

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

WORK SESSION

April 8, 2014

4:00 P.M.

-
- A. CALL TO ORDER**
 - B. ROLL CALL**
 - C. BOARD DISCUSSIONS**
 - 1. New Virginia Stormwater Management Program (VSMP) – **pg. 1**
 - 2. Tourism Discussion (*if time permits*)
 - D. ADJOURNMENT** – until Regular Meeting at 7 p.m.

040814bosws-age

MEMORANDUM COVER

Subject: New Virginia Stormwater Management Program (VSMP)

Action Requested: Shall the Board provide guidance on local development and implementation of the new Virginia Stormwater Management Program (VSMP) and a new Virginia Stormwater Management Program ordinance?

Summary: At a work session scheduled for April 8, 2014, Development Management/Engineering and Resource Protection staff will provide an update on progress over the past year on local implementation efforts associated with new Virginia Stormwater Management Regulations and the Virginia Stormwater Management Program (VSMP). These programs are required to be implemented locally due to Commonwealth of Virginia adoption of the Virginia Stormwater Management Act and the Virginia Stormwater Management Program Regulations. Implementation of the new Virginia Stormwater Management Regulations and VSMP is required by localities by July 1, 2014 (FY 15).

A Final Application is required to be submitted by James City County to the State Water Control Board and the Virginia Department of Environmental Quality (DEQ) by May 15, 2014. The final application package is intended to include a locally adopted VSMP ordinance.

Fiscal Impact: New program revenues are generated based on statewide fee schedule and program implementation costs.

FMS Approval, if Applicable: Yes No

Acting Assistant County Administrator

Adam R. Kinsman AK

Acting County Administrator

M. Douglas Powell DP

Attachments:

1. Memorandum
2. Slide presentation
3. DEQ - FAQ fact sheet
4. DEQ - Elements Checklist
5. DEQ - Ordinance Checklist
6. Draft VSMP ordinance
7. Powerpoint - BOS work session from February 26, 2013

WORK SESSION

Date: April 8, 2014

MEMORANDUM

DATE: April 8, 2014

TO: The Board of Supervisors

FROM: Scott J. Thomas, Director of Engineering and Resource Protection

SUBJECT: New Virginia Stormwater Management Program (VSMP)

The purpose of this memorandum is to provide the Board of Supervisors with an update on progress over the past year on local implementation efforts associated with the new Virginia Stormwater Management Regulations and Virginia Stormwater Management Program (VSMP). The most important part of the work session would be to introduce the Board of Supervisors to the current crafted version of the new "Virginia Stormwater Management Program" ordinance. The new ordinance is a required element of a VSMP. A new Statewide fee schedule, which is part of adopted State law and regulations and is included in the current crafted version of the local ordinance, is proposed and staff is prepared to discuss that element with the Board.

The County is required to implement a VSMP and would be known as a VSMP authority. We are required to implement because we are an operator of a Municipal Separate Storm Sewer System (MS4) program, implement a local erosion and sediment control program, and are a Tidewater Virginia community subject to the Chesapeake Bay Act and regulations. Local requirements to implement a VSMP are triggered by the following laws and regulations as adopted by the Commonwealth of Virginia and by recent reissuance of our County (MS4) permit:

- Virginia Stormwater Management Act (VSMA) §62.1-44.15:24 et seq.
- Virginia Stormwater Management Program (VSMP) Regulations 9VAC25-870
- Virginia Erosion and Sediment Control Law §62.1-44.15:51 et seq.
- Virginia Erosion and Sediment Control Regulations 9VAC25-840
- General VPDES Permit for the Discharges of Stormwater from Construction Activities (VAR10) 9VAC25-880 (Construction General Permit)
- General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4/VAR04) 9VAC25-890
- County MS4 Permit, General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems, General Permit No. VAR040037 (five-year permit coverage to expire June 30, 2018)

Revisions to Virginia Stormwater Management Regulations and generation of the current VSMP have been in process since 2005 by the State and continue to date. Revision of the regulations is part of commitments made by the Commonwealth in the Virginia Phases 1 and 2 Watershed Implementation Plans (WIPs) to address Chesapeake Bay Total Maximum Daily Load (TMDL) requirements. The regulations and VSMP stress property protection, runoff reduction, and consolidation of State-local programs. The new regulations were adopted by the Virginia Soil and Water Conservation Board on May 24, 2011, and signed into law effective September 13, 2011, nearly three years ago now.

By adopted State law and regulations, implementation by the County was originally required by June 13, 2013. However, there were provisions in the law/regulations which allowed an extension of 12 months to July 1, 2014 (FY 15). In order to obtain the extension, the County was required to submit a minimum Substantive Progress Application (SPA) to the Virginia Soil and Water Conservation Board and the local regional office of the Virginia Department of Conservation and Recreation (VDNR) by April 1, 2013. In advance of this

New Virginia Stormwater Management Program (VSMP)

April 8, 2014

Page 2

submittal deadline, County staff provided a briefing to the Board of Supervisors at a work session on February 26, 2013.

The minimum SPA submittal was made to the State prior to the April 1, 2013, deadline. The submittal consisted of three items: a narrative which included identification of the responsible local authority for the program; a preliminary/draft ordinance, and a draft funding and staffing plan. On August 6, 2013, the County was informed by the Virginia Department of Environmental Quality (DEQ) that the minimum SPA submittal was satisfactory and a one-year extension for further program development was granted. The granting of the one-year extension allowed staff more time to further refine the draft ordinance based on the model and guidance provided by the State and to work on other required program elements.

The next milestone progress application date for the County was January 15, 2014. For this deadline, a *Preliminary-Final Application* (PFA) progress submittal was due to the State Water Control Board and the Virginia DEQ. The County made this application prior to the deadline. The submittal consisted of the following items: a narrative which included identification of the responsible local authority for the program; a required program elements checklist; a required ordinance checklist; a preliminary/draft ordinance, a draft funding and staffing plan; and copies of sample developed program materials such as applications, checklists, agreements, inspection forms, etc. On February 11, 2014, the County received notification from the Virginia DEQ that the preliminary-final application submittal was satisfactory in content and completeness and they would continue to review and comment on specific elements of the program package, including program related materials.

For both of the progress submittals (SPA and PFA), draft ordinances were provided. The drafts were placeholder in nature and were crafted using model “template” ordinances as supplied by the State. It was clearly designated in the narratives provided with the progress submittals that the draft ordinance components were “not yet adopted locally” and still needed to go through the local elected official review and public comment process. The draft ordinance provided in the PFA, and that is attached in this BOS packet, contains all the required ordinance components as mandated by the state using the state model ordinance and checklist. One of the reasons why the DEQ local ordinance checklist was provided in Attachment 5 is to show the minimum mandated requirements of the ordinance. However, the draft ordinance as submitted to the Virginia DEQ in the PFA and as provided in the BOS packet in Attachment 6 does contain some additional elements beyond the state model ordinance template and beyond the state issued checklists. These additional element items are specific to the programs of James City County and are based on programmatic erosion and sediment control and stormwater management policies developed over the years and in order to avoid confusion and conflict with other programs and ordinances. Importantly, they also provide flexibility to the development community. The need for these additional existing element additions were discussed at the February 26, 2013 BOS work session (slide 16). In general, these additional elements, beyond the state model and checklists, include the following:

- Minor single word or phrase changes to ensure the new ordinance uses local terminology and is consistent with current County erosion and sediment control and/or Chesapeake Bay Preservation ordinance language.
- Changes due to December 2013 state water control board amendments to E&S, VSMP, Chesapeake Bay Preservation and Construction General Permit regulations, including law (act) and regulation citation changes and other wording changes.
- Additional definitions, beyond the state required “33”, were provided for clarity purposes so that other local ordinances or state laws/regulations do not have to be referenced.
- Expanded exemptions, beyond the state required “8”, to provide flexibility to the development community and County on small scale private and municipal projects.

New Virginia Stormwater Management Program (VSMP)

April 8, 2014

Page 3

- The requirement for the County to review and approve developed pollution prevention plans (PPP) which are required as part of an overall stormwater pollution prevention plan SWPPP.
- Additions to the stormwater management plan checklist, specific to James City County, to ensure consistency with current County checklist and program requirements.
- The addition of the need for construction certifications in addition to construction record (asbuilt) drawings, to be consistent with current County program requirements.
- The addition of the need for record drawing and construction certifications for permanent stormwater conveyance systems to be consistent with current County stormwater facility inspection program requirements (since 2008)
- The addition of an internal closed-circuit television (CCTV) post installation inspection program component, for stormwater facilities, as a part of the record drawing (asbuilt) and construction certification program.
- References to County E&S ordinance for current erosion and sediment control plan review and inspection fees and to the Subdivision and Zoning ordinances for current stormwater facility inspection fees.

Under the provisions of the Clean Water Act and The Environmental Protection Agency (EPA) administered National Pollutant Discharge Elimination System (NPDES) program, general permit issuance and statutory authority for the VSMP program resides with the Commonwealth of Virginia through the State Water Control Board and the Virginia DEQ. This authority cannot be transferred to municipalities. However, localities are required by the State to administrate and enforce many provisions of the VSMP. The County has historically already performed many of the required VSMP elements because of our local erosion and sediment control, Chesapeake Bay Preservation Area, and MS4 permit program efforts; however, some of the new VSMP elements will be new for the County especially enhanced program administration duties using a State developed E-permit system, review of Stormwater Pollution Prevention Plans (SWPPPs) which now include a Pollution Prevention Plan (PPP) component, different compliance inspection protocols, and yearly status reporting.

Toward the end of 2013, there was talk that the State legislature may extend the deadline for local implementation. This has not happened. Local implementation is still required by July 1, 2014 (FY 15). A *Final Application* (FA) submittal package is due to the State Water Control Board and Virginia DEQ by May 15, 2014. The final application package is intended to include a locally adopted ordinance.

Accelerated work is now needed to make progress on the new local VSMP ordinance through the public and elected official review and adoption process prior to the next submittal deadline of May 15, 2014, and in order to meet the target local implementation date of July 1, 2014 (FY 15).

New Virginia Stormwater Management Program (VSMP)

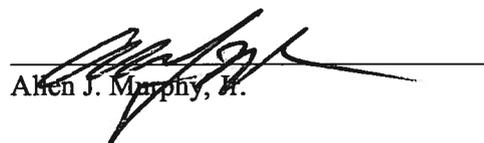
April 8, 2014

Page 4



Scott J. Thomas

CONCUR:



Allen J. Murphy, II

SJT/gb

VSMP-New-mem

Attachments



***New Virginia Stormwater
Management Program
(VSMP)***

BOS Work Session
April 8, 2014




1

New Virginia Stormwater Management Program



Agenda:

- Overview progress of the past year
- Notable differences/changes compared to current program
- Introduction to new ordinance draft
- Statewide adopted fee structure
- Questions, discussions and direction from the Board



April 8, 2014 Engineering and Resource Protection

2

New Virginia Stormwater Management Program



Progress Over the Past Year:

- BOS Work Session held on February 26, 2013
- Minimum *Substantive Progress Application* (SPA) submittal was made to the state by the April 1, 2013 deadline. Components included:
 - Cover letter requesting one (1) year extension
 - Program narrative and identification of responsible local program authority
 - Preliminary draft ordinance (not adopted, based on state model ordinance)
 - Draft funding and staffing plan
- State programs transition from Virginia Soil & Water Conservation Board and Virginia DCR to State Water Control Board and Virginia DEQ on July 1, 2013

April 8, 2014

Engineering and Resource Protection

3

New Virginia Stormwater Management Program



Progress Over the Past Year:

- County reissuance of MS4 Permit VAR040037, July 2013
- DEQ informs County that SPA submittal is satisfactory on August 6, 2013 and one-year extension for further program development is granted
- Staff attends series of DEQ sponsored trainings (July – December 2013)
- State Water Control Board amendments to regulations on December 17, 2013

April 8, 2014

Engineering and Resource Protection

4

New Virginia Stormwater Management Program



Progress Over the Past Year:

- *Preliminary – Final Application* (PFA) submittal was made to the state by the January 15, 2014 deadline. Components included:
 - Cover letter and program narrative identifying responsible local program authority
 - DEQ Required Program Elements Checklist
 - DEQ Local Ordinance Checklist
 - Preliminary/draft ordinance (not adopted, based on state model and guidance)
 - Revised draft funding and staffing plan
 - Other program materials

- DEQ informs County that PFA submittal is satisfactory on February 11, 2014. Content and completeness is acceptable, will continue review on program materials

April 8, 2014

Engineering and Resource Protection

5

New Virginia Stormwater Management Program



Notable Differences/Changes Compared to Current Program:

- Regulations are equal if not slightly better than current criteria.
- Based on sound science and current treatment technologies.
- The County has many of the required elements in place now.
- Expect reduction in legislative case proffers or conditions.
- New administrative and state E-permit process (registration).
- Use of the new Virginia Runoff Reduction Method (VRRM).

April 8, 2014

Engineering and Resource Protection

6

New Virginia Stormwater Management Program



Notable Differences/Changes Compared to Current Program:

- Managed turf is now considered a pollutant load generator.
- New state water quality criteria.
- Expanded BMP list and “levels” of design.
- New offsite compliance option for water quality.
- New water quantity control criteria.
- New modern BMP clearinghouse website and state SWM Handbook.

