

BOARD OF SUPERVISORS WORK SESSION GOVERNMENT CENTER BOARD ROOM

OCT. 22, 2013 - 4 P.M.

A. Call to Order

B. Roll Call

C. Board Discussions

1. Virginia Local Disability Program (Summary) (Memorandum) (Attachment 1 - VLDP - Work Session) (Attachment 2 - Hybrid Leave Plan Proposal) (Attachment 3 - Disability Program) (Attachment 4 - Resolution)
2. General Permit VAR040037 for the Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems, Effective July 1, 2013 (Summary) (Memorandum) (Attachment 1 - Permit Coverage) (Attachment 2 - Storm Water Impacts) (Attachment 3 - Urban Area)(Attachment 4 - Storm Sewer Permit)
3. Longhill Road Corridor Study - Update (Summary) (Memorandum) (Attachment 1 - Project Members)

D. Adjournment

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 24TH DAY OF SEPTEMBER 2013, AT 4:00 P.M. IN THE COUNTY
GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY,
VIRGINIA.

ADOPTED

OCT 08 2013

Board of Supervisors
James City County, VA

A. CALL TO ORDER

B. ROLL CALL

John J. McGlennon, Chairman, Roberts District
Mary K. Jones, Vice Chairman, Berkeley District
James G. Kennedy, Stonehouse District - **Absent**
James O. Icenhour, Jr., Jamestown District
M. Anderson Bradshaw, Powhatan District

Doug Powell, Assistant County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Measurement of Tourism Programs

Mr. Doug Powell, Assistant County Administrator, introduced Mr. Richard Schreiber, President and Chief Executive Officer (CEO) of the Greater Williamsburg Chamber and Tourism Alliance and stated that Mr. Schreiber would be reviewing data and results from recent tourism programs in the area.

Mr. Schreiber introduced Mr. Bob Singley who will become the Chairman of the Alliance the following week. He also introduced Mr. Bob Harris, Senior Vice President of Tourism.

Mr. Schreiber gave a presentation of the Measurement of Tourism Programs report included in the Agenda Packet.

Mr. McGlennon stated for clarification that the baseline used on the charts is an average number of visitors, not the actual number of attending visitors.

Mr. Schreiber stated that was correct.

Mr. McGlennon stated that it is interesting to note that the different attractions show similar trends in ups and downs. He stated that he would like to thank the Alliance and all the organizations that have gotten involved and provided funding for these marketing campaigns. He stated that it is important to note that much of the increased revenue and attendance is driven by new products and attractions. He stated it is important for the organizations and attractions already here to reimagine themselves and continue to come up with new ideas.

Mr. Schreiber stated that the "arts months" have not begun to achieve what is possible yet, because the area does not have the major performing arts weekends that people will drive hundreds of miles to be a part of. He stated that we, as a community, need to find a way to attract some of performing arts events. He stated that he believes a long-term master plan for the arts could provide the community with nine months of attractions.

As the Board had no other questions, Mr. McGlennon thanked Mr. Schreiber and his colleagues for their presentation and continued efforts to help the tourism industry grow in the community.

2. Open Town Hall

Ms. Jody Puckett, Director of Communications, gave a presentation highlighting the information contained in the memorandum in the Agenda Packet.

Mr. Powell stated that he spoke to Mr. Kennedy who had several questions about this program and asked that the Board consider deferring action. However, Mr. Powell said that the staff was not seeking action from the Board on this item.

Ms. Jones asked who would be monitoring the comments. She stated that she is very supportive of citizen involvement and there are numerous ways for citizens to interact with the Board at the present time.

Ms. Puckett stated that the only thing that the software company, Peak Democracy, would be monitoring is the inappropriate use guidelines that the County develops in conjunction with the County Attorney's Office. She stated that citizens' addresses are geo-coded and stored in a database for the mapping tool.

Mr. Icenhour asked for clarification on the citizen's address. He stated that in order to participate in the Open Town Hall a citizen would have to give their name, address, and email, but they could restrict their address from being seen by others participating.

Ms. Puckett stated their address and email will never be displayed to be seen by others and staff can give the citizens the option of whether or not to display their name.

Mr. Icenhour stated that the program is very intriguing to him and it has elements that are not even part of public comment. He stated that this program would allow for participation in almost real-time. He stated that he believes that it would generate a lot more useful cross-talk and dialogue in the community that the County does not currently have, especially with the younger generation. He stated with the changing demographics of our community, the County needs to adapt the way the County communicates with its citizens.

Mr. Bradshaw agreed that the program would probably bring a different demographic into the public conversations. He asked if there were limitations on the length of comments.

Ms. Puckett stated not to her knowledge, but she would double-check. She stated that a citizen can make one comment per topic, but cannot comment on the posts of other citizens.

Mr. Bradshaw asked if staff knew the experience of the other surrounding jurisdictions which currently use this program, in regard to the monitoring.

Ms. Puckett stated that in the jurisdictions that staff has spoken with, not one has had an issue with inappropriate use.

Mr. McGlennon asked for clarification regarding questions posed by citizens. He stated that if a citizen posts a question, will the discussion be monitored to the point that someone would see the question and make sure a response is given.

Ms. Puckett stated that staff would have to follow up with those questions. She stated that Ms. Latara Branch, Civic Engagement Coordinator, would be the liaison for the program and would have access to the citizen's information and could follow up with them.

Mr. McGlennon stated that if a factual question is being asked, he would want staff to be able to respond and everyone else in the discussion be able to see the answer.

Mr. Icenhour stated that if there is confusion or lack of information in a particular topic, then staff should be allowed to go back in to the topic area and give more information. However, if a citizen can only comment once per topic, then they would not be able to comment again on the new information given.

Mr. McGlennon asked if there would be a point where the topic becomes closed so that the Board could review the comments and receive the value of the feedback prior to hearing a particular case.

Ms. Puckett stated that other jurisdictions are leaving topics open for 30 days and then closing them to allow staff and Boards to review them. She stated that once the topic was closed, staff could generate a report as a PDF file that could then be given to all Board members for consideration prior to a case.

Ms. Jones asked if the current staff can handle the monitoring of the discussions. She also stated that these new technologies tend to remove people from engaging one on one. She stated that there is a value to knowing who it is you are hearing from, not just having an anonymous discussion. She stated that she would be hesitant to move forward with this program since there are multiple avenues available to citizens already and the time and cost does not seem to outweigh the value.

Mr. Bradshaw stated that the cost seems modest to him to try a new way of achieving more public input and bringing in the younger demographic.

Mr. McGlennon stated that he is not sure of the value, but he would definitely be willing to try it, especially considering that the Board and staff are going into a Comprehensive Plan review. He stated that he did have concerns over the time constraints and trying to utilize this program for feedback for a public hearing. He stated that there would not be a lot of time available for citizens to comment.

As there were no other questions or comments, Mr. McGlennon thanked Ms. Puckett for the presentation.

D. CLOSED SESSION

Mr. Bradshaw made a motion to go into Closed Session at 5:18 p.m.

1. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Chesapeake Bay Board/Wetlands Board
 - b. Williamsburg Regional Library Board of Trustees

Mr. Bradshaw made a motion to certify the Closed Session at 5:23p.m.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Ms. Jones, Mr. McGlennon (4).
NAY: (0). ABSENT: Mr. Kennedy (1).

Mr. Icenhour made a motion to reappoint Mr. Charles Roadley, Mr. Roger Schmidt as 1st alternate, and Mr. Louis Bott as 2nd alternate to the Chesapeake Bay/Wetlands Board for terms beginning on October 1, 2013, and expiring on October 1, 2018.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Ms. Jones, Mr. McGlennon (4).
NAY: (0). ABSENT: Mr. Kennedy (1).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions.

E. ADJOURNMENT

The Board recessed at 5:24 p.m. until their Regular Meeting at 7 p.m.


Robert C. Middaugh
Clerk to the Board

MEMORANDUM COVER

Subject: Irrevocable Election Not to Participate in Virginia Local Disability Program

Action Requested: Shall the Board approve the resolution to “opt-out” of the Virginia Local Disability Program (VLDP) and offer a comparable employer-paid plan instead?

Summary: The General Assembly enacted legislation requiring a disability benefit for those employees who will be covered under the new hybrid retirement plan that goes into effect on January 1, 2014.

Each governing body may choose to provide this mandated benefit either by “opting in” to the Virginia Retirement System’s Virginia Local Disability Program (VLDP) or by “opting out” and offering a comparable employer-paid plan that meets or exceeds the VLDP coverage. The decision is irrevocable.

After reviewing plans, staff found that the rates offered by other plans are more competitive than the VLDP and are guaranteed for a longer period.

Staff recommends approval of the attached resolution at tonight’s Board Meeting that elects not to participate in the VLDP.

Fiscal Impact: Because the County is required to provide the coverage either through VLDP or a comparable plan, lower rates will result in a lower cost.

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell



County Administrator

Robert C. Middaugh



Attachments:

1. Memorandum
2. VLDP at-a-glance
3. Hybrid Leave Plan Proposal
4. Presentation
5. Resolution

WORK SESSION

Date: October 22, 2013

MEMORANDUM

DATE: October 22, 2013
TO: The Board of Supervisors
FROM: James Peterson, II, Assistant Director of Human Resources
SUBJECT: Irrevocable Election Not to Participate in Virginia Local Disability Program

The General Assembly enacted legislation requiring a disability benefit for those employees who will be covered under the new hybrid retirement plan that goes into effect on January 1, 2014. Employees covered under the hybrid plan include those hired after January 1, 2014 or existing employees who chose to participate in the hybrid plan.

Each governing body may choose to provide this mandated benefit either by participating in the Virginia Retirement System's Virginia Local Disability Program (VLDP) or by offering a comparable employer-paid plan that meets or exceeds the VLDP coverage. James City County and the James City Service Authority will automatically be enrolled in the VLDP unless the respective Boards submit the attached Irrevocable Election Not to Participate in Virginia Local Disability Program Resolution to the Virginia Retirement System by November 1, 2013.

While it is necessary to decide whether to "opt in" or "opt out" at this time, it is not necessary to select a comparable plan.

After reviewing plans, staff found that the rates offered by other plans are more competitive than the VLDP and are guaranteed for a longer period. For example, the current cost of the VLDP is .91 percent of the hybrid employee's compensable pay and rates are guaranteed for six months while the cost of plans endorsed by the Virginia Association of Counties Risk Pool (VACORP) and the Virginia Municipal League Insurance Programs (VMLIP) range from .75 percent to .79 percent and are guaranteed for a longer period of time.

The decision to "opt in" or "opt out" of the VLDP is irrevocable.

Staff recommends approval of the attached resolution, which will be considered at tonight's Board of Supervisors meeting.


James Peterson, II

JP/nb
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Attachment

RESOLUTION

IRREVOCABLE ELECTION NOT TO PARTICIPATE IN

VIRGINIA LOCAL DISABILITY PROGRAM

WHEREAS, by enacting Chapter 11.1 of Title 51.1 of the *Code of Virginia*, the Virginia General Assembly has established the Virginia Local Disability Program (“VLDP”) for the payment of short-term and long-term disability benefits for certain participants in the hybrid retirement program described in Virginia Code § 51.1-169; and

WHEREAS, for purposes of VLDP administration, an employer with VLDP-eligible employees may make an irrevocable election on or before November 1, 2013, requesting that its eligible employees not participate in VLDP as of the VLDP effective date of January 1, 2014, because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees that meets or exceeds the coverage set out in Chapter 11.1 of Title 51.1 of the *Code of Virginia*, with the exception of long-term care coverage, by January 1, 2014 ; and

WHEREAS, it is the intent of James City County (55147) to make this irrevocable election to request that its eligible employees not participate in VLDP.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that James City County irrevocably elects not to participate in VLDP because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees.

BE IT FURTHER RESOLVED that as an integral part of making this irrevocable election, James City County certifies that it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees.

John J. McGlennon
Chairman, Board of Supervisors


ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MC GLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of October, 2013.


VLDPelect-bos_res



Board Decisions Required with the New VRS Hybrid Plan

Board Work Session
October 22, 2013

James Peterson II
Assistant Director, Human Resources



Background: VRS Retirement Plans

- Currently VRS Plan 1 & Plan 2
- 2012 General Assembly added Hybrid Plan
- Except for *sworn public safety*, Hybrid Plan applies to:
 - new employees hired after Jan. 1, 2014 with no VRS service credit
 - current employees who opt-in during open enrollment period (Jan 1 - April 30, 2014)



Background: Hybrid Plan

- Includes:
 - Short-Term Disability (STD)
 - up to 26 weeks after 7 calendar days of qualifying illness or injury
 - Long-Term Disability (LTD)
 - up to service retirement

Board Decisions Required

1. Purchase the STD and LTD insurance from VRS (opt in) or from another vendor (opt out)?
2. Adopt new leave policy for employees in the Hybrid Plan or apply current policy?



1. Opt in or out?

- Governing bodies can purchase STD and LTD coverage from VRS Plan called VLDP or Virginia Local Disability Program (opt in) or from comparable plan (opt out)
 - decision to “opt-in” or “opt-out” of VLDP is *irrevocable*
 - deadline for VRS to receive Resolution to “opt-out” is *Nov. 1, 2013*



1. Opt in or out?

	VLDP	Comparable Plans
Cost	.91% of covered Hybrid Plan payroll	.75 - .79% of covered Hybrid Plan payroll
Term	6 months	Up to 3 years
Flexibility	Cannot opt-out at a later date	Can change vendors if better price/service
Adminis- tration	VRS	County
Long Term Care	Included	Not Included



1. Opt in or out?

Recommendation:

Opt Out of VLDP

- Lower rates with competition
- Rates guaranteed for longer period of time
- Greater flexibility



2. Adopt new leave policy?

- Current leave plan has unlimited sick leave accrual and a Sick Leave Bank which serve as STD insurance
- Employees covered under the Hybrid Plan will have STD insurance
- For this reason, VRS states *"You may wish to consider modifying your current leave structure to coordinate more effectively"*



2. Adopt new leave policy?

- County and surrounding localities discussed and developed model leave plan
- County reviewed with Payroll, Employee Benefits Committee and Executive Leadership Team



2. Adopt new leave policy?

- Proposed leave changes for Hybrid:
 - Combine sick and annual leave into one leave type called paid time off (PTO)
 - Accrual based on annual authorized hours and years of service
 - Limit carry-over to one year's accrual

2. New Leave Policy

Comparison: Monthly Accrual

Full Time Employee (2080 hrs.) with < 5 Years of Service	
Current VRS Plans	Hybrid Plan
8 hrs. Annual Leave 8 hrs. Sick Leave	12 hrs. combined Paid Time Off (PTO)

2. Adopt new leave policy?

Recommendation:

Adopt new leave policy for employees in the Hybrid Plan and part-timers hired on or after Jan 1, 2014

- Appropriate amount of leave w STD and LTD
- Easier explain, understand, and track one type of leave
- Gives employees more control over their leave
- Reduces/limits the County's liability


Next Steps

October 22

- Resolution to opt out

November 12

- Resolution to Change Chapter 5 of Personnel Policies to adopt a new leave program for employees in Hybrid Plan



Questions?



Virginia Local Disability Program

For Political Subdivisions and Schools

Effective January 1, 2014

At-a-glance



The 2012 General Assembly created the Virginia Local Disability Program for political subdivision and school division employees who will be covered under the VRS Hybrid Retirement Plan effective January 1, 2014. The Hybrid Retirement Plan will apply to most new employees

hired on or after January 1, 2014 and current employees who opt to switch to the plan.

For detailed program information, view the VLDP Employer Manual at www.varetire.org/ermanuals.

