

1 **Project 4017 - none**

2 **STATE WATER CONTROL BOARD**

3 **Virginia Stormwater Management Program (VSMP) Regulations - 2014 Statutory Changes**

4

5 **Part I**

6 **Definitions, Purpose, and Applicability**

7 **9VAC25-870-10. Definitions.**

8 The following words and terms used in this chapter have the following meanings unless the
9 context clearly indicates otherwise.

10 “Agreement in lieu of a stormwater management plan” means a contract between the
11 VSMP authority and the owner or permittee that specifies methods that shall be implemented to
12 comply with the requirements of a VSMP for the construction of a single-family residence; such
13 contract may be executed by the VSMP authority in lieu of a stormwater management plan.

14 "Stormwater management plan" means a document(s) containing material for describing
15 methods for complying with the requirements of the VSMP or this chapter. An agreement in lieu
16 of a stormwater management plan as defined in these regulations shall be considered to meet
17 the requirements of a stormwater management plan.

18 "VSMP authority" means an authority approved by the board after September 13, 2011, to
19 operate a Virginia Stormwater Management Program or, ~~until such approval is given,~~ the
20 department. An authority may include a locality as set forth in § 62.1-44.15:27 of the Code of
21 Virginia; state entity, including the department; federal entity; or, for linear projects subject to
22 annual standards and specifications in accordance with subsection B of § 62.1-44.15:31 of the
23 Code of Virginia, electric, natural gas, and telephone utility companies, interstate and intrastate
24 natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-

25 5102 of the Code of Virginia. Prior to approval, the board must find that the ordinances adopted
26 by the locality's VSMP authority are consistent with the Act and this chapter including the
27 General Permit for Discharges of Stormwater from Construction Activities (9VAC25-880).

28 **9VAC25-870-51. Chesapeake Bay Preservation Act land-disturbing activity.**

29 A. In order to protect the quality of state waters and to control the discharge of stormwater
30 pollutants from land-disturbing activities, runoff associated with Chesapeake Bay Preservation
31 Act land-disturbing activities shall be ~~controlled~~ regulated by localities subject to the
32 Chesapeake Bay Preservation Act or, in the case of state and federal agency projects, the
33 department. In regulating such land-disturbing activities in accordance with subsection B,
34 localities shall have the same authority and responsibilities as set forth in these regulations for
35 VSMP authorities.

36 B. After June 30, 2014, such land-disturbing activities shall not require completion of a
37 registration statement or require coverage under the General Permit for Discharges of
38 Stormwater from Construction Activities but shall be subject to the following technical criteria
39 and program and administrative requirements:

40 1. An erosion and sediment control plan consistent with the requirements of the Virginia
41 Erosion and Sediment Control Law and regulations must be designed and implemented
42 during land disturbing activities. Prior to land disturbance, this plan must be approved by
43 either the VESCP authority or the department in accordance with the Virginia Erosion
44 and Sediment Control Law and attendant regulations.

45 2. A stormwater management plan consistent with the requirements of the Virginia
46 Stormwater Management Act and regulations must be designed and implemented during
47 the land-disturbing activity. The stormwater management plan shall be developed and

48 submitted in accordance with 9VAC25-870-55. Prior to land disturbance, this plan must
49 be approved by the VSMP authority.

50 3. Exceptions may be requested in accordance with 9VAC25-870-57.

51 4. Long-term maintenance of stormwater management facilities shall be provided for and
52 conducted in accordance with 9VAC25-870-58.

53 5. Water quality design criteria in 9VAC25-870-63 shall be applied to the site.

54 6. Water quality compliance shall be achieved in accordance with 9VAC25-870-65.

55 7. Channel protection and flood protection shall be achieved in accordance with
56 9VAC25-870-66.

57 8. Offsite compliance options in accordance with 9VAC25-870-69 shall be available to
58 Chesapeake Bay Preservation Act land-disturbing activities.

