COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

General Permit No.: VAR040058

Effective Date: November 1, 2018
Expiration Date: October 31, 2023

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

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT PROGRAM REGULATIONS, VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM REGULATIONS, AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, permittees of small municipal separate storm sewer systems are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in State Water Control Board regulations which prohibit such discharges.

The authorized discharge shall be in accordance with the registration statement filed with the department, this cover page, Part I - Discharge Authorization and Special Conditions, Part II - TMDL Special Conditions, and Part III - Conditions Applicable to All State and VPDES Permits, as set forth in this general permit.

Part 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 permittee is authorized to discharge stormwater and those authorized nonstormwater discharges described in 9VAC25-890-20 D 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 9VAC25-890-30.

B. The permittee shall develop, implement, and enforce a MS4 program designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP) in accordance with this permit, to protect water quality, and to satisfy the appropriate water quality requirements of the State Water Control Law and its attendant regulations. The permittee shall utilize the 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, policy, specific contract language, order, or interjurisdictional agreements. The MS4 program shall include the minimum control measures (MCM) described in Part I E. For the purposes of this permit term, implementation of MCMs in Part I E and the Chesapeake Bay and local TMDL requirements in Part II (as applicable) consistent with the provisions of an iterative MS4 program required pursuant to this general permit constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable," provides adequate progress in meeting water quality standards, and satisfies the appropriate water quality requirements of the State Water Control Law and its attendant regulations.

C. The MS4 program plan.

1. The MS4 program plan shall include, at a minimum, the following written items:

   a. The roles and responsibilities of each of the permittee's divisions and departments in the implementation of the requirements of the permit tasked with ensuring that the permit requirements are met;

   b. If the permittee utilizes another entity to implement portions of the MS4 program, a copy of the written agreement. The description of each party's roles and responsibilities, including any written agreements with third parties, shall be updated as necessary;

   c. For each MCM in Part I E, the following information shall be included:

      (1) Each specific requirement as listed in Part I E for each MCM;

      (2) A description of the BMPs or strategies that the permittee anticipates will be implemented to demonstrate compliance with the permit conditions in Part I E;

(3) All standard operating procedures or policies necessary to implement the BMPs;

(4) The measurable goal by which each BMP or strategy will be evaluated; and

(5) The persons, positions, or departments responsible for implementing each BMP or strategy; and

d. A list of documents incorporated by reference including the version and date of the document being incorporated.

2. If the permittee is receiving initial coverage under this general VPDES permit for the discharge of stormwater, the permittee shall:

   a. No later than six months following the date of permit coverage, submit to the department a schedule for the development of each component of the MS4 program plan in accordance with Part I C 1 that does not exceed the expiration date of this permit; and

   b. Provide to the department a copy of the MS4 program plan upon completion of development.

3. If the permittee was previously covered under the General VPDES Permit for the Discharge of Stormwater from MS4 effective July 1, 2013, the permittee shall update the MS4 program plan to meet the requirements of this permit no later than six months after the effective date of this permit unless otherwise specified in another permit condition and shall post the most up-to-date version of MS4 program plan on the permittee's website or location where the MS4 program plan can be obtained as required by Part I E 2 within 30 days of updating the MS4 program plan. Until such time that the MS4 program plan is updated in accordance with Part I E, the permittee shall continue to implement the MS4 program plan in effect at the time that coverage is issued under this general permit.

4. Revisions to the MS4 program plan are expected throughout the life of this permit as part of the iterative process to reduce pollutant loading and protect water quality to the MEP. As such, revisions made in accordance with this permit as a result of the iterative process do not require modification of this permit. The permittee shall summarize revisions to the MS4 program plan as part of the annual report as described in Part I D 2.

5. The permittee may demonstrate compliance with one or more MCM in Part I E through implementation of separate statutory or regulatory programs provided that the permittee's MS4 program identifies and fully describes any program that will be used to satisfy one or more of the minimum control measures of Part I E. If the program that the permittee is using requires the approval of a third party, the program shall be fully approved by the third party, or the permittee shall be working toward getting full approval. Documentation of the program's approval status, or the progress toward achieving full approval, shall be included in the annual report required by

Part I D. The permittee shall remain responsible for compliance with the permit requirements if the other entity fails to implement one or more components of the control measures.