Eligibility	This program applies to political subdivision and school employees covered by the VRS Hybrid Retirement Plan that do not submit an opt-out resolution to VRS. Coverage is automatic. VLDP-covered employees are not eligible for VRS Disability Retirement.
Exemptions	Hazardous duty employees covered under enhanced benefits are exempt from the Hybrid Retirement Plan and will continue to be covered under VRS Disability Retirement.
Rates	<p>Rates beginning January 1, 2014 through June 30, 2014:</p> <p>Teachers: 0.39 percent of Hybrid Retirement Plan covered payroll</p> <p>Political Subdivisions: 0.91 percent of Hybrid Retirement Plan covered payroll</p> <p>Schools will pay the teacher rate for teachers and the political subdivision rate for non-administrative employees. New rates will be set each biennium.</p>
Opting Out	Coverage for your employees is automatic under VLDP unless your governing body elects to opt out and provide a comparable employer-paid program. The comparable program does not require you to provide long-term care coverage even though this coverage is included in VLDP. To opt-out, return the VLDP opt-out resolution to VRS by September 1, 2013 (Attn: Susan Keith, P.O. Box 2500, Richmond, VA 23218-2500). The election to opt out of VLDP is irrevocable. Schools that decide to opt out will submit one resolution for all employees (teachers and non-administrative employees).
Program Features	VLDP provides income protection if an employee can't work because of a non-work related or work-related illness, injury or other condition, such as surgery, pregnancy, complications from pregnancy or a catastrophic or major chronic condition. It includes both short-term and long-term disability coverage. The program focuses on assisting employees with their recovery and helping them make a safe return to their full work duties, if possible. Program details are available in the VLDP Employer Manual at www.varetire.org/ermanuals .

Proposed Hybrid Plan Leave Policy

1. Why a different policy?

- The VRS Hybrid Plan mandates a STD Plan that, after 1 year with the County, provides at least partial salary for up to 26 weeks each year beginning the 8th calendar day of the illness/injury/disability. If the disability lasts longer than 26 weeks, coverage transitions to a LTD Plan.
- A Sick Leave Bank and unlimited sick leave accrual are not needed with this type of disability coverage.

2. How was this policy developed?

- A regional group of public sector HR professionals met after hearing a VRS presentation of the Hybrid Plan provisions followed by a benefits consultant speaking on leave plans typically used in conjunction with STD and LTD Plans, and developed a sample plan
- HR fleshed out/fine-tuned the plan to meet James City County's needs, including that it be easy to use and understand
- Payroll reviewed it for ease of administration and automated timekeeping programming
- The Employee Benefits Committee reviewed it and made suggestions
- The Executive Leadership Team (ELT) is being asked to review it

3. Who will be covered?

- All employees in full-time positions who are covered by the VRS Hybrid Plan, and
- All employees in part-time regular and limited term positions who are hired on or after January 1, 2014, the date the Hybrid Plan goes into effect

4. Why include part timers in the new leave plan?

- If they move into full-time positions, they will be covered by the Hybrid Plan and will already have the appropriate leave plan,
- Eventually, as Plan 1 and 2 employees retire, all but public safety employees will be covered by the new leave plan; having part-timers on the same plan simplifies leave management for supervisors and administration for HR and Payroll,
- It is an opportunity to streamline the existing leave program for part timers.

5. What is the proposed new leave plan?

- The new plan combines sick and annual leave into one leave type called Paid Time Off (PTO)
- Other leaves, such as School Leave, Funeral Leave, Civil Leave and Military Leave would remain the same

6. How does the combined sick and annual leave (PTO) work?

The amount of accrual is shown in the chart below:

(Figure 1: Monthly Accrual Rate in Days/Hours – Also included in Exhibit A)

PTO Monthly Accrual Rate In Hours				
Annual Authorized Hours	< 5 years of service	5-10 years of service	10-15 years of service	15+ years of service
Less than 780	No PTO Accrued	No PTO Accrued	No PTO Accrued	No PTO Accrued
780-1039	3.0	3.5	4.0	4.5
1,040-2079	6.0	7.0	8.0	9.0
2,080 and higher	12.0	14.0	16.0	18.0

- Up to 1 year's accrual may be carried over to the next fiscal year. Anything over 1 year's accrual is forfeit on July 1 of each year. The employee continues to accrue PTO each month
- All unused PTO up to the maximum accrual, is paid out at separation of employment (See Appendix)
- PTO may be used for any purpose; however, it must be approved in advance unless it is an emergency or unforeseen illness/injury. Doctor's notes may be required as they are now
- Healthy employees may use the leave for planned time off/vacation days
- Employees with illnesses may use PTO to cover sick days, to care for sick family members or to supplement partial pay provided by STD
- PTO is not accrued while an employee is on STD

7. What about part-timers with fewer than 780 authorized hours per year?

Employees hired on or after January 1, 2014 in positions with less than 780 authorized annual hours will not be eligible for County benefits.

8. Why is this a good plan?

- It gives an appropriate amount of leave in conjunction w STD and LTD
- One type of leave is easier explain, understand, and track
- It gives employees more control over their leave
- It reduces/limits the County's liability

9. What happens to a Plan 1 or 2 employee's accumulated leave if he/she decides to switch to the Hybrid Plan?

Plan 1 or 2 employees that decide to switch to the Hybrid Plan during the enrollment period will transfer their annual leave up to the maximum PTO accrual (based on their Years of service) and forfeit the rest of their annual leave and all of their sick leave. The employee would begin accruing at the new PTO rate. The rationale is that:

- Hybrid Plan participants would have a mandated short-term disability benefit
- Ease of tracking/management of leave—we will have two systems; we don't want to add a third
- Not providing financial incentive to switch to the Hybrid Plan, such as paying out leave
- Employees have a choice; they don't have to switch to the Hybrid Plan

10. Will Hybrid employees participate in the County's deferred compensation program?

Hybrid Plan employees must contribute a minimum of 1% to the VRS deferred compensation plan. They may voluntarily contribute up to an additional 4% to that plan. That 5% receives a match from the employer portion of the County's VRS contribution. In other words, the County does not increase its contribution to VRS, the match just goes into the defined contribution rather than the defined benefit portion of the account. An employee may not put more than 5% of salary into the VRS deferred contribution plan.

Since 5% of salary may be less than the amount the employee is allowed by the IRS to defer, we propose allowing Hybrid employees to participate in the County's deferred compensation plan, if they choose. We would not automatically enroll them as we do Plan 1 and 2 employees. We do recommend giving Hybrid employees the same match we give other County employees, since we are making the same employer contribution for employees in all plans.

11. What are the next steps?

- Incorporate any Board of Supervisor (BOS) feedback
- Take the policy revisions to the first BOS meeting in November.
- Program myJCC and myTime to track the new hybrid leave program
- Have leave policy available in December for applicants, new hires, supervisors and Plan 1 and 2 employees who are considering changing to the Hybrid Plan

MEMORANDUM COVER

Subject: General Permit VAR040037 for the Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems, Effective July 1, 2013

Action Requested: None - Update Only

Summary: On July 1, 2013, James City County received coverage from the State to discharge stormwater under a new general permit. While affected local governments in Virginia anticipated an increase in permit requirements, the extent and nature of the increase is far more demanding than expected. Requirements for each of the original six Minimum Control Measures (MCMs) have increased substantially. There are two new requirements in response to the various Total Maximum Daily Load (TMDLs) throughout the Commonwealth, addressing the Chesapeake Bay TMDL, as well as other approved TMDLs such as the bacteria TMDLs for Skiffes Creek (Warwick River) and Mill and Powhatan Creeks. Furthermore, the new permit sets specific due dates for program components, requiring annual revisions to the permit program plan.

Fiscal Impact: To be determined

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell 

County Administrator

Robert C. Middaugh 

Attachments:

1. Memorandum
2. Var040037 Permit Coverage
3. FY14-PY1MinRequirements
4. Urban Area Map 2000 VS 2010
5. PowerPoint Presentation

WORK SESSION

Date: October 22, 2013

MEMORANDUM

DATE: October 22, 2013

TO: The Board of Supervisors

FROM: Frances C. Geissler, Director of Stormwater
John T. P. Horne, Director of General Services

SUBJECT: General Permit VAR040037 for the Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems, Effective July 1, 2013

On July 1, 2013, James City County received a new general permit from the State to discharge stormwater. The new municipal separate storm sewer (MS4) permit language was developed by the Virginia Department of Conservation and Recreation (DCR) in response to commitments the Commonwealth of Virginia made to the Environmental Protection Agency as part of the Chesapeake Bay Total Maximum Daily Load (TMDL) Watershed Implementation Plan (WIP). On July 1, 2013, responsibility for the MS4 program transferred from the DCR to the Virginia Department of Environmental Quality (DEQ) and DEQ now regulates MS4 activities. Attachment A is a copy of General Permit No. VAR040037.

While affected local governments in Virginia anticipated an increase in permit requirements, the extent and nature of the increase is far more demanding than expected. Requirements for each of the original six minimum control measures (MCMs) have increased substantially. There are two new requirements in response to the various TMDLs throughout the Commonwealth, addressing the Chesapeake Bay TMDL as well as other approved TMDLs such as the bacteria TMDLs for Skiffes Creek (Warwick River) and Mill and Powhatan Creeks. Furthermore, the new permit sets specific due dates for program components, requiring annual revisions to the permit program plan. This is a marked change from program plans for the previous two permits which were managed on a five-year cycle.

The following is a summary of the new requirements with some comparisons to the existing program:

A. SPECIAL CONDITIONS

Special Conditions – Total Maximum Daily Loads Other than The Chesapeake Bay TMDL

The County must develop a TMDL Action Plan for each TMDL in the County with an approved waste load allocations (WLA) assigned to the MS4. The inclusion of a WLA in a TMDL means that a specific pollutant load has been assigned to the MS4 and the MS4 must reduce its load to that level. Since MS4s are permitted under the Federal Clean Water Act, they are treated as an industrial discharge. This premise is typically problematic due to the highly variable flow conditions of storm runoff and the limited available monitoring data. In the case of James City County, this requirement applies to the Skiffes Creek (Warwick River), the Mill Creek, and the Powhatan Creek. **The Skiffes Creek Action Plan is due June 30, 2015. The Mill and Powhatan Creeks Action Plan is due June 30, 2016.**

The Action Plans must identify control techniques that have been or will be implemented, include enhanced public education, assess all significant sources of the pollutant and include a process to determine whether the Action Plan is effective. Action Plans become enforceable 90 days after submission unless specifically denied by DEQ. The Action Plans must include an estimated end date for achieving the waste load allocation.

The TMDL Action Plans must include specific commitments by the County to reduce pollutants to the TMDL streams.

Comparison to existing program: **This is a new requirement.** The County has been proactive with respect to bacteria pollution by developing a TMDL Implementation Plan for the Mill-Powhatan Creeks Bacteria TMDL. This document and the measures which have been undertaken as a result, along with the Mill Creek and Powhatan Creek Watershed Management Plans, will form the foundation of the bacteria action plans in the County. A watershed management planning effort for Skiffes Creek is needed as a foundation for the Skiffes Creek TMDL Action Plan. Watershed management plans quantify reductions from proposed infrastructure improvements.

Special Condition – Chesapeake Bay Total Maximum Daily Load (CBTMDL)

Virginia's CBTMDL Watershed Implementation Plans committed to a phased approach for MS4 to meet pollutant reductions. During this permit cycle the County must reduce its loads of nitrogen, phosphorus and sediment by five percent each from a load estimate included in the permit. Since the CBTMDL Watershed Implementation Plans were developed prior to the 2010 Census, the Action Plan must be based on conditions present as of July 1, 2009, such as the 2000 Census Urbanized Area. This date introduces another layer of tracking data since the rest of the permit requirements are based on an Urbanized Area as of the 2010 Census.

The CBTMDL Action Plan must contain a list of all existing legal authorities and any needed authorities, estimate the annual pollutant loads from the MS4 and determine the pollutant reductions needed and identify the means and methods to be used to reduce pollutant discharges, such as new treatment facilities.

DEQ is preparing a Guidance Memorandum describing, in detail, how each step in the Action Plan development will be undertaken as well as the criteria for success. DEQ expects to issue the guidance later this fall. The guidance is expected to direct MS4s to determine the extent of the regulated lands. Since James City County does not typically own any roadways or accept easements for stormwater infrastructure, the County's MS4 may be as limited as the property the County owns in the urbanized portion of the County as well as any adjoining property which discharges stormwater to County lands. If this is the case, the CBTMDL Watershed Implementation Plans may have greatly overestimated the ability of MS4s to meet the pollutant load reductions. **The scale of the regulated MS4 will have implications for all of the permit requirements.**

The CBTMDL Action Plan must include specific commitments by the County to reduce pollutants to the Chesapeake Bay.

Comparison to existing program: **This is a new requirement.** The County has been proactive with respect to planning for the installation of water quality specific treatment facilities through the watershed planning efforts and project review and evaluation through the Stormwater Program Advisory Committee's project prioritization tools. DEQ's development of extensive guidance will standardize the development of pollutant reductions statewide and provide a consistent playing field for all. In the short term, James City County will need to re-evaluate planning processes to ensure that they meet the new guidance. Furthermore, the County does not currently have watershed planning coverage for all portions of the Urbanized Area. Watershed management plans are needed for both Skiffes and College Creeks.

B. MINIMUM CONTROL MEASURES

MCM 1 – Public Education and Outreach on Stormwater Impacts

The County's updated program must identify three high-priority water quality issues such as Chesapeake Bay nutrients, pet wastes or local bacteria TMDLs, identify and estimate the population size of the target audiences for each high-priority issue, develop messages and associated educational and outreach materials and provide for public participation during development of the public education and outreach program. **Annually the County must conduct sufficient education and outreach activities to reach 20 percent of each high-priority issue target audience.**

Comparison to existing program: The existing program has a targeted and strategic approach to outreach. Utilizing existing tools such as the County website, Facebook and the e-FYI newsletter, **the current program reaches 1-3 percent of target audiences.** High priority audiences include pet owners (*scoop the poop*), restaurant and grocery store employees (*only rain in the drain*), and stormwater management facility owners (*maintenance is the key to performance*). The County population grew by approximately 17 percent since the beginning of the previous permit.

MCM 2 – Public Involvement/Participation

The County must maintain an updated MS4 Program Plan and post the plan on the County website along with copies of the MS4 Program annual reports. The County must participate, through promotion, sponsorship, or other involvement, in a minimum of four local activities annually for the purpose of increasing public participation in reducing stormwater pollutant loads; improving water quality; and supporting local restoration.

Comparison to existing program: **The County's existing public involvement and participation program fully meets these requirements through the participation of citizens in the Stormwater Program Advisory Committee and the County's well-supported volunteer water quality monitoring program.** Other opportunities such as the Turf Love and rain garden rebate programs also provide opportunities for citizens to get involved in projects that improve water quality.

MCM 3 – Illicit Discharge Detection and Elimination

The County must maintain an accurate storm sewer system map and information table that shows the location of all stormwater outfalls owned by the County, the estimated acreage served by each outfall, the name of the receiving surface water and whether the receiving water is listed as impaired by DEQ along with the name of any applicable TMDLs. Information such as age of the infrastructure, land use, historical illegal discharges, dumping, or cross connections is desirable.

The County must develop, implement, and update written procedures to detect, identify, and address unauthorized non-stormwater discharges, including illegal dumping, to the stormwater system. These procedures can include dry weather field screening such as field observations or monitoring. The County is expected to utilize specific and detailed methods to collect general information such as time since the last rain, the quantity of the last rain, site descriptions, estimated discharge rates, and visual observations.

Comparison to existing program: The County's existing outfall data must be updated based on the new urbanized area maps resulting from the 2010 Census. Of particular concern is the new requirement to map the drainage areas to each outfall and link that data to the DEQ impaired waters list. The new urbanized portion of the County is much larger than the 2000 map and the result is a 52 percent increase in the number of County facilities within the regulated MS4 and a similar increase in the number of outfalls to be mapped. Mapping drainage areas is time intensive and requires field verification.

The program has procedures in place to perform annual field screenings. **The increase in the urbanized area will result in more screenings and potentially more follow up. Current procedures will need further documentation and revision to meet the new standards.**

MCM 4 – Construction Site Stormwater Runoff Control

The County must implement the new Virginia Stormwater Management Program (VSMP) including new requirements as described in 9VAC25-870 (formerly 4VAC50-60) and continue to implement the environmental permitting and inspection programs managed by the Engineering and Resources Protection Division. **The new MS4 permit does not impose requirements beyond the mandated changes which are scheduled to take place by June 30, 2014, through regulations found at 9VAC25-870.**

Comparison to existing program: Needed changes to the current program are being driven by regulations other than the new MS4 permit. Any new or modified requirements to the construction site runoff program will be described as the Virginia Stormwater Management (VSMP) program is further developed for local implementation.

MCM 5 – Post-construction Stormwater Management

This Minimum Control Measure addresses the design standards and requirements implemented by the Engineering and Resource Protection Division as well as the post-construction maintenance responsibilities managed by the Stormwater Division.