59 9. Such land-disturbing activities shall be subject to the design storm and hydrologic
60 methods set out in 9VAC25-870-72, linear development controls in 9VAC25-870-76, and
61 criteria associated with stormwater impoundment structures or facilities in 9VAC25-870-
62 85.

63 **9VAC25-870-55. Stormwater management plans.**

64 A. A stormwater management plan shall be developed and submitted to the VSMP authority.
65 The stormwater management plan shall be implemented as approved or modified by the VSMP
66 authority and shall be developed in accordance with the following:

67 1. A stormwater management plan for a land-disturbing activity shall apply the
68 stormwater management technical criteria set forth in this part to the entire land-
69 disturbing activity. Individual lots in new residential, commercial, or industrial

70 developments, including those developed under subsequent owners, shall not be
71 considered separate land-disturbing activities.

72 2. A stormwater management plan shall consider all sources of surface runoff and all
73 sources of subsurface and groundwater flows converted to surface runoff.

74 B. A complete stormwater management plan shall include the following elements:

75 1. Information on the type of and location of stormwater discharges, information on the
76 features to which stormwater is being discharged including surface waters or karst
77 features if present, and predevelopment and postdevelopment drainage areas;

78 2. Contact information including the name, address, telephone number, and email
79 address of the owner and the tax reference number and parcel number of the property or
80 properties affected;

81 3. A narrative that includes a description of current site conditions and final site
82 conditions or if allowed by the VSMP authority, the information provided and
83 documented during the review process that addresses the current and final site
84 conditions;

85 4. A general description of the proposed stormwater management facilities and the
86 mechanism through which the facilities will be operated and maintained after
87 construction is complete;

88 5. Information on the proposed stormwater management facilities, including (i) the type
89 of facilities; (ii) location, including geographic coordinates; (iii) acres treated; and (iv) the
90 surface waters or karst features into which the facility will discharge;

91 6. Hydrologic and hydraulic computations, including runoff characteristics;

92 7. Documentation and calculations verifying compliance with the water quality and
93 quantity requirements of these regulations;

94 8. A map or maps of the site that depicts the topography of the site and includes:

95 a. All contributing drainage areas;

96 b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and
97 floodplains;

98 c. Soil types, geologic formations if karst features are present in the area, forest
99 cover, and other vegetative areas;

100 d. Current land use including existing structures, roads, and locations of known
101 utilities and easements;

102 e. Sufficient information on adjoining parcels to assess the impacts of stormwater
103 from the site on these parcels;

104 f. The limits of clearing and grading, and the proposed drainage patterns on the site;

105 **9VAC25-870-59. Applying for state permit coverage.**

106 The operator must submit a complete and accurate registration statement, if such statement
107 is required, on the official department form to the VSMP authority in order to apply for state
108 permit coverage. The registration statement must be signed by the operator in accordance with
109 9VAC25-870-370. In accordance with § 62.1-44.15:28, no registration statement is required for
110 the construction of a single-family detached residential structure within or outside a common
111 plan of development or sale.

112 9VAC25-870-65. Water quality compliance.

113 A. Compliance with the water quality design criteria set out in subdivisions A 1 and A 2 of
114 9VAC25-870-63 shall be determined by utilizing the Virginia Runoff Reduction Method or
115 another equivalent methodology that is approved by the board.

116 B. The BMPs listed in this subsection are approved for use as necessary to effectively
117 reduce the phosphorus load and runoff volume in accordance with the Virginia Runoff Reduction
118 Method. Other approved BMPs found on the Virginia Stormwater BMP Clearinghouse Website
119 may also be utilized. Design specifications and the pollutant removal efficiencies for all
120 approved BMPs are found on the Virginia Stormwater BMP Clearinghouse Website.