6. The permittee may rely on another entity to satisfy the permit requirements to implement a minimum control measure if:

   a. The other entity, in fact, implements the control measure;

   b. The particular control measure, or component thereof, is at least as stringent as the corresponding permit requirement;

   c. The other entity agrees to implement the control measure on behalf of the permittee; and

   d. The agreement between the parties is documented in writing and retained by the permittee with the MS4 program plan for as long as the agreement is active.

   The permittee shall remain responsible for compliance with requirements of the permit and shall document in the annual reports required in accordance with Part I D that another entity is being relied on to satisfy all or part of the state permit requirements. The permittee shall provide the information required in Part I D.

7. If the permittee relies on another governmental entity regulated under 9VAC25-870-380 to satisfy all of the state permit obligations, including the obligation to file periodic reports required by Part I D, the permittee must note that fact in the registration statement, but is not required to file the periodic reports. The permittee remains responsible for compliance with the state permit requirements if the other entity fails to implement the control measures or components thereof.

D. Annual reporting requirements.

1. The permittee shall submit an annual report to the department no later than October 1 of each year in a format as specified by the department. The report shall cover the previous year from July 1 to June 30.

2. The annual report shall include the following general information:

   a. The permittee, system name, and permit number;

   b. The reporting period for which the annual report is being submitted;

   c. A signed certification as per Part III K;

   d. Each annual reporting item as specified in an MCM in Part I E; and

   e. An evaluation of the MS4 program implementation, including a review of each MCM, to determine the MS4 program's effectiveness and whether or not changes to the MS4 program plan are necessary.

3. For permittees receiving initial coverage under this general VPDES permit for the discharge of stormwater, the annual report shall include a status update on each component of the MS4 program plan being developed. Once the MS4 program plan has been updated to include

implementation of a specific MCM in Part I E, the permittee shall follow the reporting requirements established in Part I D 2.

4. For those permittees with requirements established under Part II A, the annual report shall include a status report on the implementation of the Chesapeake Bay TMDL action plan in accordance with Part II A of this permit including any revisions to the plan.

5. For those permittees with requirements established under Part II B, the annual report shall include a status report on the implementation of the local TMDL action plans in accordance with Part II B including any revisions to the plan.

6. For the purposes of this permit, the MS4 program plan and annual report shall be maintained separately and submitted to the department as required by this permit as two separate documents.

E. Minimum control measures

1. Public education and outreach.

a. The permittee shall implement a public education and outreach program designed to:

(1) Increase the public's knowledge of how to reduce stormwater pollution, placing priority on reducing impacts to impaired waters and other local water pollution concerns;

(2) Increase the public's knowledge of hazards associated with illegal discharges and improper disposal of waste, including pertinent legal implications; and

(3) Implement a diverse program with strategies that are targeted toward individuals or groups most likely to have significant stormwater impacts.

b. The permittee shall identify no less than three high-priority stormwater issues to meet the goal of educating the public in accordance with Part I E 1 a. High-priority issues may include the following examples: Chesapeake Bay nutrients, pet wastes, local receiving water impairments, TMDLs, high-quality receiving waters, and illicit discharges from commercial sites.

c. The high-priority public education and outreach program, as a whole, shall:

(1) Clearly identify the high-priority stormwater issues;

(2) Explain the importance of the high-priority stormwater issues;

(3) Include measures or actions the public can take to minimize the impact of the high-priority stormwater issues; and

(4) Provide a contact and telephone number, website, or location where the public can find out more information.

d. The permittee shall use two or more of the strategies listed in Table 1 below per year to communicate to the public the high-priority stormwater issues identified in accordance with Part I E 1 b including how to reduce stormwater pollution.