Regarding the design standards and requirements, the County must implement the new Virginia Stormwater Management Program (VSMP) including new stormwater management design standards as described in 9VAC25-870-40 (formerly 4VAC50-60-40) and §10.1-603.2 of the Code of Virginia. While the new requirements are referenced in the new MS4 permit, changes to the County's program will be independent of the MS4 permit.

Regarding the post-construction maintenance requirements, the County must continue to ensure that private stormwater management facilities are maintained in accordance with approved plans.

As part of this effort the County must utilize the legal authority granted to it by the Virginia General Assembly to ensure adequate maintenance. The County may use strategies other than maintenance agreements to ensure maintenance of stormwater control facilities that treat stormwater solely from an individual residential lot.

Comparison to existing program: Most of the needed changes to the current program are being driven by regulations other than the new MS4 permit through 9VAC25-870 (formerly 4VAC50-60). Any new or modified requirements to the post construction stormwater management program will be described as the Virginia Stormwater Management (VSMP) program is further developed for local implementation.

In order to ensure that privately owned stormwater management facilities are adequately maintained, the current program uses a combination of workshops, site visits, technical assistance to facility owners and enforcement language contained in the maintenance covenants signed as part of the permitting of all stormwater facilities. In general, facility owners have been responsive to fulfilling their obligations. However, approximately 25 percent of stormwater management facilities do not have maintenance agreements on record at the Courthouse. **Ensuring maintenance of these facilities could potentially require new, additional tools.**

An area of difficulty is the continuing increase in the number of stormwater management facilities County-wide. **The number of both County and privately owned facilities has increased almost 20 percent since the last permit cycle.** There are now 705 stormwater facilities in the County, of which 66 are County-owned. Compared to 2007 numbers: 600 total facilities, of which 55 were County-owned. Due to a variety of reasons, County staff actually operate and maintain almost 80 stormwater facilities.

MCM 6 – Pollution Prevention/Good Housekeeping for Municipal Operations

The County must operate and maintain County facilities in a manner that minimizes and prevents pollutant discharge from facilities to stormwater. This includes ensuring proper disposal of wastes, preventing pollutant discharge from leaking municipal vehicles and equipment and applying fertilizers and pesticides in accordance with manufacturers' recommendations. The County must identify those facilities having a high potential to discharge pollutants to stormwater and then develop and implement stormwater pollution prevention plans (SWPPPS) for each facility. The County must also implement turf and landscape nutrient management plans for any areas larger than one acre that receive fertilizer.

The new permit requires the development of a detailed training plan for staff based on type of position. Appropriate training must be provided to staff on a biennial basis. This training requirement affects staff from a wide range of Divisions: Fire Department, General Services, James City Service Authority, Parks and Recreation, Williamsburg-James City County Schools, etc.

Comparison to existing program: **The County's existing Pollution Prevention/Good Housekeeping Program has been implemented unevenly across County Divisions.** While standard operating procedures are in place, most County facilities have not been inspected with respect to whether or not the procedures are being implemented. **This shortfall has been a function of staff resources.**

General Services staff has received the most consistent training and are most aware of pollution prevention behaviors. Other Divisions have either had no or very limited training. This is also the most difficult Minimum Control Measure to implement given the large number of moving parts from water main repairs to custodial cleaning activities to grooming athletic fields to hazardous spill response.

The existing program does not include the detailed tracking and documentation of training, although records of staff training and topics have been maintained.

Schedule of Deliverables

James City County has been implementing the new general permit since July 1, 2013. Attachment B is a list of routine activities which are due during FY 14. Since the TMDL Action Plans are not due until FY 15 and FY 16, they are not included, although work is underway. The new permit's schedule of planning activities, which must also be accomplished, is listed below, broken out by fiscal year.

Fiscal Year 14

- Develop a public education and outreach plan for the remainder of the permit.
- Revise and update the illicit discharge detection and elimination written procedures in accordance with the new permit.
- Revise and update inspection and maintenance procedures for County-owned stormwater management facilities.
- Develop an employee training program for good housekeeping/pollution prevention from municipal operations including the positions needing training, type of training needed and schedule of training activities.

Fiscal Year 15

- Develop a TMDL Action Plan for Skiffes Creek Bacteria TMDL, identifying the pollutant loads, needed reductions and actions the County will take to reduce the load.
- Develop a Chesapeake Bay TMDL Action Plan that meets the DEQ guidance memorandum and identifies actions the County will take to reduce nitrogen, phosphorus, and sediment.
- Develop daily good housekeeping/pollution prevention activities for the range of municipal operations.

Fiscal Year 16

- Develop a TMDL Action Plan for the Mill and Powhatan Creeks Bacteria TMDL, identifying the pollutant loads, needed reductions and actions the County will take to reduce the load.

Fiscal Year 17

- Complete the updated outfall mapping based on the 2010 Census Urbanized Area in accordance with data needs described in the new permit.
- Complete implementation of stormwater pollution prevention plans (SWPPPs) for high priority County sites such as fueling stations and convenience centers.

Fiscal Year 18

- Complete implementation of all required nutrient management plans for municipal turf areas.

C. FUNDING OPTIONS

The Commonwealth of Virginia has provided local governments with a variety of funding tools to meet the needs of the Clean Water Act in Virginia. Typically used options include the establishment of a dedicated tax, establishment of a stormwater utility and bonding. The Commonwealth is actively working to implement a nutrient credit trading framework, which, over a long period of time, may provide some funding opportunities for James City County.

The Commonwealth has also instituted a Stormwater Local Assistance Fund (SLAF) in order to contribute a 50 percent match to local governments for design and construction of stormwater capital improvements. This competitive grant program has stringent criteria and awards additional credit to those localities with dedicated funding sources. The program is funded at \$35 million for this fiscal year.



Frances C. Geissler

CONCUR:



John T. P. Horne

FG/JTPH/nb
GnrlPrmtDSWtr_mem

Attachments



RECEIVED

JUL 05 2013

COUNTY ADMINISTRATION

RECEIVED ON

JUL 10 '13

Stormwater Division
Director

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

TDD (804) 698-4021

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

(804) 698-4020
1-800-592-5482

July 1, 2013

Mr. Robert Middaugh, County Administrator
James City County, Virginia
P.O. Box 8784
Williamsburg, Virginia 23187-8784

RE: General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems
General Permit No. VAR040037
James City County

Dear Permittee:

Department staff has reviewed your Registration Statement and determined that the referenced Municipal Storm Sewer System (MS4) is hereby covered under the General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems. The effective date of your coverage under this general permit is July 1, 2013, or the date of this letter, whichever is later. The enclosed copy of the general permit contains the applicable reporting requirements and other conditions of coverage.

During its 2013 Legislative Session, the General Assembly passed Chapters 756 (HB2048) and 793 (SB1279) which moved several programs from the Virginia Department of Conservation and Recreation (DCR) to the Virginia Department of Environmental Quality (DEQ). As a result of this legislative change, the General Assembly transferred the administration and oversight of the General Permit for Discharges from Small Municipal Separate Storm Sewer Systems from DCR to DEQ. Please submit future permit correspondence and your annual MS4 program reports to the DEQ Tidewater Regional Office at the following address:

DEQ Tidewater Regional Office
5636 Southern Blvd.
Virginia Beach, VA 23462

The general permit will expire on June 30, 2018. The conditions of the permit require that you submit a new registration statement on or before April 1, 2018, if you wish to have continued coverage under the general permit.

If you have any questions about this letter or the general permit, please contact Mr. Mark Sauer, Water Permits Manager, at (757) 518-2105 or mark.sauer@deq.virginia.gov.

Sincerely,

Melanie D. Davenport, Director
Water Division

Enc. General Permit No. VAR040037

Cc. Mark Sauer, DEQ-TRO



COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

General Permit No.: VAR040037

Effective Date: July 1, 2013

Expiration Date: June 30, 2018

**GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM SMALL MUNICIPAL SEPARATE
STORM SEWER SYSTEMS**

**AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT
PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT**

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the Virginia Stormwater Management Act and regulations adopted pursuant thereto, this state permit authorizes operators of small municipal separate storm sewer systems to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in State Water Control Board and Virginia Soil and Water Conservation Board regulations which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Section I – Discharge Authorization and Special Conditions, Section II – MS4 Program and Section III – Conditions Applicable To All State Permits, as set forth herein. The operator shall utilize all legal authority provided by the laws and regulations of the Commonwealth of Virginia to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, specific contract language, order or interjurisdictional agreements.

For operators of small MS4s that are applying for initial coverage under this general permit, the schedule to develop and implement the MS4 Program Plan shall be submitted with the completed registration statement.

For operators that have previously held MS4 state permit coverage, the operator shall update the MS4 Program Plan in accordance with the following schedule. Until such time as the required updates are completed and implemented, the operator shall continue to implement the MS4 Program consistent with the MS4 Program Plan submitted with the registration statement.

Table 1: Schedule of MS4 Program Plan Updates Required in this Permit		
Program Update Requirement	Permit Reference	Update Completed By
Public Education Outreach Plan (Minimum Control Measure 1 – Public Education and Outreach on Stormwater Impacts)	Section II B 1	12 months after permit coverage
Illicit Discharge Procedures - (Minimum Control Measure 3 – Illicit Discharge Detection and Elimination)	Section II B 3	
Individual Residential Lot Special Criteria (Minimum Control Measure 5 – Post-Construction Stormwater Management in New Development and Development on Prior Developed Lands)	Section II B 5 c (1) (d)	
Operator-Owned Stormwater Management Inspection Procedures (Minimum Control Measure 5 – Post-Construction Stormwater Management in New Development and Development on Prior Developed Lands)	Section II B 5	
Identification of Locations Requiring SWPPPs (Minimum Control Measure 6 – Pollution Prevention/Good Housekeeping for Municipal Operations)	Section II B 6 b	
Nutrient Management Plan (NMP) Locations - (Minimum Control Measure 6 – Pollution Prevention/Good Housekeeping for Municipal Operations)	Section II B 6 c (1) (a)	
Training Schedule and Program - (Minimum Control Measure 6 – Pollution Prevention/Good Housekeeping for Municipal Operations)	Section II B 6	

Table 1: Schedule of MS4 Program Plan Updates Required in this Permit

Program Update Requirement	Permit Reference	Update Completed By
Updated TMDL Action Plans (TMDLs approved before July of 2008) – (Special Conditions for Approved Total Maximum Daily Loads (TMDL) Other Than Chesapeake Bay)	Section I B	24 months after permit coverage
Chesapeake Bay TMDL Action Plan – (Special Condition for Chesapeake Bay TMDL)	Section I C	
Stormwater Management Progressive Compliance and Enforcement – (Minimum Control Measure 4 - Construction Site Stormwater Runoff Control)	Section II B 5	
Daily Good Housekeeping Procedures (Minimum Control Measure 6 – Pollution Prevention/Good Housekeeping for Municipal Operations)	Section II B 6 a	
Other TMDL Action Plans for applicable TMDLs approved between July 2008 and June 2013 - (Special Conditions for Approved Total Maximum Daily Loads (TMDL) Other Than Chesapeake Bay)	Section I B	36 months after permit coverage
Outfall Map Completed - (Minimum Control Measure 3 – Illicit Discharge Detection and Elimination) – Applicable to new boundaries identified as “urbanized” areas in the 2010 Decennial Census	Section II B 3 a (3)	48 months after permit coverage
SWPPP Implementation - (Minimum Control Measure 6 – Pollution Prevention/Good Housekeeping for Municipal Operations)	Section II B 6 b (3)	
NMP Implementation - (Minimum Control Measure 6 – Pollution Prevention/Good Housekeeping for Municipal Operations)	Section II B 6 c (1) (b)	60 months after permit coverage
*Updates should be submitted with the appropriate annual report.		

SECTION I

DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this state permit. During the period beginning with the date of coverage under this general permit and lasting until the expiration and reissuance of this state permit, the operator is authorized to discharge in accordance with this state permit from the small municipal separate storm sewer system identified in the registration statement into surface waters within the boundaries of the Commonwealth of Virginia and consistent with 4VAC50-60-1230.

B. Special conditions for approved total maximum daily loads (TMDL) other than the Chesapeake Bay TMDL. An approved TMDL may allocate an applicable wasteload to a small MS4 that identifies a pollutant or pollutants for which additional stormwater controls are necessary for the surface waters to meet water quality standards. The MS4 operator shall address the pollutants in accordance with this special condition where the MS4 has been allocated a wasteload in an approved TMDL.

1. The operator shall maintain an updated MS4 Program Plan that includes a specific TMDL Action Plan for pollutants allocated to the MS4 in approved TMDLs. TMDL Action Plans may be implemented in multiple phases over more than one state permit cycle using the adaptive iterative approach provided adequate progress to reduce the pollutant discharge in a manner consistent with the assumptions and requirements of the specific TMDL wasteload is demonstrated in accordance with subdivision 2 e of this subsection. These TMDL Action Plans shall identify the best management practices and other interim milestone activities to be implemented during the remaining terms of this state permit.

a. In accordance with Table 1 in this section, the operator shall update the MS4 Program Plans to address any new or modified requirements established under this special condition for pollutants identified in TMDL wasteload allocations approved prior to July 9, 2008.

b. In accordance with Table 1 in this section, the operator shall update the MS4 Program Plan to incorporate approvable TMDL Action Plans that identify the best management practices and other interim milestone activities that will be implemented during the remaining term of this permit for pollutants identified in TMDL wasteload allocations approved either on or after July 9, 2008, and prior to issuance of this permit.

c. Unless specifically denied in writing by the department, TMDL Action Plans and updates developed in accordance with this section become effective and enforceable 90 days after the date received by the department.

2. The operator shall:

a. Develop and maintain a list of its legal authorities such as ordinances, state and other permits, orders, specific contract language, and interjurisdictional agreements applicable to reducing the pollutant identified in each applicable WLA;

b. Identify and maintain an updated list of all additional management practices, control techniques and system design and engineering methods, beyond those identified in Section II B, that have been implemented as part of the MS4 Program Plan that are applicable to reducing the pollutant identified in the WLA;

c. Enhance its public education and outreach and employee training programs to also promote methods to eliminate and reduce discharges of the pollutants identified in the WLA;

d. Assess all significant sources of pollutant(s) from facilities of concern owned or operated by the MS4 operator that are not covered under a separate VPDES permit and identify all municipal facilities that may be a significant source of the identified pollutant. For the purposes of this assessment, a significant source of pollutant(s) from a facility of concern means a discharge where the expected pollutant loading is greater than the average pollutant loading for the land use identified in the TMDL. (For example, a significant source of pollutant from a facility of concern for a bacteria TMDL would be expected to be greater at a dog park than at other recreational facilities where dogs are prohibited);

e. Develop and implement a method to assess TMDL Action Plans for their effectiveness in reducing the pollutants identified in the WLAs. The evaluation shall use any newly available

information, representative and adequate water quality monitoring results, or modeling tools to estimate pollutant reductions for the pollutant or pollutants of concern from implementation of the MS4 Program Plan. Monitoring may include BMP, outfall, or in-stream monitoring, as appropriate, to estimate pollutant reductions. The operator may conduct monitoring, utilize existing data, establish partnerships, or collaborate with other MS4 operators or other third parties, as appropriate. This evaluation shall include assessment of the facilities identified in subdivision 2 d of this subsection. The methodology used for assessment shall be described in the TMDL Action Plan.

3. Analytical methods for any monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the Environmental Protection Agency (EPA). Where an approved method does not exist, the operator must use a method consistent with the TMDL.

4. The operator is encouraged to participate as a stakeholder in the development of any TMDL implementation plans applicable to their discharge. The operator may incorporate applicable best management practices identified in the TMDL implementation plan in the MS4 Program Plan or may choose to implement BMPs of equivalent design and efficiency provided that the rationale for any substituted BMP is provided and the substituted BMP is consistent with the assumptions and requirements of the TMDL WLA.

5. Annual reporting requirements.

a. The operator shall submit the required TMDL Action Plans with the appropriate annual report and in accordance with the associated schedule identified in this state permit.

b. On an annual basis, the operator shall report on the implementation of the TMDL Action Plans and associated evaluation including the results of any monitoring conducted as part of the evaluation.

6. The operator shall identify the best management practices and other steps that will be implemented during the next state permit term as part of the operator's reapplication for coverage as required under Section III M.

7. For planning purposes, the operator shall include an estimated end date for achieving the applicable wasteload allocations as part of its reapplication package due in accordance with Section III M.