- 121** 1. Vegetated Roof (Version 2.3, March 1, 2011);
- 122** 2. Rooftop Disconnection (Version 1.9, March 1, 2011);
- 123** 3. Rainwater Harvesting (Version 1.9.5, March 1, 2011);
- 124** 4. Soil Amendments (Version 1.8, March 1, 2011);
- 125** 5. Permeable Pavement (Version 1.8, March 1, 2011);
- 126** 6. Grass Channel (Version 1.9, March 1, 2011);
- 127** 7. Bioretention (Version 1.9, March 1, 2011);
- 128** 8. Infiltration (Version 1.9, March 1, 2011);
- 129** 9. Dry Swale (Version 1.9, March 1, 2011);
- 130** 10. Wet Swale (Version 1.9, March 1, 2011);
- 131** 11. Sheet Flow to Filter/Open Space (Version 1.9, March 1, 2011);
- 132** 12. Extended Detention Pond (Version 1.9, March 1, 2011);
- 133** 13. Filtering Practice (Version 1.8, March 1, 2011);

134 14. Constructed Wetland (Version 1.9, March 1, 2011); and

135 15. Wet Pond (Version 1.9, March 1, 2011).

136 C. BMPs differing from those listed in subsection B of this section or proprietary BMPs
137 certified in other states shall be reviewed and approved by the director in accordance with
138 procedures established by the department.

139 D. A VSMP authority may establish limitations on the use of specific BMPs in accordance
140 with § 62.1-44.15:33 of the Code of Virginia.

141 E. The VSMP authority shall have the discretion to allow for application of the design criteria
142 to each drainage area of the site. However, where a site drains to more than one HUC, the
143 pollutant load reduction requirements shall be applied independently within each HUC unless
144 reductions are achieved in accordance with a comprehensive watershed stormwater
145 management plan in accordance with 9VAC25-870-92.

146 F. Offsite alternatives where allowed in accordance with 9VAC25-870-69 may be utilized to
147 meet the design criteria of subsection A of 9VAC25-870-63.

148 **9VAC25-870-66. Water quantity.**

149 A. Channel protection and flood protection shall be addressed in accordance with the
150 minimum standards set out in this section, which are established pursuant to the requirements
151 of ~~subdivision 7~~ of § 4-62.1-44.15:28 of the Code of Virginia. Nothing in this section shall prohibit
152 a locality's VSMP authority from establishing a more stringent standard in accordance with
153 § 62.1-44.15:33 of the Code of Virginia especially where more stringent requirements are
154 necessary to address total maximum daily load requirements or to protect exceptional state
155 waters. Compliance with the minimum standards set out in this section shall be deemed to
156 satisfy the requirements of subdivision 19 of 9VAC25-840-40 (Minimum standards; Virginia
157 Erosion and Sediment Control Regulations).

158 **9VAC25-870-103. ~~VSMP authority requirements~~ Requirements for Chesapeake Bay**
159 **Preservation Act land-disturbing activities.**

160 A. ~~A VSMP authority~~ Localities subject to the Chesapeake Bay Preservation Act shall
161 regulate runoff associated with Chesapeake Bay Preservation Act land-disturbing activities in
162 accordance with the following:

163 1. After June 30, 2014, such land-disturbing activities shall not require completion of a
164 registration statement or require coverage under the General Permit for Discharges of
165 Stormwater from Construction Activities but shall be subject to the technical criteria and
166 program and administrative requirements set out in 9VAC25-870-51.

167 2. A local or VSMP authority permit, ~~where as~~ applicable, shall be issued permitting the
168 land-disturbing activity.

169 3. The ~~VSMP authority~~ locality shall regulate such land-disturbing activities in
170 compliance with the:

171 a. Program requirements in 9VAC25-870-104;

172 b. Plan review requirements in 9VAC25-870-108 with the exception of subsection D
173 of 9VAC25-870-108;

174 c. Long-term stormwater management facility requirements of 9VAC25-870-112;

175 d. Inspection requirements of 9VAC25-870-114 with the exception of subdivisions A
176 3 and A 4 of 9VAC25-870-114;

177 e. Enforcement components of 9VAC25-870-116;

178 f. Hearing requirements of 9VAC25-870-118;

179 g. Exception conditions of 9VAC25-870-122 excluding subsection C of 9VAC25-870-
180 122 which is not applicable; and

181 h. Reporting and recordkeeping requirements of 9VAC25-870-126 with the exception
182 of subdivision B 3 of 9VAC25-870-126.

