a reliable and consistent manner  
841 to meet the facility performance requirements in the permit. If facility deficiencies, design  
842 or operational, are identified in the future which could affect the facility performance or  
843 reliability, it is the responsibility of the permittee to correct such deficiencies Applications.  
844 All general permit applications shall be signed as follows:

845 a. For a corporation: by a responsible corporate officer. For the purpose of this section,  
846 a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-  
847 president of the corporation in charge of a principal business function, or any other  
848 person who performs similar policy-making or decision-making functions for the  
849 corporation or (ii) the manager of one or more manufacturing, production, or operating  
850 facilities employing more than 250 persons or having gross annual sales or  
851 expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to  
852 sign documents has been assigned or delegated to the manager in accordance with  
853 corporate procedures;

854 b. For a partnership or sole proprietorship: by a general partner or the proprietor,  
855 respectively; or

856 c. For a municipality, state, federal, or other public agency: by either a principal  
857 executive officer or ranking elected official. For purposes of this section, a principal  
858 executive officer of a public agency includes: (i) the chief executive officer of the  
859 agency or (ii) a senior executive officer having responsibility for the overall operations  
860 of a principal geographic unit of the agency.

861 2. All waste collection, control, treatment, management of pollutant activities and disposal  
862 facilities shall be operated in a manner consistent with the following Reports, etc. All  
863 reports required by general permits, and other information requested by the department  
864 shall be signed by a person described in Part II H 1, or by a duly authorized representative  
865 of that person. A person is a duly authorized representative only if:

866 a. At all times, all facilities and pollutant management activities shall be operated in a  
867 prudent and workmanlike manner. The authorization is made in writing by a person  
868 described in Part II H 1;

869 b. The permittee shall provide an adequate operating staff to carry out the operation,  
870 maintenance and testing functions required to ensure compliance with the conditions  
871 of this permit. authorization specifies either an individual or a position having  
872 responsibility for the overall operation of the regulated facility or activity such as the  
873 position of plant manager, operator of a well or a well field, superintendent, or a  
874 position of equivalent responsibility. A duly authorized representative may thus be  
875 either a named individual or any individual occupying a named position; and

876 c. Maintenance of treatment facilities or pollutant management activities shall be  
877 carried out in such a manner that the monitoring and limitation requirements are not  
878 violated. The written authorization is submitted to the department.

879 d. Collected solids shall be stored and utilized as specified in the approved nutrient  
880 management plan in such a manner as to prevent entry of those wastes (or runoff from  
881 the wastes) into state waters.

882 3. Changes to authorization. If an authorization under Part II H 2 is no longer accurate  
883 because a different individual or position has responsibility for the overall operation of the  
884 facility, a new authorization satisfying the requirements of Part II H 2 shall be submitted to  
885 the department prior to or together with any reports, or information to be signed by an  
886 authorized representative.

887 4. Certification. Any person signing a document under Part II H 1 or 2 shall make the  
888 following certification: "I certify under penalty of law that this document and all attachments  
889 were prepared under my direction or supervision in accordance with a system designed  
890 to assure that qualified personnel properly gather and evaluate the information submitted.  
891 Based on my inquiry of the person or persons who manage the system, or those persons  
892 directly responsible for gathering the information, the information submitted is, to the best  
893 of my knowledge and belief, true, accurate, and complete. I am aware that there are  
894 significant penalties for submitting false information, including the possibility of fine and  
895 imprisonment for knowing violations."

896 I. Adverse impact Duty to comply. The permittee shall take comply with all feasible steps to  
897 minimize any adverse impact to state waters resulting from noncompliance with any limitation or  
898 limitations or conditions specified in of this general permit, and shall perform and report such  
899 accelerated or additional monitoring as is necessary to determine the nature and impact of the  
900 noncomplying limitation or limitations or conditions 9VAC25-192. Any noncompliance with this  
901 general permit or 9VAC25-192 constitutes a violation of the State Water Control Law. General  
902 permit noncompliance is grounds for enforcement action; for permit termination, revocation and  
903 reissuance, or modification; or denial of a permit renewal application. Compliance with this  
904 general permit during its term constitutes compliance, for purposes of enforcement, with the State  
905 Water Control Law.

906 J. Duty to halt, reduce activity or to mitigate reapply. If the permittee wishes to continue an  
907 activity regulated by this general permit after the expiration date of this general permit, the

908 permittee shall apply for and obtain a new permit. All permittees with a currently effective general  
909 permit shall submit a new application before the expiration date of the existing general permit  
910 unless permission for a later date has been granted by the board. The board shall not grant  
911 permission for applications to be submitted later than the expiration date of the existing general  
912 permit.

913 ~~1. It shall not be a defense for a permittee in an enforcement action that it would have~~  
914 ~~been necessary to halt or reduce the permitted activity in order to maintain compliance~~  
915 ~~with the conditions of this permit.~~

916 ~~2. The permittee shall take all reasonable steps to minimize, correct or prevent any~~  
917 ~~discharge in violation of this permit which has a reasonable likelihood of adversely~~  
918 ~~affecting human health or the environment.~~

919 ~~K. Structural stability Bypass. The structural stability of any of the units or parts of the facilities~~  
920 ~~herein permitted is the sole responsibility of the permittee and the failure of such structural units~~  
921 ~~or parts shall not relieve the permittee of the responsibility of complying with all terms and~~  
922 ~~conditions of this permit.~~

923 ~~1. Prohibition. "Bypass" means intentional diversion of waste streams from any portion of~~  
924 ~~a treatment works. A bypass of the treatment works is prohibited except as provided~~  
925 ~~herein.~~

926 ~~2. Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall~~  
927 ~~notify the department promptly at least 10 days prior to the bypass. After considering its~~  
928 ~~adverse effects, the department may approve an anticipated bypass if:~~

929 ~~a. The bypass will be unavoidable to prevent loss of human life, personal injury, or~~  
930 ~~severe property damage. "Severe property damage" means substantial physical~~  
931 ~~damage to property, damage to the treatment works that causes them to become~~  
932 ~~inoperable, or substantial and permanent loss of natural resources which can~~  
933 ~~reasonably be expected to occur in the absence of a bypass. "Severe property~~  
934 ~~damage" does not mean economic loss caused by delays in production; and~~

935 ~~b. There are no feasible alternatives to bypass such as the use of auxiliary treatment~~  
936 ~~works, retention of untreated waste, or maintenance during normal periods of~~  
937 ~~equipment downtime. However, if bypass occurs during normal periods of equipment~~  
938 ~~downtime or preventive maintenance and in the exercise of reasonable engineering~~  
939 ~~judgment the permittee could have installed adequate backup equipment to prevent~~  
940 ~~such bypass, this exclusion shall not apply as a defense.~~

941 ~~3. Unplanned bypass. If an unplanned bypass occurs, the permittee shall notify the~~  
942 ~~department as soon as possible, but in no case later than 24 hours, and shall take steps~~  
943 ~~to halt the bypass as early as possible. This notification will be a condition for defense to~~  
944 ~~an enforcement action that an unplanned bypass met the conditions in Part II K 2 a and b~~  
945 ~~and in light of the information reasonably available to the permittee at the time of the~~  
946 ~~bypass.~~

947 ~~L. Compliance with state law Upset. Compliance with this permit during its term constitutes~~  
948 ~~compliance with the State Water Control Law. Nothing in this permit shall be construed to preclude~~  
949 ~~the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities,~~  
950 ~~or penalties established pursuant to any other state law or regulation. A permittee may claim an~~  
951 ~~upset as an affirmative defense to an action brought for noncompliance. In any enforcement~~  
952 ~~proceedings a permittee shall have the burden of proof to establish the occurrence of any upset.~~

953 In order to establish an affirmative defense of upset, the permittee shall present properly signed,  
954 contemporaneous operating logs or other relevant evidence that shows:

- 955 1. That an upset occurred and that the cause can be identified;
- 956 2. That the permitted facility was at the time being operated efficiently and in  
957 compliance with proper operation and maintenance procedures;
- 958 3. That the 24-hour reporting requirements to the department were met; and
- 959 4. That the permittee took all reasonable steps to minimize or correct any adverse  
960 impact on state waters resulting from noncompliance with the permit.

961 M. Property rights Inspection and entry. The issuance of this permit does not convey any  
962 property rights in either real or personal property, or any exclusive privileges, nor does it authorize  
963 any injury to private property or any invasion of personal rights, nor any infringement of federal,  
964 state, or local laws or regulations. Upon presentation of credentials, any duly authorized agent of  
965 the department may, at reasonable times and under reasonable circumstances:

- 966 1. Enter upon any public or private property on which the pollutant management  
967 activities that are governed by this general permit are located and have access to  
968 records required by this general permit;
- 969 2. Have access to, inspect and copy any records that must be kept as part of the  
970 conditions in this general permit;
- 971 3. Inspect any facility's equipment (including monitoring and control equipment)  
972 practices or operations regulated or required under this general permit; and
- 973 4. Sample or monitor any substances or parameters at any locations for the purpose  
974 of assuring general permit compliance or as otherwise authorized by the State Water  
975 Control Law.

976 N. Severability Effect of a permit. The provisions of this permit are severable. This general  
977 permit does not convey any property rights in either real or personal property or any exclusive  
978 privileges, nor does it authorize any injury to private property or invasion of personal rights, or any  
979 infringement of federal, state, or local law or regulations.

980 O. Duty to reregister State law. If the permittee wishes to continue to operate under a general  
981 permit after the expiration date of this permit, the permittee must submit a new registration  
982 statement at least 30 days prior to the expiration date of this permit. Nothing in this general permit  
983 shall be construed to preclude the institution of any legal action under, or relieve the permittee  
984 from any responsibilities, liabilities, or penalties established pursuant to any other state law or  
985 regulation or under authority preserved by § 510 of the federal Clean Water Act. Except as  
986 provided in general permit conditions on bypassing (Part II K), and upset (Part II L), nothing in  
987 this general permit shall be construed to relieve the permittee from civil and criminal penalties for  
988 noncompliance.

989 P. Right of entry Oil and hazardous substance liability. The permittee shall allow, or secure  
990 necessary authority to allow, authorized state representatives, upon the presentation of  
991 credentials: Nothing in this general permit shall be construed to preclude the institution of any  
992 legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the  
993 permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water  
994 Control Law.

- 995 ~~1. To enter upon the permittee's premises on which the establishment, treatment works,~~  
996 ~~pollutant management activities, or discharge or discharges is located or in which any~~  
997 ~~records are required to be kept under the terms and conditions of this permit;~~
- 998 ~~2. To have access to inspect and copy at reasonable times any records required to be~~  
999 ~~kept under the terms and conditions of this permit;~~
- 1000 ~~3. To inspect at reasonable times any monitoring equipment or monitoring method~~  
1001 ~~required in this permit;~~
- 1002 ~~4. To sample at reasonable times any waste stream, process stream, raw material or by-~~  
1003 ~~product; and~~
- 1004 ~~5. To inspect at reasonable times any collection, treatment, or pollutant management~~  
1005 ~~activities required under this permit. For purposes of this section, the time for inspection~~  
1006 ~~shall be deemed reasonable during regular business hours, and whenever the facility is~~  
1007 ~~discharging or involved in managing pollutants. Nothing contained here shall make an~~  
1008 ~~inspection time unreasonable during an emergency.~~
- 1009 Q. ~~Transferability of permits~~ Duty to mitigate. ~~Coverage under this permit may be transferred~~  
1010 ~~to a new owner by a permittee if: The permittee shall take all reasonable steps to minimize or~~  
1011 ~~prevent any pollutant management activity in violation of this general permit which has a~~  
1012 ~~reasonable likelihood of adversely affecting human health or the environment.~~
- 1013 ~~1. The current permittee notifies the department 30 days in advance of the proposed~~  
1014 ~~transfer of the title to the facility or property;~~
- 1015 ~~2. The notice to the department includes a written agreement between the existing and~~  
1016 ~~proposed new permittee containing a specific date of transfer of permit responsibility,~~  
1017 ~~coverage and liability between them; and~~
- 1018 ~~3. The department does not within the 30-day time period notify the existing permittee and~~  
1019 ~~the proposed permittee of the board's intent to transfer coverage under the permit. Such~~  
1020 ~~transferred coverage under this permit shall, as of the date of the transfer, be fully~~  
1021 ~~effective.~~
- 1022 R. ~~Permit modification~~ Need to halt or reduce activity not a defense. ~~The permit may be~~  
1023 ~~modified when a change is made in the promulgated standards or regulations on which the permit~~  
1024 ~~was based. It shall not be a defense for a permittee in an enforcement action that it would have~~  
1025 ~~been necessary to halt or reduce the permitted activity in order to maintain compliance with the~~  
1026 ~~conditions of this general permit.~~
- 1027 S. ~~Permit termination~~ action. ~~After public notice and opportunity for a hearing, coverage under~~  
1028 ~~the general permit may be terminated for cause. Permits may be modified, revoked and reissued,~~  
1029 ~~or terminated for cause upon the request of the permittee or interested persons, or upon the~~  
1030 ~~department's initiative. If a permittee files a request for a general permit modification, revocation,~~  
1031 ~~or termination, or files a notification of planned changes, or anticipated noncompliance, the~~  
1032 ~~general permit terms and conditions shall remain effective until the request is acted upon by the~~  
1033 ~~department. This provision shall not be used to extend the expiration date of the effective general~~  
1034 ~~permit.~~
- 1035 T. When an individual VPA permit may be required. The director may require any permittee  
1036 authorized to manage pollutants covered under this general permit to apply for and obtain an  
1037 individual VPA permit. Cases where an individual VPA permit may be required include, but are  
1038 not limited to, the following:

- 1039 1. The pollutant management activities violate the terms or conditions of this general  
1040 permit;
- 1041 2. When additions or alterations have been made to the affected facility that require the  
1042 application of permit conditions that differ from those of the existing general permit or are  
1043 absent from it; and
- 1044 3. When new information becomes available about the operation or pollutant management  
1045 activities covered under this general permit that was not available at the time of general  
1046 permit coverage.