C. Special condition for the Chesapeake Bay TMDL. The Commonwealth in its Phase I and Phase II Chesapeake Bay TMDL Watershed Implementation Plans (WIP) committed to a phased approach for MS4s, affording MS4 operators up to three full five-year permit cycles to implement necessary reductions. This permit is consistent with the Chesapeake Bay TMDL and the Virginia Phase I and II WIPs to meet the Level 2 (L2) scoping run for existing developed lands as it represents an implementation of 5.0% of L2 as specified in the 2010 Phase I WIP. Conditions of future permits will be consistent with the TMDL or WIP conditions in place at the time of permit issuance.

1. Definitions. The following definitions apply to this state permit for the purpose of the special condition for discharges in the Chesapeake Bay Watershed:

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

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

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

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

2. Chesapeake Bay TMDL planning.

a. In accordance with Table 1 in this section, the operator shall develop and submit to the department for its review and acceptance an approvable Chesapeake Bay TMDL Action Plan. Unless specifically denied in writing by the department, this plan becomes effective and enforceable 90 days after the date received by the department. The plan shall include:

(1) A review of the current MS4 program implemented as a requirement of this state permit including a review of the existing legal authorities and the operator's ability to ensure compliance with this special condition;

(2) The identification of any new or modified legal authorities such as ordinances, state and other permits, orders, specific contract language, and interjurisdictional agreements implemented or needing to be implemented to meet the requirements of this special condition;

(3) The means and methods that will be utilized to address discharges into the MS4 from new sources;

(4) An estimate of the annual POC loads discharged from the existing sources as of June 30, 2009, based on the 2009 progress run. The operator shall utilize the applicable versions of Tables 2 a-d in this section based on the river basin to which the MS4 discharges by multiplying the total existing acres served by the MS4 on June 30, 2009, and the 2009 Edge of Stream (EOS) loading rate:

Table 2a: Calculation Sheet for Estimating Existing Source Loads for the James River Basin
***Based on Chesapeake Bay Program Watershed Model Phase 5.3.2**

Subsource	Pollutant	Total Existing Acres Served by MS4 (6/30/09)	2009 EOS Loading Rate (lbs/ acre)	Estimated Total POC Load Based on 2009 Progress Run
Regulated Urban Impervious	Nitrogen		9.39	
Regulated Urban Pervious			6.99	
Regulated Urban Impervious	Phosphorus		1.76	
Regulated Urban Pervious			0.5	
Regulated Urban Impervious	Total Suspended Solids		676.94	
Regulated Urban Pervious			101.08	

Table 2b: Calculation Sheet for Estimating Existing Source Loads for the Potomac River Basin
***Based on Chesapeake Bay Program Watershed Model Phase 5.3.2**

Subsource	Pollutant	Total Existing Acres Served by MS4 (6/30/09)	2009 EOS Loading Rate (lbs/ acre)	Estimated Total POC Load Based on 2009 Progress Run
Regulated Urban Impervious	Nitrogen		16.86	
Regulated Urban Pervious			10.07	
Regulated Urban Impervious	Phosphorus		1.62	
Regulated Urban Pervious			0.41	
Regulated Urban Impervious	Total Suspended Solids		1,171.32	
Regulated Urban Pervious			175.8	

Table 2c: Calculation Sheet for Estimating Existing Source Loads for the Rappahannock River Basin

***Based on Chesapeake Bay Program Watershed Model Phase 5.3.2**

Subsource	Pollutant	Total Existing Acres Served by MS4 (6/30/09)	2009 EOS Loading Rate (lbs/ acre)	Estimated Total POC Load Based on 2009 Progress Run
Regulated Urban Impervious	Nitrogen		9.38	
Regulated Urban Pervious			5.34	
Regulated Urban Impervious	Phosphorus		1.41	
Regulated Urban Pervious			0.38	
Regulated Urban Impervious	Total Suspended Solids		423.97	
Regulated Urban Pervious			56.01	

Table 2d: Calculation Sheet for Estimating Existing Source Loads for the York River Basin *Based on Chesapeake Bay Program Watershed Model Phase 5.3.2				
Subsource	Pollutant	Total Existing Acres Served by MS4 (6/30/09)	2009 EOS Loading Rate (lbs/ acre)	Estimated Total POC Load Based on 2009 Progress Run
Regulated Urban Impervious	Nitrogen		7.31	
Regulated Urban Pervious			7.65	
Regulated Urban Impervious	Phosphorus		1.51	
Regulated Urban Pervious			0.51	
Regulated Urban Impervious	Total Suspended Solids		456.68	
Regulated Urban Pervious			72.78	

(5) A determination of the total pollutant load reductions necessary to reduce the annual POC loads from existing sources utilizing the applicable versions of Tables 3 a-d in this section based on the river basin to which the MS4 discharges. This shall be calculated by multiplying the total existing acres served by the MS4 by the first permit cycle required reduction in loading rate. For the purposes of this determination, the operator shall utilize those existing acres identified by the 2000 U.S. Census Bureau urbanized area and served by the MS4.

Table 3a: Calculation Sheet for Determining Total POC Reductions Required During this Permit Cycle for the James River Basin
***Based on Chesapeake Bay Program Watershed Model Phase 5.3.2**

Subsource	Pollutant	Total Existing Acres Served by MS4 (6/30/09)	First Permit Cycle Required Reduction in Loading Rate (lbs/ acre)	Total Reduction Required First Permit Cycle (lbs)
Regulated Urban Impervious	Nitrogen		0.04	
Regulated Urban Pervious			0.02	
Regulated Urban Impervious	Phosphorus		0.01	
Regulated Urban Pervious			0.002	
Regulated Urban Impervious	Total Suspended Solids		6.67	
Regulated Urban Pervious			0.44	

Table 3b: Calculation Sheet for Determining Total POC Reductions Required During this Permit Cycle for the Potomac River Basin
***Based on Chesapeake Bay Program Watershed Model Phase 5.3.2**

Subsource	Pollutant	Total Existing Acres Served by MS4 (6/30/09)	First Permit Cycle Required Reduction in Loading Rate (lbs/ acre)	Total Reduction Required First Permit Cycle (lbs)
Regulated Urban Impervious	Nitrogen		0.08	
Regulated Urban Pervious			0.03	
Regulated Urban Impervious	Phosphorus		0.01	
Regulated Urban Pervious			0.001	
Regulated Urban Impervious	Total Suspended Solids		11.71	
Regulated Urban Pervious			0.77	

Table 3c: Calculation Sheet for Determining Total POC Reductions Required During this Permit Cycle for the Rappahannock River Basin
***Based on Chesapeake Bay Program Watershed Model Phase 5.3.2**

Subsource	Pollutant	Total Existing Acres Served by MS4 (6/30/09)	First Permit Cycle Required Reduction in Loading Rate (lbs/acre)	Total Reduction Required First Permit Cycle (lbs)
Regulated Urban Impervious	Nitrogen		0.04	
Regulated Urban Pervious			0.02	
Regulated Urban Impervious	Phosphorus		0.01	
Regulated Urban Pervious			0.002	
Regulated Urban Impervious	Total Suspended Solids		4.24	
Regulated Urban Pervious			0.25	

Table 3d: Calculation Sheet for Determining Total POC Reductions Required During this Permit Cycle for the York River Basin
***Based on Chesapeake Bay Program Watershed Model Phase 5.3.2**

Subsource	Pollutant	Total Existing Acres Served by MS4 (6/30/09)	First Permit Cycle Required Reduction in Loading Rate (lbs/acre)	Total Reduction Required First Permit Cycle (lbs)
Regulated Urban Impervious	Nitrogen		0.03	
Regulated Urban Pervious			0.02	
Regulated Urban Impervious	Phosphorus		0.01	
Regulated Urban Pervious			0.002	
Regulated Urban Impervious	Total Suspended Solids		4.60	
Regulated Urban Pervious			0.32	

(6) The means and methods, such as management practices and retrofit programs that will be utilized to meet the required reductions included in subdivision 2 a (5) of this subsection, and a schedule to achieve those reductions. The schedule should include annual benchmarks to demonstrate the ongoing progress in meeting those reductions;

(7) The means and methods to offset the increased loads from new sources initiating construction between July 1, 2009, and June 30, 2014, that disturb one acre or greater as a result of the utilization of an average land cover condition greater than 16% impervious cover for the design of post-development stormwater management facilities. The operator shall utilize Table 4 in this section to develop the equivalent pollutant load for nitrogen and total suspended solids. The operator shall offset 5.0% of the calculated increased load from these new sources during the permit cycle.

(8) The means and methods to offset the increased loads from projects as grandfathered in accordance with 4VAC50-60-48, that disturb one acre or greater that begin construction after July 1, 2014, where the project utilizes an average land cover condition greater than 16% impervious cover in the design of post-development stormwater management facilities. The operator shall utilize Table 4 in this section to develop the equivalent pollutant load for nitrogen and total suspended solids.

(9) The operator shall address any modification to the TMDL or watershed implementation plan that occurs during the term of this state permit as part of its permit reapplication and not during the term of this state permit.

Table 4: Ratio of Phosphorus Loading Rate to Nitrogen and Total Suspended Solids Loading Rates for Chesapeake Bay Basins			
Ratio of Phosphorus to Other POCs (Based on All Land Uses 2009 Progress Run)	Phosphorus Loading Rate (lbs/acre)	Nitrogen Loading Rate (lbs/acre)	Total Suspended Solids Loading Rate (lbs/acre)
James River Basin	1.0	5.2	420.9
Potomac River Basin	1.0	6.9	469.2
Rappahannock River Basin	1.0	6.7	320.9
York River Basin	1.0	9.5	531.6

(10) A list of future projects and associated acreage that qualify as grandfathered in accordance with 4VAC50-60-48;

(11) An estimate of the expected costs to implement the requirements of this special condition during the state permit cycle; and

(12) An opportunity for receipt and consideration of public comment regarding the draft Chesapeake Bay TMDL Action Plan.

b. As part of development of the Chesapeake Bay TMDL Action Plan, the operator may consider:

(1) Implementation of BMPs on unregulated lands provided any necessary baseline reduction is not included toward meeting the required reduction in this permit;

(2) Utilization of stream restoration projects, provided that the credit applied to the required POC load reduction is prorated based on the ratio of regulated urban acres to total drainage acres upstream of the restored area;

(3) Establishment of a memorandum of understanding (MOU) with other MS4 operators that discharge to the same or adjacent eight digit hydrologic unit within the same basin to implement BMPs collectively. The MOU shall include a mechanism for dividing the POC reductions created by BMP implementation between the cooperative MS4s;

(4) Utilization of any pollutant trading or offset program in accordance with § 10.1-603.15:1 et seq. of the Code of Virginia, governing trading and offsetting;

- (5) A more stringent average land cover condition based on less than 16% impervious cover for new sources initiating construction between July 1, 2009, and June 30, 2014, and all grandfathered projects where allowed by law; and
- (6) Any BMPs installed after June 30, 2009, as part of a retrofit program may be applied towards meeting the required load reductions provided any necessary baseline reductions are not included.

3. Chesapeake Bay TMDL Action Plan implementation. The operator shall implement the TMDL Action Plan according to the schedule therein. Compliance with this requirement represents adequate progress for this state permit term towards achieving TMDL wasteload allocations consistent with the assumptions and requirements of the TMDL. For the purposes of this permit, the implementation of the following represents implementation to the maximum extent practicable and demonstrates adequate progress:

- a. Implementation of nutrient management plans in accordance with the schedule identified in the minimum control measure in Section II related to pollution prevention/good housekeeping for municipal operations;
- b. Implementation of the minimum control measure in Section II related to construction site stormwater runoff control in accordance with this state permit shall address discharges from transitional sources;
- c. Implementation of the means and methods to address discharges from new sources in accordance with the minimum control measure in Section II related to post-construction stormwater management in new development and development of prior developed lands and in order to offset 5.0% of the total increase in POC loads between July 1, 2009, and June 30, 2014. Increases in the POC load from grandfathered projects initiating construction after July 1, 2014, must be offset prior to completion of the project; and
- d. Implementation of means and methods sufficient to meet the required reductions of POC loads from existing sources in accordance with the Chesapeake Bay TMDL Action Plan.

4. Annual reporting requirements.

- a. In accordance with Table 1 in this section, the operator shall submit the Chesapeake Bay Action Plan with the appropriate annual report.
- b. Each subsequent annual report shall include a list of control measures implemented during the reporting period and the cumulative progress toward meeting the compliance targets for nitrogen, phosphorus, and total suspended solids.
- c. Each subsequent annual report shall include a list of control measures, in an electronic format provided by the department, that were implemented during the reporting cycle and the estimated reduction achieved by the control. For stormwater management controls, the report shall include the information required in Section II B 5 e and shall include whether an existing stormwater management control was retrofitted, and if so, the existing stormwater management control type retrofit used.
- d. Each annual report shall include a list of control measures that are expected to be implemented during the next reporting period and the expected progress toward meeting the compliance targets for nitrogen, phosphorus, and total suspended solids.

5. The operator shall include the following as part of its reapplication package due in accordance with Section III M:

- a. Documentation that sufficient control measures have been implemented to meet the compliance target identified in this special condition. If temporary credits or offsets have been purchased in order to meet the compliance target, the list of temporary reductions utilized to meet the required reduction in this state permit and a schedule of implementation to ensure the permanent reduction must be provided; and
- b. A draft second phase Chesapeake Bay TMDL Action Plan designed to reduce the existing pollutant load as follows:
 - (1) The existing pollutant of concern loads by an additional seven times the required reductions in loading rates using the applicable Table 3 for sources included in the 2000 U.S. Census Bureau urbanized areas;

- (2) The existing pollutant of concerns loads by an additional eight times the required reductions in loading rates using the applicable Table 3 for expanded sources identified in the U.S. Census Bureau 2010 urbanized areas;
- (3) An additional 35% reduction in new sources developed between 2009 and 2014 and for which the land use cover condition was greater than 16%; and
- (4) Accounts for any modifications to the applicable loading rate provided to the operator as a result of TMDL modification.

SECTION II

MUNICIPAL SEPARATE STORM SEWER SYSTEM MANAGEMENT PROGRAM

A. The operator of a small MS4 must develop, implement, and enforce a MS4 Program designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP), to protect water quality, to ensure compliance by the operator with water quality standards, and to satisfy the appropriate water quality requirements of the Clean Water Act and its attendant regulations. The MS4 Program must include the minimum control measures described in paragraph B of this section. Implementation of best management practices consistent with the provisions of an iterative MS4 Program required pursuant to this section constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable", protects water quality in the absence of a TMDL wasteload allocation, ensures compliance by the operator with water quality standards, and satisfies the appropriate water quality requirements of the Clean Water Act and regulations in the absence of a TMDL WLA. The requirements of this section and those special conditions set out in Section I B also apply where a WLA is applicable.

B. Minimum control measures.

NOTE regarding minimum control measures for public education and outreach on stormwater impacts and public involvement/participation: "Public" is not defined in this permit. However, the department concurs with the following EPA statement, which was published in the Federal Register, Volume 64, No. 235, page 68,750 on December 8, 1999, regarding "public" and its applicability to MS4 programs: "EPA acknowledges that federal and state facilities are different from municipalities. EPA believes, however, that the minimum measures are flexible enough that they can be implemented by these facilities. As an example, DOD commentators asked about how to interpret the term "public" for military installations when implementing the public education measure. EPA agrees with the suggested interpretation of "public" for DOD facilities as "the resident and employee population within the fence line of the facility." The department recommends that nontraditional MS4 operators, such as state and federal entities and local school districts, utilize this statement as guidance when determining their applicable "public" for compliance with this permit.