April 8, 2014

Engineering and Resource Protection

7

New Virginia Stormwater Management Program



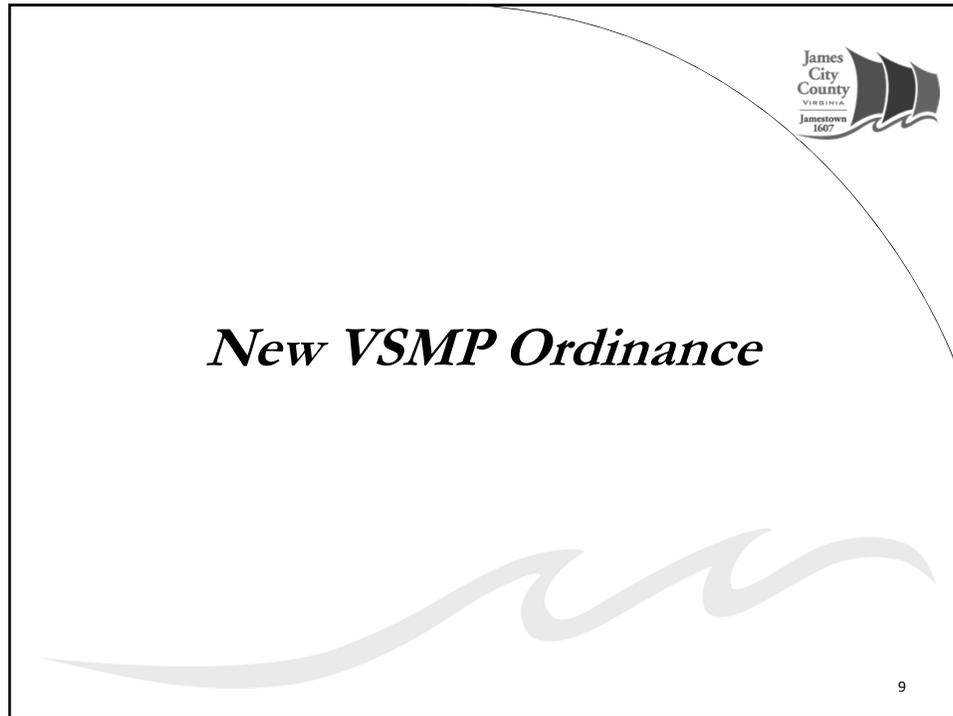
Notable Differences/Changes to Current Program:

- New *Stormwater Pollution Prevention Plan* terminology
- *Pollution Prevention Plan* requirements for local staff.
- New administrative completeness check (15 days).
- New stormwater training and certification requirements.
- New compliance inspection and enforcement provisions.
- New program reporting and record keeping aspects.
- New fee structure (adopted as part of the state law/act/regulations and included in the state model ordinance template).

April 8, 2014

Engineering and Resource Protection

8



 This slide features the James City County logo in the top right corner, which includes the text "James City County VIRGINIA Jamestown 1607" and a stylized ship icon. The main title "New Virginia Stormwater Management Program" is centered in a bold, italicized serif font. Below the title is the section header "Introduction to Draft Ordinance:" in a bold, italicized serif font. A bulleted list follows, detailing the ordinance's origin and requirements. A decorative wavy line is positioned at the bottom of the slide. The date "April 8, 2014" is in the bottom left, and "Engineering and Resource Protection 10" is in the bottom right.

New Virginia Stormwater Management Program

Introduction to Draft Ordinance:

- Full copy provided in agenda packet (Attachment 6)
- New County ordinance (Virginia Stormwater Management Program ordinance)
- Created from state model ordinance and other state guidance materials
- Ordinance is a required element of local VSMP program
- Ordinance contains all required elements from law, regulations, and guidance
- Presented as placeholder in two previous progress submittals to the state
- Approved by the state in the two progress submissions
- Refers to all current amended law and regulation citations
- Includes an "Additional Element Addition" by County staff for CCTV inspections
- Statewide adopted fee schedule included in the ordinance
- More work needed on program materials and guidelines as referenced in ordinance

April 8, 2014 *Engineering and Resource Protection* 10



Fee Discussions

11



New Virginia Stormwater Management Regulations

- **Continued Recommendations on Fees:**

(Note: Consistent with previous BOS work session and two progress submittals to the state)

- Maintain current - existing County fees
- Adopt statewide VSMP fee schedule in accordance with most current law & regulations and the model ordinances and guidance.
- Provides equilibrium with neighboring Bay Act communities and consistency for development community.
- Allows for collection of revenue for duties/tasks performed that historically did not generate revenue before (ie. SWM plan review)

February 26, 2013 Engineering and Resource Protection 12

New Virginia Stormwater Management Program



Current Local Program Fees:

- E&S plan review/inspection
- Stormwater facility installation & inspection (milestones, 2008)
- Bay Act Program (started 2008)

Currently, state VSMP registration and fee collection are independent of the County E&S plan review and land-disturbing permit process. The Commonwealth administrates the current VSMP program. Current fee tiers are \$200 (2,500 sf – 1 acre); \$450 (1 acre – 5 acres); and \$750 (5 acres or >)

New VSMP Program Registration Fees:

- Fees for permit registration (coverage)
- Fees for permit modification or transfer
- Fees for permit annual maintenance (ie. permit renewals)

April 8, 2014

Engineering and Resource Protection

New Virginia Stormwater Management Program



CONDENSED SUMMARY OF STATE-WIDE ADOPTED VSMP FEE SCHEDULE

- Registration (coverage) fees shared with state (72% to locality; 28% to Commonwealth). Other fees go directly to locality.
- Table produced from combination of information from 9VAC25-870-820 through 830 as adopted by State Water Control Board on December 17, 2013.

Project Disturbance	Registration/ Coverage	Modification/ Transfer	Annual Permit Maintenance
CBPA: 2,500 sq. ft. to 1 acre	\$290 (State portion \$0)	No tier \$20 for less than 1 acre	\$50
Less than 1 acre	\$290 (State portion \$81)	\$20	\$50
1 acre - 5 acres	\$2,700 (State portion \$756)	\$200	\$400
5 acres – 10 acres	\$3,400 (State portion \$952)	\$250	\$500
10 acres - 50 acres	\$4,500 (State portion \$1,260)	\$300	\$650
50 acres - 100 acres	\$6,100 (State portion \$1,708)	\$450	\$900
Greater than 100 acres	\$9,600 (State portion \$2,688)	\$700	\$1,400



*Questions, Discussions and
Direction from the Board*



Virginia Stormwater Management Program (VSMP) Frequently Asked Questions (FAQ)

Revisions to the Virginia Stormwater Management Regulations (SWM) (effective September 13, 2011) are an important part of the state's efforts to protect the quality of state waters and the Chesapeake Bay. During its 2012 session, the General Assembly passed legislation that requires localities throughout the state, except for towns that are not holding Municipal Separate Storm Sewer System (MS4) permits, to adopt local Virginia Stormwater Management Programs (VSMPs).

This FAQ, the second in a series of FAQs regarding the VSMP program, is intended to assist localities in developing their local VSMP programs. While it does not answer every possible question, it does address those questions which get raised frequently. If you have additional questions, please contact the DEQ regional office that covers your area. A link to contact information and the coverage of those offices can be found at the following location on our website: <http://www.deq.state.va.us/Locations.aspx>

1. What is the deadline for a locality to adopt the local VSMP and to whom should all required documents be submitted?

Preliminary final versions of the VSMP application package, including a funding and staffing plan, ordinance and policies and procedures to administer the program, are to be sent to the DEQ regional office by January 15, 2014. Final packages are due to the regional office by May 15, 2014. Please note that these dates reflect a revision to the previous adoption schedule.

2. Which localities (counties, cities and towns) have to adopt a local VSMP program?

All localities in the Commonwealth, excluding towns (unless such towns operate a regulated MS4) are required to adopt a VSMP program that is consistent with the stormwater management regulations and the 2014 General Permit for Discharges of Stormwater from Construction Activities.

3. What are the consequences if a locality that is required to adopt a VSMP chooses not to adopt?

The Stormwater Management Act passed by the General Assembly requires all counties, cities and MS4 towns to adopt a VSMP. DEQ's efforts are focused on providing assistance to local governments that are required by state law to adopt programs. DEQ envisions that every locality required to adopt a program will do so.

In the event that a locality fails to adopt a VSMP, such locality would be in violation of VA Code § 62.1-44.15:27 and subject to informal and formal enforcement methods.

4. Does a VSMP authority that has a town or towns within its jurisdiction have to include language in its VSMP ordinance stating that the ordinance covers those towns that are not adopting their own VSMP programs?

9VAC25-870-150 of the VSMP regulations requires counties with towns lying within their jurisdiction to account for those towns in the developing of their VSMP program. DEQ interprets this provision to allow the County VSMP to account for the towns through their ordinances, plans, policies or procedures. However, a locality may choose to add general verbiage in their ordinance indicating that the ordinance applies to all towns in their jurisdiction (unless the town is adopting its own program). It is further recommended that if a County has either a town that has chosen to adopt its own program or one that must adopt because it is an MS4, the ordinance should be sure to state that it does not apply to that town.

5. Is a locality required to include civil penalties in its ordinance as an enforcement measure?

Yes. Virginia's construction stormwater program is delegated to the Commonwealth by the Environmental Protection Agency under the Clean Water Act. To maintain this delegation, the program must meet certain minimum requirements, which include provisions for civil penalties. The Stormwater Management Act, § 62.1-44.15:48, authorizes a VSMP authority to issue summons for the collection of civil penalties and provides that such action may be prosecuted in the appropriate court. Further, 9VAC25-870-148 A lists enforcement procedures and civil penalties as one of the items that must be incorporated into a local stormwater program. Subsection B of that section further states that enforcement and civil penalties shall be adopted and enforced through a locality's ordinance. Finally, 9VAC25-870-116 C (Enforcement) authorizes a locality's VSMP authority to impose a maximum penalty of up to \$32,500 per violation per day.

6. Does DEQ have specific inspection frequency recommendations for local SWM inspections since there are none specified in the regulations? Will once every month or two be deemed sufficient, even though some of the requirements that localities are expected to enforce specify more frequent efforts (i.e., an operator must inspect once every 7 days or within 48 hours of a rainfall)?

Please review pages 56 and 57 of the background document (link shown below) in support of the regulatory amendments related to general permit fees. This document discussed the allocation of four inspections per year per project including annual BMP inspections as one of the assumptions used to develop the fee schedule. It is important to point out that the Regulations provide for local flexibility in terms of the frequency of inspections. Locally adopted inspection program should describe the inspection frequency selected by the locality and how the inspection schedule demonstrates compliance with the provisions of 9VAC25-870-114

(Inspections). http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\116\1915\5106\AgencyStatement_DCR_5106_v1.pdf

7. Do single family residential lots need to obtain VSMP permit coverage?

Yes. Under § 62.1-44.15:34 of the Stormwater Management Act, single family lots meeting the following criteria must obtain coverage under the Construction General Permit:

- a) There will be one acre or greater of land disturbance; and
- b) The lot is within a common plan of development or sale that is greater than an acre.

Amendments to the 2014 Construction General Permit were approved by the Virginia Water Control Board on December 17, 2013 to provide for a streamline process for lots within a common plan of development or sale greater than an acre. Such lots are no longer required to submit a registration statement and do not have to pay the state's portion of the State Fee Scheduled. DEQ has developed a user-friendly "template" SWPPP for developers of lots in common plans of development.

8. When are additional control measures that address particular TMDLs and associated pollutants required in a Stormwater Pollution Prevention Plan (SWPPP) for a construction activity? What are those additional control measures?

Operators must develop, implement, and maintain a SWPPP that minimizes the pollutants of concern (i.e., sediment or a sediment-related parameter or nutrients) when discharging to surface waters identified as impaired on the 2012 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL has been approved prior to the term of this general permit. Implementation and maintenance of erosion and sediment controls in accordance with an approved Erosion and Sediment Control Plan or an “agreement in lieu of a plan” will minimize (i.e., reduce or eliminate) the discharge of (i) sediment or a sediment-related parameter or (ii) nutrients from construction activities. Upon obtaining coverage under the 2014 Construction General Permit, DEQ will determine if the land disturbing activity will discharge to a TMDL water body and identify any additional measures needed to address the TMDL. In addition, operators must also (i) apply permanent or temporary soil stabilization to denuded areas within 7 days after final grade is reached on any portion of the site, (ii) apply nutrients in accordance with manufacturer’s recommendations or and approved nutrient management plan and not during rainfall events, and (iii) perform site inspections at a frequency of at least once every 4 business days or, at least once every 5 business days and no later than 48 hours following a measurable storm event.

9. How will a locality know whether a project will discharge to a water body with an established TMDL and when to apply the additional control measures discussed in question 7 above?

Upon obtaining coverage under the 2014 Construction General Permit, DEQ will determine if the project site land disturbing activity will discharge to a TMDL water body and identify any additional measures needed to address the TMDL.

10. § 62.1-44.15:45 states that VSMP authorities holding hearings shall do so in a manner consistent with § 62.1-44.26, (which requires that a verbatim record of the proceeding be taken). Can a voice recording constitute compliance with the “verbatim record” requirement?

Yes, as such recordings do record everything that is actually stated at the hearings.

11. § 62.1-44.15:45 of the Stormwater Management Act states that VSMP authority hearings shall be conducted in a manner consistent with § 62.1-44.26 A. of the Water Control Law, which states that formal hearings may be conducted by the “Board itself at a regulator or special meeting of the Board, or by at least one member of the Board designated by the chairman to conduct such hearings on behalf of the Board.” The Board referenced in this section is the Virginia Water Control Board. What local Board or other person or entity should conduct such hearings?

The intent of § 62.1-44.15:45 is that a locality establish a formal process where a presentation of the facts and a review of a decision or decisions can be carried out. This formal process is intended to provide relief at the local level and, in some cases, may preclude an aggrieved party having to go to court for relief. The locality’s options for complying with this requirement may include: a) the use of a locality’s existing, or establishment of a new, administrative review process consistent with the guidelines below, carried out by local staff or an elected local official; b) adding VSMP hearing duties to the duties of an existing Board (i.e. Wetlands Board or Bay Act Board); or c) establishing a new Board whose sole responsibility would be to hear VSMP appeals. Whatever option is chosen, the criteria for the conduct of such proceedings is provided for in 62.1-44.26 A. Those criteria establish that:

- a.** The hearing should be a formal proceeding; and
- b.** That a verbatim record be taken.