Table 1 Strategies for Public Education and Outreach	
Strategies	Examples (provided as examples and are not meant to be all inclusive or limiting)
Traditional written materials	Informational brochures, newsletters, fact sheets, utility bill inserts, or recreational guides for targeted groups of citizens
Alternative materials	Bumper stickers, refrigerator magnets, t-shirts, or drink koozies
Signage	Temporary or permanent signage in public places or facilities, vehicle signage, bill boards, or storm drain stenciling
Media Materials	Information disseminated through electronic media, radio, televisions, movie theater, or newspaper
Speaking engagements	Presentations to school, church, industry, trade, special interest, or community groups
Curriculum materials	Materials developed for school-aged children, students at local colleges or universities, or extension classes offered to local citizens
Training materials	Materials developed to disseminate during workshops offered to local citizens, trade organization, or industrial officials

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

f. The MS4 program plan shall include:

(1) A list of the high-priority stormwater issues the permittee will communicate to the public as part of the public education and outreach program;

(2) The rationale for selection of each high-priority stormwater issue and an explanation of how each education or outreach strategy is intended to have a positive impact on stormwater discharges;

(3) Identification of the public audience to receive each high-priority stormwater message;

(4) The strategies from Table 1 of Part I E 1 d to be used to communicate each high-priority stormwater message; and

(5) The anticipated time periods the messages will be communicated or made available to the public.

g. The annual report shall include the following information:

(1) A list of the high-priority stormwater issues the permittee addressed in the public education and outreach program; and

(2) A list of the strategies used to communicate each high-priority stormwater issue.

2. Public involvement and participation.

a. The permittee shall develop and implement procedures for the following:

(1) The public to report potential illicit discharges, improper disposal, or spills to the MS4, complaints regarding land disturbing activities, or other potential stormwater pollution concerns;

(2) The public to provide input on the permittee's MS4 program plan;

(3) Receiving public input or complaints;

(4) Responding to public input received on the MS4 program plan or complaints; and

(5) Maintaining documentation of public input received on the MS4 program and associated MS4 program plan and the permittee's response.

b. No later than three months after this permit's effective date, the permittee shall develop and maintain a webpage dedicated to the MS4 program and stormwater pollution prevention. The following information shall be posted on this webpage:

(1) The effective MS4 permit and coverage letter;

(2) The most current MS4 program plan or location where the MS4 program plan can be obtained;

(3) The annual report for each year of the term covered by this permit no later than 30 days after submittal to the department;

(4) A mechanism for the public to report potential illicit discharges, improper disposal, or spills to the MS4, complaints regarding land disturbing activities, or other potential stormwater pollution concerns in accordance with Part I E 2 a (1); and

(5) (5) Methods for how the public can provide input on the permittee's MS4 program plan in accordance with Part I E 2 a (2).

c. The permittee shall implement no less than four activities per year from two or more of the categories listed in Table 2 below to provide an opportunity for public involvement to improve water quality and support local restoration and clean-up projects.

Table 2 Public Involvement Opportunities	
Public involvement opportunities	Examples (provided as example and are not meant to be all inclusive or limiting)
Monitoring	Establish or support citizen monitoring group
Restoration	Stream or watershed clean-up day, adopt-a-water way program,
Educational events	Booth at community fair, demonstration of stormwater control projects, presentation of stormwater materials to schools to meet applicable education Standards of Learning or curriculum requirements, watershed walks, participation on environmental advisory committees
Disposal or collection events	Household hazardous chemicals collection, vehicle fluids collection
Pollution prevention	Adopt-a-storm drain program, implement a storm drain marking program, promote use of residential stormwater BMPs, implement pet waste stations in public areas, adopt-a-street program.

d. The permittee may coordinate the public involvement opportunities listed in Table 2 with other MS4 permittees; however, each permittee shall be individually responsible for meeting all of the permit requirements.

e. The MS4 program plan shall include:

(1) The webpage address where mechanisms for the public to report (i) potential illicit discharges, improper disposal, or spills to the MS4, (ii) complaints regarding land disturbing activities, or (iii) other potential stormwater pollution concerns;

(2) The webpage address that contains the methods for how the public can provide input on the permittee's MS4 program; and

(3) A description of the public involvement activities to be implemented by the permittee, the anticipated time period the activities will occur, and a metric for each activity to determine if the activity is beneficial to water quality. An example of metrics may include the weight of trash collected from a stream cleanup, the number of participants in a hazardous waste collection event, etc.

f. The annual report shall include the following information:

(1) A summary of any public input on the MS4 program received (including stormwater complaints) and how the permittee responded;

(2) A webpage address to the permittee's MS4 program and stormwater website;

(3) A description of the public involvement activities implemented by the permittee;

(4) A report of the metric as defined for each activity and an evaluation as to whether or not the activity is beneficial to improving water quality; and

(5) The name of other MS4 permittees with whom the permittee collaborated in the public involvement opportunities.