1. Public education and outreach on stormwater impacts.

a. The operator shall continue to implement the public education and outreach program as included in the registration statement until the program is updated to meet the conditions of this state permit. Operators who have not previously held MS4 permit coverage shall implement this program in accordance with the schedule provided with the completed registration statement.

b. The public education and outreach program should be designed with consideration of the following goals:

- (1) Increasing target audience knowledge about the steps that can be taken to reduce stormwater pollution, placing priority on reducing impacts to impaired waters and other local water pollution concerns;
- (2) Increasing target audience knowledge of hazards associated with illegal discharges and improper disposal of waste, including pertinent legal implications; and

(3) Implementing a diverse program with strategies that are targeted towards audiences most likely to have significant stormwater impacts.

c. The updated program shall be designed to:

- (1) Identify, at a minimum, three high-priority water quality issues, that contribute to the discharge of stormwater (e.g., Chesapeake Bay nutrients, pet wastes and local bacteria TMDLs, high-quality receiving waters, and illicit discharges from commercial sites) and a rationale for the selection of the three high-priority water quality issues;
- (2) Identify and estimate the population size of the target audience or audiences who is most likely to have significant impacts for each high-priority water quality issue;
- (3) Develop relevant message or messages and associated educational and outreach materials (e.g., various media such as printed materials, billboard and mass transit advertisements, signage at select locations, radio advertisements, television advertisements, websites, and social media) for message distribution to the selected target audiences while considering the viewpoints and concerns of the target audiences including minorities, disadvantaged audiences, and minors;
- (4) Provide for public participation during public education and outreach program development;
- (5) Annually conduct sufficient education and outreach activities designed to reach an equivalent 20% of each high-priority issue target audience. It shall not be considered noncompliance for failure to reach 20% of the target audience. However, it shall be a compliance issue if insufficient effort is made to annually reach a minimum of 20% of the target audience; and
- (6) Provide for the adjustment of target audiences and messages including educational materials and delivery mechanisms to reach target audiences in order to address any observed weaknesses or shortcomings.

d. The operator may coordinate their public education and outreach efforts with other MS4 operators; however, each operator shall be individually responsible for meeting all of its state permit requirements.

e. Prior to application for continued state permit coverage required in Section III M, the operator shall evaluate the education and outreach program for:

- (1) Appropriateness of the high-priority stormwater issues;
- (2) Appropriateness of the selected target audiences for each high-priority stormwater issue;
- (3) Effectiveness of the message or messages being delivered; and
- (4) Effectiveness of the mechanism or mechanisms of delivery employed in reaching the target audiences.

f. The MS4 Program Plan shall describe how the conditions of this permit shall be updated in accordance with Table 1 in this section.

g. The operator shall include the following information in each annual report submitted to the department during this permit term:

- (1) A list of the education and outreach activities conducted during the reporting period for each high-priority water quality issue, the estimated number of people reached, and an estimated percentage of the target audience or audiences that will be reached; and
- (2) A list of the education and outreach activities that will be conducted during the next reporting period for each high-priority water quality issue, the estimated number of people that will be reached, and an estimated percentage of the target audience or audiences that will be reached.

2. Public involvement/participation.

a. Public involvement.

(1) The operator shall comply with any applicable federal, state, and local public notice requirements.

(2) The operator shall:

(a) Maintain an updated MS4 Program Plan. Any required updates to the MS4 Program Plan shall be completed at a minimum of once a year and shall be updated in conjunction with the annual report. The operator shall post copies of each MS4 program plan on its webpage at a minimum of once a year and within 30 days of submittal of the annual report to the department.

(b) Post copies of each annual report on the operator's web page within 30 days of submittal to the department and retain copies of annual reports online for the duration of this state permit; and

(c) Prior to applying for coverage as required by Section III M, notify the public and provide for receipt of comment of the proposed MS4 Program Plan that will be submitted with the registration statement. As part of the reapplication, the operator shall address how it considered the comments received in the development of its MS4 Program Plan. The operator shall give public notice by a method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to solicit public participation.

b. Public participation. The operator shall participate, through promotion, sponsorship, or other involvement, in a minimum of four local activities annually e.g., stream cleanups; hazardous waste cleanup days; and meetings with watershed associations, environmental advisory committees, and other environmental organizations that operate within proximity to the operator's small MS4. The activities shall be aimed at increasing public participation to reduce stormwater pollutant loads; improve water quality; and support local restoration and clean-up projects, programs, groups, meetings, or other opportunities for public involvement.

c. The MS4 Program Plan shall include written procedures for implementing this program.

d. Each annual report shall include:

(1) A web link to the MS4 Program Plan and annual report; and

(2) Documentation of compliance with the public participation requirements of this section.

3. Illicit discharge detection and elimination.

a. The operator shall maintain an accurate storm sewer system map and information table and shall update it in accordance with the schedule set out in Table 1 of this section.

(1) The storm sewer system map must show the following, at a minimum:

(a) The location of all MS4 outfalls. In cases where the outfall is located outside of the MS4 operator's legal responsibility, the operator may elect to map the known point of discharge location closest to the actual outfall. Each mapped outfall must be given a unique identifier, which must be noted on the map; and

(b) The name and location of all waters receiving discharges from the MS4 outfalls and the associated HUC.

(2) The associated information table shall include for each outfall the following:

(a) The unique identifier;

(b) The estimated MS4 acreage served;

(c) The name of the receiving surface water and indication as to whether the receiving water is listed as impaired in the Virginia 2010 303(d)/305(b) Water Quality Assessment Integrated Report; and

(d) The name of any applicable TMDL or TMDLs.

(3) Within 48 months of coverage under this state permit, the operator shall have a complete and updated storm sewer system map and information table that includes all MS4 outfalls

located within the boundaries identified as "urbanized" areas in the 2010 Decennial Census and shall submit the updated information table as an appendix to the annual report.

(4) The operator shall maintain a copy of the current storm sewer system map and outfall information table for review upon request by the public or by the department.

(5) The operator shall continue to identify other points of discharge. The operator shall notify in writing the downstream MS4 of any known physical interconnection.

b. The operator shall effectively prohibit, through ordinance or other legal mechanism, nonstormwater discharges into the storm sewer system to the extent allowable under federal, state, or local law, regulation, or ordinance. Categories of nonstormwater discharges or flows (i.e., illicit discharges) identified in 4VAC50-60-400 D 2 c (3) must be addressed only if they are identified by the operator as significant contributors of pollutants to the small MS4. Flows that have been identified in writing by the Department of Environmental Quality as de minimis discharges are not significant sources of pollutants to surface water and do not require a VPDES permit.

c. The operator shall develop, implement, and update, when appropriate, written procedures to detect, identify, and address unauthorized nonstormwater discharges, including illegal dumping, to the small MS4. These procedures shall include:

(1) Written dry weather field screening methodologies to detect and eliminate illicit discharges to the MS4 that include field observations and field screening monitoring and that provide:

(a) A prioritized schedule of field screening activities determined by the operator based on such criteria as age of the infrastructure, land use, historical illegal discharges, dumping or cross connections.

(b) The minimum number of field screening activities the operator shall complete annually to be determined as follows: (i) if the total number of outfalls in the small MS4 is less than 50, all outfalls shall be screened annually or (ii) if the small MS4 has 50 or more total outfalls, a minimum of 50 outfalls shall be screened annually.

(c) Methodologies to collect the general information such as time since the last rain, the quantity of the last rain, site descriptions (e.g., conveyance type and dominant watershed land uses), estimated discharge rate (e.g., width of water surface, approximate depth of water, approximate flow velocity, and flow rate), and visual observations (e.g., order, color, clarity, floatables, deposits or stains, vegetation condition, structural condition, and biology);

(d) A time frame upon which to conduct an investigation or investigations to identify and locate the source of any observed continuous or intermittent nonstormwater discharge prioritized as follows: (i) illicit discharges suspected of being sanitary sewage or significantly contaminated must be investigated first and (ii) investigations of illicit discharges suspected of being less hazardous to human health and safety such as noncontact cooling water or wash water may be delayed until after all suspected sanitary sewage or significantly contaminated discharges have been investigated, eliminated, or identified. Discharges authorized under a separate VPDES or state permit require no further action under this permit.

(e) Methodologies to determine the source of all illicit discharges shall be conducted. If an illicit discharge is found, but within six months of the beginning of the investigation neither the source nor the same nonstormwater discharge has been identified, then the operator shall document such in accordance with Section II B 3 f. If the observed discharge is intermittent, the operator must document that a minimum of three separate investigations were made in an attempt to observe the discharge when it was flowing. If these attempts are unsuccessful, the operator shall document such in accordance with Section II B 3 f.

(f) Mechanisms to eliminate identified sources of illicit discharges including a description of the policies and procedures for when and how to use legal authorities;

(g) Methods for conducting a follow-up investigation in order to verify that the discharge has been eliminated.

(h) A mechanism to track all investigations to document: (i) the date or dates that the illicit discharge was observed and reported; (ii) the results of the investigation; (iii) any follow-up to the investigation; (iv) resolution of the investigation; and (v) the date that the investigation was closed.

d. The operator shall promote, publicize, and facilitate public reporting of illicit discharges into or from MS4s. The operator shall conduct inspections in response to complaints and follow-up inspections as needed to ensure that corrective measures have been implemented by the responsible party.

e. The MS4 Program Plan shall include all procedures developed by the operator to detect, identify, and address nonstormwater discharges to the MS4 in accordance with the schedule in Table 1 in this section. In the interim, the operator shall continue to implement the program as included as part of the registration statement until the program is updated to meet the conditions of this permit. Operators, who have not previously held MS4 permit coverage, shall implement this program in accordance with the schedule provided with the completed registration statement.

f. Annual reporting requirements. Each annual report shall include:

- (1) A list of any written notifications of physical interconnection given by the operator to other MS4s;
- (2) The total number of outfalls screened during the reporting period, the screening results, and detail of any follow-up actions necessitated by the screening results; and
- (3) A summary of each investigation conducted by the operator of any suspected illicit discharge. The summary must include: (i) the date that the suspected discharge was observed, reported, or both; (ii) how the investigation was resolved, including any follow-up, and (iii) resolution of the investigation and the date the investigation was closed.

4. Construction site stormwater runoff control.

a. Applicable oversight requirements. The operator shall utilize its legal authority, such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements, to address discharges entering the MS4 from the following land-disturbing activities:

- (1) Land-disturbing activities as defined in § 10.1-560 of the Code of Virginia that result in the disturbance of 10,000 square feet or greater;
- (2) Land-disturbing activities in Tidewater jurisdictions, as defined in § 10.1-2101 of the Code of Virginia, that disturb 2,500 square feet or greater and are located in areas designated as Resource Protection Areas (RPA), Resource Management Areas (RMA) or Intensely Developed Acres (IDA), pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act;
- (3) Land-disturbing activities disturbing less than the minimum land disturbance identified in subdivision (1) or (2) above for which a local ordinance requires that an erosion and sediment control plan be developed; and
- (4) Land-disturbing activities on individual residential lots or sections of residential developments being developed by different property owners and where the total land disturbance of the residential development is 10,000 square feet or greater. The operator may utilize an agreement in lieu of a plan as provided in § 10.1-563 of the Code of Virginia for this category of land disturbances.

b. Required plan approval prior to commencement of the land disturbing activity. The operator shall require that land disturbance not begin until an erosion and sediment control plan or an agreement in lieu of a plan as provided in § 10.1-563 is approved by a VESCP authority in accordance with the Erosion and Sediment Control Act (§ 10.1-560 et seq.). The plan shall be:

- (1) Compliant with the minimum standards identified in 4VAC-50-30-40 of the Erosion and Sediment Control Regulations; or
- (2) Compliant with department-approved annual standards and specifications. Where applicable, the plan shall be consistent with any additional or more stringent, or both, erosion and sediment control requirements established by state regulation or local ordinance.

c. Compliance and enforcement.

(1) The operator shall inspect land-disturbing activities for compliance with an approved erosion and sediment control plan or agreement in lieu of a plan in accordance with the minimum standards identified in 4VAC50-30-40 or with department-approved annual standards and specifications.

(2) The operator shall implement an inspection schedule for land-disturbing activities identified in Section II B 4 a as follows:

(a) Upon initial installation of erosion and sediment controls;

(b) At least once during every two-week period;

(c) Within 48 hours of any runoff-producing storm event; and

(d) Upon completion of the project and prior to the release of any applicable performance bonds.

Where an operator establishes an alternative inspection program as provided for in 4VAC50-30-60 B 2, the written schedule shall be implemented in lieu of Section II B 4 c (2) and the written plan shall be included in the MS4 Program Plan.

(3) Operator inspections shall be conducted by personnel who hold a certificate of competence in accordance with 4VAC-50-50-40. Documentation of certification shall be made available upon request by the VESCP authority or other regulatory agency.

(4) The operator shall promote to the public a mechanism for receipt of complaints regarding regulated land-disturbing activities and shall follow up on any complaints regarding potential water quality and compliance issues.

(5) The operator shall utilize its legal authority to require compliance with the approved plan where an inspection finds that the approved plan is not being properly implemented.

(6) The operator shall utilize, as appropriate, its legal authority to require changes to an approved plan when a inspection finds that the approved plan is inadequate to effectively control soil erosion, sediment deposition, and runoff to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources.

(7) The operator shall require implementation of appropriate controls to prevent nonstormwater discharges to the MS4, such as wastewater, concrete washout, fuels and oils, and other illicit discharges identified during land-disturbing activity inspections of the MS4. The discharge of nonstormwater discharges other than those identified in 4VAC50-60-1220 through the MS4 is not authorized by this state permit.

(8) The operator may develop and implement a progressive compliance and enforcement strategy provided that such strategy is included in the MS4 Program Plan and is consistent with 4VAC50-30.

d. Regulatory coordination. The operator shall implement enforceable procedures to require that large construction activities as defined in 4VAC50-60-10 and small construction activities as defined in 4VAC50-60-10, including municipal construction activities, secure necessary state permit authorizations from the department to discharge stormwater.

e. MS4 Program requirements. The operator's MS4 Program Plan shall include:

(1) A description of the legal authorities utilized to ensure compliance with the minimum control measure in Section II related to construction site stormwater runoff control such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements;

(2) Written plan review procedures and all associated documents utilized in plan review;

(3) For the MS4 operators who obtain department-approved standards and specifications, a copy of the current standards and specifications;

(4) Written inspection procedures and all associated documents utilized during inspection including the inspection schedule;

(5) Written procedures for compliance and enforcement, including a progressive compliance and enforcement strategy, where appropriate; and

(6) The roles and responsibilities of each of the operator's departments, divisions, or subdivisions in implementing the minimum control measure in Section II related to construction site stormwater runoff control. If the operator utilizes another entity to implement portions of the MS4 Program Plan, a copy of the written agreement must be retained in the

MS4 Program Plan. The description of each party's roles and responsibilities, including any written agreements with third parties, shall be updated as necessary. Reference may be made to any listed requirements in this subdivision provided the location of where the reference material can be found is included and the reference material is made available to the public upon request.

f. Reporting requirements. The operator shall track regulated land-disturbing activities and submit the following information in all annual reports:

- (1) Total number of regulated land-disturbing activities;
- (2) Total number of acres disturbed;
- (3) Total number of inspections conducted; and
- (4) A summary of the enforcement actions taken, including the total number and type of enforcement actions taken during the reporting period.

5. Post-construction stormwater management in new development and development on prior developed lands.

a. Applicable oversight requirements. The operator shall address post-construction stormwater runoff that enters the MS4 from the following land-disturbing activities:

- (1) New development and development on prior developed lands that are defined as large construction activities or small construction activities in 4VAC50-60-10;
- (2) New development and development on prior developed lands that disturb greater than or equal to 2,500 square feet, but less than one acre, located in a Chesapeake Bay Preservation Area designated by a local government located in Tidewater, Virginia, as defined in § 10.1-2101 of the Code of Virginia; and
- (3) New development and development on prior developed lands where an applicable state regulation or local ordinance has designated a more stringent regulatory size threshold than that identified in subdivision (1) or (2) above.

b. Required design criteria for stormwater runoff controls. The operator shall utilize legal authority, such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements, to require that activities identified in Section II B 5 a address stormwater runoff in such a manner that stormwater runoff controls are designed and installed:

- (1) In accordance with the appropriate water quality and water quantity design criteria as required in Part II (4VAC50-60-40 et seq.) of 4VAC50-60;
- (2) In accordance with any additional applicable state or local design criteria required at project initiation; and
- (3) Where applicable, in accordance with any department-approved annual standards and specifications.

Upon board approval of a Virginia Stormwater Management Program authority (VSMP Authority) as defined in § 10.1-603.2 of the Code of Virginia and reissuance of the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities, the operator shall require that stormwater management plans are approved by the appropriate VSMP Authority prior to land disturbance. In accordance with § 10.1-603.3 M of the Code of Virginia, VSMPs shall become effective July 1, 2014, unless otherwise specified by state law or by the board.

c. Inspection, operation, and maintenance verification of stormwater management facilities.