1047 Coverage under this general permit may be terminated as to an individual permittee for any  
1048 of the reasons set forth above after appropriate notice and an opportunity for a hearing.

1049 U. When an individual VPA permit may be requested. Any permittee operating under this  
1050 general permit may request to be excluded from the coverage under this general permit by  
1051 applying for an individual VPA permit. When an individual VPA permit is issued to a permittee the  
1052 applicability of this general permit to the individual permittee is automatically terminated on the  
1053 effective date of the individual VPA permit.

1054 V. ~~Civil and criminal liability~~ Transfer of coverage under this general permit. Nothing in this  
1055 permit shall be construed to relieve the permittee from civil and criminal penalties for  
1056 noncompliance with the terms of this permit.

1057 1. Permits are not transferable to any person except after notice to the department.  
1058 The department may require modification or revocation and reissuance of this general  
1059 permit to change the name of the permittee and to incorporate such other requirements  
1060 as may be necessary. Except as provided in Part II V 2, coverage under this general  
1061 permit may be transferred by the permittee to a new owner or operator only if the  
1062 general permit has been modified to reflect the transfer or has been revoked and  
1063 reissued to the new owner or operator.

1064 2. As an alternative to transfers under Part II V 1, coverage under this general permit  
1065 shall be automatically transferred to a new permittee if:

1066 a. The current permittee notifies the department within 30 days of the transfer of the  
1067 title to the facility or property;

1068 b. The notice includes a written agreement between the existing and new permittees  
1069 containing a specific date for transfer of general permit responsibility, coverage, and  
1070 liability between them; and

1071 c. The department does not, within the 30-day time period, notify the existing permittee  
1072 and the proposed new permittee of its intent to modify or revoke and reissue the  
1073 coverage under this general permit. If the department notice is not received, the  
1074 transfer is effective on the date specified in the agreement mentioned in Part II V 2 b.

1075 W. ~~Oil and hazardous substance liability~~ Severability. Nothing in this permit shall be construed  
1076 to preclude the institution of any legal action or relieve the permittee from any responsibilities,  
1077 liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water  
1078 Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia. The provisions of this  
1079 general permit are severable and, if any provision of this permit or the application of any provision  
1080 of this general permit to any circumstance is held invalid, the application of such provision to other  
1081 circumstances and the remainder of this general permit shall not be affected thereby.

1082 X. ~~Unauthorized discharge of pollutants~~. Except in compliance with this permit, it shall be  
1083 unlawful for any permittee to:

1084 ~~1. Discharge into state waters sewage, industrial wastes, other wastes or any noxious or~~  
1085 ~~deleterious substances; or~~

1086 ~~2. Otherwise alter the physical, chemical or biological properties of such state waters and~~  
1087 ~~make them detrimental to the public health, or to animal or aquatic life, or to the uses of~~  
1088 ~~such waters for domestic or industrial consumption, or for recreation, or for other uses.~~

1089 Part III  
1090 Pollutant Management and Monitoring Requirements for Animal Waste End-Users

1091 A. Pollutant management and monitoring requirements.

1092 1. During the period beginning with ~~the~~ this general permit's effective date and lasting until  
1093 ~~the~~ this general permit's expiration date, the permittee is authorized to manage pollutants  
1094 at the location or locations identified in the registration statement and the ~~facility's~~  
1095 approved nutrient management plan written for the animal waste end-user.

1096 2. At earthen liquid waste storage facilities constructed after December 1, 1998, to an  
1097 elevation below the seasonal high water table or within one foot thereof, groundwater  
1098 monitoring wells shall be installed. A minimum of one up gradient and one down gradient  
1099 well shall be installed at each earthen waste storage facility that requires groundwater  
1100 monitoring. Existing wells may be utilized to meet this requirement if properly located and  
1101 constructed.

1102 3. All ~~facilities~~ animal waste end-users previously covered under a general permit,  
1103 individual VPA permit or VPDES permit that required groundwater monitoring shall  
1104 continue monitoring consistent with the requirements listed below regardless of where  
1105 they are located relative to the seasonal high water table.

1106 4. ~~At facilities where~~ Where groundwater monitoring is required, the following conditions  
1107 apply:

1108 a. One data set shall be collected from each well prior to any waste being placed in  
1109 the storage facility.

1110 b. The static water level shall be measured prior to bailing well water for sampling.

1111 c. At least three well volumes of groundwater shall be withdrawn immediately prior to  
1112 sampling each monitoring well.

1113 5. In accordance with subdivisions 2 and 3 of this subsection, the groundwater shall be  
1114 monitored by the permittee at the monitoring wells as specified ~~below~~ in Table 1 of Part  
1115 III. Additional groundwater monitoring may be required in the ~~facility's~~ approved nutrient  
1116 management plan written for the animal waste end-user.

1117 6. If groundwater monitoring results for any monitored parameter demonstrate potential  
1118 noncompliance with this general permit related to the waste storage facility, then the  
1119 permittee shall submit an approvable groundwater monitoring action plan that outlines  
1120 appropriate measures to be taken to address the noncompliance. The groundwater  
1121 monitoring action plan shall be submitted to the department within 30 days of obtaining  
1122 the monitoring results.

1123 7. The analysis of the groundwater samples for ammonia nitrogen and nitrate nitrogen  
1124 shall be performed by a laboratory accredited under the Virginia Environmental Laboratory  
1125 Accreditation Program (VELAP) in accordance with 1VAC30-46-20. Field sampling,  
1126 testing, and measurement of the static water level, pH, and conductivity where the sample  
1127 is taken are not subject to the VELAP requirement.



TABLE 1.  
GROUNDWATER MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Static Water Level	NL	Ft	1/3-years <u>year</u>	Measured
Ammonia Nitrogen	NL	mg/L	1/3-years <u>year</u>	Grab
Nitrate Nitrogen	NL	mg/L	1/3-years <u>year</u>	Grab
pH	NL	SU	1/3-years <u>year</u>	Grab
Conductivity	NL	<del>umhos/cm</del> umhos/cm	1/3-years <u>year</u>	Grab

NL = No limit, this is a monitoring requirement only.

1128 6. 8. Soil at the land application sites shall be monitored as specified ~~below~~ in Table 2 of  
 1129 Part III. Additional soils monitoring may be required in the ~~facility's~~ approved nutrient  
 1130 management plan written for the animal waste end-user.

TABLE 2.  
SOILS MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
pH	NL	SU	1/3 years	Composite
Phosphorus	NL	ppm or lbs/ac	1/3 years	Composite
Potash	NL	ppm or lbs/ac	1/3 years	Composite
Calcium	NL	ppm or lbs/ac	1/3 years	Composite
Magnesium	NL	ppm or lbs/ac	1/3 years	Composite

NL = No limit, this is a monitoring requirement only.

SU = Standard Units

1131 7. 9. Soil monitoring shall be conducted at a depth of between 0-6 inches, unless otherwise  
 1132 specified in the ~~facility's~~ approved nutrient management plan written for the animal waste  
 1133 end-user.

1134 8. 10. Waste shall be monitored as specified ~~below~~ in Table 3 of Part III. Additional waste  
 1135 monitoring may be required in the ~~facility's~~ approved nutrient management plan written for  
 1136 the animal waste end-user.

TABLE 3.  
WASTE MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type

Total Kjeldahl Nitrogen	NL	*	1/year	Composite
Ammonia Nitrogen	NL	*	1/year	Composite
Total Phosphorus	NL	*	1/year	Composite
Total Potassium	NL	*	1/year	Composite
Calcium	NL	*	1/year	Composite
Magnesium	NL	*	1/year	Composite
Moisture Content	NL	%	1/year	Composite

NL = No limit, this is a monitoring requirement only.

\*Parameters for waste may be reported as a percent, as lbs/ton or lbs/1000 gallons, or as ppm where appropriate.

- 1137 9. 11. Analysis of soil and waste shall be according to methods specified in the facility's  
1138 approved nutrient management plan written for the animal waste end-user.
- 1139 ~~40.~~ 12. All monitoring data collected as required by this section and any additional  
1140 monitoring shall be maintained on site for a period of five years and shall be made  
1141 available to department personnel upon request.
- 1142 B. Other Site design, storage, and operation requirements or special conditions.
- 1143 1. Any liquid manure collection and storage facility shall be designed and operated to (i)  
1144 prevent point source discharges of pollutants to state waters except in the case of a storm  
1145 event greater than the 25-year, 24-hour storm and (ii) provide adequate waste storage  
1146 capacity to accommodate periods when the ground is frozen or saturated, periods when  
1147 land application of nutrients should not occur due to limited or nonexistent crop nutrient  
1148 uptake, and periods when physical limitations prohibit the land application of waste.
- 1149 2. Waste storage facilities constructed after December 1, 1998, shall not be located on a  
1150 100-year floodplain. For the purposes of determining the 100-year floodplain, a Federal  
1151 Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), a FEMA  
1152 Letter of Map Amendment (LOMA), or a FEMA Letter of Map Revision (LOMR) shall be  
1153 used.
- 1154 3. Earthen waste storage facilities constructed after December 1, 1998, shall include a  
1155 properly designed and installed liner. Such liner shall be either a synthetic liner of at least  
1156 20 mils thickness or a compacted soil liner of at least one foot thickness with a maximum  
1157 permeability rating of 0.0014 inches per hour. A Virginia licensed professional engineer or  
1158 an employee of the Natural Resources Conservation Service of the U.S. Department of  
1159 Agriculture with appropriate engineering approval authority shall certify that the siting,  
1160 design, and construction of the waste storage facility comply with the requirements of this  
1161 general permit. This certification shall be maintained on site.
- 1162 4. At earthen waste storage facilities constructed below the seasonal high water table, the  
1163 top surface of the waste must be maintained at a level of at least two feet above the water  
1164 table.
- 1165 5. All liquid waste storage ~~or treatment~~ facilities shall maintain at least one foot of freeboard  
1166 at all times, up to and including a 25-year, 24-hour storm.

1167 6. For new waste storage or ~~treatment~~ facilities constructed after November 16, 2014, the  
1168 facilities shall be constructed, operated, and maintained in accordance with the applicable  
1169 practice standard adopted by the Natural Resources Conservation Service of the U.S.  
1170 Department of Agriculture and approved by the department. A Virginia licensed  
1171 professional engineer or an employee of the Natural Resources Conservation Service of  
1172 the U.S. Department of Agriculture with appropriate engineering approval authority shall  
1173 certify that the siting, design, and construction of the waste storage facility comply with the  
1174 requirements of this general permit. This certification shall be maintained on site.

