

**Virginia Department of Conservation and Recreation and Virginia Soil and Water
Conservation Board
Proposed Draft Amendments to 4 VAC 50-60-1100 et seq.
General Permit for Discharges of Stormwater from Construction Activities (Part XIV)**

**May 13, 2013 at the Virginia Department of Environmental Quality – Piedmont Regional
Office, 4949-A Cox Road, Glen Allen, VA 23060 (10:00 a.m.)**

Meeting Officer: Michelle Vucci
Policy and Planning Assistant Director
Department of Conservation and Recreation

Opening:

Ms. Vucci: I would like to call to order this public hearing on the Virginia Soil and Water Conservation Board's proposed regulations to reissue the General Permit for Stormwater Discharges from Construction Activities to surface waters in the Commonwealth. I am Michelle Vucci, Policy and Planning Assistant Director for the Department of Conservation and Recreation. I will be serving as today's meeting officer.

I would like to thank the Department of Environmental Quality for allowing us to use this facility.

With me today is Ginny Snead, Regulatory Permits Manager from DCR's Stormwater Management Division, who will serve as our technical presenter; Drew Hammond from the Department of Environmental Quality; and Michael Fletcher our Board and Constituent Services Liaison who will take minutes of this hearing's proceedings. This meeting will be recorded.

I hope that all of you have registered on our attendance list. If not, please do so. Those wishing to speak should note that on the attendance list. Please also make sure that your contact information, including your name and address, is legible and complete as we will be utilizing it to keep you informed on the status of this regulatory action.

Purpose of the public hearing:

The purpose of this hearing is to receive input from interested citizens on the Board's proposed regulatory action during the 60-day public comment period, which opened on April 8, 2013, and closes on June 7, 2013. The Virginia Soil and Water Conservation Board (Board) is considering the reissuance of this General Permit. Regulations developed under the federal Clean Water Act (33 USC §1251 et seq.) and the Stormwater Management Act (§10.1-603.2 et seq. of the Code of Virginia) require that state permits be effective for a fixed term not to exceed five years. The existing 5-year General Permit became effective on July 1, 2009; thus necessitating the promulgation of a new General Permit before the July 1, 2014 expiration date. The Board is considering this action now as the language in the draft regulations may affect the local

ordinances that localities are beginning to develop as part of their stormwater program adoption process. In light of this, the Department is working towards having the regulation completed by late summer or early fall in case the language might affect such ordinances; however, the regulation will have a July 1, 2014 effective date.

In drafting the amendments to the proposed regulations, the Department, on behalf of the Board, used a participatory approach. Following the publication of the Notice of Intended Regulatory Action regarding these regulations and the public comment period on this Notice, the Department formed a Regulatory Advisory Panel to assist in the development of the proposed regulations. The panel was composed of those representing: 1) local governments; 2) conservation organizations; 3) state agencies; 4) federal agencies; 5) planning district commissions; and 6) consulting firms and related associations.

Between August of 2012 and January of 2013, the Panel held seven meetings. Following the completion of the Panel's meetings, the Virginia Soil and Water Conservation Board proposed these regulations at its meeting in February of 2013. Copies of the proposed regulations as published are located on the table near the attendance list.

I would also like to note that the proposed regulations are also undergoing review by the federal Environment Protection Agency during this public comment period. Based upon state requirements in the Administrative Process Act and the federal review process, DCR anticipates that these regulations, in their final form, will be reviewed by the State Water Control Board later this calendar year.

We do want to note that all public comments received at these hearings and during the comment period will be carefully considered in developing final regulations.

This concludes my introductory remarks. At this time, I would like to ask Ginny Snead to provide a summary regarding the content of the regulations.

Ms. Snead: Although many of you here may be already familiar with this proposed regulatory action, for those who are not, we thought it would be useful to provide a brief background on this action and what the key portions of the proposed regulations are. This presentation is a summary and you should consult the hard copy of the regulations for specifics and I would also encourage you to review the fact sheet provided on the back table.

- The key proposed revisions to the general permit include:
 - Updating and adding definitions;
 - Adding language in the registration statement section regarding the use of an electronic database, registration deadlines, and uninterrupted coverage under the 2009 permit; and
 - Adding language in the termination of state permit coverage section regarding the use of an electronic database, reporting requirements for control measures, and information on long-term maintenance of permanent stormwater management facilities.

- The key revisions to the general permit section (4VAC50-60-1170) of the regulations include:

- Revising the permit effective dates;
- Addressing stormwater discharges from new construction activities, previously covered construction activities, and emergency-related construction activities;
- Stipulating that stormwater discharges from support activities may be authorized under certain conditions;
- Combining the “TMDL limitation” and the “Impaired waters limitation” for clarity and to provide consistency with federal standards; and
- Adding an exceptional waters limitation for new discharges to provide consistency with federal standards and with the Commonwealth’s antidegradation policy. The revisions update language to reflect federal Effluent Limitation Guidelines (ELGs) for the Construction and Development Point Source Category. The proposed general permit contains provisions that the Department may take appropriate enforcement action against stormwater discharges that are causing, have reasonable potential to cause, or are contributing to an excursion above any applicable water quality standard.

The proposed general permit regulations allow operators of construction activities that are part of a common plan of development and disturb less than one (1) acre to utilize a Stormwater Pollution Prevention Plan template. There are also added Stormwater Pollution Prevention Plan requirements for stormwater discharges to impaired waters, including nutrient and sediment impairments, and to exceptional waters to provide consistency with the general permit’s limitations on coverage and the Commonwealth’s antidegradation policy. The proposed general permit regulations no longer contain a provision requiring the operator to make the Stormwater Pollution Prevention Plan available on the internet or in hard copy for public review.

More information on these regulatory actions can be found on DCR’s website or the Virginia Regulatory Townhall at the addresses appearing on our handout on the back table. Public comment information is also included in the handout provided.

Ms. Vucci: Before we begin receiving testimony on the proposed regulations, I would like to emphasize that this is an information-gathering meeting where DCR is receiving comment on the regulations on behalf of the Board. DCR will not be responding to any comments or questions received at this meeting but I want to emphasize that every comment received here today will be addressed as these regulations advance to their final stage.

Everyone wishing to speak will be heard. However, at this point no one has indicated a desire to speak. If after this presentation anyone would now like to make comments, please come forward. Once the hearing is adjourned, DCR staff will be available to take any individual questions you may have.

Public Comment

There was no public comment.

Ms. Vucci proceeded with closing remarks.

Closing:

Ms. Vucci: A handout is provided on the table outlining the public comment submittal procedures I am about to cover and the dates and locations of the remaining public meetings.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov/L/ViewStage.cfm?stageid=6516>), or by mail to the Regulatory Coordinator at: Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219. Comments may also be emailed to the Regulatory Coordinator at: regcord@dcr.virginia.gov. Comments may also be faxed to the Regulatory Coordinator at: (804) 786-6141. All written comments must include the name and address of the commenter (e-mail addresses would also be appreciated). In order to be considered, comments must be received by June 7, 2013.

With that announcement, Ms. Vucci thanked those attending the meeting and it was officially closed. Staff was available after the hearing to take individual questions.

Others Present

Trelane Own, Austin Brockenbrough and Associates
Virginia Kelly, Dominion Resources
Debbie Byrd, Goochland County