DEQ further recommends that the party conducting the hearing is an individual or individuals not involved with the original decision.

Note: a local Board of Zoning Appeals may not conduct these required hearings unless the local stormwater ordinance is incorporated into the local zoning ordinance. BZAs are authorized by State law to conduct hearings and appeals for zoning ordinances only.

12. How will requests for the reissuance of permits for existing, permitted projects that are not yet complete be processed?

DEQ will process and reissue coverage under the 2014 construction general permit to construction activity operators authorized to discharge under the 2009 construction general permit, and who intend on continuing coverage under the 2014 construction general permit. For this reissuance, DEQ will assess and collect the applicable “total fee to be paid by applicant” as established in 9VAC25-870-820 of the VSMP Regulations. Following reissuance, DEQ will retain the “Department portion of total fee to be paid by applicant” as established in 9VAC25-870-820 of the VSMP Regulations. The remaining balance will be remitted to the applicable VSMP authority for compliance and enforcement of the reissued permits. At this time, DEQ has not established the mechanism(s) or timing in which permit fee balances will be remitted to the VSMP authorities.

13. How is “Common Plan of Development” defined? For existing common plans of development, how far back is a locality expected to apply the VSMP requirements?

9VAC25-870-10 (Definitions) of the VSMP regulations describes a common plan of development as “a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.” Examples of these “common plans of development” meeting this definition include site plans and subdivision plans as defined in § 15.2-2201 (Definitions) of the Planning, Subdivision of Land and Zoning chapter of the Code of Virginia, or as defined by a locality in an ordinance adopted pursuant to this chapter.

For the purposes of the VSMP regulations (9VAC25-870), individual lots within existing residential, commercial or industrial site plans and subdivision plans that were platted prior to July 1, 2004 may be considered separate land-disturbing activities. This is the date that provisions for common plans of development were first incorporated into the Virginia Stormwater Management Act. Previous to that date, the term was not used or defined. Lots within such platted plans or subdivisions that disturb less than one acre do not have to obtain coverage under 2014 Construction General Permit. Lots within such platted plans or subdivisions that disturb one acre or greater would have to obtain coverage under the 2014 Construction General Permit.

This interpretation of a Common Plan of Development is intended to address circumstances such as infill lots in older, residential, commercial or industrial subdivisions, including the development of out-parcels within commercial sites. It is not intended to supersede recent regulatory changes regarding grandfathered projects and the time limits of applicability for the technical criteria in the VSMP regulations.

VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP)

REQUIRED ELEMENTS OF LOCAL VSMP & APPLICATION PACKAGE

Locality: _____
 Reviewer: _____
 Date: _____

To facilitate review of the local Virginia Stormwater Management Program (VSMP) application package, the following information is necessary. This checklist is intended to be used to provide a locality with a list of items, documents and procedures that must be submitted to Department of Environmental Quality (DEQ) staff in order for the Virginia Water Control Board (Board) to approve the local VSMP. All items listed are requirements in the Virginia Stormwater Management Program (VSMP) Permit Regulations and the Virginia Stormwater Management Act.

VSMP Application Package Components – 9VAC25-870-150 - Authorization procedures for Virginia stormwater management programs.

The following are the items that must be submitted by localities required to adopt a VSMP in accordance with § [62.1-44.15:27](#) of the Code of Virginia or towns electing to adopt their own VSMPs as part of the application package:

1. The draft VSMP ordinance(s) as required in 9VAC25-870-148;
2. A funding and staffing plan;
3. The policies and procedures including, but not limited to, agreements with Soil and Water Conservation Districts, adjacent localities, or other public or private entities for the administration, plan review, inspection, and enforcement components of the program; and
4. Such ordinances, plans, policies, and procedures must account for any town lying within the county as part of the locality's VSMP program unless such towns choose to adopt their own program.

The information referenced under “information needed for review” is to be provided by local staff. Local staff should replace the description of information requested in the “Local Staff to Provide” column with the location, local ordinance citation, or brief summary of requested information.

Item #	Code/Regulatory citation	Information needed for review	Local Staff to Provide	DEQ Staff Review of Information from Locality
1.	62.1-44.15:27 E 9VAC25-870-150.A.1	Copy of the final draft of the local Stormwater Management Ordinance (s).	<i>Local staff should provide a copy of the most recent Stormwater Management Ordinance(s) that is consistent with the VSMP regulations. The DEQ Model Ordinance may be used as guidance in developing the ordinance.</i>	Ordinance provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
2.	9VAC25-870-150.A.2	Funding and staffing plan.	<i>Local staff should provide a description of staffing (i.e. # of new positions, estimation of percentages of existing positions, etc.) needed to operate the SWM Program along with a discussion of how the locality determined the staffing levels needed. Local staff should also provide a description of where funding for staff will come from and how funds will be distributed.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
3.	62.1-44.15:27 A 9VAC25-870-150.A.3	Is the locality partnering with adjacent localities or other entities for the administration, plan review, inspection and enforcement components of a stormwater management program?	<i>If yes, local staff should provide a copy of the agreement, Memoranda Of Understanding (MOUs), or contracts used to develop and administer the multi-jurisdictional program.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Comments:
4.	9VAC25-870-150.A.4	Ordinance language, policies and procedures that account for any town lying within the county as part of the locality's VSMP program unless such towns choose to adopt their own program.	<i>County staff shall ensure that towns lying within their boundaries are included in their local VSMP program, unless the town adopts its own VSMP program. NOTE: Will only apply to counties.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Comments:
5.	62.1-44.15:33	Identification of any provisions of a local stormwater management program in existence before January 1, 2013	<i>§62.1-44.15:33 of the Stormwater Management Law specifies that localities are authorized to adopt criteria that are more stringent than those</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

		that contains more stringent provisions than the current VSMP regulations.	<i>contained in the VSMP regulations, but that such criteria must be based on findings from regional watershed studies, findings developed through the implementation of an MS4 permit which determine that the more stringent criteria are necessary for the protection of water resources, and reported to the Board. However, more stringent provisions in effect before January 1, 2013 are exempt from this requirement but must be reported to the Board with the submittal of the VSMP approval package. <u>Local staff should verify and provide documentation of the date any more stringent stormwater management criteria were adopted.</u></i>	Comments:
6.	9VAC25-870-148.A.1	Identification of the authority accepting complete registration statements, and of authorities completing plan review, plan approval, inspection and enforcement.	<i>Local staff should identify the responsible authorities for these identified functions.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
7.	9VAC25-870-148.A.2	Identification of ordinance language and processes for the review and approval of erosion and sediment control and stormwater management plans.	<i>Local staff should provide documentation of processes and procedures for erosion & sediment control and stormwater management plan reviews.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
8.	9VAC25-870-148.A.4 9VAC25-870-114	Identification of inspection program for land disturbing activities.	<i>Local staff should provide a description of and policies and procedures for the inspection of land disturbing activities.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Comments:
9.	9VAC25-870-112 9VAC25-870-148.A.5	Identification of requirements for the long term inspection and maintenance of BMPs.	<i>Local staff should identify where the specific requirements for long term maintenance of BMPs are located within the local Stormwater Management Ordinance(s) and provide policies and procedures to administer these</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

			<i>requirements. Local staff should also provide description of procedures to track BMPs and ensure BMP maintenance through a recorded instrument.</i>	
10.	9VAC25-870-148.A.6 9VAC25-870-700 9VAC25-870-800	Identification of location of fee structure and if the fee structure differs from the statewide fee schedule.	<i>Local staff should identify where the fee structure is located, either within the local Stormwater Management Ordinance or elsewhere, if applicable. If the local VSMP has determined to lower the fees established in 9VAC25-870-800, the locality must demonstrate through documentation, that they will be able to administer all elements of the VSMP with the reduced fees. If the locality chooses to increase fees, the locality must demonstrate through documentation, that the greater fees are necessary to administer the program.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
11.	9VAC25-870-148.A.7 9VAC25-870-116	Explanation of local enforcement for stormwater management program.	<i>Local staff should provide description of enforcement provisions and any procedures developed to conduct enforcement.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
12.	9VAC25-870-148.A.8	Identification of policies/procedures for obtaining and releasing bonds as applicable.	<i>Local staff should provide the location of any procedures for obtaining and releasing bonds, either within the local Stormwater Management Ordinance(s) or elsewhere. Note: having procedures for the obtaining and release of bonds is an option for localities.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Comments:
13.	9VAC25-870-148.A.9 9VAC25-870-126	Identification of procedures for reporting and recordkeeping.	<i>Local staff should provide procedures for record keeping in accordance with 9VAC25-870-126 of the regulations.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

Other supporting documentation

14.	9VAC25-870-65	Copy of BMP design criteria.	<i>Local staff should provide description and copy of local BMP design criteria that are consistent with the design criteria set forth 9VAC25-870-63 of the regulations. If the locality proposes to allow BMPs differing from those listed in the regulations, documentation that these BMPs were approved by the Director in accordance with procedures established by the BMP Clearinghouse Committee and approved by the Board must be provided.</i>	Information provided? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
-----	-------------------------------	------------------------------	--	--

The following is to be completed by DEQ staff.

15.	Is the local Erosion and Sediment Control program consistent as defined in 62.1-44.15:54.D?	<i>DEQ staff should verify status in advance and note here prior to sending to local contact.</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
16.	a. Is the locality within Tidewater Virginia as defined in the Chesapeake Bay Preservation Act? b. If so, is the local Bay Act program consistent and compliant?	<i>DEQ staff should verify status in advance and note here prior to sending to local contact.</i>	a. Yes <input type="checkbox"/> No <input type="checkbox"/> Comments: b. Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
17.	Is the locality an MS4 locality?	<i>DEQ staff should verify status in advance and note here prior to sending to local contact.</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) LOCAL ORDINANCE CHECKLIST

December 20, 2013

Locality: _____

Reviewer: _____

Date: _____

Virginia local governments that adopt a Virginia State Water Control Board (Board) approved Virginia Stormwater Management Program (VSMP) must develop local ordinances that incorporate specific components of the Virginia Stormwater Management Act and Virginia Stormwater Management Program (VSMP) Regulations. The Department has developed this VSMP Local Ordinance Checklist as a tool to assist Regional Office staff and local governments in the development and review of local SWMP ordinances. It was developed using the DCR Stormwater Management Model Ordinance as a template for organization and minimum requirements. We recommend that the Virginia Stormwater Management Act and the VSMP Permit Regulations be used when reviewing local stormwater ordinances. The relevant code and/or regulatory citations are included to provide the reviewer with the actual regulatory requirement and language.

1-1. PURPOSE AND AUTHORITY

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
1	9VAC25-870-20	Purpose: Describes purpose of local VSMP ordinance.	Verify that purpose of the ordinance is described: provides the framework for the administration, implementation and enforcement of the provisions of the Virginia Stormwater Management Act and delineates the procedures and requirements to be followed in connection with permits issued by the local VSMP authority.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
2	62.1-44.15:27	Establishes requirement for localities to establish a stormwater management program.	Ensure reference to 62.1-44.15:27 is given.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-2. DEFINITIONS

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
3	9VAC25-870-10	Definitions: The Model Ordinance includes 33 definitions necessary for inclusion in a local storm water	The reviewer should ensure that these 33 definitions are included in the local ordinance. Additional definitions may be included but should be reviewed against the Regulations. All		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

	ordinance.	definitions should be consistent with the Regulations. Ensure that any references to DCR are changed to DEQ.		
--	------------	--	--	--

1-3. STORMWATER PERMIT REQUIREMENT; EXEMPTIONS

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
4	62.1-44.15:34 A	Requires a VSMP authority permit to be issued prior to the commencement of land disturbance.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
5	9VAC25-870-51	Outlines specific technical criteria and administrative requirements land disturbing activities subject to the Chesapeake Bay Preservation Act must meet.	Ensure ordinance states that Chesapeake Bay Act land disturbing activities do not require completion of a registration statement or require coverage under the General Permit but shall be subject to the technical criteria and program and administrative requirements in 9VAC25-870-51. Determine if all 9 technical criteria/administrative requirements are specified in the local ordinance: 1. Erosion and sediment control plan 2. Stormwater management plan 3. Exceptions may be requested 4. Long-term maintenance of stormwater management facilities 5. Water quality design criteria 6. Water quality compliance 7. Channel protection and flood protection 8. Offsite compliance options available 9. Subject to design storm and hydrologic methods, linear development controls, and criteria associated with stormwater impoundment structures or facilities		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Technical criteria/administrative requirements specified? 1. Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Yes <input type="checkbox"/> No <input type="checkbox"/> 4. Yes <input type="checkbox"/> No <input type="checkbox"/> 5. Yes <input type="checkbox"/> No <input type="checkbox"/> 6. Yes <input type="checkbox"/> No <input type="checkbox"/> 7. Yes <input type="checkbox"/> No <input type="checkbox"/> 8. Yes <input type="checkbox"/> No <input type="checkbox"/> 9. Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
6	62.1-44.15:34 C	Lists 8 activities that are exempt under the Regulations.	Must be phrased exactly like the Code to ensure proper interpretation. Determine if all 8 activities are specified in the local ordinance: 1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45:1;		Exempt activities specified? 1. Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Yes <input type="checkbox"/> No <input type="checkbox"/> 4. Yes <input type="checkbox"/> No <input type="checkbox"/> 5. Yes <input type="checkbox"/> No <input type="checkbox"/> 6. Yes <input type="checkbox"/> No <input type="checkbox"/>