1175 7. The permittee shall notify the department's regional office at least 14 days prior to (i)  
1176 animals being initially placed ~~in the confined facility~~ into confinement or (ii) the utilization  
1177 of any new waste storage or ~~treatment~~ facilities.

1178 8. Semi-solid and solid waste shall be stored in a manner that prevents contact with  
1179 surface water and groundwater. Waste that is stockpiled outside for more than 14 days  
1180 shall be kept in a waste storage facility or at a site that provides adequate storage.  
1181 Adequate storage shall, at a minimum, include the following:

1182 a. Waste shall be covered to protect it from precipitation and wind;

1183 b. Stormwater shall not run onto or under the stored waste;

1184 c. A minimum of two feet separation distance to the seasonal high water table or an  
1185 impermeable barrier shall be used under the stored waste. All waste storage facilities  
1186 that use an impermeable barrier shall maintain a minimum of one foot separation  
1187 between the seasonal high water table and the impermeable barrier. "~~Seasonal high~~  
1188 ~~water table~~" means that portion of the soil profile where a color change has occurred  
1189 ~~in the soil as a result of saturated soil conditions or where soil concretions have~~  
1190 ~~formed. Typical colors are gray mottlings, solid gray, or black. The depth in the soil at~~  
1191 ~~which these conditions first occur is termed the seasonal high water table.~~  
1192 Impermeable barriers shall be constructed of at least 12 inches of compacted clay, at  
1193 least four inches of reinforced concrete, or another material of similar structural  
1194 integrity that has a minimum permeability rating of 0.0014 inches per hour ( $1 \times 10^{-6}$   
1195 centimeters per second); and

1196 d. For waste that is not stored in a waste storage facility or under roof, the storage site  
1197 must be at least 100 feet from any surface water, intermittent drainage, wells,  
1198 sinkholes, rock outcrops, and springs. For semi-solid and solid waste that is stored on  
1199 an impermeable barrier and where any stormwater runoff is collected in the waste  
1200 storage facility, the semi-solid and solid waste can be stored adjacent to the waste  
1201 storage facility regardless of the location of the waste storage facility so long as any  
1202 surface water, intermittent drainage, wells, sinkholes, rock outcrops, and springs are  
1203 protected from runoff from the stored semi-solid and solid waste.

1204 Semi-solid and solid waste that is stored on an impermeable barrier and where any  
1205 stormwater runoff is collected in a waste storage facility is considered adequate storage  
1206 and is therefore not required to be covered.

1207 9. All equipment needed for ~~the proper operation of the permitted facilities~~ shall be  
1208 maintained in good working order. The manufacturer's operating and maintenance  
1209 manuals shall be retained for references to allow for timely maintenance and prompt repair  
1210 of equipment when appropriate. The permittee shall periodically inspect for leaks on  
1211 equipment used for land application of waste.

1212 10. All treated wastes generated by a digester or other manure treatment technologies  
1213 shall be approved by the department and shall be managed by a ~~facility~~ the animal waste  
1214 end-user covered under this general permit and in accordance with the following  
1215 conditions:

1216 a. All treated wastes generated by a digester or other manure treatment technologies  
1217 must be managed through an approved nutrient management plan or transferred to  
1218 another entity in accordance with animal waste transfer requirements in Part III B-15  
1219 C 6 and 46 7.

1220 b. When a ~~facility~~ animal waste end-user covered under this general permit generates  
1221 a treated waste from animal waste and other feedstock, the permittee shall maintain  
1222 records related to the production of the treated waste.

1223 (1) If off-site wastes are added to generate the treated waste, then the permittee shall  
1224 record the following items:

1225 (a) The amount of waste brought to the ~~facility~~ animal waste end-user; and

1226 (b) From whom and where the waste originated.

1227 (2) For all treated wastes generated by the ~~facility~~ animal waste end-user, the  
1228 permittee shall record the following items:

1229 (a) The amount of treated waste generated;

1230 (b) The nutrient analysis of the treated waste; and

1231 (c) The final use of the treated waste.

1232 (3) Permittees shall maintain the records required by Part III B 10 b (1) and (2) on site  
1233 for a period of three years. All records shall be made available to department personnel  
1234 upon request.

1235 11. When the waste storage facility is no longer needed, the permittee shall close it in a  
1236 manner that (i) minimizes the need for further maintenance and (ii) controls, minimizes, or  
1237 eliminates, to the extent necessary to protect human health and the environment, the  
1238 postclosure escape of uncontrolled leachate, surface runoff, or waste decomposition  
1239 products to the groundwater, surface water, or the atmosphere. Prior to closure, the  
1240 permittee shall notify the department of any plans to close a liquid waste storage facility.  
1241 At closure, the permittee shall remove all waste residue from the animal waste storage  
1242 facility. Removed waste materials shall be utilized according to the approved NMP.

1243 C. Animal waste use and transfer requirements.

1244 11. 1. Animal waste generated by this facility an animal waste end-user that is subject to  
1245 this general permit shall not be applied to fields owned by or under the operational control  
1246 of either the permittee or a legal entity in which the permittee has an ownership interest  
1247 unless the fields are included in the facility's approved nutrient management plan written  
1248 for this animal waste end-user.

1249 12. 2. The permittee shall implement a nutrient management plan (NMP) developed by a  
1250 certified nutrient management planner in accordance with § 10.1-104.2 of the Code of  
1251 Virginia and approved by the Department of Conservation and Recreation and maintain  
1252 the plan on site. All revised and Department of Conservation and Recreation approved  
1253 NMPs shall be submitted to the department prior to the expiration of the previous NMP.  
1254 The NMP shall address the form, source, amount, timing, and method of application of  
1255 nutrients on each field to achieve realistic production goals, while minimizing nitrogen and

- 1256 phosphorus loss to ground and surface waters. The terms of the NMP shall be enforceable  
1257 through this general permit. The NMP shall contain at a minimum the following information:
- 1258 a. Site map indicating the location of the waste storage facilities and the fields where  
1259 waste will be applied;
  - 1260 b. Site evaluation and assessment of soil types and potential productivities;
  - 1261 c. Nutrient management sampling including soil and waste monitoring;
  - 1262 d. Storage and land area requirements;
  - 1263 e. Calculation of waste application rates; and
  - 1264 f. Waste application schedules.
- 1265 ~~13.~~ 3. Waste shall not be land applied within buffer zones. Buffer zones at waste  
1266 application sites shall, at a minimum, be maintained as follows:
- 1267 a. Distance from occupied dwellings not on the permittee's property: 200 feet (unless  
1268 the occupant of the dwelling signs a waiver of the buffer zone);
  - 1269 b. Distance from water supply wells or springs: 100 feet;
  - 1270 c. Distance from surface water courses: 100 feet (without a ~~permanent~~ vegetated  
1271 buffer) or 35 feet (if a ~~permanent~~ vegetated buffer exists). Other site-specific  
1272 conservation practices may be approved by the department that will provide pollutant  
1273 reductions equivalent or better than the reductions that would be achieved by the 100-  
1274 foot buffer or 35-foot wide vegetated buffer;
  - 1275 d. Distance from rock outcropping (except limestone): 25 feet;
  - 1276 e. Distance from limestone outcroppings: 50 feet; and
  - 1277 f. Waste shall not be applied in such a manner that it would discharge to sinkholes that  
1278 may exist in the area.
- 1279 ~~14.~~ 4. The following land application records shall be maintained:
- 1280 a. The identification of the land application field sites where the waste is utilized or  
1281 stored;
  - 1282 b. The application rate;
  - 1283 c. The application dates; and
  - 1284 d. What crops have been planted.
- 1285 These records shall be maintained on site for a period of five years after the date the  
1286 application is made and shall be made available to department personnel upon request.
- 1287 5. In cases where a waste storage facility is threatened by emergencies such as fire or  
1288 flood or where these conditions are imminent, animal waste can be land applied outside  
1289 of the spreading schedule outlined in the NMP written for the animal waste end-user. If  
1290 this occurs, then the animal waste end-user shall document the land application  
1291 information in accordance with Part III C 4 and notify the department in accordance with  
1292 Part II F 3.
- 1293 ~~15.~~ 6. Animal waste generated by ~~this facility~~ an animal waste end-user that is subject to  
1294 this general permit may be transferred from the permittee to another person, if one or more  
1295 of the following conditions are met:

- 1296 a. Animal waste generated by ~~this facility~~ an animal waste end-user that is subject to  
1297 this general permit may be transferred off-site for land application or another  
1298 acceptable use approved by the department, if:
- 1299 (1) The sites where the animal waste will be utilized are included in ~~this permitted~~  
1300 facility's the animal waste end-user's approved nutrient management plan; or
- 1301 (2) The sites where the animal waste will be utilized are included in another permitted  
1302 facility's entity's approved nutrient management plan.
- 1303 b. Animal waste generated by ~~this facility~~ an animal waste end-user that is subject to  
1304 this general permit may be transferred off-site without identifying in the permittee's  
1305 approved nutrient management plan the fields where such waste will be utilized, if the  
1306 following conditions are met:
- 1307 (1) The animal waste is registered with the Virginia Department of Agriculture and  
1308 Consumer Services in accordance with regulations adopted pursuant to subdivision A  
1309 2 of § 3.2-3607 of the Code of Virginia; or
- 1310 (2) When the permittee transfers to another person more than 10 tons of solid or semi-  
1311 solid animal waste (solid or semi-solid animal waste contains less than 85% moisture)  
1312 or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85%  
1313 or more moisture) in any 365-day period, the permittee shall maintain records in  
1314 accordance with Part III ~~B-16~~ C 7.
- 1315 16. 7. Animal waste may be transferred from a permittee to another person without  
1316 identifying the fields where such waste will be utilized in the permittee's approved nutrient  
1317 management plan if the following conditions are met:
- 1318 a. When a permittee transfers to another person more than 10 tons of solid or semi-  
1319 solid animal waste (solid or semi-solid animal waste contains less than 85% moisture)  
1320 or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85%  
1321 or more moisture) in any 365-day period, the permittee shall provide that person with:
- 1322 (1) Permittee's name, address, and the general permit number;
- 1323 (2) A copy of the most recent nutrient analysis of the animal waste; and
- 1324 (3) An animal waste fact sheet.
- 1325 b. When a permittee transfers to another person more than 10 tons of solid or semi-  
1326 solid animal waste (solid or semi-solid animal waste contains less than 85% moisture)  
1327 or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85%  
1328 or more moisture) in any 365-day period, the permittee shall keep a record of the  
1329 following:
- 1330 (1) The ~~recipient~~ recipient's name and address;
- 1331 (2) The amount of animal waste received by the person;
- 1332 (3) The date of the transaction;
- 1333 (4) The nutrient analysis of the animal waste;
- 1334 (5) The locality in which the recipient intends to utilize the animal waste (i.e., nearest  
1335 town or city and zip code);
- 1336 (6) The name of the stream or waterbody, if known, to the recipient that is nearest to  
1337 the animal waste utilization or storage site; and

- 1338 (7) The signed waste transfer records form acknowledging the receipt of the following:  
1339 (a) The animal waste;  
1340 (b) The nutrient analysis of the animal waste; and  
1341 (c) An animal waste fact sheet.  
1342 c. Permittees shall maintain the records required by Part III B-46 C 7 a and b for at  
1343 least three years after the date of the transaction and shall make them available to  
1344 department personnel upon request.

1345 ~~17. When the waste storage or treatment facility is no longer needed, the permittee shall~~  
1346 ~~close it in a manner that (i) minimizes the need for further maintenance and (ii) controls,~~  
1347 ~~minimizes, or eliminates, to the extent necessary to protect human health and the~~  
1348 ~~environment, the postclosure escape of uncontrolled leachate, surface runoff, or waste~~  
1349 ~~decomposition products to the groundwater, surface water, or the atmosphere. At closure,~~  
1350 ~~the permittee shall remove all waste residue from the animal waste storage or treatment~~  
1351 ~~facility. Removed waste materials shall be utilized according to the approved NMP.~~

1352 18. ~~D. As required by § 62.1-44.17:1 F of the Code of Virginia, each~~ Each permittee covered  
1353 under this general permit shall have completed the training program offered or approved by the  
1354 department in the two years prior to submitting the registration statement for general permit  
1355 coverage or shall complete such training within one year after the registration statement has been  
1356 submitted for general permit coverage. All permittees shall complete the training program at least  
1357 once every three years.