183 B. ~~A locality's VSMP authority~~ locality subject to the Chesapeake Bay Preservation Act shall
184 adopt an ordinance, ~~and other VSMP authorities shall provide program documentation,~~ that
185 incorporates the components of this section.

186 C. In accordance with subdivision A 5 of § 62.1-44.15:28 of the Code of Virginia, a locality's
187 VSMP authority may collect a permit issuance fee from the applicant of \$290 and an annual
188 maintenance fee of \$50 for such land-disturbing activities.

189 **9VAC25-870-118. Hearings.**

190 ~~The VSMP authority shall ensure that any~~ Any permit applicant, permittee, or person subject
191 to state permit requirements under the ~~Act~~ Stormwater Management Act aggrieved by any
192 action of the ~~VSMP authority~~ department or board taken without a formal hearing, ~~or by inaction~~
193 ~~of the VSMP authority, shall have a right to~~ may demand in writing a formal hearing pursuant to
194 § 62.1-44.15:44 of the Code of Virginia and shall ensure that all hearings held under this
195 chapter shall be conducted in a manner consistent with § 62.1-44.26 of the Code of Virginia or
196 as otherwise provided by law. A locality holding hearings under this chapter shall do so in a
197 manner consistent with local hearing procedures. The provisions of the Administrative Process
198 Act (§ 2.2-4000 et seq.) shall not apply to decisions rendered by localities ~~but appeals.~~ Appeals
199 of decisions rendered by localities shall be conducted in accordance with local appeal
200 procedures and shall include an opportunity for judicial review in the circuit court of the locality
201 in which the land disturbance occurs or is proposed to occur. Unless otherwise provided by law,
202 the circuit court shall conduct such review in accordance with the standards established in §
203 2.2-4027, and the decisions of the circuit court shall be subject to review by the Court of
204 Appeals, as in other cases under this chapter.

205 **9VAC25-870-150. Authorization procedures for Virginia stormwater management**
206 **programs.**

207 A. A locality ~~required to adopt~~ adopting a VSMP in accordance with § 62.1-44.15:27 A-of the
208 Code of Virginia ~~or a town electing to adopt its own VSMP in accordance with § 62.1-44.15:27 B~~
209 ~~of the Code of Virginia,~~ must submit to the board an application package which, at a minimum,
210 contains the following:

211 1. The draft VSMP ordinance(s) as required in 9VAC25-870-148;

212 2. A funding and staffing plan;

213 3. The policies and procedures including, but not limited to, agreements with Soil and
214 Water Conservation Districts, adjacent localities, or other public or private entities for the
215 administration, plan review, inspection, and enforcement components of the program;
216 and

217 4. Such ordinances, plans, policies, and procedures must account for any town lying
218 within the county as part of the locality's VSMP program unless such towns choose to
219 adopt their own program.

220 E. A ~~town~~ locality or other authorized entity not required to adopt a VSMP in accordance
221 with § 62.1-44.15:27 A-of the Code of Virginia but electing to adopt a VSMP ~~may~~ shall notify the
222 ~~board~~ department. Such notification shall include a proposed ~~schedule for adoption of~~ adoption
223 date for a local stormwater management program on or after July 1, 2014, ~~and within a~~
224 ~~timeframe agreed upon by the board~~ in accordance with a schedule developed by the
225 department.

226 **9VAC25-870-820. Fees for an individual permit or coverage under the General Permit for**
 227 **Discharges of Stormwater from Construction Activities.**

228 When a site or sites are purchased for development within a previously permitted common
 229 plan of development or sale, the applicant shall be subject to fees ("total fee to be paid by
 230 applicant" column) in accordance with the disturbed acreage of their site or sites according to
 231 the following table.