			<p>2. Clearing of lands specifically for agricultural purposes and the management, tilling, planting or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1 – 1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in subsection B of §10.1-1163;</p> <p>3. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures. However, localities subject to the Chesapeake Bay Preservation Act (§62.1-44.15:67 et seq.) may regulate these single family residences where land disturbance exceeds 2,500 square feet;</p> <p>4. Land disturbing activities that disturb less than one acre of land area except for land disturbing activity exceeding an area of 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC 25-830) adopted pursuant to the Chesapeake Bay Preservation Act (§62.1-44.15:67 et seq.) or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance; however, the</p>		<p>7. Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>8. Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comments:</p>
--	--	--	--	--	--

			<p>governing body of any locality that administers a VSMP may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;</p> <p>5. Discharges to a sanitary sewer or combined sewer system;</p> <p>6. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;</p> <p>7. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection;</p> <p>8. Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VSMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity.</p>		
--	--	--	---	--	--

1-4. STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
7	62.1-44.15:34 9VAC25-870-54.A-C 9VAC25-870-59	Requires an approved erosion & sediment control plan, stormwater management plan, and general permit registration statement prior to issuance of a	Verify these 3 requirements are specified in the local ordinance, where required.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

		VSMP authority permit.			
8	62.1-44.15:34	Allows for issuance of VSMP authority permit only after evidence of general permit coverage is obtained.	Verify requirement exists in the local ordinance, where required.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
9	9VAC25-870-750.A	Requires fees to be paid before issuance of VSMP authority permit.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
10	62.1-44.15:34 A	Requires approval of a VSMP authority permit prior to issuance of grading, building or other local permit.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-5. STORMWATER POLLUTION PREVENTION PLAN (SWPPP); CONTENTS OF PLAN

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
11	9VAC25-870-54.A 9VAC25-880-70, Section II	Requires SWPPP to be in compliance with state regulations and general permit requirements.	Ensure references to 9VAC25-870-54 and 9VAC25-880-70 are included. SWPPPs must include: 1. Approved erosion and sediment control plan 2. Approved stormwater management plan 3. Pollution Prevention Plan for regulated land disturbing activities 4. Description of any additional control measures necessary to address a TMDL (Not required to be listed in local ordinance as long as regulatory reference is given.)		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
12	9VAC25-870-54.G	Describes conditions under which a SWPPP must be amended by the operator.	Verify local ordinance states that SWPPP must be amended when there is a change in design, construction, operation or maintenance that has significant effect on discharge of pollutants not addressed by existing SWPPP.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
13	9VAC25-870-54.G	Describes conditions under which SWPPP must be maintained by operator.	Verify local ordinance states that the SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-6. STORMWATER MANAGEMENT (SWM) PLAN; CONTENTS OF PLAN

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
14	9VAC25-870-55.A	Requires SWM plan to apply technical criteria and consider all sources of surface runoff and subsurface and groundwater flows converted to surface runoff.	<p>Verify requirement exists in the local ordinance:</p> <p>A. A stormwater management plan shall be developed and submitted to the VSMP authority. The stormwater management plan shall be implemented as approved or modified by the VSMP authority and shall be developed in accordance with the following:</p> <ol style="list-style-type: none"> 1. A stormwater management plan for a land disturbing activity shall apply the stormwater management technical criteria set forth in this part to the entire land disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities. 2. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff. <p>Note: Highlighted language reflects 12-17-13 regulatory amendment. Other language within the section remains unchanged and is provided for context.</p>		<p>Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:</p>
15	9VAC25-870-55.B 1-8	Lists 8 required SWM plan elements.	<p>Determine if all 8 elements are specified in the local ordinance:</p> <ol style="list-style-type: none"> 1. Information on type/ location of stormwater discharges, information on features to which stormwater is being discharged, including surface waters or karst features if present, and predevelopment/post development drainage areas; 2. Contact information including name, address, telephone number and parcel number of the property or properties affected; 3. Narrative that includes a description of current site conditions and final site conditions or if allowed by the VSMP authority, the information provided and documented during 		<p>All elements specified?</p> <ol style="list-style-type: none"> 1. Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Yes <input type="checkbox"/> No <input type="checkbox"/> 4. Yes <input type="checkbox"/> No <input type="checkbox"/> 5. Yes <input type="checkbox"/> No <input type="checkbox"/> 6. Yes <input type="checkbox"/> No <input type="checkbox"/> 7. Yes <input type="checkbox"/> No <input type="checkbox"/> 8. Yes <input type="checkbox"/> No <input type="checkbox"/> <p>Comments:</p>

			<p>the review process that addresses the current and final site conditions;</p> <ol style="list-style-type: none"> 4. General description of the proposed stormwater management facilities and mechanism through which the facilities will be operated/ maintained after construction is complete; 5. Information on proposed stormwater management facilities, including (i) type of facilities; (ii) location, including geographic coordinates; (iii) acres treated; and (iv) surface waters or karst features into which facility will discharge; 6. Hydrologic/hydraulic computations, including runoff characteristics; 7. Documentation/calculations verifying compliance with water quality and quantity requirements of the regulations; 8. Map or maps of site that depicts topography of the site and includes: <ol style="list-style-type: none"> a. Contributing drainage areas; b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, floodplains; c. Soil types, geologic formations if karst features are present in the area, forest cover, other vegetative areas; d. Current land use including existing structures, roads, locations of known utilities and easements; e. Sufficient information on adjoining parcels to assess impacts of stormwater from the site on these parcels; f. Limits of clearing and grading, proposed drainage patterns on the site; g. Proposed buildings, roads, parking areas, utilities, stormwater management facilities; h. Proposed land use with tabulation of percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads and easements. 		
--	--	--	---	--	--

16	9VAC25-870-55.B 9	Letter of availability required for use of off-site compliance options.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
17	9VAC25-870-55.C	Requires elements of SWM plans that include activities regulated under Chapter 4 of Title 54.1 of the Code of Virginia be appropriately sealed and signed by professional registered in the Commonwealth of Virginia.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
18	9VAC25-870-55.D	Requires construction record drawing be submitted to VSMP authority. Must be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia certifying that the SWM facilities have been constructed in accordance with approved plan.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-7. POLLUTION PREVENTION PLAN (PPP); CONTENTS OF PLAN

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
19	9VAC25-870-56	Requires PPP which details design, installation, implementation and maintenance of pollution prevention measures in accordance with Regulations.	Verify requirement exists in the local ordinance or is included by reference.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
20	9VAC25-870-56.A 1-3, B 1-4 and C	Lists PPP requirements as outlined in the Regulations.	Determine if all 8 requirements are specified in the local ordinance or are included by reference: 1. Minimize discharge of pollutants from equipment and vehicle washing, wheel wash water and other wash waters. Wash waters must be treated prior to discharge; 2. Minimize exposure of all materials on site to precipitation and stormwater; 3. Minimize discharge of pollutants from spills		All requirements specified? 1. Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Yes <input type="checkbox"/> No <input type="checkbox"/> 4. Yes <input type="checkbox"/> No <input type="checkbox"/> 5. Yes <input type="checkbox"/> No <input type="checkbox"/> 6. Yes <input type="checkbox"/> No <input type="checkbox"/> 7. Yes <input type="checkbox"/> No <input type="checkbox"/> 8. Yes <input type="checkbox"/> No <input type="checkbox"/>

			<p>and leaks and implement chemical spill and leak prevention and response procedures;</p> <ol style="list-style-type: none"> 4. BMPs to prohibit wastewater from washout of concrete, unless managed by appropriate control; 5. BMPs to prohibit wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials; 6. BMPs to prohibit discharges of fuels, oils or other pollutants used in vehicle/equipment operation/ maintenance; 7. BMPs to prohibit discharges of soaps or solvents used in vehicle/equipment washing; 8. Discharges from dewatering activities are prohibited unless managed by appropriate controls. 		Comments:
--	--	--	---	--	-----------

1-8. REVIEW OF STORMWATER MANAGEMENT (SWM) PLAN

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
21	9VAC25-870-108.A	Requires the VSMP authority to review and approve SWM plans.	Verify requirement exists in the local ordinance. May include “or any duly authorized agent of the Administrator”.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
22	9VAC25-870-108.B	Establishes time frame for review of SWM plans and requirement for communication of decision to applicant.	<p>Ensure all review period benchmarks are included:</p> <ol style="list-style-type: none"> 1. Completeness of plan must be determined and applicant notified of determination within 15 days of receipt. <ol style="list-style-type: none"> a. If incomplete, applicant must be notified in writing. b. If determination of completeness is made, 60 days from date of communication is allowed for review. c. If determination of completeness is not made and communicated within 15 days, plan shall be deemed complete as of date of submission and 60 days from date of submission will be allowed for review. 		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

			<p>d. Any plan previously disapproved must be reviewed within 45 days of resubmission.</p> <p>2. Decision to approve or disapprove plan must be provided in writing; if not approved reasons must be provided in writing.</p> <p>3. If a plan meeting all requirements is submitted and no action is taken within appropriate time frame, the plan will be deemed approved.</p> <p>(Note: Shorter time frames are acceptable.)</p>		
23	9VAC25-870-108.C	Describes the conditions under which modifications to approved SWM plans may be allowed or required.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
24	9VAC25-870-108.E	Requires construction record drawing for permanent BMPs. May elect not to require for SWM facilities for which maintenance agreements are not required pursuant to 9VAC25-870-112.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-9. TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
25	9VAC25-870-62 9VAC25-870-63 9VAC25-870-65 9VAC25-870-66 9VAC25-870-69 9VAC25-870-72 9VAC25-870-74 9VAC25-870-76 9VAC25-870-85 9VAC25-870-92 9VAC25-870-93 9VAC25-870-94 9VAC25-870-95 9VAC25-870-96 9VAC25-870-97 9VAC25-870-98	Technical criteria for land disturbing activities.	Technical criteria must be part of the VSMP, but do not have to be included within the ordinance. They may be contained within a local document that is referenced within the ordinance or the ordinance may reference 9VAC25-870-62 thru 99 of the Regulations. State technical criteria or more stringent local standards must be enforceable through the ordinance. 9VAC25-870-93 thru 99 must also be contained or referenced in local ordinances.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

	9VAC25-870-99				
26	9VAC25-870-48	Describes conditions under which grandfathering of projects may occur.	<p>Verify requirements exist in the local ordinance:</p> <p>A. Any land disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:</p> <ol style="list-style-type: none"> 1. A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of the VSMP Regulation, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff; 2. A state permit has not been issued prior to July 1, 2014; and 3. Land disturbance did not commence prior to July 1, 2014. <p>B. Locality, state and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:</p> <ol style="list-style-type: none"> 1. There has been an obligation of locality, state or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012; 2. A state permit has not been issued prior to July 1, 2014; and 3. Land disturbance did not commence prior to July 1, 2014. 		<p>Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:</p>

			<p>C. Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the Part II C technical criteria of the VSMP Regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.</p> <p>D. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.</p> <p>E. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.</p>		
27	9VAC25-870-122	Describes conditions under which exceptions to the technical criteria may be granted.	Verify requirements exist in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-10. LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
28	9VAC25-870-58	Requires recorded instrument for long term maintenance of permanent BMPs.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
29	9VAC25-870-112.A	Sets out specific requirements for long term maintenance of permanent BMPs.	<p>Determine if all 5 requirements are specified in the local ordinance:</p> <ol style="list-style-type: none"> 1. Submitted prior to approval of stormwater management plan 2. Stated to run with land 3. Provide necessary access to property for maintenance and inspection 4. Provide for inspections and maintenance and submission of reports 5. Be enforceable 		<p>All requirements specified?</p> <ol style="list-style-type: none"> 1. Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Yes <input type="checkbox"/> No <input type="checkbox"/> 4. Yes <input type="checkbox"/> No <input type="checkbox"/> 5. Yes <input type="checkbox"/> No <input type="checkbox"/> <p>Comments:</p>
30	9VAC25-870-112.B	Allows option for localities to not require a recorded BMP maintenance agreement on individual residential	If locality desires to allow this option, verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

		instrument.			
31	9VAC25-870-114.D	If individual residential BMPs are not required to have recorded instrument, localities must develop strategy to address maintenance.	Applicable only if individual BMPs are not required to have recorded instrument.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-11. MONITORING AND INSPECTIONS

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
32	9VAC25-870-114.A	Requires VSMP authority to inspect for 4 compliance items during construction.	Determine if all 4 required inspection items are specified in the local ordinance: 1. Compliance with erosion and sediment control plan 2. Compliance with stormwater management plan 3. Development, updating, implementation of pollution prevention plan 4. Development and implementation of additional control measures to address a TMDL		Inspection items specified? 1. Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Yes <input type="checkbox"/> No <input type="checkbox"/> 4. Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
33	62.1-44.15:39	Allows entry onto property in order to obtain information to assist in the enforcement of ordinance.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
34	62.1-44.15:40	Requires permittee to provide information to VSMP authority when requested.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
35	9VAC25-870-114.B.2	Requires post-construction inspections to be conducted by VSMP authority at least once every 5 years.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-12. HEARINGS

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
36	62.1-44.15:44	Establishes right to hearing by	Verify requirement exists in the local ordinance.		Provision met?