1358 **9VAC25-192-80. Tracking and accounting requirements for animal waste end-users.**

1359 A. When an animal waste end-user is the recipient of more than 10 tons of solid or semi-solid  
1360 animal waste (solid or semi-solid animal waste contains less than 85% moisture) or more than  
1361 6,000 gallons of liquid animal waste (liquid animal waste contains 85% percent or more moisture)  
1362 in any 365-day period from an owner or operator of an animal feeding operation covered by a  
1363 general permit, an individual VPA permit, or VPDES permit, the end-user shall maintain records  
1364 regarding the transfer and land application of animal waste.

- 1365 1. The animal waste end-user shall provide the permittee with the following items:  
1366 a. ~~End-user~~ End-user's name and address;  
1367 b. The locality in which the end-user intends to utilize the waste (i.e., nearest town or  
1368 city and zip code);  
1369 c. The name of the stream or waterbody, if known, to the end-user that is nearest to  
1370 the waste utilization or storage site; and  
1371 d. Written acknowledgement of receipt of:  
1372 (1) The waste;  
1373 (2) The nutrient analysis of the waste; and  
1374 (3) An animal waste fact sheet.  
1375 2. The animal waste end-user shall record the following items regarding the waste transfer:  
1376 a. The ~~source~~ source's name, address, and permit number (if applicable);  
1377 b. The amount of animal waste that was received;  
1378 c. The date of the transaction;

- 1379 d. The final use of the animal waste;
- 1380 e. The locality in which the waste was utilized (i.e., nearest town or city and zip code);
- 1381 and
- 1382 f. The name of the stream or waterbody, if known, to the recipient that is nearest to the
- 1383 waste utilization or storage site.
- 1384 Records regarding animal waste transfers shall be maintained on site for a period of three
- 1385 years after the date of the transaction. All records shall be made available to department
- 1386 personnel upon request.
- 1387 3. If waste is land applied, then the animal waste end-user shall keep a record of the
- 1388 following items regarding the land application of the waste:
- 1389 a. The nutrient analysis of the waste;
- 1390 b. Maps indicating the animal waste land application fields and storage sites;
- 1391 c. The land application rate;
- 1392 d. The land application dates;
- 1393 e. What crops were planted;
- 1394 f. Soil test results, if obtained;
- 1395 g. NMP, if applicable; and
- 1396 h. The method used to determine the land application rates (i.e., phosphorus crop
- 1397 removal, waste nutrient analysis rate, soil test recommendations, or a nutrient
- 1398 management plan).
- 1399 Records regarding land application of animal waste shall be maintained on site for a period
- 1400 of three years after the date the application is made. All records shall be made available
- 1401 to department personnel upon request.
- 1402 B. Any duly authorized agent of the ~~board~~ department may, at reasonable times and under
- 1403 reasonable circumstances, enter any establishment or upon any property, public or private, for
- 1404 the purpose of obtaining information or conducting surveys or investigations necessary in the
- 1405 enforcement of the provisions of this regulation.
- 1406 **9VAC25-192-90. ~~Utilization and storage~~ Storage and land application requirements for**
- 1407 **transferred animal waste.**
- 1408 A. An animal waste end-user who receives animal waste from an owner or operator of an
- 1409 animal feeding operation covered by a general permit, an individual VPA permit, or VPDES permit
- 1410 shall comply with the requirements outlined in this section.
- 1411 B. Storage requirements. An animal waste end-user who receives animal waste from an
- 1412 owner or operator of an animal feeding operation covered by a general permit, an individual VPA
- 1413 permit, or VPDES permit shall comply with the requirements outlined in this subsection regarding
- 1414 storage of animal waste in his possession or under his control.
- 1415 1. ~~Animal~~ Semi-solid and solid waste shall be stored in a manner that prevents contact
- 1416 with surface water and groundwater. ~~Animal~~ Semi-solid and solid waste that is stockpiled
- 1417 outside for more than 14 days shall be kept in a waste storage facility or at a site that
- 1418 provides adequate storage. Adequate storage shall, at a minimum, include the following:



- 1419 a. ~~Animal~~ Semi-solid and solid waste shall be covered to protect it from precipitation  
1420 and wind;
- 1421 b. Stormwater shall not run onto or under the stored ~~animal~~ semi-solid and solid waste;
- 1422 c. A minimum of two feet separation distance to the seasonal high water table or an  
1423 impermeable barrier shall be used under the stored waste. All waste storage facilities  
1424 that use an impermeable barrier shall maintain a minimum of one foot separation  
1425 between the seasonal high water table and the impermeable barrier. "Seasonal high  
1426 water table" means ~~that portion of the soil profile where a color change has occurred~~  
1427 ~~in the soil as a result of saturated soil conditions or where soil concretions have~~  
1428 ~~formed. Typical colors are gray mottlings, solid gray, or black. The depth in the soil at~~  
1429 ~~which these conditions first occur is termed the seasonal high water table.~~  
1430 Impermeable barriers shall be constructed of at least 12 inches of compacted clay, at  
1431 least four inches of reinforced concrete, or another material of similar structural  
1432 integrity that has a minimum permeability rating of 0.0014 inches per hour ( $1 \times 10^{-6}$   
1433 centimeters per second); and
- 1434 d. For ~~animal~~ semi-solid and solid waste that is not stored in a waste storage facility  
1435 or under roof, the storage site must be at least 100 feet from any surface water,  
1436 intermittent drainage, wells, sinkholes, rock outcrops, and springs. For semi-solid and  
1437 solid waste that is stored on an impermeable barrier and where any stormwater runoff  
1438 is collected in the waste storage facility, the semi-solid and solid waste can be stored  
1439 adjacent to the waste storage facility regardless of the location of the waste storage  
1440 facility so long as surface water, intermittent drainage, wells, sinkholes, rock outcrops,  
1441 and springs are protected from runoff from the stored semi-solid and solid waste.
- 1442 Semi-solid and solid waste that is stored on an impermeable barrier and where any  
1443 stormwater runoff is collected in a waste storage facility is considered adequate storage  
1444 and is therefore not required to be covered.
- 1445 2. Any liquid animal waste collection and storage facility shall be designed and operated  
1446 to (i) prevent point source discharges of pollutants to state waters except in the case of a  
1447 storm event greater than the 25-year, 24-hour storm and (ii) provide adequate waste  
1448 storage capacity to accommodate periods when the ground is frozen or saturated, periods  
1449 when land application of nutrients should not occur due to limited or nonexistent crop  
1450 nutrient uptake, and periods when physical limitations prohibit the land application of  
1451 waste.
- 1452 3. Waste storage facilities constructed after December 1, 1998, shall not be located on a  
1453 100-year floodplain. For the purposes of determining the 100-year floodplain, a Federal  
1454 Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), a FEMA  
1455 Letter of Map Amendment (LOMA), or a FEMA Letter of Map Revision (LOMR) shall be  
1456 used.
- 1457 4. Earthen waste storage facilities constructed after December 1, 1998, shall include a  
1458 properly designed and installed liner. Such liner shall be either a synthetic liner of at least  
1459 20 mils thickness or a compacted soil liner of at least one foot thickness with a maximum  
1460 permeability rating of 0.0014 inches per hour. A Virginia licensed professional engineer or  
1461 an employee of the Natural Resources Conservation Service of the U.S. Department of  
1462 Agriculture with appropriate engineering approval authority shall certify that the siting,  
1463 design, and construction of the waste storage facility comply with the requirements of this  
1464 subsection. This certification shall be maintained on site.

1465 5. At earthen waste storage facilities constructed below the seasonal high water table, the  
1466 top surface of the waste must be maintained at a level of at least two feet above the water  
1467 table.

1468 6. All liquid waste storage or treatment facilities shall maintain at least one foot of freeboard  
1469 at all times, up to and including a 25-year, 24-hour storm.

1470 C. Land application requirements. An animal waste end-user who (i) receives more than 10  
1471 tons of solid or semi-solid animal waste (solid or semi-solid animal waste contains less than 85%  
1472 moisture) or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85% or  
1473 more moisture) from an owner or operator of an animal feeding operation covered by a general  
1474 permit, an individual VPA permit, or VPDES permit and (ii) land applies animal waste shall follow  
1475 appropriate land application requirements as outlined in this subsection. The application of animal  
1476 waste shall be managed to minimize adverse water quality impacts.

1477 1. The maximum application rates can be established by the following methods:

1478 a. Phosphorus crop removal application rates can be used when:

1479 (1) Soil test phosphorus levels do not exceed the values listed in the Phosphorus  
1480 Environmental Thresholds table below:

Region	Soil Test P (ppm) VPI & SU Soil Test (Mehlich I) *
Eastern Shore and Lower Coastal Plain	135
Middle and Upper Coastal Plain and Piedmont	136
Ridge and Valley	162

\* If results are from another laboratory, then the Department of Conservation and Recreation approved conversion factors must be used.

1481 (2) The phosphorus crop removal application rates are set forth by regulations  
1482 promulgated by the Department of Conservation and Recreation in accordance with §  
1483 10.1-104.2 of the Code of Virginia.

1484 b. Animal waste may be applied to any crop once every three years at a rate of no  
1485 greater than 80 pounds of plant available phosphorus per acre when:

1486 (1) The plant available phosphorus supplied by the animal waste is based on a waste  
1487 nutrient analysis obtained in the last two years;

1488 (2) In the absence of current soil sample analyses and recommendations; and

1489 (3) Nutrients have not been supplied by an organic source, other than pastured  
1490 animals, to the proposed land application sites within the previous three years of the  
1491 proposed land application date of animal waste.

1492 c. Soil test recommendations can be used when:

1493 (1) Accompanied by analysis results for soil tests that have been obtained from the  
1494 proposed field or fields in the last three years;

1495 (2) The analytical results are from procedures in accordance with 4VAC50-85-140 A  
1496 2 f; and

1497 (3) Nutrients from the waste application do not exceed the nitrogen or phosphorus  
1498 recommendations for the proposed crop or double crops. The recommendations shall  
1499 be in accordance with 4VAC50-85-140 A 2 a.

1500 d. A nutrient management plan developed by a certified nutrient management planner  
1501 in accordance with § 10.1-104.2 of the Code of Virginia.

1502 2. The timing of land application of animal waste shall be appropriate for the crop, and in  
1503 accordance with 4VAC50-85-140 A 4, except that no waste may be applied to ice covered  
1504 or snow covered ground or to soils that are saturated.

1505 3. Animal waste shall not be land applied within buffer zones. Buffer zones at waste  
1506 application sites shall, at a minimum, be maintained as follows:

1507 a. Distance from occupied dwellings: 200 feet (unless the occupant of the dwelling  
1508 signs a waiver of the buffer zone);

1509 b. Distance from water supply wells or springs: 100 feet;

1510 c. Distance from surface water courses: 100 feet (without a ~~permanent~~ vegetated  
1511 buffer) or 35 feet (if a ~~permanent~~ vegetated buffer exists). Other site-specific  
1512 conservation practices may be approved by the department that will provide pollutant  
1513 reductions equivalent or better than the reductions that would be achieved by the 100-  
1514 foot buffer;

1515 d. Distance from rock outcropping (except limestone): 25 feet;

1516 e. Distance from limestone outcroppings: 50 feet; and

1517 f. Waste shall not be applied in such a manner that it would discharge to sinkholes that  
1518 may exist in the area.

1519 4. In cases where the waste storage facility is threatened by emergencies such as fire or  
1520 flood or where these conditions are imminent, animal waste can be land applied outside  
1521 of the spreading schedule outlined in the Animal Waste Fact Sheet. If this occurs, then  
1522 the animal waste end-user shall document the land application information in accordance  
1523 with 9VAC25-192-80 A 3.

1524 D. Animal waste end-users shall maintain the records demonstrating compliance with the  
1525 requirements of subsections B and C of this section for at least three years and make them  
1526 available to department personnel upon request.

1527 E. The activities of the animal waste end-user shall not contravene the Water Quality  
1528 Standards, 9VAC25-260, as amended, and adopted by the board, or any provision of the State  
1529 Water Control Law (~~§ 62.1-44 et seq. of the Code of Virginia~~).

1530 F. Any duly authorized agent of the ~~board~~ department may, at reasonable times and under  
1531 reasonable circumstances, enter any establishment or upon any property, public or private, for  
1532 the purpose of obtaining information or conducting surveys or investigations necessary in the  
1533 enforcement of the provisions of this regulation.