(1) For stormwater management facilities not owned by the MS4 operator, the following conditions apply:

- (a) The operator shall require adequate long-term operation and maintenance by the owner of the stormwater management facility by requiring the owner to develop a recorded inspection schedule and maintenance agreement to the extent allowable under state or local law or other legal mechanism;

(b) The operator or his designee shall implement a schedule designed to inspect all privately owned stormwater management facilities that discharge into the MS4 at least once every five years to document that maintenance is being conducted in such a manner to ensure long-term operation in accordance with the approved designs.

(c) The operator shall utilize its legal authority for enforcement of maintenance responsibilities if maintenance is neglected by the owner. The operator may develop and implement a progressive compliance and enforcement strategy provided that the strategy is included in the MS4 Program Plan.

(d) Beginning with the issuance of this state permit, the operator may utilize strategies other than maintenance agreements such as periodic inspections, homeowner outreach and education, and other methods targeted at promoting the long-term maintenance of stormwater control measures that are designed to treat stormwater runoff solely from the individual residential lot. Within 12 months of coverage under this permit, the operator shall develop and implement these alternative strategies and include them in the MS4 Program Plan.

(2) For stormwater management facilities owned by the MS4 operator, the following conditions apply:

(a) The operator shall provide for adequate long-term operation and maintenance of its stormwater management facilities in accordance with written inspection and maintenance procedures included in the MS4 Program Plan.

(b) The operator shall inspect these stormwater management facilities annually. The operator may choose to implement an alternative schedule to inspect these stormwater management facilities based on facility type and expected maintenance needs provided that the alternative schedule is included in the MS4 Program Plan.

(c) The operator shall conduct maintenance on its stormwater management facilities as necessary.

d. MS4 Program Plan requirements. The operator's MS4 Program Plan shall be updated in accordance with Table 1 in this section to include:

(1) A list of the applicable legal authorities such as ordinance, state and other permits, orders, specific contract language, and interjurisdictional agreements to ensure compliance with the minimum control measure in Section II related to post-construction stormwater management in new development and development on prior developed lands;

(2) Written policies and procedures utilized to ensure that stormwater management facilities are designed and installed in accordance with Section II B 5 b;

(3) Written inspection policies and procedures utilized in conducting inspections;

(4) Written procedures for inspection, compliance and enforcement to ensure maintenance is conducted on private stormwater facilities to ensure long-term operation in accordance with approved design;

(5) Written procedures for inspection and maintenance of operator-owned stormwater management facilities;

(6) The roles and responsibilities of each of the operator's departments, divisions, or subdivisions in implementing the minimum control measure in Section II related to post-construction stormwater management in new development and development on prior developed lands. If the operator utilizes another entity to implement portions of the MS4 Program Plan, a copy of the written agreement must be retained in the MS4 Program Plan. Roles and responsibilities shall be updated as necessary.

e. Stormwater management facility tracking and reporting requirements. The operator shall maintain an updated electronic database of all known operator-owned and privately-owned stormwater management facilities that discharge into the MS4. The database shall include the following:

(1) The stormwater management facility type;

(2) A general description of the facility's location, including the address or latitude and longitude;

- (3) The acres treated by the facility, including total acres, as well as the breakdown of pervious and impervious acres;
 - (4) The date the facility was brought online (MM/YYYY). If the date is not known, the operator shall use June 30, 2005, as the date brought online for all previously existing stormwater management facilities;
 - (5) The sixth order hydrologic unit code (HUC) in which the stormwater management facility is located;
 - (6) The name of any impaired water segments within each HUC listed in the 2010 § 305(b)/303(d) Water Quality Assessment Integrated Report to which the stormwater management facility discharges;
 - (7) Whether the stormwater management facility is operator-owned or privately-owned;
 - (8) Whether a maintenance agreement exists if the stormwater management facility is privately owned; and
 - (9) The date of the operator's most recent inspection of the stormwater management facility.
- In addition, the operator shall annually track and report the total number of inspections completed and, when applicable, the number of enforcement actions taken to ensure long-term maintenance.

The operator shall submit an electronic database or spreadsheet of all stormwater management facilities brought online during each reporting year with the appropriate annual report. Upon such time as the department provides the operators access to a statewide web-based reporting electronic database or spreadsheet, the operator shall utilize such database to complete the pertinent reporting requirements of this state permit.

6. Pollution prevention/good housekeeping for municipal operations.

a. Operations and maintenance activities. The MS4 Program Plan submitted with the registration statement shall be implemented by the operator until updated in accordance with this state permit. In accordance with Table 1 in this section, the operator shall develop and implement written procedures designed to minimize or prevent pollutant discharge from: (i) daily operations such as road, street, and parking lot maintenance; (ii) equipment maintenance; and (iii) the application, storage, transport, and disposal of pesticides, herbicides, and fertilizers. The written procedures shall be utilized as part of the employee training. At a minimum, the written procedures shall be designed to:

- (1) Prevent illicit discharges;
- (2) Ensure the proper disposal of waste materials, including landscape wastes;
- (3) Prevent the discharge of municipal vehicle wash water into the MS4 without authorization under a separate VPDES permit;
- (4) Prevent the discharge of wastewater into the MS4 without authorization under a separate VPDES permit;
- (5) Require implementation of best management practices when discharging water pumped from utility construction and maintenance activities;
- (6) Minimize the pollutants in stormwater runoff from bulk storage areas (e.g., salt storage, topsoil stockpiles) through the use of best management practices;
- (7) Prevent pollutant discharge into the MS4 from leaking municipal automobiles and equipment; and
- (8) Ensure that the application of materials, including fertilizers and pesticides, is conducted in accordance with the manufacturer's recommendations.

b. Municipal facility pollution prevention and good housekeeping.

- (1) Within 12 months of state permit coverage, the operator shall identify all municipal high-priority facilities. These high-priority facilities shall include (i) composting facilities, (ii) equipment storage and maintenance facilities, (iii) materials storage yards, (iv) pesticide storage facilities, (v) public works yards, (vi) recycling facilities, (vii) salt storage facilities, (viii) solid waste handling and transfer facilities, and (ix) vehicle storage and maintenance yards.

(2) Within 12 months of state permit coverage, the operator shall identify which of the municipal high-priority facilities have a high potential of discharging pollutants. Municipal high-priority facilities that have a high potential for discharging pollutants are those facilities identified in subsection (1) above that are not covered under a separate VPDES permit and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff:

- (a) Areas where residuals from using, storing or cleaning machinery or equipment remain and are exposed to stormwater;
- (b) Materials or residuals on the ground or in stormwater inlets from spills or leaks;
- (c) Material handling equipment (except adequately maintained vehicles);
- (d) Materials or products that would be expected to be mobilized in stormwater runoff during loading/unloading or transporting activities (e.g., rock, salt, fill dirt);
- (e) Materials or products stored outdoors (except final products intended for outside use where exposure to stormwater does not result in the discharge of pollutants);
- (f) Materials or products that would be expected to be mobilized in stormwater runoff contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;
- (g) Waste material except waste in covered, non-leaking containers (e.g., dumpsters);
- (h) Application or disposal of process wastewater (unless otherwise permitted); or
- (i) Particulate matter or visible deposits of residuals from roof stacks, vents or both not otherwise regulated (i.e., under an air quality control permit) and evident in the stormwater runoff.

(3) The operator shall develop and implement specific stormwater pollution prevention plans for all high-priority facilities identified in subdivision 2 of this subsection. The operator shall complete SWPPP development and implementation shall be completed within 48 months of coverage under this state permit. Facilities covered under a separate VDPES permit shall adhere to the conditions established in that permit and are excluded from this requirement.

(4) Each SWPPP shall include:

- (a) A site description that includes a site map identifying all outfalls, direction of flows, existing source controls, and receiving water bodies;
- (b) A discussion and checklist of potential pollutants and pollutant sources;
- (c) A discussion of all potential nonstormwater discharges;
- (d) Written procedures designed to reduce and prevent pollutant discharge;
- (e) A description of the applicable training as required in Section II B 6 d;
- (f) Procedures to conduct an annual comprehensive site compliance evaluation;
- (g) An inspection and maintenance schedule for site specific source controls. The date of each inspection and associated findings and follow-up shall be logged in each SWPPP;
- (h) The contents of each SWPPP shall be evaluated and modified as necessary to accurately reflect any discharge, release, or spill from the high priority facility reported in accordance with Section III G. For each such discharge, release, or spill, the SWPPP must include the following information: date of incident; material discharged, released, or spilled; and quantity discharged, released or spilled; and
- (i) A copy of each SWPPP shall be kept at each facility and shall be kept updated and utilized as part of staff training required in Section II B 6 d.

c. Turf and Landscape management.

(1) The operator shall implement turf and landscape nutrient management plans that have been developed by a certified turf and landscape nutrient management planner in accordance with § 10.1-104.2 of the Code of Virginia on all lands owned or operated by the MS4 operator where nutrients are applied to a contiguous area greater than one acre. Implementation shall be in accordance with the following schedule:

- (a) Within 12 months of state permit coverage, the operator shall identify all applicable lands where nutrients are applied to a contiguous area of more than one acre. A latitude and longitude shall be provided for each such piece of land and reported in the annual report.
- (b) Within 60 months of state permit coverage, the operator shall implement turf and landscape nutrient management plans on all lands where nutrients are applied to a

contiguous area of more than one acre. The following measurable outcomes are established for the implementation of turf and landscape nutrient management plans: (i) within 24 months of permit coverage, not less than 15% of all identified acres will be covered by turf and landscape nutrient management plans; (ii) within 36 months of permit coverage, not less than 40% of all identified acres will be covered by turf and landscape nutrient management plans; and (iii) within 48 months of permit coverage, not less than 75% of all identified acres will be covered by turf and landscape nutrient management plans. The operator shall not fail to meet the measurable goals for two consecutive years.

(c) MS4 operators with lands regulated under § 10.1-104.4 of the Code of Virginia shall continue to implement turf and landscape nutrient management plans in accordance with this statutory requirement.

(2) Operators shall annually track the following:

(a) The total acreage of lands where turf and landscape nutrient management plans are required; and

(b) The acreage of lands upon which turf and landscape nutrient management plans have been implemented.

(3) The operator shall not apply any deicing agent containing urea or other forms of nitrogen or phosphorus to parking lots, roadways, and sidewalks, or other paved surfaces.

d. Training. The operator shall conduct training for employees. The training requirements may be fulfilled, in total or in part, through regional training programs involving two or more MS4 localities provided; however, that each operator shall remain individually liable for its failure to comply with the training requirements in this permit. Training is not required if the topic is not applicable to the operator's operations and therefore does not have applicable personnel provided the lack of applicability is documented in the MS4 Program Plan. The operator shall determine and document the applicable employees or positions to receive each type of training. The operator shall develop an annual written training plan including a schedule of training events that ensures implementation of the training requirements as follows:

(1) The operator shall provide biennial training to applicable field personnel in the recognition and reporting of illicit discharges.

(2) The operator shall provide biennial training to applicable employees in good housekeeping and pollution prevention practices that are to be employed during road, street, and parking lot maintenance.

(3) The operator shall provide biennial training to applicable employees in good housekeeping and pollution prevention practices that are to be employed in and around maintenance and public works facilities.

(4) The operator shall ensure that employees, and require that contractors, who apply pesticides and herbicides are properly trained or certified in accordance with the Virginia Pesticide Control Act (§3.2-3900 et seq. of the Code of Virginia).

(5) The operator shall ensure that employees and contractors serving as plan reviewers, inspectors, program administrators, and construction site operators obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations.

(6) The operator shall ensure that applicable employees obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations.

(7) The operators shall provide biennial training to applicable employees in good housekeeping and pollution prevention practices that are to be employed in and around recreational facilities.

(8) The appropriate emergency response employees shall have training in spill responses. A summary of the training or certification program provided to emergency response employees shall be included in the first annual report.

(9) The operator shall keep documentation on each training event including the training date, the number of employees attending the training, and the objective of the training event for a period of three years after each training event.

e. The operator shall require that municipal contractors use appropriate control measures and procedures for stormwater discharges to the MS4 system. Oversight procedures shall be described in the MS4 Program Plan.

f. At a minimum, the MS4 Program Plan shall contain:

- (1) The written protocols being used to satisfy the daily operations and maintenance requirements;
- (2) A list of all municipal high-priority facilities that identifies those facilities that have a high potential for chemicals or other materials to be discharged in stormwater and a schedule that identifies the year in which an individual SWPPP will be developed for those facilities required to have a SWPPP. Upon completion of a SWPPP, the SWPPP shall be part of the MS4 Program Plan. The MS4 Program Plan shall include the location in which the individual SWPPP is located;
- (3) A list of lands where nutrients are applied to a contiguous area of more than one acre. Upon completion of a turf and landscape nutrient management plan, the turf and landscape nutrient management plan shall be part of the MS4 Program Plan. The MS4 Program Plan shall include the location in which the individual turf and landscape nutrient management plan is located; and
- (4) The annual written training plan for the next reporting cycle.

g. Annual reporting requirements.

- (1) A summary report on the development and implementation of the daily operational procedures;
- (2) A summary report on the development and implementation of the required SWPPPs;
- (3) A summary report on the development and implementation of the turf and landscape nutrient management plans that includes:
 - (a) The total acreage of lands where turf and landscape nutrient management plans are required; and
 - (b) The acreage of lands upon which turf and landscape nutrient management plans have been implemented; and
- (4) A summary report on the required training, including a list of training events, the training date, the number of employees attending training and the objective of the training.

C. If an existing program requires the implementation of one or more of the minimum control measures of Section II B, the operator, with the approval of the board, may follow that program's requirements rather than the requirements of Section II B. A program that may be considered includes, but is not limited to, a local, state or tribal program that imposes, at a minimum, the relevant requirements of Section II B.

The operator's MS4 Program Plan shall identify and fully describe any program that will be used to satisfy one or more of the minimum control measures of Section II B.

If the program the operator is using requires the approval of a third party, the program must be fully approved by the third party, or the operator must be working towards getting full approval. Documentation of the program's approval status, or the progress towards achieving full approval, must be included in the annual report required by Section II E 3. The operator remains responsible for compliance with the permit requirements if the other entity fails to implement the control measures (or component thereof).

D. The operator may rely on another entity to satisfy the state permit requirements to implement a minimum control measure if: (i) the other entity, in fact, implements the control measure; (ii) the particular control measure, or component thereof, is at least as stringent as the corresponding state permit requirement; and (iii) the other entity agrees to implement the control measure on behalf of the operator. The agreement between the parties must be documented in writing and retained by the operator with the MS4 Program Plan for the duration of this state permit.

In the annual reports that must be submitted under Section II E 3, the operator must specify that another entity is being relied on to satisfy some of the state permit requirements.

If the operator is relying on another governmental entity regulated under 4VAC50-60-380 to satisfy all of the state permit obligations, including the obligation to file periodic reports required by Section II E 3,

the operator must note that fact in the registration statement, but is not required to file the periodic reports.

The operator remains responsible for compliance with the state permit requirements if the other entity fails to implement the control measure (or component thereof).

E. Evaluation and assessment.

1. MS4 Program Evaluation. The operator must annually evaluate:

- a. Program compliance;
- b. The appropriateness of the identified BMPs (as part of this evaluation, the operator shall evaluate the effectiveness of BMPs in addressing discharges into waters that are identified as impaired in the 2010 § 305(b)/303(d) Water Quality Assessment Integrated Report); and
- c. Progress towards achieving the identified measurable goals.

2. Recordkeeping. The operator must keep records required by the state permit for at least three years. These records must be submitted to the department only upon specific request. The operator must make the records, including a description of the stormwater management program, available to the public at reasonable times during regular business hours.

3. Annual reports. The operator must submit an annual report for the reporting period of July 1 through June 30 to the department by the following October 1 of that year. The reports shall include:

a. Background Information.

- (1) The name and state permit number of the program submitting the annual report;
- (2) The annual report permit year;
- (3) Modifications to any operator's department's roles and responsibilities;
- (4) Number of new MS4 outfalls and associated acreage by HUC added during the permit year; and
- (5) Signed certification.

b. The status of compliance with state permit conditions, an assessment of the appropriateness of the identified best management practices and progress towards achieving the identified measurable goals for each of the minimum control measures;

c. Results of information collected and analyzed, including monitoring data, if any, during the reporting period;

d. A summary of the stormwater activities the operator plans to undertake during the next reporting cycle;

e. A change in any identified best management practices or measurable goals for any of the minimum control measures including steps to be taken to address any deficiencies;

f. Notice that the operator is relying on another government entity to satisfy some of the state permit obligations (if applicable);

g. The approval status of any programs pursuant to Section II C (if appropriate), or the progress towards achieving full approval of these programs; and

h. Information required for any applicable TMDL special condition contained in Section I.