	9VAC25-870-118	any permit applicant, permittee, or person subject to state permit requirements aggrieved by a VSMP authority.	(Note: Local Board of Zoning Appeals and locality Program Administrators or his/her designee cannot constitute the Appeals Board. A separate Board or Commission must be appointed to hear appeals.)		Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
37	62.1-44.15:45 62.1-44.26	Establishes procedures for hearings.	Verify that hearings held by local government comply with the requirements of §62.1-44.26 A – C: 1. Must be conducted by local governing or appeals body at a regular or special meeting or by at least one member designated to conduct such hearings or at any other authorized time and place. 2. Verbatim record of proceedings must be taken and filed with local governing or appeals body.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-13. APPEALS

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
38	62.1-44.15:46	Establishes right to appeals process.	Pursuant to §62.1-44.15:46, each locality must adopt an appeals procedure, which should be appropriate for the stormwater ordinance provisions, and shall be conducted in accordance with the locality's existing appeals procedures.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-14. ENFORCEMENT

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
39	62.1-44.15:37 A 9VAC25-870-116.A	Requires notice to be served if Administrator determines there is a failure to comply.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
40	62.1-44.15:37 A	Requires compliance measures to address permit conditions and timeframe for completion.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

41	62.1-44.15:37 A	Describes failure to comply actions.	Ensure that the local ordinance states that an order may be issued that ceases all land-disturbing activities until corrected.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
42	62.1-44.15:37 9VAC25-870-116.A 1	Allows for informal and formal proceedings if Administrator determines that there is a failure to comply.	Verify requirement exists in the local ordinance.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
43	62.1-44.15:49 9VAC25-870-116	Provides enforcement authority and schedule of civil penalties for enforcement actions. Criminal misdemeanor charges are an option also.	Components from 9VAC25-870-116 A 1 & A 2 must be incorporated into the VSMP ordinance. Ensure that the maximum penalty of \$32,500 per violation per day is not exceeded and that violations for which a penalty may be imposed are given.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

1-15. FEES

(The inclusion of fees within the ordinance is optional. If they are not included within the ordinance, they should be documented elsewhere and must be submitted to DEQ as part of the Local VSMP Application package.)

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
44	62.1-44.15:28	Establishes fees to cover costs associated with implementation of a VSMP.	Verify that the locality has either incorporated the fee schedule into their ordinance or local procedures. See Table 1 in SWM Model Ordinance or regulatory citation. (Note: Localities have ability to raise or lower fees. May also utilize other sources of funding.)		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
45	9VAC25-870-820	Fees associated with coverage under the General Permit for Discharges of Stormwater from Construction Activities (CGP).	See Table 1 in SWM Model Ordinance or regulatory citation.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
46	9VAC25-870-825	Fees associated with modification or transfer of CGP.	See Table 2 in SWM Model Ordinance or regulatory citation.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
47	9VAC25-870-830	Maintenance fees.	See Table 3 in SWM Model Ordinance or regulatory citation.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
48	9VAC25-870-770	Specifies how incomplete and	Verify local ordinance states that incomplete		Provision met?

		late payments are handled.	payments deemed as nonpayments, interest may be charged on late payments, and a 10% late payment fee applied to delinquent accounts.		Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
--	--	----------------------------	--	--	---

1-16. PERFORMANCE BOND

(This section is optional and is not required to be included in local ordinances.)

	State Code/Regulation Citation	Description	Review Strategy	Local Code Citation	Review Results
49	62.1-44.15:34 A 9VAC25-870-104.D	Allows for bonds and sets out criteria.	Not required in local ordinances.		Provision met? Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

CHAPTER [REDACTED]
VIRGINIA STORMWATER MANAGEMENT PROGRAM*

Sec. [REDACTED]-1. Short title, purpose and authority.

(a) This ordinance shall be known and may be cited as “The Virginia Stormwater Management Program Ordinance” of James City County (ordinance).

(b) Pursuant to §62.1-44.15:27 of the Code of Virginia, this ordinance is adopted to address the mandate to integrate the James City County stormwater management requirements with the James City County erosion and sediment control (Chapter 8), flood insurance and floodplain management (Chapter 24, Article VI Overlay Districts, Division 3), Chesapeake Bay Preservation (Chapter 23) and Stormwater Management, Illicit Discharge Detection and Elimination (Chapter 18A) requirements into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both James City County and those responsible for compliance with these programs.

(c) The purpose of this chapter is to protect the general health, safety, welfare, and property of the citizens of James City County and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, waterways and other natural resources, and to establish procedures whereby stormwater management and stormwater pollution prevention requirements related to water quality and quantity shall be administered and enforced.

(d) This ordinance is adopted pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of the Code of Virginia and 9VAC25-870 et seq. of the Virginia Administrative Code.

Sec. [REDACTED]-2. Definitions.

In addition to the definitions set forth in 9VAC25-870-10 et seq. of the Virginia Stormwater Management Program (VSMP) Regulations, 9VAC25-840-10 et seq. of the Virginia Erosion and Sediment Control Regulations, 9VAC25-850-10 et seq. of the Virginia Erosion and Sediment Control and Stormwater Management Certification Regulations, and 9VAC25-830-10 et seq. of the Chesapeake Bay Preservation Area Designation and Management Regulations, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

Act. 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.

Administrator. The director of the James City County, division of engineering and resource protection who is responsible for administering the VSMP on behalf of the locality and is designated as VSMP authority.

Agreement in lieu of a plan. A contract between the VESCP or VSMP authority and the owner that specifies conservation measures that shall be implemented in the construction of a single-family residence. This contract may be executed by the VESCP or VSMP authority in lieu of a formal site plan or site erosion and sediment control plan.

Applicant. Any person submitting an application for a permit or requesting issuance of a permit under this chapter.

Approval Authority. The State Water Control Board or its designee.

Best management practice or BMP. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the pollution of surface waters and groundwater systems.

Board or state board. The State Water Control Board.

Board of supervisors. The board of supervisors of James City County, Virginia.

Certificates of competence. The issuance of a certificate to persons who have completed State Board approved training programs and met any additional eligibility requirements pursuant to 9VAC25-850-10 et seq. of Virginia Administrative Code in the areas of erosion and sediment control, stormwater management, or a combination of both known as dual certification. Certification can be for program administration, plan review, inspector or combined for either or both erosion and sediment control and stormwater management.

Chesapeake Bay Preservation Act land-disturbing activity. A land-disturbing activity including clearing, grading or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulation 9VAC25-830 et seq. of the Virginia Administrative Code. adopted pursuant to the Chesapeake Bay Preservation Act, Article 2.5 (§62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

Common plan of development or sale. A contiguous area where separate and distinct construction activities may be taking place at different times and on different schedules. This includes a plan to subdivide a parcel of land into separate parts for separate sale. The plan originates as a single parcel which is separated into parts related by any announcement, piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, plat, blueprint, contract, permit application, zoning request, computer design, etc.), physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) or continuing obligation (including contracts) that identify the scope of the project. A plan may still be a

common plan of development or sale if it is taking place in separate stages or phases, is planned in combination with other construction activities, or is implemented by different owners or operators. Most commonly it consists of a subdivision of residential or commercial lots that are built and completed separately from each other.

Control measure. Any best management practice, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

Clean Water Act or CWA. The federal Clean Water Act (33 USC §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

Department. The Commonwealth of Virginia, Department of Environmental Quality.

Development. Land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes. The regulation of discharges from development, for purposes of these regulations and chapter, does not include the exemptions found in 9VAC25-870-300 of the Virginia Administrative Code.

Erosion and Sediment Control law, attendant regulations and local ordinance. Article 2.4 (§62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, the Virginia Erosion and Sediment Control Regulations (9VAC25-840 et seq.) of the Virginia Administrative Code, and Chapter 8 of the Code of James City County.

Erosion and sediment control plan. A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be treated to achieve conservation objectives.

General permit. A state permit authorizing a category of discharges under the CWA and the Act within a geographical area.

Land disturbance or land-disturbing activity. A manmade change to the land surface that potentially changes its runoff characteristics including any clearing, grading, excavation, transporting of fill and filling of land except that the term shall not include those exemptions specified in section ■-3(c) of this chapter.

Large construction activity. A construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Layout. A conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

Localized flooding. Smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions. Designation of an area as subject to localized flooding is at the discretion of the administrator or VSMP authority based on factual information including documented complaints, reports of problem drainage areas or flooding, County performed studies or drainage analyses, or direct observations of site and drainage conditions during rainfall-runoff conditions.

Minor Modification. For the purposes of this chapter, a minor modification or amendment of an existing state permit before its expiration for the reasons listed at 40CFR122.63 and as specified in 9VAC25-870-640 of the Virginia Administrative Code. Minor modification for the purposes of this chapter also means other modifications and amendments not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor state permit modification or amendment does not substantially alter state permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

Municipal separate storm sewer system or MS4. All separate storm sewers that are defined as “large” or “medium” or “small” municipal separate storm sewer systems or designated under 9VAC25-870-380(A)(1).

National Pollutant Discharge Elimination System or NPDES. The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing state permits, and imposing and enforcing pretreatment requirements under §§ 307, 402, 318, and 405 of the CWA. The term includes an approved program.

Operator. The owner or operator of any facility or activity subject to the Act and this chapter. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or, (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other state permit or VSMP authority permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). In the context of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the operator of the regulated MS4 system.

Permit or VSMP authority permit. An approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of general permit coverage has been provided where applicable.

Permittee. The person to whom the state permit or VSMP authority permit is issued, including any owner or operator whose construction site is covered under a state construction general permit.

Person. Any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including a federal, state, or local entity as applicable, any interstate body or any other legal entity.

Prior developed lands. Land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

Regulations. The Virginia Stormwater Management Program (VSMP) regulations, 9VAC25-870-10, et seq., as amended.

Resource Protection Area or RPA. That component of a Chesapeake Bay Preservation Area as defined in Chapter 23 of the County code.

Site. The land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

Small construction activity. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan of development will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

State. The Commonwealth of Virginia.

State permit. An approval to conduct a land disturbing activity issued by the Approval Authority in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the Approval Authority for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Act, the regulations, and this chapter. As the mechanism that imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, a state permit for stormwater discharges from an MS4 and after June 30, 2014 a state permit for conducting a land-disturbing activity issued pursuant to the Act are also a type of VPDES Permit. State permit does not include any state permit that has not yet been the subject of final Approval Authority action, such as a draft state permit. Approvals issued pursuant to this chapter, 9VAC25-880 and 9VAC25-890 of Virginia Administrative Code are not issuances of a permit under §62.1-44.15:01 of the Code of Virginia.

State Water Control Law. Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

State waters. All water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

Steep Slopes. Slopes of 25 percent or greater as defined in Section 23-5 of the County Code.

Stormwater. Precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Conveyance System. A combination of drainage components that are used to convey stormwater discharge, either within or downstream of, the land-disturbing activity. This includes (i) manmade stormwater conveyance system(s) means a pipe, ditch, vegetated swale, or other stormwater conveyance system(s) constructed by man except for restored stormwater conveyance systems; or, (ii) natural stormwater conveyance system(s) means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or, (iii) restored stormwater conveyance system means a stormwater conveyance system(s) that have been designed and constructed using natural channel system design concepts. Restored stormwater conveyance system(s) include the main channel and the flood-prone area adjacent to the main channel.

Stormwater Discharge Associated with Construction Activity. The discharge of stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, filling, or excavation); construction materials or equipment storage and maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial stormwater related to the construction process (e.g., concrete or asphalt batch plants) are located.

Stormwater management facility. A control measure that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, or the period of release or the velocity of flow.

Stormwater management plan. A document containing materials describing methods for complying with the requirements of the VSMP or section ■-6 of this chapter.

Stormwater pollution prevention plan or SWPPP. A document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under a VSMP for construction activities shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of an approved erosion and sediment control (E&SC) plan, an approved stormwater management (SWM) plan, and an approved pollution prevention plan (PPP).

Subdivision. As defined in §15.2-2201 of Chapter 22 of Title 15.2 of the Code of Virginia and as subject to Chapter 19 of the County Code.

Total maximum daily load or TMDL. The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint source pollution (NSP), natural background loading, and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or by other appropriate measure. The TMDL process provides for point versus nonpoint source pollution trade-offs.

Virginia Erosion and Sediment Control Handbook. A collection of pertinent information that provides general guidance for compliance with the Erosion and Sediment Control law and associated regulations and is developed by the department with advice from a stakeholder advisory committee. Taken to mean 3rd edition, 1992 or most current version of the handbook.

Virginia Erosion and Sediment Control Program or VESCP. A program approved by the board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable such as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan of development review, inspection, enforcement where authorized in the Erosion and Sediment Control Act and its attendant regulations, and evaluation consistent with the requirements of the Erosion and Sediment Control Act and its attendant regulations.

Virginia Erosion and Sediment Control program authority or VESCP authority. An authority approved by the board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas and telephone companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to §15.2-5102 of the Code of Virginia.

VESCP authority permit. A permit issued by the VESCP authority and evidence of approval to initiate and conduct land-disturbing activity if no VSMP authority permit is required in accordance with this chapter and which may only be issued after evidence of coverage under the general permit for discharges of stormwater from construction activities has been provided.

Virginia Pollutant Discharge Elimination System (VPDES) permit or VPDES permit. A document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

Virginia runoff reduction method or VRRM. The calculation method as documented by reference in 9VAC25-870 and which is used in part to comply with water quality and quantity provisions of the Virginia Stormwater Management Program (VSMP) regulations 9VAC25-870 et seq. and as a specific chapter in the Virginia Stormwater Management Handbook. The method includes compliance spreadsheets for new development and redevelopment scenarios.

Virginia stormwater BMP clearinghouse website. A website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with

the requirements of the Virginia Stormwater Management Act and associated regulations. The website can be found at <http://www.vwrrc.vt.edu/swc/>

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.

Virginia Stormwater Management Handbook. A collection of pertinent information that provides general guidance for compliance with the Act and associated regulations and is developed by the department with advice from a stakeholder advisory committee. Taken to mean the 2nd edition, 2013 or most current version of the handbook.

Virginia Stormwater Management Program or VSMP. A program approved by the board after September 13, 2011 that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan of development review, inspection, enforcement, where authorized in the Act or associated regulations or this chapter, and evaluation consistent with the requirements of the Act and associated regulations and this chapter.