1534 FORMS (9VAC25-192)

1535 [Virginia DEQ Registration Statement for VPA General Permit for Animal Feeding Operations](#)  
1536 [and Animal Waste Management for Owners of Animal Feeding Operations, RS AFO Owners,](#)  
1537 [VPG1 \(rev. 3/14 11/2024\)](#)

- 1538 [Virginia DEQ Registration Statement for VPA General Permit for Animal Feeding Operations](#)
- 1539 [and Animal Waste Management for Animal Waste End-Users, RS End-Users, VPG1 \(rev. 3/14](#)
- 1540 [11/2024\)](#)
- 1541 Local Government Ordinance Form (eff. 11/94)
- 1542 [Virginia DEQ Fact Sheet for Animal Waste Use and Storage \(rev. 4/14 11/2024\)](#)

**VIRGINIA DEQ REGISTRATION STATEMENT FOR VPA GENERAL PERMIT FOR ANIMAL FEEDING OPERATIONS (AFOs) AND ANIMAL WASTE MANAGEMENT**

**THIS FORM IS FOR OWNER'S OF ANIMAL FEEDING OPERATIONS**

**For DEQ Use Only:**  
 Accepted: Yes  No   
 Initials: \_\_\_\_\_  
 Date: \_\_\_\_\_

PLEASE TYPE OR PRINT ALL INFORMATION. ALL PARTS OF THIS FORM MUST BE COMPLETED ACCORDING TO THE INSTRUCTIONS

**1. AFO Owner's Information**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Mobile Phone \_\_\_\_\_ Home Phone \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

The best day of the week & time to contact the AFO owner: \_\_\_\_\_  AM  
 \_\_\_\_\_ Day \_\_\_\_\_ Time  PM

**2. Operator or Contact Person's Information**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Mobile Phone \_\_\_\_\_ Home Phone \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

The best day of the week & time to contact the operator or contact person: \_\_\_\_\_  AM  
 \_\_\_\_\_ Day \_\_\_\_\_ Time  PM

**3. AFO/Farm Information**

AFO/Farm Name: \_\_\_\_\_

Location: \_\_\_\_\_

Is the AFO a contract operation? YES \_\_\_ NO \_\_\_ Integrator: \_\_\_\_\_

Is there an existing VPA or VPDES permit that covers the AFO? YES \_\_\_ NO \_\_\_ Permit Number: \_\_\_\_\_

Indicate below the types and amounts of wastes that will be managed at the AFO:

Waste	Amount	Waste	Amount	Waste	Amount	Waste	Amount
Manure generated at AFO	<input type="checkbox"/> Gal	Manure not generated at AFO	<input type="checkbox"/> Gal	Off-Site generated waste	<input type="checkbox"/> Gal	Treated manure/waste	<input type="checkbox"/> Gal
	<input type="checkbox"/> Tons		<input type="checkbox"/> Tons		<input type="checkbox"/> Tons		<input type="checkbox"/> Tons

Will waste be transferred off-site? YES \_\_\_ NO \_\_\_, how much: \_\_\_\_\_  Gal \_\_\_\_\_  Tons

Types of animals and the maximum numbers of each type that will be at the AFO at any one time:

Animal Type	Maximum Number	Average Weight	Animal Type	Maximum Number	Average Weight	Animal Type	Maximum Number	Average Weight

4. **Attachments:** the following items must accompany this completed Registration Statement: (see instructions)

- a. the completed Local Government Ordinance Form (LGOF).
- b. a copy of the nutrient management plan (NMP) approved by the Department of Conservation and Recreation (DCR).
- c. a copy of the DCR NMP approval letter which also certifies that the NMP was developed by a certified NM planner in accordance with § 10.1-104.2 of the Code of Virginia.

5. **Certification:** "I certify that notice of the registration statement has been given to all owners or residents of property that adjoins the property on which the animal feeding operation will be located. This notice included the types and numbers of animals which will be maintained at the AFO and the address and phone number of the appropriate DEQ regional office to which comments relevant to this general permit may be submitted. (The preceding certification is waived if the registration is for renewing coverage under this general permit, and no expansion of the operation is proposed, and the department has not issued any special order or consent order relating to violations under the existing general permit.) I certify under penalty of law that all the requirements of the board for this general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

Signature: \_\_\_\_\_ Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

# INSTRUCTIONS FOR ANIMAL FEEDING OPERATIONS REGISTRATION STATEMENT

## VPA GENERAL PERMIT FOR ANIMAL FEEDING OPERATIONS AND ANIMAL WASTE MANAGEMENT

### General

A Registration Statement must be submitted when an owner of an animal feeding operation (AFO) makes application to the Department of Environmental Quality for coverage under the VPA General Permit for Animal Feeding Operations and Animal Waste Management. Contact the nearest DEQ regional office if you have questions about filing this form.

### Section 1 AFO Owner's Information

Provide the name, mailing address, telephone numbers and e-mail address (if available) of the person to whom this permit will be issued. Provide the best day of the week and time for DEQ to make contact with the owner during regular working hours.

### Section 2 Operator or Contact Person's Information

If there is a person other than the AFO owner who manages daily activities at the operation being permitted or who should be contacted for site visits, give that person's name, phone numbers and e-mail address (if available). If the operator or contact person is the same as the owner, write "SAME AS ABOVE". Provide the best day of the week and time for DEQ to make contact with the operator or contact person during regular working hours.

### Section 3 AFO/Farm Information

Provide the name of the farm. Provide the physical location of the AFO other than the owner's mailing address (e.g. Rt. 653, 1 mile west of Rt. 702). Indicate if the AFO has a contract with an integrator. If applicable, give the name of the integrator. List the permit number of any expiring or currently effective permits that cover the animal feeding operation under the VPA or VPDES permit program. Complete the table indicating which types of wastes and the amounts of wastes that will be managed at the AFO. If the waste listed in the table will not be managed at the AFO, write "N/A" for Not Applicable in the column labeled amount. If waste will be transferred off-site, indicate the type of waste and how much will be transferred.

### Animal Information

Indicate the type or types of animals (e.g. dairy cattle, slaughter and feeder cattle, swine, etc.), the average weight and the maximum numbers of each type or types that will be stabled or confined and fed or maintained at this AFO at any one time.

### Section 4 Attachments

#### a. Local Government Ordinance Form (LGOF)

State Law requires that the owner of any proposed pollutant management activities or those which have not previously been issued a valid VPA or VPDES permit must attach to the registration statement, the completed LGOF. The LGOF is the notification from the governing body of the county, city or town where the operation is located that the operation is consistent with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.

#### b. Nutrient Management Plan (NMP)

State law requires that every owner of an AFO seeking coverage under this general permit have an NMP. A copy of the NMP written for the AFO must be attached to the Registration Statement; however, if a current NMP is on file at the DEQ regional office then it is not necessary to attach the NMP.

#### c. NMP Approval Letter

A copy of the letter from the Virginia Department of Conservation and Recreation (DCR) approving the NMP for the AFO and certifying that the NMP was developed by a certified nutrient management planner in accordance with §10.1-104.2 of the Code of Virginia must be attached to the Registration Statement. However, if a current NMP approval letter is on file at the DEQ regional office then it is not necessary to attach the NMP approval letter.

### Section 5 Certification

The Certification must bear an original signature in ink, photocopies are not acceptable. State statutes provide for severe penalties for submitting false information on this Registration Statement. State regulations require this Registration Statement to be signed as follows:

For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency.)

For a partnership or sole proprietorship, by a general partner or proprietor, respectively.

# VIRGINIA DEQ REGISTRATION STATEMENT FOR VPA GENERAL PERMIT FOR ANIMAL FEEDING OPERATIONS (AFOs) AND ANIMAL WASTE MANAGEMENT

## THIS FORM IS FOR ANIMAL WASTE END-USERS

PLEASE TYPE OR PRINT ALL INFORMATION ALL PARTS OF THIS FORM MUST BE COMPLETED ACCORDING TO THE INSTRUCTIONS

<p><b>For DEQ Use Only:</b>                  Accepted: Yes <input type="checkbox"/> No <input type="checkbox"/>                  Initials: _____                  Date: _____</p>
---

<b>1. Animal Waste End-User's Information</b>	Name: _____		
	Mailing Address: _____		
	Street		
	City	State	Zip
	Business Phone	Mobile Phone	Home Phone
	E-Mail Address: _____		
	The best day of the week & time to contact the End-User: _____ <input type="checkbox"/> AM		
Day			
Time <input type="checkbox"/> PM			

<b>2. Animal Waste Utilization, Storage and Management Location Information</b>	Name: _____				
	Location: _____				
	Is there an existing VPA or VPDES permit that covers this location? YES _____ NO _____				
	Permit Number: _____				
Types of animals and the maximum numbers of each type that will be at the location at any one time: (if applicable)					
Animal Type	Maximum Number	Average Weight	Animal Type	Maximum Number	Average Weight
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

3. **Attachments:** the following items must accompany this completed Registration Statement: (see instructions)
  - a. a copy of the nutrient management plan (NMP) approved by the Department of Conservation and Recreation (DCR).
  - b. a copy of the DCR NMP approval letter which also certifies that the plan was developed by a certified nutrient management planner in accordance with § 10.1-104.2 of the Code of Virginia.
4. **Certification:** "I certify under penalty of law that all the requirements of the board for this general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

\_\_\_\_\_  
 Signature Printed Name Date

# INSTRUCTIONS FOR ANIMAL WASTE END-USERS REGISTRATION STATEMENT

## VPA GENERAL PERMIT FOR ANIMAL FEEDING OPERATIONS AND ANIMAL WASTE MANAGEMENT

### General

A Registration Statement must be submitted when an animal waste end-user makes application to the Department of Environmental Quality for coverage under the VPA General Permit for Animal Feeding Operations and Animal Waste Management. Contact the nearest DEQ regional office if you have questions about filing this form.

### Section 1 Animal Waste End-User's Information

Give the name, mailing address, telephone numbers and e-mail address (if available) of the person to whom this permit will be issued. Please provide the best day of the week and time for DEQ to make contact with the animal waste end-user during regular working hours.

### Section 2 Animal Waste Utilization, Storage and Management Location Information

Give the name location (if applicable). Give the physical address of the location where the animal waste will be utilized, stored, or managed other than the animal waste end-user's mailing address (e.g. Rt. 653, 1 mile west of Rt. 702). List the number of any expiring or currently effective permits issued to the animal waste end-user under the VPA or VPDES permit program.

#### Animal Information

If applicable, indicate the type or types of animals (e.g. dairy cattle, slaughter and feeder cattle, swine, etc.), the average weight and the maximum numbers of each type or types that will be stabled or confined and fed or maintained at this location at any one time.

### Section 3 Attachments

#### a. Nutrient Management Plan (NMP)

State law requires that anyone seeking coverage under the VPA general permit have a NMP. A copy of the NMP written for the operation must be attached to the Registration Statement; however, if a current NMP is on file at the DEQ regional office then it is not necessary to attach the NMP.

#### b. NMP Approval Letter

A copy of the letter from the Virginia Department of Conservation and Recreation (DCR) approving the NMP for the operation and certifying that the NMP was developed by a certified nutrient management planner in accordance with §10.1-104.2 of the Code of Virginia must be attached to the Registration Statement. However, if a current NMP approval letter is on file at the DEQ regional office then it is not necessary to attach the NMP approval letter.

### Section 4 Certification

The Certification must bear an original signature in ink, photocopies are not acceptable. State statutes provide for severe penalties for submitting false information on this Registration Statement. State regulations require this Registration Statement or certification required by this permit shall be signed as follows:

For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency.)

For a partnership or sole proprietorship, by a general partner or proprietor, respectively.



Office of Regulatory Management  
Economic Review Form

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9 VAC 25-192 et seq.
<b>VAC Chapter title(s)</b>	Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management
<b>Action title</b>	<b>2024 Reissue and amend, as necessary, the Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management</b>
<b>Date this document prepared</b>	July 24, 2023
<b>Regulatory Stage (including Issuance of Guidance Documents)</b>	Proposed exempt

**Cost Benefit Analysis**

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

**§ 62.1-44.17:1.B. of the Code of Virginia requires that the State Water Control Board utilize a General Virginia Pollution Abatement (VPA) permit to permit Animal Feeding Operations (AFOs) that meet the requirements of the Code. VPA general permits expire every 10 years and must be re-issued in order for permit coverage to be available to new permittees and existing covered permittees. If the general permit is not re-issued, the regulated community will need to obtain an individual permit to conduct the regulated activity. For this reason, the costs associated with obtaining an individual permit are**

compared with the costs associated with general permit coverage. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity.

**Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)**

<p>(1) Direct &amp; Indirect Costs &amp; Benefits (Monetized)</p>	<p>Direct Costs:</p> <p>Regulating AFOs through the reissuance of a general permit regulation is an alternate streamlined approach that is used to regulate entities that conduct similar activities. A benefit of this general permit is its lower cost to permittees relative to the cost of obtaining an individual permit. While the Code of Virginia exempts AFOs from permit fees for both individual and general permits, the exemption does not include the cost of publication of a public notice advertisement required for an individual permit, which would average approximately \$500. The individual permit application is also longer and more detailed, requiring more time to prepare, and some applicants might choose to pay a consultant to prepare an individual permit application. This general permit thus represents a savings of at least \$500. There are currently 110 AFOs covered under this permit representing a total savings of approximately \$55,000 for the permit sector.</p> <p>These costs do not account for the longer lead time to obtain an individual permit and the increased burden on DEQ staff resources that would result.</p> <p>Costs and benefits of significant amendments to the current general permit include:</p> <ul style="list-style-type: none"> <li>• 9 VAC25-192-10 – Definitions – The regulation was updated to include additional definitions and modifications of existing definitions.</li> </ul> <p>Direct Costs: None</p> <p>Direct Benefits: No direct economic benefits to regulated entities.</p> <p>Indirect Costs: None</p> <p>Indirect Benefits: The additions and amendments to the definitions section will facilitate a better understanding of the terms used throughout the regulation sections and reduces regulatory burden by making the terms and style used throughout the regulations consistent with other sections and chapters. These amendments will also make this regulation consistent with the</p>
---	---

VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-10 et seq.).

- 9VAC25-192-70. Part I.A. & Part III.A.– Groundwater Monitoring Requirements:
  - Added a permit condition that describes when a permittee is required to submit a groundwater monitoring action plan. This process is already required by the department; adding it to the permit makes it clear to the permittee in what cases that the action plan is expected.
  - Added a permit condition that outlines which parameters must be analyzed by a laboratory accredited under the Virginia Environmental Laboratory Accreditation Program (VELAP) in accordance with 1VAC30-46-20. This requirement is already in place; adding it to the permit conditions makes it clear to the permittee.
  - Amended the frequency of the groundwater monitoring from once every three years to once every year. The frequency in the current permit is inconsistent with the Virginia Department of Conservation and Recreation (DCR) Nutrient Management Plan (NMP) - Special Conditions (added to all NMPs written for a VPA permitted AFO). The permittee must comply with the most restrictive frequency stated either in the permit or the NMP. Amending the frequency will provide consistency with the NMP and better protection to water quality.

Direct Costs: None to the permittee. All of the amendments make the regulation consistent with other requirements already being implemented by DEQ or overseen by DCR and the permittees.

Direct Benefits: No direct economic benefits to regulated entities.

Indirect Costs: None

Indirect Benefits: The amendments make permit requirements clear. Clarity reduces administrative burden and time on the permittee to ensure compliance with the permit.

- 9VAC25-192-70 Part I.B.2 & Part III.B.2 – Site design, storage, and operations requirements: Added clarification as to which tools are to be used to determine the floodplain when siting waste

storage facilities. Adding the language ensures that the permittee will know what tools must be used to make this determination.

Direct Costs: None

Direct Benefits: No direct economic benefits to regulated entities.

Indirect Costs: None

Indirect Benefits: The amendments make permit requirements clear. Clarity reduces administrative burden and time on the permittee to ensure compliance with the permit.

- 9VAC25-192-70 Part I.B.8.d. & Part III.B.8.d. – Site design, storage, and operations requirements: The proposal includes amended permit conditions outlining what is considered adequate storage of semi-solid and solid waste.

Direct Costs: None

Direct Benefits: The amendment would reduce the cost to cover certain manure storage for which covering would provide no environmental benefit. Actual costs would vary widely depending upon storage practices.

Indirect Costs: None

Indirect Benefits: The amendments make permit requirements clear. Clarity reduces administrative burden and time on the permittee to ensure compliance with the permit.

- 9VAC25-192-70 Part I.B.11. & Part III.B.11. – Site design, storage, and operations requirements: The proposal includes a notification to the department prior to the closure of a liquid waste storage facility. This notification is an addition to an existing permit condition related to the closure of a waste storage facility.

Direct Costs: None

Direct Benefits: No direct economic benefits to regulated entities.

Indirect Costs: None to the permittee other than the time to notify DEQ of the pending closure.

	<p>Indirect Benefits: Adding this notification will facilitate the ability of DEQ staff to provide compliance assistance and proper closure procedures to the permittee. Additional communication with DEQ prior to commencing a regulated activity increases the probability of compliance with the permit, adequate environmental protection, and reduces the possibility the permittee will spend money on activities that do not meet regulatory requirements.</p> <ul style="list-style-type: none"> <li>• 9VAC25-192-70 Part I.C.2. &amp; Part III.C.2. – Animal waste use and transfer requirements: The proposal adds a requirement for the permittee to submit revised Nutrient Management Plans (NMPs) approved by the Department of Conservation and Recreation (DCR) before the expiration date of the previous NMP.</li> </ul> <p>Direct Costs: None</p> <p>Direct Benefits: No direct economic benefits to regulated entities.</p> <p>Indirect Costs: None other than the time for the permittee to send the NMP to DEQ. Permit holders are already required to maintain a valid plan and provide it to DEQ.</p> <p>Indirect Benefits: The amendment makes permit requirements clear and ensures that the permittee has the most accurate nutrient management guidelines for the current crop needs. Clarity reduces administrative burden and time on the permittee to ensure compliance with the permit.</p> <ul style="list-style-type: none"> <li>• 9VAC25-192-70 Part I.C.5. &amp; Part III.C.5 – Animal waste use and transfer requirements: The proposal includes a new special condition that addresses situations where animal waste storage can be threatened by emergencies such as fire or flood. The new condition provides criteria for the land application of animal waste outside of the land application schedule found in the NMP so long as land application information is documented, and the Department is notified.</li> </ul> <p>Direct Costs: None</p> <p>Direct Benefits: This condition provides permittees with practical options to avoid catastrophic failure of an animal waste storage structure and clear requirements related to waste storage and land application when the permittee is faced with an emergency. Costs</p>
--	---

	<p>to repair an animal waste structure would vary depending upon the size and nature of the failure.</p> <p>Indirect Costs: None</p> <p>Indirect Benefits: The condition makes the option available to respond to an emergency clear to the permittee, reducing the amount of time a permittee might spend corresponding with DEQ when immediate action is necessary.</p> <ul style="list-style-type: none"> <li>• 9VAC25-192-70 Part II – Conditions Applicable to this General Permit - The proposal includes amending, re-organizing, and renumbering the conditions found in Part II of Section 70 (the contents of the general permit).</li> </ul> <p>Direct Costs: None</p> <p>Direct Benefits: No direct economic benefits to regulated entities.</p> <p>Indirect Costs: None</p> <p>Indirect Benefits: The amendments will make this regulation consistent with the VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-10 et seq.). Consistency between the general permits provides for clarity for permittees who may be covered by both permit types as well as for DEQ inspectors verifying compliance with both permit types.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) see above	(b) see above
(3) Net Monetized Benefit	See above	
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources	9VAC25-20 Fees for Permits and Certificates Staff estimates of costs for publishing public notices for individual permits	

**Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Maintaining the current requirements would have no direct costs to regulated entities.</p> <p>Indirect Costs: Maintaining the current requirements would have no indirect costs to regulated entities.</p> <p>Direct Benefits: Maintaining the current requirements would have no direct benefits to regulated entities.</p> <p>Indirect Benefits: Maintaining the current requirements would have no indirect benefits to regulated entities.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) NA	(b) NA
(3) Net Monetized Benefit	NA	
(4) Other Costs & Benefits (Non-Monetized)	NA	
(5) Information Sources	NA	

**Table 1c: Costs and Benefits under Alternative Approach(es)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs:  DEQ is not aware of any alternatives to the current proposal other than (1) reissuance of the current general permit with no modifications and (2) allowing the general permit regulation to lapse and issuing individual permits.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) NA	(b) NA
(3) Net Monetized Benefit	NA	
(4) Other Costs & Benefits (Non-Monetized)	NA	
(5) Information Sources	NA	

**Impact on Local Partners**

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 2: Impact on Local Partners**

(1) Direct & Indirect Costs & Benefits (Monetized)	This general permit regulation is for Animal Feeding Operations (AFOs) and animal waste end-users which are activities that are not conducted by local governments. Direct Costs: None. Indirect Costs: None. Direct Benefits: None. Indirect Benefits: None.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) NA	(b) NA
(3) Other Costs & Benefits (Non-Monetized)	NA	
(4) Assistance	NA	
(5) Information Sources	NA	

**Impacts on Families**

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 3: Impact on Families**

(1) Direct & Indirect Costs & Benefits (Monetized)	Most of the regulated entities are family farms, and the direct and indirect costs and benefits to these families would be as described in Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits



	(a) see table 1a	(b) see table 1a
(3) Other Costs & Benefits (Non-Monetized)	see table 1a	
(4) Information Sources	see table 1a	

**Impacts on Small Businesses**

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 4: Impact on Small Businesses**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Small businesses would have the same impact as described in 1a above.</p> <p>General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity. Without this general permit regulation, an individual permit would be required to conduct the regulated activity at a cost of approximately \$500 more for each small business covered under the general permit. DEQ does not have access to information necessary to determine how many of the 110 facilities covered under this general permit qualify as small business as defined under the Administrative Process Act but there are likely some entities that are small businesses</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) see table 1a.	(b) see table 1a
(3) Other Costs & Benefits (Non-Monetized)	see table 1a	
(4) Alternatives	see table 1a	
(5) Information Sources	see table 1a	

## Changes to Number of Regulatory Requirements

**Table 5: Regulatory Reduction**

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

### *Change in Regulatory Requirements*

<b>VAC Section(s) Involved</b>	<b>Initial Count</b>	<b>Additions</b>	<b>Subtractions</b>	<b>Net Change</b>
9 VAC25-192-10	0	0	0	0
9 VAC25-192-20	4	0	0	0
9 VAC25-192-25	6	0	0	0
9 VAC25-192-50	46	0	0	0
9 VAC25-192-60	5	0	0	0
9 VAC25-192-70	187	8	3	10
9 VAC25-192-80	9	0	0	0
9 VAC25-192-90	28	0	1	1

*Not all regulatory requirements apply to all permittees, and some requirements are only applicable if certain conditions exist.*

### *Cost Reductions or Increases (if applicable)*

<b>VAC Section(s) Involved</b>	<b>Description of Regulatory Requirement</b>	<b>Initial Cost</b>	<b>New Cost</b>	<b>Overall Cost Savings/Increases</b>
9VAC25-192	Cost of individual permit vs general permit regulation	Cost associated with public notice requirements of Individual permit if general permit is not reissued- \$500	There is no cost to permittees associated with public notice requirements for the General permit - \$0	The general permit represents a savings of \$500 per facility (for public notice costs) or a total of \$55,000 for the sector over a 10-year permit term based on the 110 facilities currently covered by the general permit. No additional expenses are expected from the additional provisions included in Table 5. These additional provisions would

				also be included in any individual permits issued so they do not represent an increase in requirements/costs over the individual permit alternative.
--	--	--	--	--

*Other Decreases or Increases in Regulatory Stringency (if applicable)*

<b>VAC Section(s) Involved</b>	<b>Description of Regulatory Change</b>	<b>Overview of How It Reduces or Increases Regulatory Burden</b>
NA	NA	The regulatory burden of reissuing the general permit is much reduced compared to requiring an individual permit. See 1a above.