F. Program Plan modifications.

1. Program modifications requested by the operator. Modifications to the MS4 Program are expected throughout the life of this state permit as part of the iterative process to reduce the pollutant loadings and to protect water quality. As such, modifications made in accordance with this state permit as a result of the iterative process do not require modification of this permit unless the department determines that the changes meet the criteria referenced in 4VAC50-60-630 or 4VAC50-60-650. Updates and modifications to the MS4 Program may be made during the life of this state permit in accordance with the following procedures:

a. Adding (but not eliminating or replacing) components, controls, or requirements to the MS4 Program may be made by the operator at any time. Additions shall be reported as part of the annual report.

b. Updates and modifications to specific standards and specifications, schedules, operating procedures, ordinances, manuals, checklists, and other documents routinely evaluated and

modified are permitted under this state permit provided that the updates and modifications are done in a manner that (i) is consistent with the conditions of this state permit, (ii) follow any public notice and participation requirements established in this state permit, and (iii) are documented in the annual report.

c. Replacing, or eliminating without replacement, any ineffective or infeasible strategies, policies, and BMPs specifically identified in this permit with alternate strategies, policies, and BMPs may be requested at any time. Such requests must be made in writing to the department and signed in accordance with 4VAC50-60-370, and include the following:

- (1) An analysis of how or why the BMPs, strategies, or policies are ineffective or infeasible, including information on whether the BMPs, strategies, or policies are cost prohibitive;
- (2) Expectations regarding the effectiveness of the replacement BMPs, strategies, or policies;
- (3) An analysis of how the replacement BMPs are expected to achieve the goals of the BMP's to be replaced;
- (4) A schedule for implementing the replacement BMPs, strategies, and policies; and
- (5) An analysis of how the replacement strategies and policies are expected to improve the operator's ability to meet the goals of the strategies and policies being replaced.

d. The operator follows the public involvement requirements identified in Section II B 2 (a).

2. MS4 Program updates requested by the department. In a manner and following procedures in accordance with the Virginia Administrative Process Act, the Virginia Stormwater Management regulations, and other applicable state law and regulations, the department may request changes to the MS4 Program to assure compliance with the statutory requirements of the Virginia Stormwater Management Act and its attendant regulations to:

- a. Address impacts on receiving water quality caused by discharges from the MS4;
- b. Include more stringent requirements necessary to comply with new state or federal laws or regulations; or
- c. Include such other conditions necessary to comply with state or federal law or regulation.

Proposed changes requested by the department shall be made in writing and set forth the basis for and objective of the modification as well as the proposed time schedule for the operator to develop and implement the modification. The operator may propose alternative program modifications or time schedules to meet the objective of the requested modification, but any such modifications are at the discretion of the department.

SECTION III

CONDITIONS APPLICABLE TO ALL STATE PERMITS

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 (2001) or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this state permit.
3. The operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Records.

1. Monitoring records/reports shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.

2. The operator shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this state permit, and records of all data used to complete the registration statement for this state permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the operator, or as requested by the board.

C. Reporting monitoring results.

1. The operator shall submit the results of the monitoring required by this state permit with the annual report unless another reporting schedule is specified elsewhere in this state permit.
2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR); on forms provided, approved or specified by the department; or in any format provided the date, location, parameter, method, and result of the monitoring activity are included.
3. If the operator monitors any pollutant specifically addressed by this state permit more frequently than required by this state permit using test procedures approved under 40 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this state permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this state permit.

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

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

F. Unauthorized stormwater discharges. Pursuant to § 10.1-603.2:2 A of the Code of Virginia, except in compliance with a state permit issued by the board, it shall be unlawful to cause a stormwater discharge from a MS4.

G. Reports of unauthorized discharges. Any operator of a small MS4 who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) or 40 CFR Part 302 (2002) that occurs during a 24-hour period into or upon surface waters; or who discharges or causes or allows a discharge that may reasonably be expected to enter surface waters, shall notify the Department of Environmental Quality of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department of Environmental Quality and the Department of Conservation and Recreation, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this state permit.

Discharges reportable to the Department of Environmental Quality and the Department of Conservation and Recreation under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a "bypass" or "upset," as defined herein, should occur from a facility and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify, in no case later than within 24 hours, the Department of Environmental Quality and the Department of Conservation and Recreation by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The operator shall reduce the report to writing and shall submit it to the Department of Environmental Quality and the Department of Conservation and Recreation within five days of discovery of the discharge in accordance with Section III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

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

I. Reports of noncompliance. The operator shall report any noncompliance which may adversely affect surface waters or may endanger public health.

1. An oral report shall be provided within 24 hours to the Department of Environmental Quality and the Department of Conservation and Recreation from the time the operator becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

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

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board or its designee may waive the written report on a case-by-case basis for reports of noncompliance under Section III I if the oral report has been received within 24 hours and no adverse impact on surface waters has been reported.

3. The operator shall report all instances of noncompliance not reported under Sections III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Section III I 2.

NOTE: The immediate (within 24 hours) reports required to be provided to the Department of Environmental Quality in Sections III G, H and I may be made to the appropriate Department of Environmental Quality's Regional Office Pollution Response Program as found at <http://deq.virginia.gov/Programs/PollutionResponsePreparedness.aspx>. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. **For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.**

4. Where the operator becomes aware of a failure to submit any relevant facts, or submittal of incorrect information in any report to the department or the Department of Environmental Quality, it shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The operator shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - a. The operator plans an alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:
 - (1) After promulgation of standards of performance under § 306 of the Clean Water Act that are applicable to such source; or
 - (2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;
 - b. The operator plans alteration or addition that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this state permit; or
2. The operator shall give advance notice to the department of any planned changes in the permitted facility or activity; which may result in noncompliance with state permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:
 - a. For a corporation: by a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for state permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a public agency includes:
 - (1) The chief executive officer of the agency, or
 - (2) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
2. Reports, etc. All reports required by state permits, and other information requested by the board shall be signed by a person described in Section III K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described in Section III K 1;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
 - c. The written authorization is submitted to the department.
3. Changes to authorization. If an authorization under Section III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Sections III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The operator shall comply with all conditions of this state permit. Any state permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this state permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. State permit noncompliance is grounds for enforcement action; for state permit termination, revocation and reissuance, or modification; or denial of a state permit renewal application.

The operator shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this state permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the operator wishes to continue an activity regulated by this state permit after the expiration date of this state permit, the operator shall submit a new registration statement at least 90 days before the expiration date of the existing state permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing state permit.

N. Effect of a state permit. This state permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

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

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

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

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering surface waters.

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

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

U. Bypass.

1. "Bypass," as defined in 4VAC50-60-10, means the intentional diversion of waste streams from any portion of a treatment facility. The operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Sections III U 2 and U 3.
2. Notice.
 - a. Anticipated bypass. If the operator knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.
 - b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass as required in Section III I.
3. Prohibition of bypass.
 - a. Bypass is prohibited, and the board or its designee may take enforcement action against an operator for bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The operator submitted notices as required under Section III U 2.
 - b. The board or its designee may approve an anticipated bypass, after considering its adverse effects, if the board or its designee determines that it will meet the three conditions listed above in Section III U 3 a.

V. Upset.

1. An upset, as defined in 4VAC50-60-10, constitutes an affirmative defense to an action brought for noncompliance with technology based state permit effluent limitations if the requirements of Section III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.
2. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
3. An operator who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the operator can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The operator submitted notice of the upset as required in Section III I; and
 - d. The operator complied with any remedial measures required under Section III S.
4. In any enforcement proceeding the operator seeking to establish the occurrence of an upset has the burden of proof.

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

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

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this state permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this state permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring state permit compliance or as otherwise authorized by the Clean Water Act and the Virginia Stormwater Management Act, any substances or parameters at any location.

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

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

Y. Transfer of state permits.

1. State permits are not transferable to any person except after notice to the department. Except as provided in Section III Y 2, a state permit may be transferred by the operator to a new owner or operator only if the state permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.
2. As an alternative to transfers under Section III Y 1, this state permit may be automatically transferred to a new operator if:
 - a. The current operator notifies the department at least two days in advance of the proposed transfer of the title to the facility or property;
 - b. The notice includes a written agreement between the existing and new operators containing a specific date for transfer of state permit responsibility, coverage, and liability between them; and
 - c. The board does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the state permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Section III Y 2 b.

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

MCM 1 - Public Education and Outreach on Stormwater Impacts	Section II B 1
Public Education Outreach Plan <ol style="list-style-type: none"> 1. Identify, at a minimum, three high-priority water quality issues, that contribute to the discharge of stormwater (e.g., Chesapeake Bay nutrients, pet wastes and local bacteria TMDLs, high-quality receiving waters, and illicit discharges from commercial sites) and a rationale for the selection of the three high-priority water quality issues; 2. Identify and estimate the population size of the target audience or audiences who is most likely to have significant impacts for each high-priority water quality issue; 3. Develop relevant message or messages and associated educational and outreach materials (e.g., various media such as printed materials, billboard and mass transit advertisements, signage at select locations, radio advertisements, television advertisements, websites, and social media) for message distribution to the selected target audiences while considering the viewpoints and concerns of the target audiences including minorities, disadvantaged audiences, and minors; 4. Provide for public participation during public education and outreach program development; 5. Annually conduct sufficient education and outreach activities designed to reach an equivalent 20% of each high-priority issue target audience. It shall not be considered noncompliance for failure to reach 20% of the target audience. However, it shall be a compliance issue if insufficient effort is made to annually reach a minimum of 20% of the target audience; and 6. Provide for the adjustment of target audiences and messages including educational materials and delivery mechanisms to reach target audiences in order to address any observed weaknesses or shortcomings. 	
MS4 Program Plan The MS4 Program Plan shall describe how the conditions of this permit shall be updated in accordance with Table 1 in this section.	
MCM 2 - Public Involvement/Participation	Section II B 2
The MS4 Program Plan shall include written procedures for implementing this program.	
MCM 3 – Illicit Discharge Detection and Elimination	Section II B 3
Illicit Discharge Procedures The operator shall develop, implement, and update, when appropriate, written procedures to detect, identify, and address unauthorized non-stormwater discharges, including illegal dumping, to the small MS4. These procedures shall include: <ol style="list-style-type: none"> 1. Written dry weather field screening methodologies to detect and eliminate illicit discharges to the MS4 that include field observations and field screening monitoring and that provide: <ol style="list-style-type: none"> a. A prioritized schedule of field screening activities determined by the operator based on such criteria as age of the infrastructure, land use, historical illegal discharges, dumping or cross connections. b. The minimum number of field screening activities the operator shall complete annually to be determined as follows: (i) if the total number of outfalls in the small MS4 is less than 50, all outfalls shall be screened annually or (ii) if the small MS4 has 50 or more total outfalls, a minimum of 50 outfalls shall be screened annually. c. Methodologies to collect the general information such as time since the last rain, the quantity of the last rain, site descriptions (e.g., conveyance type and dominant watershed land uses), estimated discharge rate (e.g., width of water surface, approximate depth of water, approximate flow velocity, and flow rate), and visual observations (e.g., order, color, clarity, floatables, deposits or stains, vegetation condition, structural condition, and biology); d. A time frame upon which to conduct an investigation or investigations to identify and locate the source of any observed continuous or intermittent nonstormwater discharge prioritized as follows: (i) illicit discharges suspected of being sanitary sewage or significantly contaminated must be investigated first and (ii) investigations of illicit discharges suspected of being less hazardous to human health and safety such as noncontact cooling water or wash water may be delayed until 	

after all suspected sanitary sewage or significantly contaminated discharges have been investigated, eliminated, or identified. Discharges authorized under a separate VPDES or state permit require no further action under this permit.

- e. Methodologies to determine the source of all illicit discharges shall be conducted. If an illicit discharge is found, but within six months of the beginning of the investigation neither the source nor the same nonstormwater discharge has been identified, then the operator shall document such in accordance with Section II B 3 f. If the observed discharge is intermittent, the operator must document that a minimum of three separate investigations were made in an attempt to observe the discharge when it was flowing. If these attempts are unsuccessful, the operator shall document such in accordance with Section II B 3 f.
- f. Mechanisms to eliminate identified sources of illicit discharges including a description of the policies and procedures for when and how to use legal authorities;
- g. Methods for conducting a follow-up investigation in order to verify that the discharge has been eliminated.
- h. A mechanism to track all investigations to document: (i) the date or dates that the illicit discharge was observed and reported; (ii) the results of the investigation; (iii) any follow-up to the investigation; (iv) resolution of the investigation; and (v) the date that the investigation was closed.

MS4 Program Plan

The MS4 Program Plan shall include all procedures developed by the operator to detect, identify, and address nonstormwater discharges to the MS4 in accordance with the schedule in Table 1 in this section. In the interim, the operator shall continue to implement the program as included as part of the registration statement until the program is updated to meet the conditions of this permit.

MCM 4 – Construction Site Stormwater Runoff Control

Section II B 4

MS4 Program Plan

MS4 Program requirements. The operator's MS4 Program Plan shall include:

1. A description of the legal authorities utilized to ensure compliance with the minimum control measure in Section II related to construction site stormwater runoff control such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements;
2. Written plan review procedures and all associated documents utilized in plan review;
3. For the MS4 operators who obtain department-approved standards and specifications, a copy of the current standards and specifications;
4. Written inspection procedures and all associated documents utilized during inspection including the inspection schedule;
5. Written procedures for compliance and enforcement, including a progressive compliance and enforcement strategy, where appropriate; and
6. The roles and responsibilities of each of the operator's departments, divisions, or subdivisions in implementing the minimum control measure in Section II related to construction site stormwater runoff control. If the operator utilizes another entity to implement portions of the MS4 Program Plan, a copy of the written agreement must be retained in the MS4 Program Plan. The description of each party's roles and responsibilities, including any written agreements with third parties, shall be updated as necessary.
7. Reference may be made to any listed requirements in this subdivision provided the location of where the reference material can be found is included and the reference material is made available to the public upon request.

MCM 5 – Post-Construction Stormwater Management in New Development and Development on Prior Developed Lands

Section II B 5

Individual Residential Lot Special Criteria

Beginning with the issuance of this state permit, the operator may utilize strategies other than maintenance agreements such as periodic inspections, homeowner outreach and education, and other methods targeted at promoting the long-term maintenance of stormwater control measures that are designed to treat stormwater

runoff solely from the individual residential lot. Within 12 months of coverage under this permit, the operator shall develop and implement these alternative strategies and include them in the MS4 Program Plan.

Operator-Owned Stormwater Management Inspection Procedures

1. The operator shall provide for adequate long-term operation and maintenance of its stormwater management facilities in accordance with written inspection and maintenance procedures included in the MS4 Program Plan.
2. The operator shall inspect these stormwater management facilities annually. The operator may choose to implement an alternative schedule to inspect these stormwater management facilities based on facility type and expected maintenance needs provided that the alternative schedule is included in the MS4 Program Plan.
3. The operator shall conduct maintenance on its stormwater management facilities as necessary.

MS4 Program Plan

The operator's MS4 Program Plan shall be updated in accordance with Table 1 in this section to include:

1. A list of the applicable legal authorities such as ordinance, state and other permits, orders, specific contract language, and interjurisdictional agreements to ensure compliance with the minimum control measure in Section II related to post-construction stormwater management in new development and development on prior developed lands;
2. Written policies and procedures utilized to ensure that stormwater management facilities are designed and installed in accordance with Section II B 5 b;
3. Written inspection policies and procedures utilized in conducting inspections;
4. Written procedures for inspection, compliance and enforcement to ensure maintenance is conducted on private stormwater facilities to ensure long-term operation in accordance with approved design;
5. Written procedures for inspection and maintenance of operator-owned stormwater management facilities;
6. The roles and responsibilities of each of the operator's departments, divisions, or subdivisions in implementing the minimum control measure in Section II related to postconstruction stormwater management in new development and development on prior developed lands. If the operator utilizes another entity to implement portions of the MS4 Program Plan, a copy of the written agreement must be retained in the MS4 Program Plan. Roles and responsibilities shall be updated as necessary.