Virginia Stormwater Management Program authority or VSMP authority. An authority approved by the board after September 13, 2011 to operate a Virginia Stormwater Management Program or, until such approval is given, the department. An authority may include a locality; state entity, including the department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of § 62.1-44.2 et seq. of the Code of Virginia, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 of the Code of Virginia. Prior to approval, the board must find that the ordinances adopted by the locality's VSMP authority are consistent with the Act and this chapter including the General VPDES Permit for Discharges of Stormwater from Construction Activities (VAR-10), 9VAC25-880.

VSMP authority permit. A permit issued by the VSMP authority and evidence of approval to initiate and conduct land-disturbing activity if no VSMP authority permit is required in accordance with this chapter and which may only be issued after a VESCP authority permit has been issued and evidence of coverage under the general permit for discharges of stormwater from construction activities has been provided.

Virginia Technology Assessment Protocol or VTAP. A state approved assessment process for permitted use and listing manufactured treatment devices (MTDs) on the Virginia Stormwater Best Management Practice (BMP) Clearinghouse website and as referenced in Virginia Stormwater Management Program (VSMP) regulations.

Watershed. A defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

Sec. ___-3. Stormwater permit requirement; exemptions.

(a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the administrator in accordance with the provisions of this chapter. VESCP and VSMP authority permits may be combined into a single consolidated permit.

(b) After June 30, 2014, and consistent with 9VAC25-870-51, a Chesapeake Bay Preservation Area Land-Disturbing Activity shall not require completion of a registration statement or require coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities (VAR10) but shall be subject to erosion and sediment control plan requirements consistent with Virginia Erosion and Sediment Control law and regulations, Chapter 8 (Erosion and Sediment Control) of the County Code, stormwater management plan requirements as outlined under section ___-6, pollution prevention plan requirements as outlined in section ___-7, technical criteria and administrative requirements for land disturbing activities as outlined in section ___-9, and the requirements for control measures for long-term maintenance as outlined in section ___-10 of this chapter.

(c) Notwithstanding any other provisions of this chapter, the following activities are exempt at the discretion of the administrator, unless otherwise required by federal law:

- (1) Minor residential, business and community landscaping activities such as tilling, adding soil amendments such as compost, and mulching for small scale features such as vegetable, flower or herb gardens, annual or perennial flower beds, ornamental plantings, wildflower plantings, edge borders, and reasonable turfgrass establishment. Exempted work under this provision cannot be situated in Resource Protection Area (RPA) and is normally reserved for aesthetic, beautification or scenic purposes and shall not include clearing, grading, placement of impervious cover, or soil disturbance due to placement of earthen fill or deep depths or quantities of topsoil beyond that expected for landscape purposes;
- (2) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (3) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

- (4) Single-family residences separately built and disturbing less than 2,500 square feet and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures. Localities in Tidewater Virginia are required to regulate single-family residences built and disturbing 2,500 square feet or more and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures in accordance with 9VAC25-890 et seq. of the Virginia Administrative Code and Chapter 23 (Chesapeake Bay Preservation) of the County Code;
- (5) Land disturbing activities that disturb less than 2,500 square feet of land area; or activities that are part of a larger common plan of development or sale that are 2,500 square feet or greater of disturbance. Localities in Tidewater Virginia are required to regulate land-disturbing activities equal to or exceeding an area of 2,500 square feet in all areas subject to the requirements of 9VAC25-890 et seq. of the Virginia Administrative Code and Chapter 23 (Chesapeake Bay Preservation) of the County Code;
- (6) Discharges to a sanitary sewer or a combined sewer system;
- (7) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
- (8) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the previously approved project, including obligated storm drainage and stormwater management or BMP facility maintenance, provided it is performed to maintain proper stormwater function and structural integrity of previously approved and installed systems, does not result in any type of improvement such new pipes, channels, or the addition of access structures such as inlets or manholes, or results in a change in conveyance method, capacity, slope, size, alignment, material type, area, hydraulic radius, storage volume, or the physical location of any part of the system. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection;
- (9) Small scale archaeological and geotechnical or other similar investigative activities, unless the administrator deems that work for access and the investigative activity are of such a scale or magnitude to threaten natural resources or environmental inventory components as outlined in section 23-10 of the County Code;
- (10) Small scale projects performed by the County pursuant to federal or state grant funds received and of which are solely for educational or demonstration purposes for water quality improvement or nonpoint source pollution control;

(11) Reclamation or stabilization projects in which the County draws on erosion and sediment control, siltation, public improvement, subdivision or other performance surety as secured for a development project in accordance with Section – 16 of this chapter. Work under this item shall be of sole purpose to immediately stabilize or implement temporary erosion and sediment control measures at a site because of default on the project and to prevent damage or threatening conditions to adjacent or downstream property or water resources. Work under this provision shall be procured, contracted and managed by the VSMP authority or designee in accordance with County and County Purchasing Department requirements; and

(12) Conducting land-disturbing activities in response to a public emergency, declared or otherwise, where the related work requires immediate authorization to avoid imminent endangerment to property, human health or the environment. In such situations, the administrator shall be advised of the disturbance within seven (7) days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection (a) is required within thirty (30) days of commencing the land-disturbing activity.

Sec. █-4. Stormwater management program established; submission and approval of plans; prohibitions.

(a) Pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of the Code of Virginia and 9VAC25-870 et seq. of the Virginia Administrative Code, James City County hereby establishes a stormwater management program for land disturbing activities and adopts the applicable regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in section █-1 of this chapter. For the purposes of this chapter, the board of supervisors of James City County, Virginia hereby designates the director of the James City County, division of engineering and resource protection as the administrator of the Virginia Stormwater Management (VSMP) Program.

(b) For the purposes of this chapter, an applicant will need to employ a mix of site design, runoff reduction, and pollutant control strategies and practices, including structural and non-structural BMP practices, suitable for application in the coastal plain of Virginia and specific to the climate, rainfall, terrain, topography, slopes, soils, and groundwater tables in James City County, in order to comply with the state stormwater standards for water quality and quantity criteria in accordance with the regulations and this chapter. The standards contained within the Virginia Stormwater Management Program (VSMP) Regulations 9VAC25-870-10 et seq. and the General VPDES Permit for Discharges of Stormwater from Construction Activities (VAR10) 9VAC25-880 et seq. of the Virginia Administrative Code including but not limited to the following, the minimum standards of the Virginia Erosion and Sediment Control Regulations 9VAC25-840-40, the Virginia Erosion and Sediment Control Handbook (VESCH), the Virginia stormwater BMP clearinghouse website, the Virginia Stormwater Management Handbook, the Virginia Runoff Reduction Method, and any VESCP or VSMP related technical bulletins issued by the Department, are to be used by the applicant when making a submittal under the provisions of this chapter and in the preparation of a stormwater pollution prevention plan (SWPPP) or any applicable components required thereof. The VESCP and VSMP authority, in considering the

adequacy of a submitted plan shall be guided by these same regulations, standards and guidelines.

(c) No VSMP authority permit shall be issued by the administrator, until the following items have been submitted to and approved by the administrator as prescribed herein:

- (1) A permit application that includes a general permit registration statement;
- (2) Evidence of general permit coverage;
- (3) An erosion and sediment control (E&SC) plan, in accordance with Virginia Erosion and Sediment Control law and regulations and the Chapter 8 (Erosion and Sediment Control) ordinance of the County Code; and
- (4) A stormwater management (SWM) plan that meets the requirements of section █-6 of this chapter.

(d) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.

(e) No VSMP authority permit shall be issued until the fees required to be paid pursuant to section █-15 are received, and a reasonable performance surety as required pursuant to section █-16 of this chapter has been submitted in a satisfactory manner.

(f) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development, drainage, stormwater management and stormwater pollution prevention will be done according to the approved plans and permit.

(g) No VSMP authority permit shall be issued until all wetland permits required by federal, state, and county laws and regulations are obtained and evidence of such provided to the administrator or VSMP authority. For those projects where no wetlands are proposed to be impacted or where the impacts do not require written authorization by wetland permit agencies, documentation shall be submitted to the administrator or the VSMP authority by a qualified wetlands professional attesting that the wetlands permitting process has been completed and no further documentation is necessary from applicable regulatory agencies.

(h) No grading, building, or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the administrator.

Sec. █-5. Stormwater pollution prevention plan; contents of plans.

(a) The stormwater pollution prevention plan (SWPPP) shall include the content specified by section 9VAC25-870-54 of the regulations and must comply with the requirements and general information set forth in section 9VAC25-880-70, Part II, stormwater pollution prevention plan,

of the General VPDES Permit for Discharge of Stormwater from Construction Activities (VAR10).

(b) A stormwater pollution prevention plan (SWPPP) shall include, but not be limited to, an approved erosion and sediment control (E&SC) plan, an approved stormwater management (SWM) plan, an approved pollution prevention plan (PPP) for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection E of 9VAC25-870-54 of the Virginia Administrative Code.

(1) A stormwater management plan consistent with the requirements of the Virginia Stormwater Management Act and regulations must be designed and implemented during construction activities. Prior to land-disturbance, this plan must be approved by the VSMP authority, except for land-disturbing activities previously covered under the General VPDES Permit for the Discharge of Stormwater from Construction Activities issued July 1, 2009.

(c) The stormwater pollution prevention plan (SWPPP) shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing stormwater pollution prevention plan (SWPPP).

(d) The stormwater pollution prevention plan (SWPPP) must be maintained at a central location onsite. If an onsite location is unavailable, notice of the stormwater pollution prevention plan (SWPPP) location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Part II of the General VPDES Permit for Discharge of Stormwater from Construction Activities (VAR10), either electronically or in hard copy.

(e) The stormwater pollution prevention plan (SWPPP) shall adhere to the general performance standards of section 23-9(b) of the County Code and 4VAC50-90-130 of the Virginia Administrative Code and, if not otherwise provided for erosion and sediment control plan purposes in accordance with VESCP requirements in accordance with Chapter 8 of the County Code and 9VAC25-840, an environmental inventory shall be provided in accordance with section 23-10(b) of the County Code.

(f) Rainwater harvesting, as component of a stormwater pollution prevention plan (SWPP), is encouraged consistent with §62.1-44.15:28(A)(9) of the Code of Virginia and 9VAC25-870-74 of the regulations.

Sec. -6. Stormwater management plan; contents of plan.

(a) A stormwater management (SWM) plan shall be developed and submitted to the VSMP authority. The stormwater management plan shall be implemented as approved or modified by the VSMP authority and shall be developed in accordance with the following:

- (1) The stormwater management (SWM) plan for a land disturbing activity as required in section █-4 of this chapter shall apply the stormwater management technical criteria set forth in section █-9 of this chapter to the land disturbing activity. Individual lots in new residential, commercial or industrial plans of development shall not be considered to be separate land-disturbing activities.
 - (2) The stormwater management (SWM) plan as required in section █-4 of this chapter shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff.
- (b) A complete stormwater management plan shall include the following elements:
- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters, and the predevelopment and postdevelopment drainage areas;
 - (2) Identification of the County watershed or subwatershed and hydrologic unit (HUC) code based on Virginia's 6th order National Watershed Boundary Dataset (NWBD) hydrologic units (VAHU6) for which the project is situated in;
 - (3) Contact information including the name, address, email, and telephone number of the owner and the tax map reference number and parcel number of the property or properties affected;
 - (4) A narrative that includes a description of current site conditions and final site conditions, including the amount of disturbed area, the amount of proposed impervious cover, and the percent impervious cover of the site;
 - (5) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
 - (6) Information on proposed stormwater management facilities, including:
 - a. the type of facilities;
 - b. the location by geographic coordinates, latitude and longitude;
 - c. drainage area and impervious cover area treated by facilities (in acres);
 - d. the surface waters into which the facility will discharge;
 - (7) Hydrologic and hydraulic computations, including runoff characteristics, presented in a clear and organized format;
 - (8) Documentation and calculations verifying compliance with the water quality and quantity requirements of section █-9 of this chapter, including providing a

summary Virginia Runoff Reduction Method (VRRM) compliance spreadsheet or worksheet for the project;

(9) A map or maps of the site that depict the characteristics or features of the site and includes:

- a. all contributing drainage areas;
- b. existing topography and drainage patterns;
- c. existing streams, ponds, culverts, storm drainage systems, channels, ditches, wetlands, other water bodies, Resource Protection Areas (RPAs), conservation easements, and floodplains;
- d. soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
- e. current land use including existing structures, roads, and locations of known utilities and easements;
- f. sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these/those parcels;
- g. the limits of disturbance (clearing and grading) for the project including proposed access and all onsite and offsite work activities;
- h. proposed grading, contours and drainage patterns on the site or project;
- i. proposed buildings, roads, parking areas, utilities, and stormwater drainage and management facilities;
- j. proposed land use with tabulations of the percentage of surface area to be adapted to various land uses including but not limited to planned locations of impervious cover, turfgrass, utilities, roads, open spaces, and easements, including conserved open spaces; and
- k. proposed percent impervious cover of the site or project;

(10) If an operator intends to meet the water quality and/or quantity requirements set forth in 9VAC25-870-63 or 9VAC25-870-66 and section -9 of this chapter through the use of offsite compliance options, where applicable, then a letter of availability from the offsite provider must be included. Approved offsite options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by §62.1-44.15:35 of the Code of Virginia and 9VAC25-870-69.

(11) If payment of a fee is required for a stormwater management plan submission by the VSMP authority, the fee and the required fee form shall be submitted.

(c) Elements of the stormwater management (SWM) plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

(d) A construction record (asbuilt) drawing and construction certification for permanent

stormwater management (BMP) facilities shall be submitted to the administrator. The construction record (asbuilt) drawing and construction certification shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. Construction record (asbuilt) drawing and construction certification submittal requirements shall be established by the administrator or the VSMP authority and in accordance with 9VAC25-870-108 and 9VAC25-870-112. The administrator may elect to not require construction (asbuilt) record drawings and construction certifications for stormwater management facilities which maintenance agreements are not required pursuant to section [REDACTED]-10(b).