# TAB E



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178


[www.deq.virginia.gov](http://www.deq.virginia.gov)

Travis A. Voyles  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

**MEMORANDUM**

**TO:** State Water Control Board members

**FROM:** Elizabeth McKercher, Water Planning Director 

**DATE:** July 28, 2023

**SUBJECT:** Petition to Amend Virginia's Selenium Water Quality Criteria

---

**Purpose**

The purpose of this memorandum is to inform you that the Department of Environmental Quality (DEQ) received a petition, included as Attachment 1, on April 26, 2023, from Clintwood JOD, LLC (CJOD) requesting that the State Water Control Board amend its Water Quality Standards (WQS) regulation (9VAC25-260) to include a site-specific freshwater aquatic life selenium criterion for several tributaries to Knox Creek in Buchanan County. See Attachment 2 for maps of the location. As required by the Code of Virginia's Administrative Process Act at §2.2-4007, a 21-day notice of public comment was published in the *Virginia Register of Regulations* on June 5, 2023. The comment period began on June 5, 2023, and extended through June 26, 2023. A full summary of comments received is provided as Attachment 3 to this memorandum. This memorandum also provides background and relevant information to aid the Board in its decision whether to direct staff to initiate a rulemaking to amend the WQS regulation to include updated selenium criteria.

**Background**

This matter is before the Board due to a petition submitted by CJOD via a letter dated April 25, 2023, that requests promulgation of site-specific selenium (Se) aquatic life criteria for four streams which are tributaries to Knox Creek in Buchanan County, Virginia. Knox Creek is a subwatershed of the Tug Fork in the Tennessee/Big Sandy river basin. The Tug Fork flows north from Virginia into Kentucky and, subsequently, West Virginia. The specific streams included in the petition are:

- 1) Race Fork and tributaries (7.3 square mile drainage area or watershed)
- 2) Pounding Mill Creek and tributaries (1.4 square mile watershed)
- 3) Right Fork of Lester Fork and tributaries (5.8 square mile watershed)
- 4) Abners Fork and tributaries (1.7 square mile watershed)

Selenium is a naturally occurring element present in sedimentary rocks, shales, coal and phosphate deposits and soils. Selenium is a nutritionally essential element for animals in small amounts, but toxic at higher concentrations. Selenium bioaccumulates in the aquatic food chain and chronic exposure in fish and aquatic invertebrates can cause reproductive impairments (e.g., larval deformity or mortality) as well as adverse juvenile growth and mortality. Selenium is also toxic to animals that consume aquatic organisms containing excessive levels of selenium.

The petition provided the information required under State Code (§2.2-4007: *Petitions for new or amended regulations; opportunity for public comment*) and Virginia Regulation (9VAC25-11-60: *Petition for Rulemaking*). The petitioner has requested the Board to amend the WQS regulation to include the U.S. Environmental Protection Agency (EPA) recommended selenium water quality criterion for protection of aquatic life for the streams noted above in the Knox Creek watershed. EPA's recommended criterion was published on July 13, 2016.

A comparison of EPA's recommended 2016 selenium criterion and Virginia's selenium criterion is provided in Attachment 4. The EPA recommended selenium criterion is composed of four parts:

- 1) two fish tissue elements:
  - a) selenium concentrations in egg-ovary and
  - b) whole-body and/or muscle, and
- 2) two water column elements:
  - a) 4-day average and
  - b) intermittent exposure.

In addition to the request to promulgate updated site-specific selenium criteria, the petitioner asks that DEQ support utilizing EPA's criterion with any implementation guidance modeled after the West Virginia implementation guidance to provide consistency with the remainder of the downstream watershed.

CJOD currently holds and operates fifteen (15) surface and deep-mining permits in the Commonwealth of Virginia under its Coal Surface Mining Reclamation Regulations (4VAC25-130). Each of these operations is also authorized under Virginia Pollutant Discharge Elimination System (VPDES) permits issued by the Virginia Department of Energy's Mined Land Repurposing Division with oversight by EPA. Six (6) of CJOD's operations are currently permitted to discharge into the reaches defined in the petition, one of which is currently under a schedule of compliance for selenium. As these mining operations are authorized activities that generate its primary source of revenue, CJOD has an interest in the proposed action. CJOD's petition contends the "...need for the proposed amendment is directly related to the continuation of its mining operations. Virginia's current water quality criteria for selenium are based on nationally recommended criteria published by EPA in 1987. EPA's recommended criteria reflect

the latest scientific knowledge and provide a more updated method of evaluating selenium impacts to surface waters.”

### **Comment Summary**

Three hundred thirty-three (333) comments in support of the petition were received; 314 form letters from Clintwood team members, one from the Virginia Department of Energy (Virginia Energy), and 18 individual letters from various environmental consulting, engineering, and metallurgical and energy coal producers (including Clintwood JOD). The below bullets summarize main issues for their support.

- 1) The VA coal industry has a substantial impact on their community and personal livelihood.
- 2) The application (of the updated Se criteria) would be beneficial to the coal mining industry and its workers.
- 3) 2016 Se criteria recommended by EPA has been adopted and implemented by KY and WV.
- 4) Updated criteria would provide the permitting authority with an improved “toolkit” to regulate coal industry.
- 5) Virginia Energy also requested consideration of broader geographic application.

Twenty-five (25) comments opposing the petition were received. Twenty-four form email comments were received. One letter was received from Appalachian Voices, and on behalf of Southern Appalachian Mountain Stewards, and The Sierra Club Virginia Chapter.

- 1) Expressed concerns with the environmental and human health impacts of selenium.
- 2) Oppose the use of fish tissue-based criteria in scenarios with active mines.
- 3) Fish tissue-based limits are inappropriate for Clean Water Act compliance and enforcement at mines.
- 4) Fish tissue testing is more complicated and resource intensive than water column testing.
- 5) Exceedances of fish tissue-based limits may be identified too late to prevent harmful impacts to aquatic life.
- 6) Petitioner is attempting to change the regulatory requirements to avoid addressing the Se pollution problems.

A detailed comment summary is provided as Attachment 3.

### **Relevant Issues**

Virginia Energy provided a comment letter supporting the petition and requested DEQ to separately consider statewide application of EPA’s 2016 recommended criteria, with special consideration given to applying EPA’s recommended criteria to the coal producing counties of Virginia (Buchanan, Dickenson, Lee, Russell, Scott, Tazewell and Wise). As Virginia Energy is the agency charged with implementing the VPDES program for coal mining operations in Virginia, DEQ staff worked closely with Virginia Energy in arriving at the recommendation for this petition request.

Staff’s research on EPA’s recommended selenium criterion and its implementation included: communication with the downstream states of Kentucky and West Virginia and review of their

respective implementation guidance procedures; communication with EPA Region 3 on their experience and recommendations concerning implementation of the recommended criteria; and review of EPA's 2016 draft guidance documents concerning development and implementation of the recommended criteria.

EPA's recommendations for the updated selenium criterion are very complex and differ significantly from Virginia's typical criteria for protection of aquatic life from toxic substances, which are normally expressed as acute and/or chronic water column concentrations for fresh and marine waters. EPA's recommended freshwater criterion is a chronic criterion expressed in terms of both fish tissue concentration (egg/ovary, whole body, and muscle) and two different water concentrations. This is EPA's first aquatic life criterion utilizing fish tissue as a direct expression of the recommended criterion. Accordingly, implementation of these criteria is substantially different from established Clean Water Act water quality programs, including the VPDES program and the water quality and assessment programs.

Overall, staff support EPA's 2016 recommended selenium criteria as being potentially protective of aquatic life. However, the implementation challenges and complexities remain daunting. Staff notes that the "what" of establishing water quality criteria thresholds that are protective of aquatic life is equal in importance to "how" to implement the criteria into the various water quality programs. It is important to note that EPA has developed four technical support documents that cover Water Quality Standards adoption, National Pollutant Discharge Elimination System (NPDES) permitting, waterbody assessment and 303(d) (Impaired Waters) listing, and fish tissue monitoring to assist in implementation of the 2016 recommended criteria. However, these have not been finalized by EPA for use by the states and it is unknown when that final action will occur. That these documents remain as draft publications reflects the complexities and remaining uncertainties of implementing the criteria.

A summary of the concerns associated with implementing criteria is presented below. Staff notes that implementation challenges would be exacerbated if EPA's 2016 recommended selenium criteria were applied to a broad, statewide or multi-county area where established water quality program structures and frameworks may need to be comprehensively updated.

- 1) In the context of Clean Water Act programs, implementation of a fish tissue criterion element can be challenging because programs prefer the expression of water quality criteria as an ambient concentration in the water column. VPDES permitting evaluations rely on water column concentrations to determine if a discharger has the reasonable potential to cause or contribute to an instream exceedance of a water quality standard. Where effluent limits and/or monitoring requirements are established for a discharger, a water column measurement is directly comparable with the established effluent limits resulting from the reasonable potential analysis. Additionally, water column sampling for compliance monitoring is easier to conduct and is consistent with established reporting requirements and framework.
- 2) Where permit compliance monitoring is based on fish tissue, an exceedance of a fish tissue element indicates the impact to aquatic life has already occurred. This goes counter to the VPDES program approach whereby VPDES effluent limits are established to prevent impacts to aquatic life and regular effluent monitoring provides the



demonstration of compliance or noncompliance. Furthermore, fish tissue compliance monitoring indicating an exceedance of a fish tissue element would potentially result in an impairment listing in the water quality assessment 303(d) report. There are no allowable exceedances of the fish tissue elements in EPA's recommended selenium criterion, while the water column concentrations can be exceeded once in three years.

- 3) In addition to the comments above associated with fish sampling as the direct compliance measurement, fish sampling may pose several challenges with regard to implementation. These include: potentially insufficient, representative fish populations in headwater streams; understanding when a waterbody is in equilibrium (as recommended by EPA for fish monitoring) concerning selenium inputs and not subject to new or additional inputs; determining when sampling results may not be representative of the waterbody in question due to fish migration; and navigating restrictions on sampling where threatened and endangered species are present.

With regard to the petition request to model implementation guidance after the downstream state of West Virginia, DEQ staff defer to Virginia Energy with respect to the VPDES program implementation. As noted in the discussion above, implementation procedures are critically important, and stakeholders should have as much clarity and certainty of how water quality standards are to be implemented. However, implementation is not within the scope of the regulatory rulemaking and will be addressed separately by the permitting authority in Virginia.

### **Staff Recommendation**

It is staff's position that the complexities and uncertainties with implementation warrant limited application of EPA's 2016 recommended selenium criteria in Virginia. Recognizing the primacy of Virginia Energy as the implementing authority for the VPDES program for coal mining and reclamation operations, staff worked closely with Virginia Energy based on their comment letter and request to consider more broad geographic application of EPA's recommended selenium 2016 criteria. Virginia Energy confirmed agreement with staff's recommendation in verbal communication on July 27, 2023.

Staff is recommending the Board instruct staff to proceed with a rulemaking to incorporate site specific selenium criteria as a special standard in Virginia's Water Quality Standards regulation (9VAC25-260) consistent with the petition request for the streams identified in the Knox Creek drainage in Buchanan County. This recommendation provides a path to investigate incorporating EPA's 2016 recommended selenium criteria in the Commonwealth, limiting the scope and extent of the implementation challenges from a programmatic perspective, while allowing for initial development and trial of implementation guidelines which may be expanded in the future.

**ATTACHMENT 1**  
**Petition for Rulemaking**  
(does not include all attachments)



April 25, 2023

**VIA ELECTRONIC AND FIRST-CLASS MAIL**

Ms. Jutta Schneider – Director, Water Planning  
Virginia Department of Environmental Quality (DEQ)  
P.O. Box 1105  
Richmond, VA 23218

RE: Petition for Rulemaking  
Site-specific Aquatic Life Ambient Criterion for Selenium  
Virginia Portion of Knox Creek watershed  
Buchanan County, Virginia

Ms. Schneider:

Clintwood JOD, LLC (CJOD) is petitioning DEQ and the State Water Control Board to promulgate a site-specific aquatic life ambient criterion for selenium. We are requesting that this action be taken under the recognized authority of the State Water Control Board established by Virginia Code § 62.1-44.15 (State Water Control Law). This letter serves to provide DEQ with the information required by section 9 VAC 25-11-60 of the DEQ Public Participation Procedures.

**Petitioner**

*Name:* Clintwood JOD, LLC  
*Mailing Address:* P.O. Box 100  
Belcher, Kentucky 41513  
*Phone Number:* (606) 754-5010

**Requested Criterion**

Pursuant to Virginia Code § 2.2-4007, CJOD formally requests that DEQ amend the existing surface water quality criteria for selenium to allow a special standard (9VAC25-260-310) incorporating EPA's *Recommended Aquatic Life Ambient Water Quality Criterion for Selenium in Freshwater*, as published in the Federal Register on July 13, 2016 (Vol. 81, No. 134) and revised in August 2021, within the reaches defined below and depicted on Exhibit 1.