Fee type	Total fee to be paid by applicant (includes both VSMP authority and department portions where applicable)	Department portion of "total fee to be paid by applicant" (based on 28% of total fee paid *)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than one acre)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land-disturbance acreage less than one acre) <u>(Areas within common plans of development or sale with land-disturbance acreage less than one acre, except for single-family detached residential structures)</u>	\$290	\$81
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than 5 acres)</u>	<u>\$209</u>	<u>\$0</u>
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less	\$2,700	\$756

than five acres)		
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$3,400	\$952
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$4,500	\$1,260
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688
Individual Permit for Discharges of Stormwater from Construction Activities (This will be administered by the department)	\$15,000	\$15,000
* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.		

232

233 **9VAC25-870-825. Fees for the modification or transfer of individual permits or of**
234 **registration statements for the General Permit for Discharges of Stormwater from**
235 **Construction Activities.**

236 The following fees apply to modification or transfer of individual permits or of registration
237 statements for the General Permit for Discharges of Stormwater from Construction Activities

238 issued by the board. If the state permit modifications result in changes to stormwater
 239 management plans that require additional review by the VSMP authority, such reviews shall be
 240 subject to the fees set out in this section. The fee assessed shall be based on the total disturbed
 241 acreage of the site. In addition to the state permit modification fee, modifications resulting in an
 242 increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and
 243 the state permit fee that would have applied for the total disturbed acreage in 9VAC25-870-820.
 244 No modification or transfer fee shall be required until such board-approved programs exist.
 245 These fees shall only be effective when assessed by a VSMP authority, including the
 246 department when acting in that capacity, that has been approved by the board. No modification
 247 fee shall be required for the General Permit for Discharges of Stormwater from Construction
 248 Activities for a state or federal agency that is administering a project in accordance with
 249 approved annual standards and specifications but shall apply to all other state or federal agency
 250 projects.

General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than one acre) (<u>Areas within common plans of development or sale with land-disturbance acreage less than one acre, except for single-family detached residential structures</u>)	\$20
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than 5 acres where the locality is the VSMP authority)</u>	<u>\$20</u>
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than 5 acres where the department is the VSMP authority)</u>	<u>\$0</u>
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one and less than five acres)	\$200
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$250
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-	\$300

disturbance acreage equal to or greater than 10 acres and less than 50 acres)	
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$700
Individual Permit for Discharges of Stormwater from Construction Activities	\$5,000

251

252 9VAC25-870-830. State permit maintenance fees.

253 The following annual permit maintenance fees apply to each state permit identified below,
 254 including expired state permits that have been administratively continued. With respect to the
 255 General Permit for Discharges of Stormwater from Construction Activities, these fees shall apply
 256 until the state permit coverage is terminated, and shall only be effective when assessed by a
 257 VSMP authority including the department when acting in that capacity that has been approved
 258 by the board. No maintenance fee shall be required for a General Permit for Discharges of
 259 Stormwater from Construction Activities until such board approved programs exist. No
 260 maintenance fee shall be required for the General Permit for Discharges of Stormwater from
 261 Construction Activities for a state or federal agency that is administering a project in accordance
 262 with approved annual standards and specifications but shall apply to all other state or federal
 263 agency projects. All regulated MS4s who are issued joint coverage under an individual permit or
 264 general permit registration shall each pay the appropriate fees set out below:

Municipal Stormwater / MS4 Individual (Large and Medium)	\$8,800
Municipal Stormwater / MS4 Individual (Small)	\$6,000
Municipal Stormwater / MS4 General Permit (Small)	\$3,000
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land-	\$50

<u>disturbance acreage less than one acre) (Areas within common plans of development or sale with land-disturbance acreage less than one acre, except for single-family detached residential structures)</u>	
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than 5 acres where the locality is the VSMP authority)</u>	<u>\$50</u>
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than 5 acres where the department is the VSMP authority)</u>	<u>\$0</u>
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance equal to or greater than one acre and less than five acres)	\$400
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$500
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater 100 acres)	\$1,400
Individual Permit for Discharges from Construction Activities	\$3,000