(e) A construction record (asbuilt) drawing and construction certification for permanent stormwater conveyance system facilities (inlets, pipes, channels, etc.) shall be submitted to the administrator. The construction record (asbuilt) drawing and construction certification shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater conveyance system facilities have been constructed in accordance with the approved plan. Construction record (asbuilt) drawing and construction certification submittal requirements shall be established by the administrator or the VSMP authority. The administrator may elect to not require construction (asbuilt) record drawings and construction certifications for stormwater conveyance system facilities which maintenance agreements are not required pursuant to section [REDACTED]-10(b).

(f) An internal closed-circuit television (CCTV) post installation inspection, performed by the operator, is required for all stormwater conveyance system pipes, access or inlet structures, and culverts of 15-inch nominal diameter size or greater as part of the construction record (asbuilt) and construction certification process. CCTV inspections shall follow standards and specifications developed by the administrator or the VSMP authority.

Sec. [REDACTED]-7. Pollution prevention plan; contents of plans.

(a) A pollution prevention plan (PPP), required by 9VAC25-870-56 of the regulations, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
- (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and

(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(b) The pollution prevention plan (PPP) shall include effective best management practices to prohibit the following discharges:

- (1) Wastewater from washout of concrete, unless managed by an appropriate control;
- (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
- (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
- (4) Soaps or solvents used in vehicle and equipment washing.

(c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

(d) A pollution prevention plan (PPP) as required to be developed and implemented in accordance with subsections a – c above is required for all plans of development, including those site or plot plans required for single family building permit applications, and shall be submitted for review and approval by the administrator or VSMP authority prior to site implementation, modification or update. Pollution prevention plans as developed for implementation under the single family building permit application process may be accepted and processed by the VSMP authority through the agreement-in-lieu of plan process as established under the County VESCP.

Sec. -8. Review of stormwater management plan.

(a) The administrator or VSMP authority or any duly authorized agent of the administrator thereof, shall review stormwater management (SWM) plans and shall approve or disapprove a stormwater management (SWM) plan according to the following:

- (1) The administrator shall determine the completeness of a plan in accordance with section -6 of this chapter, and shall notify the applicant, in writing, of such determination, within fifteen (15) calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
- (2) The administrator shall have an additional sixty (60) calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subsection (1), then plan shall be deemed complete and the administrator shall have sixty (60) calendar days from the date of submission to review the plan.
- (3) The administrator shall review, any plan that has been previously disapproved, within forty-five (45) calendar days of the date of resubmission.

- (4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter.
- (5) If a plan meeting all requirements of this chapter is submitted and no action is taken within the time provided above in subsection (2) for review, the plan shall be deemed approved.

(b) Approved stormwater management (SWM) plans may be modified as follows:

- (1) Modifications to an approved stormwater management (SWM) plan shall be allowed only after review and written approval by the administrator. The administrator shall have sixty (60) calendar days to respond in writing either approving or disapproving such request.
- (2) The administrator may require that an approved stormwater management (SWM) plan be amended, within a time prescribed by the administrator, to address any deficiencies noted during inspection.

(c) The administrator shall require the submission of a construction record (asbuilt) drawing and construction certification for permanent stormwater management facilities. Construction record (asbuilt) drawing and construction certification submittal requirements shall follow standards developed by administrator or the VSMP authority and in accordance with 9VAC25-870-108 and 9VAC25-870-112. The administrator may elect not to require construction record drawings and construction certifications for stormwater management facilities for which recorded maintenance agreements are not required pursuant to section ■-10(b).

(d) A construction record (asbuilt) drawing and construction certification for permanent stormwater conveyance system facilities (inlets, pipes, channels, etc.) shall be submitted to the administrator. The construction record (asbuilt) drawing and construction certification shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater conveyance system facilities have been constructed in accordance with the approved plan. Construction record (asbuilt) drawing and construction certification submittal requirements shall follow standards developed by the administrator or the VSMP authority. The administrator may elect to not require construction (asbuilt) record drawings and construction certifications for stormwater conveyance system facilities which maintenance agreements are not required pursuant to section ■-10(b).

(e) An internal closed-circuit television (CCTV) post installation inspection, performed by the operator, is required for all stormwater conveyance system pipes, access or inlet structures and culverts of 15-inch nominal diameter size or greater as part of the construction record (asbuilt) and construction certification process. CCTV inspections shall follow standards and specifications developed by the administrator or the VSMP authority.

Sec. ■-9. Technical criteria for regulated land disturbing activities.

(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land disturbing activities, James City County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part IIB, Technical Criteria for Regulated Land-Disturbing Activities of the regulations, 9VAC25-870-62 through 92, as amended, expressly to include 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development projects]; and 9VAC25-870-85 [stormwater management impoundment structures or facilities]; which shall apply to all land disturbing activities regulated pursuant to this chapter, except for grandfathering provisions as expressly set forth in subsection (c) through (f) of this section.

(b) Predevelopment and postdevelopment site, runoff and hydrology characteristics for water quantity control requirements under the provisions of 9VAC25-870-66 must be verified by site inspections, topographic surveys, available soil mapping or studies and calculations consistent with good engineering practices. Guidance provided in the Virginia stormwater BMP clearinghouse and the Virginia stormwater management handbook shall be considered appropriate practices.

(c) Any land-disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to Part IIC technical criteria of the Virginia Stormwater Management (VSMP) regulations, sections 9VAC25-870-93 through 99, Technical Criteria for Regulated Land-Disturbing Activities: Grandfathered Projects and Projects Subject to the Provisions of 9VAC25-870-47B, provided that:

- (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto, such as a locally approved master stormwater management plan, (i) was approved by the locality prior to July 1, 2012; (ii) provided a layout as defined in 9VAC25-870-10; (iii) will comply with the Part IIC technical criteria of the VSMP regulation; and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
- (2) A state permit has not been issued prior to July 1, 2014; and
- (3) Land disturbance did not commence prior to July 1, 2014.

(d) Locality, state, and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part IIC technical criteria of the Virginia Stormwater Management (VSMP) regulation provided that:

- (1) There has been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012; or the department has approved a stormwater management plan prior to July 1, 2012;
- (2) A state permit has not been issued prior to July 1, 2014; and
- (3) Land disturbance did not commence prior to July 1, 2014.

(e) Land disturbing activities grandfathered under subsections c – d in this section shall remain subject to the Part IIC technical criteria of the Virginia Stormwater Management (VSMP) regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the state board.

(f) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012 such project shall be subject to the Part IIC technical criteria of the Virginia Stormwater Management (VSMP) regulations.

(g) The administrator may grant exceptions to the technical criteria adopted in subsections Part IIB (Technical Criteria for Regulated Land-Disturbing Activities) or Part IIC of the regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Virginia Stormwater Management Act, the Virginia Stormwater Management VSMP regulations, and this chapter are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone shall not be a sufficient reason to grant an exception from the requirements of this chapter.

- (1) Exceptions to the requirement that the land disturbing activity obtain a required VSMP authority permit shall not be given by the administrator, nor shall the administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website <http://vwrrc.vt.edu/swc/>, Virginia Technology Assessment Protocol (VTAP), or any other control measure duly approved by the Department.
- (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(h) Nothing in this section shall preclude an operator from constructing to a more stringent standard at their discretion.

Sec. -10 Long-term maintenance of permanent stormwater facilities.

(a) The administrator shall require the provision of long term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in

the local land records prior to general permit termination or earlier as required by the administrator and shall at a minimum:

- (1) A general template for the instrument document shall be made available by the VSMP authority;
- (2) Be submitted to the administrator for review and approval prior to the approval of the stormwater management plan;
- (3) Be approved to as by form by the County attorney's office;
- (4) Be stated to run with the land;
- (5) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
- (6) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the administrator; and
- (7) Be enforceable by all appropriate governmental parties.

(b) At the discretion of the administrator, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the administrator.

(c) If a recorded instrument is not required pursuant to section ■-10(b), the administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, declarations of covenants and restrictions, plat notes, or other similar methods targeted at promoting the long term maintenance of such facilities. The alternative strategy shall follow standards and procedures as developed by the administrator or the VSMP authority. Such facilities shall not be subject to the requirement for an inspection to be conducted by the administrator.

Sec. ■-11. Monitoring and inspections.

(a) The administrator, or any duly authorized agent of the administrator shall inspect the land disturbing activity during construction for:

- (1) Compliance with the approved erosion and sediment control (E&SC) plan;
- (2) Compliance with the approved stormwater management (SWM) plan;

- (3) Development, updating, and implementation of a pollution prevention plan (PPP); and
- (4) Development and implementation of any additional control measures necessary to address a TMDL.

(b) The administrator or the VSMP authority, or any duly authorized agent thereof, may at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this chapter. In accordance with a performance surety such as bond, letter of credit, bank escrow account, or cash surety or escrow in the form of a cashier's or certified check made payable to the Treasurer, James City County, any combination thereof, or such other legal arrangement satisfactory to the county attorney, the administrator or the VSMP authority, or any duly authorized agent thereof, may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(c) Pursuant to §62.1-44.15:40 of the Code of Virginia, the administrator or VSMP authority may require every VSMP authority permit applicant or permittee, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of their discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this chapter. Postconstruction inspections of stormwater maintenance facilities required by the provisions of this chapter shall be conducted by the administrator or VSMP authority or any duly authorized agent thereof, pursuant to the locality's adopted and State Board approved inspection program and shall occur, at a minimum, at least once every five (5) years except as may otherwise be provided for in section ___-10.

Sec. ___-12. Hearings.

(a) Any permit applicant or permittee or person subject to the requirements of this chapter, aggrieved by any action of James City County taken without a formal hearing, or by inaction of James City County, may demand in writing a formal hearing by the locality causing such grievance, provided a petition requesting such hearing is filed with the administrator within thirty (30) days after notice of such action is given by the administrator.

(b) The board or department holding hearings under this article shall do so in a manner consistent with § 62.1-44.15:44 of the Code of Virginia. Localities conducting hearings under this article shall do so in accordance with local hearing procedures. Local hearings held under this section shall be conducted by the board of supervisors at a regular or special meeting of the board of supervisors, or by the county administrator if designated by the board of supervisors to conduct such hearings on behalf of the board of supervisors at any other time and place authorized by the board of supervisors.

(c) A verbatim record of the proceedings of such hearings shall be taken and filed with the local governing body. Depositions may be taken and read as in actions at law.

(d) The local governing body or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the local governing body, or its designated member, which action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

Sec. █-13. Appeals.

Appeals shall be conducted in accordance with local appeal procedures.

Sec. █-14. Enforcement.

(a) If the administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings, inspection reports, notices to comply, notices of corrective action, and consent special orders,. Written notices shall be served by registered or certified mail to the address specified in the permit application, or by delivery at the site of the development activities to the agent or employee supervising such activities.

- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection b or the permit may be revoked by the administrator.
- (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with established local procedures developed by the administrator or the VSMP authority. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the administrator. However, if the administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the

watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with section ■-14(c).

(b) In addition to any other remedy provided by this chapter, if the administrator or his or her designee determines that there is a failure to comply with the provisions of this chapter, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with established local procedures or policies.

(c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification or guidance document, or any permit condition issued by the administrator may be compelled in a proceeding instituted in the Circuit Court of James City County by the locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

(d) Any person who violates any provision of this chapter or who fails, neglects or refuses to comply with any order of the administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

(1) Violations for which a penalty may be imposed under this subsection shall include, but not be limited to, the following:

- (a) no permit registration;
- (b) no stormwater pollution prevention plan (SWPPP)
- (c) An incomplete stormwater pollution prevention plan (SWPPP);
- (d) A stormwater pollution prevention plan (SWPPP) not available for review;
- (e) no approved erosion and sediment control (E&SC) plan;
- (f) failure to install stormwater management best management practices (BMPs) or erosion and sediment controls;
- (g) stormwater management best management practices (BMPs) or erosion and sediment controls improperly installed or maintained;
- (h) operational deficiencies;
- (i) failure to conduct required inspections;

- (j) incomplete, improper, or missed inspections; and
 - (k) discharges not in compliance with the requirements of section 9VAC25-880-70 of the General VPDES Permit for the Discharge of Stormwater from Construction Activities (VAR10).
- (2) The administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
 - (3) In imposing a civil penalty pursuant to this subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
 - (4) Any civil penalties assessed by a court as a result of a summons issued by James City County shall be paid into the treasury of James City County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of James City County and abating environmental pollution therein in such manner as the court may, by order, direct.

(e) Notwithstanding any other civil or equitable remedy provided by this section or by the Virginia Stormwater Management Act or Virginia Stormwater Management (VSMP) Regulations, any person who willfully or negligently violates any provision of this chapter, any order of the administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than twelve (12) months or a fine of not less than \$2,500 nor more than \$32,500, or both.

Sec. -15. Fees.

- (a) Fees to cover the costs associated with erosion and sediment control (E&SC) plan review and inspection shall be imposed in accordance with requirements of the VESCP authority and section 8-5 of the County Code.
- (b) Fees to cover the costs associated with stormwater facility inspections shall be imposed in accordance with requirements of the VSMP authority and section 19-15 and section 24-7, as applicable, of the County Code.
- (c) Fees to cover costs associated with stormwater management and pollution prevention plan review including implementation of a VSMP related to land disturbing activities and issuance of permit coverage and VSMP authority permits shall be imposed by the VSMP authority in accordance with the fee schedule indicated in Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fee Schedule for Registration and Issuance of General VPDES Permit for Discharges of Stormwater from Construction Activities 9VAC25-870-820

Fee Type	Fee Amount
Chesapeake Bay Preservation Act land disturbing activity (not subject to general permit coverage; sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than one 1 acre)	\$290
General / Stormwater Management - small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than one 1 acre)	\$290
General / Stormwater Management - small construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than one 1 acre and less than five 5 acres)	\$2,700
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than five 5 acres and less than ten 10 acres)	\$3,400
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than ten 10 acres and less than fifty 50 acres)	\$4,500
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than fifty 50 acres and less than 100 acres)	\$6,100
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600

(d) Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with the fee schedule indicated in Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by James City County, such reviews shall be subject to the fees set out in the fee schedule indicated in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in the fee schedule indicated in Table 2. All fees specified in this subsection are payable to the locality.