Clintwood JOD, LLC | PO Box 100, Belcher, KY 41513 | (606) 754-5010

All reaches included in this petition fall within Knox Creek, a sub watershed of the Tug Fork (HUC 05070201) that encompasses approximately 97.8 square miles of Buchanan County (19% of the county). Of note is that the Virginia portion of the Knox Creek watershed makes up 6.2 percent of the Tug Fork HUC8, with the remainder downstream in Kentucky and West Virginia.

<b>Proposed Reach</b>	<b>Watershed Size (mi<sup>2</sup>)</b>
Race Fork and Tributaries	7.3
Pounding Mill Creek and Tributaries	1.4
Right Fork of Lester Fork and Tributaries	5.8
Abners Fork and Tributaries	1.7

### **Interest in Proposed Action**

CJOD currently holds and operates fifteen (15) surface and deep-mining permits in the Commonwealth of Virginia under its Coal Surface Mining Reclamation Regulations (4VAC25-130). Each of these operations is also authorized under an NPDES permit issued by Virginia Department of Energy's Mined Land Repurposing Division with oversight by EPA. Six (6) of CJOD's operations are currently permitted to discharge into the reaches defined above, one of which is currently under a schedule of compliance for selenium. As these mining operations are permitted activities that generate its primary source of revenue, CJOD has an interest in the proposed action.

### **Statement of Need and Justification**

As stated above, CJOD's need for the proposed amendment is directly related to the continuation of its mining operations. Virginia's current water quality criteria for selenium are over 30 years old. EPA's recommended criteria reflect the latest scientific knowledge and provide a more updated method of evaluating selenium impacts to surface waters.

Additional considerations when evaluating the requested amendment are standards associated with downstream waters. The most downstream reach requested for consideration is Race Fork. The confluence of Race Fork and Knox Creek is approximately 3.9 stream miles from Kentucky and 11.8 stream miles from West Virginia. Both Kentucky and West Virginia have established aquatic life ambient water quality criteria that were modeled after EPA's recommended criterion. If the petition is found to be reasonable, we would ask that DEQ support utilizing EPA's criterion with any implementation guidance modeled after the approved West Virginia guidance to provide consistency with the remainder of the HUC8 as it has been reviewed and approved by EPA Region 3. A copy of the Kentucky and West Virginia criteria are included as Exhibits 2 and 3 for reference.

We look forward to your response to this petition as soon as possible. If you have any questions or require additional information, please do not hesitate to contact me.

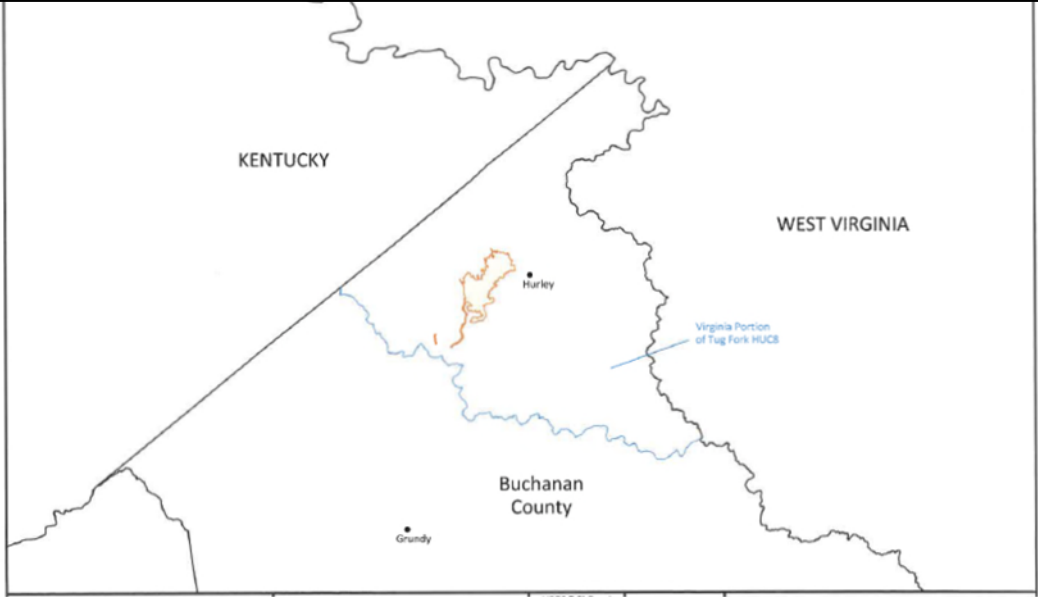
Sincerely,

A handwritten signature in blue ink, appearing to read "Chris J. Stanley". The signature is fluid and cursive, with a prominent initial "C" and "S".

Christopher J. Stanley  
Manager

cc: Mr. David Whitehurst (DEQ)  
Mr. Brooks M. Smith (Troutman Pepper)  
Mr. Timothy R. Browning (Artemis Consulting)

**ATTACHMENT 2**  
**Location Maps**



**ATTACHMENT 3**  
**Public Comment Summary**



## Summary of Comments Received During Petition Comment Period (June 5 – June 26, 2023)

Total number of comments supporting = 333

313 form letters from Clintwood employees (referred to as “team members” in letter)

1 state agency – VA Energy

17 individual letters from various environmental consulting, engineering, and metallurgical and energy coal producers (including Clintwood JOD).

Total number of comments opposing = 25

24 form letters received.

1 letter received from Appalachian Voices and on behalf of Southern Appalachian Mountain Stewards, and The Sierra Club Virginia Chapter.

Commenter	Comment Summary - Supporting
314 form letters	<p>All the form comment letters submitted identify the commenter as team members of Clintwood JOD, LLC.</p> <ol style="list-style-type: none"> <li>1) The Virginia coal industry has a substantial impact on their community and personal livelihood.</li> <li>2) The 2016 Selenium criteria is recommended by EPA and has been adopted and implemented by KY and WV.</li> <li>3) They believe the sampling would be simple.</li> <li>4) The application (of the updated selenium criteria) would be beneficial to the coal mining industry and its workers.</li> </ol>
Virginia Dept. of Energy - Mined Land Repurposing Division	<p>VA Energy Mined Land Repurposing program (MLR) supports the petition. MLR is tasked with establishing permit conditions with the intent of protecting receiving waters while also facilitating mining operations. Establishment of the proposed ambient criterion would provide the agency greater flexibility in permit writing. They request that DEQ separately consider the statewide application of the criteria with special consideration on the coal producing counties of Virginia (Buchanan, Dickenson, Lee, Russell, Scott, Tazewell and Wise).</p>
<p>Aquatic Resources Management LLC, Artemis Consulting Services, LLC, Auger Coal, LLC, Bellamy Engineering and Construction Company, Buchanan Energy Company, LLC, Cleveland-Cliffs Inc., SynTerra Corporation,</p>	<p>Common themes for all individual comments received:</p> <ol style="list-style-type: none"> <li>1) The health of the Virginia coal industry has a substantial impact on their continued operation as a business.</li> <li>2) The 2016 Selenium criteria is recommended by EPA and are protective of downstream waters in West Virginia and Kentucky, as both states have already adopted criteria modeled after EPA's recommendations.</li> <li>3) The update to EPA’s recommended selenium criteria will provide the permit issuing authority an improved “permitting toolkit” to regulate the coal mining industry in Virginia.</li> </ol>

<p>Clintwood JOD, LLC,  Coronado Global Resources Inc. (Buchanan Minerals LLC),  Environmental Design Consultants, Inc.,  Environmental Monitoring, inc.,  Summit Engineering, Inc.,  Tri-State Laboratories, LLC.,  Metallurgical Coal Producers Association,  Terra Tech Engineering,  Southwest Virginia Mining Company, LLC,  Wellmore Coal Company,</p>	<p>4) They ask that the Board strongly consider the request.  5) Coal producing companies stated that they hold NPDES permits for their operations and implement a range of different environmental controls to ensure compliance with technology- and water-quality-based limits in their permits.</p>
<b>Commenter</b>	<b>Comment Summary - Opposing</b>
<p>24 form letters</p>	<ol style="list-style-type: none"> <li>1) Selenium is extremely toxic to fish in very low amounts because of its tendency to bioaccumulate.</li> <li>2) Toxic effects of selenium in fish include reproductive problems, deformities, damage to gills and organs and death.</li> <li>3) Studies have found toxic effects and reproductive failure in fish at selenium concentrations of 2-5 parts per billion (ppb) in water.</li> <li>4) CJOD’s discharge monitoring reports indicate numerous excursions of selenium concentrations in their discharges that are over the current chronic criterion of 5 ppb.</li> <li>5) Subsequent compliance schedule progress reports from CJOD to VA Energy made it clear the company never intended to reduce the selenium concentrations discharged into public waters, and that the company instead intended to request a more lax fish-tissue standard.</li> <li>6) Oppose the use of fish tissue-based criteria in scenarios with active mines.</li> <li>7) Fish tissue-based limits are inappropriate for Clean Water Act enforcement at mines.</li> <li>8) Water column measurements as are used under the current standard are superior to fish tissue concentration measurements.</li> <li>9) Fish tissue testing is more complicated and resource intensive than water column testing.</li> </ol>

	<p>10) Exceedances of fish tissue-based limits may be identified too late to prevent harmful impacts to aquatic life.</p> <p>11) Petitioner is attempting to change the requirements to avoid addressing the selenium pollution problems.</p> <p>12) Ask that DEQ reject this petition and reaffirm the state's existing standard for selenium effluent in the areas named within the petition.</p>
<p>Appalachian Voices</p>	<p>Oppose the use of fish-tissue based criteria in this situation and, while scientifically useful in some scenarios, fish tissue-based limits are inappropriate for Clean Water Act enforcement at mines. Conducting fish tissue testing is much more complicated and resource intensive than water column testing, especially for community members who may want and need to pursue citizen enforcement. Additionally, exceedances of fish tissue-based limits may be identified too late to prevent harmful impacts to aquatic life.</p> <p>States that CJOD operates 3 mines that have reported selenium discharges above the current freshwater chronic criteria for selenium (data from VA Energy online E-Forms Center provided). There is endangered species habitat just downstream of these mines (Big Sandy crayfish) and the United States Fish and Wildlife Service should be consulted regarding the impact of this petition on endangered species and critical habitat.</p> <p>Further state that Virginia should not allow a fish tissue-based criterion when selenium inputs are increasing and the EPA criteria document states that when selenium inputs are increasing, water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. EPA has not specified in its criterion how regulators should determine when a waterbody is subject to new selenium inputs, and therefore when the water column elements should take precedence. Technical Support Materials also fail to provide adequate guidance on this critical issue.</p> <p>The Board should deny Clintwood JOD's petition to implement a site-specific aquatic life ambient criterion for selenium and, instead, Virginia Energy should immediately require Clintwood JOD to come into compliance with the schedule of compliance for selenium, and should implement the normal water column criterion for selenium at the rest of Clintwood JOD's permits.</p>

## ATTACHMENT 4

### Comparison of EPA's Recommended Criterion to Virginia's Criterion

Criterion Version	Chronic					Short-term
	Egg-Ovary (mg/kg dw)	Whole Body (mg/kg dw)	Muscle (mg/kg dw)	Water Lentic (µg/L)	Water Lotic (µg/L)	Water (µg/L)
EPA's 2016 Selenium Criterion	15.1	8.5	11.3	1.5 (30 day)	3.1 (30 day)	Intermittent exposure equation
Virginia's Selenium Criterion	N/A	N/A	N/A	5 (4 day)	5 (4 day)	Acute equation base on water column concentration

A note on hierarchy of table: when fish egg/ovary concentrations are measured, the values supersede any whole-body, muscle, or water column elements except in certain situations. Whole body or muscle measurements supersede any water column element when both fish tissue and water concentrations are measured, except in certain situations. Water column values are derived from the egg & ovary concentrations via bioaccumulation modeling. Water column values are the applicable criterion element in the absence of fish tissue measurements, such as waters where fish have been extirpated or where physical habitat and/or flow regime cannot sustain fish populations, or in waters with new discharges of selenium where steady state has not been achieved between water and fish tissue at the site.