MCM 6 – Pollution Prevention/Good Housekeeping for Municipal Operations

Section II B 6

Identification of Locations Requiring SWPPPs

1. Within 12 months of state permit coverage, the operator shall identify all municipal high priority facilities. These high-priority facilities shall include (i) composting facilities, (ii) equipment storage and maintenance facilities, (iii) materials storage yards, (iv) pesticide storage facilities, (v) public works yards, (vi) recycling facilities, (vii) salt storage facilities, (viii) solid waste handling and transfer facilities, and (ix) vehicle storage and maintenance yards.
2. Within 12 months of state permit coverage, the operator shall identify which of the municipal high-priority facilities have a high potential of discharging pollutants. Municipal high-priority facilities that have a high potential for discharging pollutants are those facilities identified in subsection (1) above that are not covered under a separate VPDES permit and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff:
 - a. Areas where residuals from using, storing or cleaning machinery or equipment remain and are exposed to stormwater;
 - b. Materials or residuals on the ground or in stormwater inlets from spills or leaks;
 - c. Material handling equipment (except adequately maintained vehicles);
 - d. Materials or products that would be expected to be mobilized in stormwater runoff during loading/unloading or transporting activities (e.g., rock, salt, fill dirt);
 - e. Materials or products stored outdoors (except final products intended for outside use where exposure to stormwater does not result in the discharge of pollutants);
 - f. Materials or products that would be expected to be mobilized in stormwater runoff contained in

- open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;
- g. Waste material except waste in covered, non-leaking containers (e.g., dumpsters);
- h. Application or disposal of process wastewater (unless otherwise permitted); or
- i. Particulate matter or visible deposits of residuals from roof stacks, vents or both not otherwise regulated (i.e., under an air quality control permit) and evident in the stormwater runoff.

Nutrient Management Plan (NMP) Locations

Within 12 months of state permit coverage, the operator shall identify all applicable lands where nutrients are applied to a contiguous area of more than one acre. A latitude and longitude shall be provided for each such piece of land and reported in the annual report.

Training Schedule and Program

The operator shall conduct training for employees. Training is not required if the topic is not applicable to the operator's operations provided the lack of applicability is documented in the MS4 Program Plan. The operator shall determine and document the applicable employees or positions to receive each type of training. The operator shall develop an annual written training plan including a schedule of training events that ensures implementation of the training requirements as follows:

1. The operator shall provide biennial training to applicable field personnel in the recognition and reporting of illicit discharges.
2. The operator shall provide biennial training to applicable employees in good housekeeping and pollution prevention practices that are to be employed during road, street, and parking lot maintenance.
3. The operator shall provide biennial training to applicable employees in good housekeeping and pollution prevention practices that are to be employed in and around maintenance and public works facilities.
4. The operator shall ensure that employees, and require that contractors, who apply pesticides and herbicides are properly trained or certified in accordance with the Virginia Pesticide Control Act (§3.2-3900 et seq. of the Code of Virginia).
5. The operator shall ensure that employees and contractors serving as plan reviewers, inspectors, program administrators, and construction site operators obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations.
6. The operator shall ensure that applicable employees obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations.
7. The operators shall provide biennial training to applicable employees in good housekeeping and pollution prevention practices that are to be employed in and around recreational facilities.
8. The appropriate emergency response employees shall have training in spill responses. A summary of the training or certification program provided to emergency response employees shall be included in the first annual report.
9. The operator shall keep documentation on each training event including the training date, the number of employees attending the training, and the objective of the training event for a period of three years after each training event.

MS4 Program Plan

The operator shall require that municipal contractors use appropriate control measures and procedures for stormwater discharges to the MS4 system. Oversight procedures shall be described in the MS4 Program Plan. At a minimum, the MS4 Program Plan shall contain:

1. The written protocols being used to satisfy the daily operations and maintenance requirements;
2. A list of all municipal high-priority facilities that identifies those facilities that have a high potential for chemicals or other materials to be discharged in stormwater and a schedule that identifies the year in which an individual SWPPP will be developed for those facilities required to have a SWPPP.
3. Upon completion of a SWPPP, the SWPPP shall be part of the MS4 Program Plan. The MS4 Program Plan shall include the location in which the individual SWPPP is located;
4. A list of lands where nutrients are applied to a contiguous area of more than one acre.
5. Upon completion of a turf and landscape nutrient management plan, the turf and landscape nutrient

management plan shall be part of the MS4 Program Plan.


6. The MS4 Program Plan shall include the location in which the individual turf and landscape nutrient management plan is located; and
7. The annual written training plan for the next reporting cycle.



Implementing the Municipal Separate Storm Sewer System Permit


Board of Supervisors Work Session
October 22, 2013

Stormwater Division
General Services Department



Reading File

- Questions?
 - Memorandum
 - Attachment A – Permit VAR040037
 - Attachment B – FY14 Program Requirements



Snapshot: 2007 to 2013

- County Population grew 17%
- 23,500 parcels => 32,600 parcels (+39%)
- More BMPs 600 => 705 (+18%)
 - 25% have no maintenance agreement
- Land defined as ‘Urbanized’ grew 36%

Important Considerations



- The new permit
 - Requires more effort than previous versions
 - Requires a commitment of capital and staff resources beyond recent levels
 - If implemented carefully, will result in improved water quality conditions in County waterways

Today's Discussion



- Staff's understanding of requirements
- Many options to meet requirements
- Does not address programs managed outside the Stormwater Division

Implementation Goals



- Comply with State and Federal law
- Be cost effective
- Spend funds meaningfully
- Meet citizens expectations
 - Keep costs down
 - High quality environment & clean water
- Build on existing County programs

TMDL Action Plans - New



- Must develop two – Skiffes Creek and combined Mill-Powhatan Creeks
- Bacteria is the biggest water quality problem in the County other than sediment
- Good baseline information for the Mill-Powhatan Creeks
- Must include an end date

TMDL Action Plans - Ideas



- Begin with a watershed management plan for Skiffes Creek
 - Quantify pollutant reductions
 - prioritize retrofit options
- Consider targeted septic system connection program for FY17 onward

CBTMDL Action Plan - New



- Must meet the DEQ Guidance Memo
- Uncertainty regarding scale of MS4
- Good baseline information in the Mill, Powhatan and Yarmouth Creeks Watershed Plans
- Must achieve 5% reduction in N, P and S loads by June 30, 2018

CBTMDL Action Plan-Ideas



- Begin with a watershed management plan for College Creek (in addition to Skiffes Creek)
 - Quantify pollutant reductions
 - prioritize retrofit options
- New program area – will need help developing, implementing & tracking plan

Action Plans and CIP



- Capital Improvement Program
 - new treatment facilities on County facilities
- Capital Maintenance Program
 - Upgrades to County treatment facilities
- Invest in publically owned property first
- Won't have complete picture until Action Plans are complete in FY15 & FY16

Public Education/Outreach



- Focus on “Clean Water Heritage”
- Coordination with HRPDC
 - Printed materials and website
- Use direct mail to target specific audiences
- Increasing reach from 3% to 20% will be difficult

Public Involvement and Participation



- Current program fully meets the new requirements
- Keep doing what we are doing
 - Volunteer water quality monitoring program
 - Stormwater Program Advisory Committee
 - Partnerships with Master Gardeners, Master Naturalists

Illicit Discharge-Detection, Elimination



- Larger urbanized area = more outfalls
- More outfalls = more mapping & field investigations to perform/track
- Mapping is time intensive, requires high degree of GIS capability, must be field verified

Illicit Discharge-Detection, Elimination - Ideas



- Consider a consultant to map MS4 outfalls, drainage areas and field verify
 - Once per permit effort
- Consider efficiencies in developing and managing field investigations and follow-up
 - Improved equipment/software




Post-Construction Stormwater Management

- Inspection cycles
 - private facilities once every 5 years
 - Public facilities annually
- Consistency & efficiency
- Inspection process very paper-heavy
- New emphasis on enforcement - may need new ordinance language



Post-Construction Stormwater Management - Ideas

- Develop operations & maintenance manual for County facilities
- Consider a web-based GIS interface for staff access to records in the field
- Look for efficiencies to provide more office support (GIS/mapping) to staff



Pollution Prevention-Good Housekeeping

- Most MS4 fines result from Pollution Prevention problems
- Requirement needs the most effort
 - Must develop & implement a *biennial* training program
 - Must implement regular facility spot checks

Pollution Prevention-Good Housekeeping - Ideas



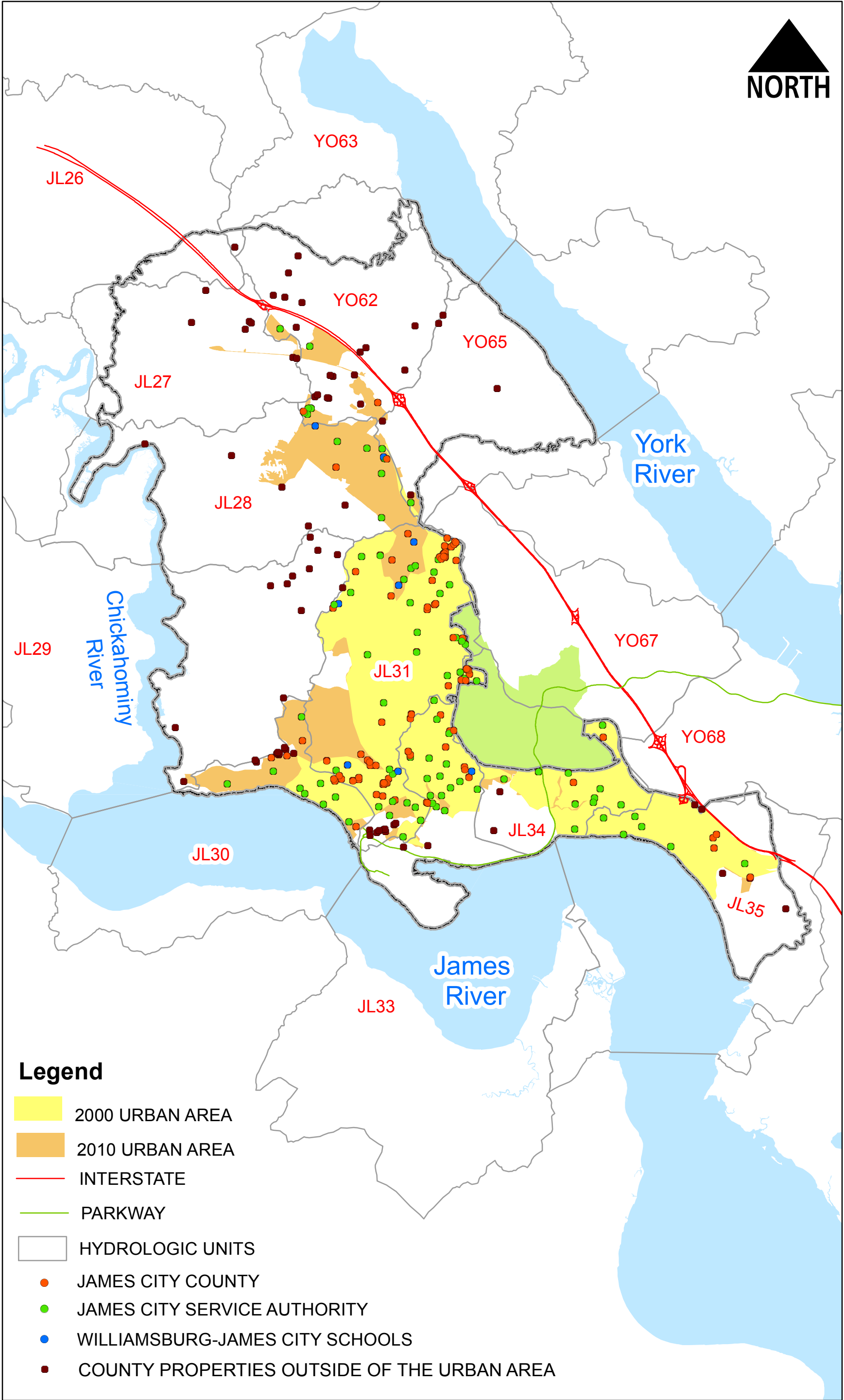
- Consider a County-wide Pollution Prevention Team crossing agency lines
- Consider consultants to provide specialized training
- Will need all parts of organization to participate

Thank You

jamescitycountyva.gov/stormwater



James City County
2000 & 2010 Urban Area



3.5

Miles

MEMORANDUM COVER

Subject: Longhill Road Corridor Study - Update

Action Requested: None

Summary: Staff will provide an update on the status of the Longhill Road Corridor Study including the process to date and next steps, and will address any questions that Board members may have.


Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell DP

County Administrator

Robert C. Middaugh 

Attachment:

1. Memorandum
2. PAC and TAT Member List

WORK SESSION

Date: October 22, 2013

MEMORANDUM

DATE: October 22, 2013

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner II

SUBJECT: Longhill Road Corridor Study - Update

As part of the process for the Longhill Road Corridor Study, staff will be providing periodic updates to the Planning Commission and Board of Supervisors. The information below includes a description of the process to date and highlights next steps as the study progresses into its next phase of development. This information was previously presented to the Planning Commission's Policy Committee on October 10, 2013.

Process To Date

Kimley Horn and Associates, Inc. began this project with traffic count data collection in late May/early June (prior to the end of the school year). Kimley Horn has been analyzing this data to compile information on traffic congestion along the corridor under existing conditions. The results show several intersections with deficient levels of service. They have also been pulling together a variety of other existing conditions data such as crash reports, environmental and historic features, and pedestrian, bicycle, and transit facilities and operations to give a broader view of the conditions along the corridor.

In conjunction with this technical analysis, staff and the consultant have been working to solicit public input on a variety of issues, including an evaluation of existing conditions from the perspective of frequent users of the corridor and on a guiding vision for the future of the corridor. Public input has been gathered via two meetings of the Project Advisory Committee ("PAC"), which consists of representatives of stakeholders along the corridor; one meeting of the Technical Advisory Team ("TAT"), which consists of a smaller, technically oriented group of stakeholders; a set of 17 stakeholder interviews; and the creation of a website (<http://www.jamescitycountyva.gov/longhillcorridorstudy>). A meeting for the general public to learn about the study and provide input occurred on October 3, 2013. The meeting was attended by approximately 50 members of the public, most of them either residents or business owners along the corridor. Attendees provided both individual and group input, participating in a variety of exercises designed to identify issues and to encourage evaluation of goals and priorities for the corridor. All input will be compiled and used to help assess options for improving the corridor.

Next Steps

Over the next few months, technical analysis will continue as the consultant starts to analyze land uses and market conditions to forecast future traffic volumes on the corridor. This information will determine areas where levels of service may decline and become deficient, and set the stage for identifying possible improvements to address the deficiencies. The possible improvements will be evaluated against constraints such as available right-of-way, cost, and public input.

Stakeholder and public input efforts will also continue, with additional meetings of the PAC and TAT. Additional public meetings will be held once the possible improvements scenarios have been drafted. Staff will bring information and updates to the Policy Committee and Board of Supervisors again at this phase before moving onto option selection and recommendations for the final report in Summer 2014.

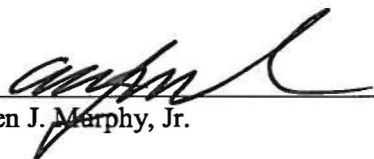
Conclusion

Staff and the project consultant will be present at the Board work session and would welcome any discussion and questions the Board may have.



Ellen Cook

CONCUR:



Allen J. Murphy, Jr.

LonghillRdStud_mem
EC/gb

The Project Advisory Committee Members are:

Charlie Ohlinger, Steve Whaley, Bobby Hornsby, Bonnie Brown, Jim Baldrige, Pastor Whitehead, Bob Buckley, Will Lee, Tina Rice, Ted Moreland, Robin Bledsoe, Scott Thomas, John Carnifax/Nancy Ellis, Alan Robertson, Larry Foster, Jamie Jackson, Darryll Lewis, Kate Sipes.

The Technical Advisory Team Members are:

Larry Foster, Luke Vinciguerra, Scott Thomas, Alan Robertson, John Carnifax/Nancy Ellis, Jamie Jackson, Darryll Lewis