Table 2: Fee Schedule for the Modification or Transfer of Registration Statements for the General VPDES Permit for Discharges of Stormwater from Construction Activities 9VAC25-870-825

Type of Permit	Fee Amount
General / Stormwater Management – small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than one 1 acre)	\$20
General / Stormwater Management – small construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than one 1 acre and less than five 5 acres)	\$200
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than five 5 acres and less than ten 10 acres)	\$250
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than ten 10 acres and less than fifty 50 acres)	\$300
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than fifty 50 acres and less than 100 acres)	\$450
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700

(e) The following annual permit maintenance shall be imposed in accordance with the fee schedule indicated in Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated by the administrator or the VSMP authority. All fees specified in this subsection are payable to the locality, except for those individual permits or for projects completely administered by the Department such as state or federal projects, which shall be paid to the Department. General permit coverage maintenance fees shall be paid annually to James City County, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

Table 3: Fee Schedule for the Maintenance of the General VPDES Permit for Discharges of Stormwater from Construction Activities 9VAC25-870-830

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land Disturbing Activity (not subject to the general permit coverage; sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than one 1 acre)	\$50
General / Stormwater Management – small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
General / Stormwater Management – small construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$400
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
General / Stormwater Management – large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$1,400

(f) The fees set forth in sections (c) – (e), above shall apply to:

- (1) All persons seeking coverage under the general permit;
- (2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit;
- (3) Persons whose coverage under the general permit has been revoked shall apply to the Department for an Individual Permit for Discharges of Stormwater From Construction Activities.
- (4) Permit and permit coverage maintenance fees outlined under section ■-15(e) may apply to each general permit holder.

(g) No permit application fees will be assessed to:

- (1) Permittees who request minor modifications to permits as defined in section ■-2 of this chapter. Permit modifications at the request of the permittee resulting in changes to stormwater management (SWM) plans that require additional review by the administrator shall not be exempt pursuant to this section.
- (2) Permittees whose permits are modified or amended at the initiative of the Department, excluding errors in the registration statement identified by the administrator or errors related to the acreage of the site.
- (3) The county, any entity created solely by the county and those regional entities to which the county is a party provided that: (1) the other parties to the regional entity similarly waive fees; (2) the regional entity has locations in more than one locality; and (3) those portions of the fees required to be paid to the Department are completed.

(h) All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. James City County shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

(i) Nothing in this section shall prohibit the department and VSMP authority from entering into an agreement whereby the total fee to be paid by the applicant for coverage under the General VPDES Permit for Discharge of Stormwater from Construction Activities (VAR10) 9VAC25-880 is payable to the VSMP authority and the VSMP authority transmits the department portion set forth in 9VAC25-870-820 of the Virginia Administrative Code to the department on a schedule set forth by the department.

Sec. ■-16. Performance Surety.

(a) Prior to issuance of any permit, the applicant shall be required to submit a reasonable performance surety such as bond, letter of credit, bank escrow account, or cash surety or escrow in the form of a cashier's or certified check made payable to the Treasurer, James City County, or any combination thereof, or such other legal arrangement acceptable to the county attorney to ensure that measures could be taken by James City County at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him/her by the permit conditions as a result of his/her land disturbing activity. If James City County takes such action upon such failure by the applicant, the locality may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within sixty (60) days of the completion of the requirements of the permit conditions, including permit termination and proper submittal and approval of construction record (asbuilt) drawings and construction certifications for permanent stormwater management (BMP) facilities and permanent stormwater conveyance

system facilities by the administrator or the VSMP authority, such surety including bond, letter of credit, bank escrow account, or cash surety, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be released or refunded to the applicant or terminated, as applicable.



New Virginia Stormwater Management Regulations

BOS Work Session
February 26, 2013



New Virginia Stormwater Management Regulations

Agenda:

- Importance/history of the new regulations
- Required to adopt and current timeline
- Comparisons - current vs. new program
- Fee structures
- Minimum substantive progress submittal
- Elements required beyond minimum submittal
- Preliminary staff assumptions on program development
- Actions/decisions/discussions

New Virginia Stormwater Management Regulations



Importance of the New Regulations:

- Property protection
- Required element MS4 program plan
- Required Virginia E&S law & regulations (VESCP)
- Satisfies Virginia commitments in the PH2 watershed implementation plan (WIP) to address the Chesapeake Bay TMDL (urban sector strategy)
- Now incorporates runoff reduction
- Equilibrium with neighboring Bay Act localities (SWM)

February 26, 2013

Engineering and Resource Protection

3

New Virginia Stormwater Management Regulations



History of the New Stormwater Regulations:

- 8 year history (2004 to current)
- Virginia Soil & Water Conservation Board
 - September 24, 2008 (Original approved regulations)
 - December 9, 2009 (Suspended because of public comments)
 - May 24, 2011 (final approved)
- Over 3,700 public comments received prior to the final adoption.
- Signed into law on September 13, 2011 (over one year ago)
- Final act & regulations combined are over 150 pages total.
- Consolidation-Integration Bill effective July 1, 2012

February 26, 2013

Engineering and Resource Protection

4

New Virginia Stormwater Management Regulations



Required to Adopt:

The County must adopt and administer by ordinance a Virginia Soil & Water Conservation Board and DCR approved local stormwater management program per §10.1-603.3 of the Code of Virginia because:

- Tidewater locality subject to the Bay Act & Regulations
- Locality designated as required to obtain coverage under an MS4 permit

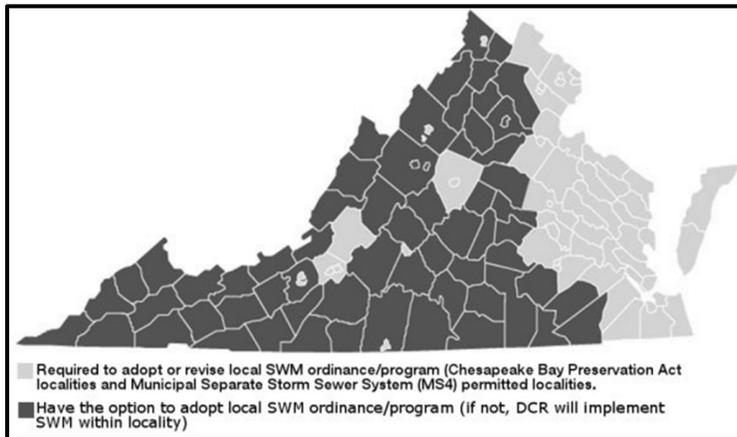
Those Required Not to Adopt:

Localities outside the Bay Act – Tidewater area and those not subject to MS4 requirements may elect to adopt and administer a local stormwater management program. If locality does not decide to adopt, then the Virginia DCR and the Virginia Soil & Water Conservation Board will administer.

February 26, 2013

Engineering and Resource Protection

New Virginia Stormwater Management Regulations



Source: DCR Slide Presentation, June 2012

February 26, 2013

Engineering and Resource Protection

New Virginia Stormwater Management Regulations



Current Timeline:

- Adopted law requires local adoption no sooner than December 2012 or no later than June 13, 2013.
- However, the law has a “substantive progress” provision.
- A preliminary/draft “substantive progress” application is due from localities by April 1, 2013.
- DCR reviews/forwards to the Virginia Soil & Water Conservation Board for consideration at June 2013 meeting.
- Allows for a 12-month extension for local implementation.
- Therefore, local implementation date is July 1, 2014 (FY15)

February 26, 2013

Engineering and Resource Protection

7

New Virginia Stormwater Management Regulations



Notable Differences/Changes Compared to Current Program:

- Regulations are equal if not slightly better than current criteria.
- Based on sound science and current treatment technologies.
- The County has many of the required elements in place now.
- Expect reduction in legislative case proffers or conditions.
- New administrative and state E-permit process (registration).
- Use of the new Virginia Runoff Reduction Method (VRRM).

February 26, 2013

Engineering and Resource Protection

8

New Virginia Stormwater Management Regulations



Notable Differences/Changes Compared to Current Program:

- Managed turf is now considered a pollutant load generator.
- New state water quality criteria.
- Expanded BMP list and “levels” of design.
- New offsite compliance option for water quality.
- New water quantity control criteria.
- New modern BMP clearinghouse website and state SWM Handbook.

February 26, 2013

Engineering and Resource Protection

9

New Virginia Stormwater Management Regulations



Notable Differences/Changes to Current Program:

- New *Stormwater Pollution Prevention Plan* terminology
- *Pollution Prevention Plan* requirements for local staff.
- New administrative completeness check (15 days).
- New stormwater training and certification requirements.
- New enforcement provisions.
- New program reporting and record keeping aspects.
- New fee structure (adopted as part of the state law/act/regulations and included in the state model ordinance template).

February 26, 2013

Engineering and Resource Protection

10

New Virginia Stormwater Management Regulations



Current Local Program Fees:

- E&S plan review/inspection
- Stormwater facility installation & inspection (milestones, 2008)
- Bay Act Program (started 2008)

Currently, state VSMP registration and fee collection are independent of the County E&S plan review and land-disturbing permit process. The Commonwealth administrates VSMP program.

New VSMP Program Registration Fees:

- Fees for permit registration (coverage)
- Fees for permit modification or transfer
- Fees for permit annual maintenance (ie. permit renewals)

February 26, 2013

Engineering and Resource Protection

New Virginia Stormwater Management Regulations



Summary of Fee Schedule in New Regulations

Project Disturbance	Registration/Coverage	Modification/Transfer	Annual Permit Maintenance
CBPA: 2,500 sq. ft. to 1 acre	\$290	No tier \$20 for less than 1 acre	\$50
Less than 1 acre	\$290	\$20	\$50
1 acre - 5 acres	\$2,700	\$200	\$400
5 acres – 10 acres	\$3,400	\$250	\$500
10 acres - 50 acres	\$4,500	\$300	\$650
50 acres - 100 acres	\$6,100	\$450	\$900
Greater than 100 acres	\$9,600	\$700	\$1,400

New Virginia Stormwater Management Regulations



▪ Fee Snapshot using FY13 Mid-Year Data:

- 15 land-disturbing permits issued.
- \$8,246 collected under current County fee structure.
- \$7,843 additional would have been collected under the new state stormwater management/VSMP structure (minimum one-year permit span).

13

New Virginia Stormwater Management Regulations



▪ Preliminary Recommendations on Fees:

- Maintain current - existing County fees
- Initially, adopt statewide VSMP fee schedule in accordance with most current law & regulations and the model ordinance.
- Provides equilibrium with neighboring Bay Act communities and consistency for development community.

February 26, 2013

Engineering and Resource Protection

14

New Virginia Stormwater Management Regulations



Minimum “Substantive” Progress Submittal:

The minimum “substantive progress” application would consist of:

Minimum Preliminary Submittal Requirements – by April 1, 2013

1. Identifying the local program authority and person accepting registration statements;
2. Preliminary draft *** of the local stormwater management ordinance;
3. Draft staffing and funding plan;

*** The preliminary draft does not have to be approved by the locality and the draft funding and staffing plan needs to list roles of personnel, departments responsible, estimated number of staff and a list of sources of funding.

February 26, 2013

Engineering and Resource Protection

15

New Virginia Stormwater Management Regulations



Work Over the Next Year if Extension is Granted:

- Additional Element Additions to the ordinance (beyond the model-template)
- Policies/procedures
- Reporting and recordkeeping
- Further examination of fee structure and funding/staffing plan (if necessary)
- Education, training and certification of staff
- Communication and outreach to the public.
- Information to demonstrate appropriate partnerships with other entities
- Look at some case study examples – old way versus new way

February 26, 2013

Engineering and Resource Protection

16

New Virginia Stormwater Management Regulations



Preliminary Staff Assumptions on Program Development:

- Engineering and Resource Protection identified as local program/stormwater program administrative/VSMP authority for purpose of the VSMP program.
- Adopt “stand-alone” ordinance: Virginia Stormwater Management Program Ordinance (VSMPo) or similar name.
- General housekeeping to other ordinances, no major changes to Chapter 8 (E&S) or Chapter 23 (CBP) ordinances.

February 26, 2013

Engineering and Resource Protection

17

New Virginia Stormwater Management Regulations



Preliminary Staff Assumptions on Program Development:

- Adoption of no other more stringent criteria
- Use state clearinghouse website and new state SWM handbook.
- Final ordinance with “Additional Element Additions” beyond the base model-template. Items such as inclusion of Special Stormwater Criteria and other insertions based known issues or problems experienced.

February 26, 2013

Engineering and Resource Protection

18

New Virginia Stormwater Management Regulations



• Actions/Decisions/Discussions:

- Concurrence with overview and general approach
- Designation of the Department of Development Management, Division of Engineering and Resource Protection, Director of Engineering and Resource Protection as the Local Program/VSMP Stormwater Program Administrative Authority.
- Allow staff to develop the basic draft staff and funding plan.
- Allow staff to proceed with development of a preliminary-draft ordinance using the state provided model-template. Use to submit as basic placeholder ordinance. No additional elements beyond the model at this time.

February 26, 2013

Engineering and Resource Protection

19

New Virginia Stormwater Management Regulations



• Actions/Decisions/Discussions:

- Ordinance will need to be “refined” once 1-year extension is granted and will require full County processing, public comment, and Board of Supervisor approval.
- Program development and ordinance refinement once 1-year extension is granted.

February 26, 2013

Engineering and Resource Protection

20