



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Soil and Water Conservation Board
Virginia Administrative Code (VAC) citation	4VAC50-60
Regulation title	Virginia Stormwater Management Program (VSMP) Permit Regulations
Action title	In accordance with the Administrative Process Act exemption requirements specified in §2.2-4006 A9, amend, modify or delete provisions of the regulations related: to the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (4 VAC 50-60-1200 et seq.) [Part XV], to the definitions in the Virginia Stormwater Management Regulations [Part I] necessary to maintain consistency in definitions as a result of changes to the General Permit, and to the associated form(s) [FORMS].
Final agency action date	May 15, 2008
Document preparation date	May 16, 2008

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

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

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

This regulatory action amends the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (small MS4s). This action is authorized under the federal Clean Water Act (33 USC § 1251 et seq.) and the Virginia Stormwater Management Act (§10.1-603.1 et seq.), and is necessary to update and reissue the General Permit, as the current permit expired on December 9, 2007

(coverage under the current permit has been administratively continued until the proposed permit becomes effective for those coverage holders who submitted a registration statement by December 7, 2007). In addition to other goals, the revised regulations serve to advance water quality protections to the maximum extent practicable (MEP), ensure compliance by the MS4 operator with water quality standards, forward water quality improvements where a wasteload allocation from a TMDL has been assigned to an MS4 prior to the effective date of the permit (unless reopened), provide greater clarity to facility operators as how to administer and improve/advance their MS4 programs, allow for greater consistency in program application between facility operators, and specify sampling protocols and necessary reporting requirements where applicable.

The key changes to this permit include:

- 1) Updating and adding needed definitions such as “maximum extent practicable”, “TMDL”, “wasteload allocation”, “water quality standards”, and “MS4 program plan”; PART I [section 10] and PART XV [section 1200].
- 2) Updating exemptions and special situations associated with general permit coverage such as de minimis discharges, discharges resulting from spills beyond the operator’s control, and portions of an MS4 covered under an industrial stormwater discharge VPDES permit; PART XV [section 1220].
- 3) Updating registration statement requirements such as submittal deadlines and filing information (type of facility, HUC codes that receive discharges, acreage of drainage area discharging to impaired waters, and listing any wasteload allocations to the MS4) including specifying the elements of an MS4 Program Plan (proposed BMPs to be implemented, their associated goals, and an implementation schedule that is established by the MS4); PART XV [section 1230].
- 4) Specifying special conditions within the general permit that a regulated small MS4 shall employ if a wasteload allocation (WLA) as part of a TMDL has been assigned to the MS4 prior to the effective date of the permit (unless reopened), including:
 - a. MS4 Program Plan updates within 18 months of permit coverage to include measurable goals, strategies and implementation schedules to address the WLA;
 - b. Development of a schedule to implement procedures and strategies that address MS4 Program weaknesses, such as timetables to update ordinances and legal authorities, BMPs, policies, plans, procedures and contracts to ensure consistency with the assumptions of the TMDL WLA;
 - c. Outfall reconnaissance procedures for outfalls discharging to the surface water for which the WLA has been assigned;
 - d. For operator-owned or operated property not covered under a separate VPDES permit, pollutant identification and sampling procedures; and
 - e. An estimated annual characterization of the volume of stormwater discharged and the quantity of the pollutant identified in the WLA discharged; PART XV [section 1240, SECTION I].

- 5) Specifying that a Municipal Separate Storm Sewer System Management Program shall reduce pollutants from the MS4 to the maximum extent practicable, address impaired waters that the MS4 discharges into, protect water quality, ensure compliance by the operator with water quality standards, and satisfy the appropriate water quality requirements of the Clean Water Act, as well as establish a schedule for MS4 Program Plan Review and submittal; PART XV [section 1240, SECTION II A]
- 6) Clarifying and expanding minimum criteria within the general permit associated with the six minimum control practices which are (PART XV [section 1240, SECTION II B]):
 - a. Public education and outreach;
 - Requires the operator to increase individual and household knowledge of steps to reduce stormwater pollution; increase public employee, business and general public knowledge of the hazards associated with illegal discharges and improper disposal of waste; increase local involvement in water quality improvement initiatives; increase strategies to reach target audiences, with a recommended focus on disadvantaged and minority audiences as well as special concerns related to children, and target strategies towards local groups of commercial, industrial, and institutional entities likely to have stormwater impacts.
 - b. Public involvement/ participation;
 - Requires the operator to promote the availability and provide public notice of the MS4 Program Plan and any modifications for public review and comment, provide public access to the annual report, and to participate in local activities aimed at increasing public participation in the reduction of stormwater pollutant loads and in improving water quality.
 - c. Illicit discharge detection and elimination;
 - Requires the operator to develop, implement and enforce an illicit discharge detection and elimination program, maintain a storm sewer system map, effectively prohibit nonstormwater discharges into the storm sewer system, develop procedures to detect and address nonstormwater discharges, and prevent to the maximum extent practicable the discharge of hazardous substances or oil in stormwater discharges.
 - d. Construction site stormwater runoff control;
 - Requires program consistency with the Erosion and Sediment Control Law and attendant regulations.
 - e. Post-construction stormwater management in new development and redevelopment; and
 - Requires program consistency with the Virginia Stormwater Management Act and attendant regulations.
 - f. Pollution prevention/ good housekeeping for municipal operations.
 - Requires municipal operations to reduce pollutant discharges, eliminate illicit discharges, dispose of waste materials properly, protect soluble or erodible materials from precipitation, apply fertilizers and pesticides

appropriately, and for state agencies to develop and implement nutrient management plans.

- 7) Establishing a program self-evaluation requirement once every 5 years in accordance with EPA guidance; PART XV [section 1240, SECTION II E].
- 8) Clarifying minimum reporting requirements such as submittal of MS4 Program Plan updates, WLA pollutant reduction estimates, number of illicit discharges identified and how they were controlled or eliminated, information regarding new stormwater management facilities brought on line, and a list of agreements with third parties for the implementation of control measures, as well as establishing a time schedule for reporting (by October 1st of each year for the previous July 1 – June 30); PART XV [section 1240, SECTION II E].
- 9) Refining the basic EPA boilerplate language that applies to all VSMP permits; PART XV [section 1240, SECTION III].
- 10) Updating the incorporated General Permit Registration Statement form to track the amended regulation; FORMS.

The amended General Permit will significantly advance protection of Virginia’s waterways and make lasting progress towards achievement of the Commonwealth’s water quality goals.

Statement of final agency action

Please 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.

The Virginia Soil and Water Conservation Board adopted this final regulation, which includes the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems and its associated regulations, all found in the Virginia Stormwater Management Program (VSMP) Permit Regulations (4 VAC 50-60), at its May 15, 2008 meeting.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

It is not anticipated that this regulation will have a direct impact on the institution of the family or family stability. However, improvement of water quality does have positive public health and safety benefits that have an indirect impact on families.