3. Illicit discharge detection and elimination.

a. The permittee shall develop and maintain an accurate MS4 map and information table as follows:

(1) A map of the storm sewer system owned or operated by the permittee within the census urbanized area identified by the 2010 decennial census that includes, at a minimum:

(a) MS4 outfalls discharging to surface waters, except as follows:

(i) In cases where the outfall is located outside of the MS4 permittee's legal responsibility, the permittee may elect to map the known point of discharge location closest to the actual outfall; and

(ii) In cases where the MS4 outfall discharges to receiving water channelized underground, the permittee may elect to map the point downstream at which the receiving water emerges above ground as an outfall discharge location. If there are multiple outfalls discharging to an underground channelized receiving water, the map shall identify that an outfall discharge location represents more than one outfall. This is an option a permittee may choose to use and recognizes the difficulties in accessing outfalls to underground channelized stream conveyances for purposes of mapping, screening, or monitoring.

(b) A unique identifier for each mapped item required in Part I E 3;

(c) The name and location of receiving waters to which the MS4 outfall or point of discharge discharges;

(d) MS4 regulated service area; and

(e) stormwater management facilities owned or operated by the permittee.

(2) The permittee shall maintain an information table associated with the storm sewer system map that includes the following information for each outfall or point of discharge for those cases in which the permittee elects to map the known point of discharge in accordance with Part I E 3 a (1) (a):

(a) A unique identifier as specified on the storm sewer system map;

(b) The latitude and longitude of the outfall or point of discharge;

(c) The estimated regulated acreage draining to the outfall or point of discharge;

(d) The name of the receiving water;

(e) The 6th Order Hydrologic Unit Code of the receiving water;

(f) An indication as to whether the receiving water is listed as impaired in the Virginia 2016 305(b)/303(d) Water Quality Assessment Integrated Report;

(g) The predominant land use for each outfall discharging to an impaired water; and

(h) The name of any EPA approved TMDLs for which the permittee is assigned a wasteload allocation.

(3) No later than July 1, 2019, the permittee shall submit to DEQ a GIS-compatible shapefile of the permittee's MS4 map as described in Part I E 3 a. If the permittee does not have an MS4 map in a GIS format, the permittee shall provide the map as a PDF document.

(4) No later than October 1 of each year, the permittee shall update the storm sewer system map and outfall information table to include any new outfalls constructed or TMDLs approved or both during the immediate preceding reporting period.

(5) The permittee shall provide written notification to any downstream adjacent MS4 of any known physical interconnection established or discovered after the effective date of this permit.

b. The permittee shall prohibit, through ordinance, policy, standard operating procedures, or other legal mechanism, to the extent allowable under federal, state, or local law, regulations, or ordinances, unauthorized nonstormwater discharges into the storm sewer system. Nonstormwater discharges or flows identified in 9VAC25-890-20 D 3 shall only be addressed if they are identified by the permittee as a significant contributor of pollutants discharging to the MS4. Flows that have been identified by the department as de minimis discharges are not significant sources of pollutants to surface water.

c. The permittee shall maintain, implement, and enforce illicit discharge detection and elimination (IDDE) written procedures designed to detect, identify, and address unauthorized nonstormwater discharges, including illegal dumping, to the small MS4 to effectively eliminate the unauthorized discharge. Written procedures shall include:

(1) A description of the legal authorities, policies, standard operating procedures or other legal mechanisms available to the permittee to eliminate identified sources of ongoing illicit discharges including procedures for using legal enforcement authorities.

(2) Dry weather field screening protocols to detect, identify, and eliminate illicit discharges to the MS4. The protocol shall include:

(a) A prioritized schedule of field screening activities and rationale for prioritization determined by the permittee based on such criteria as age of the infrastructure, land use, historical illegal discharges, dumping or cross connections;

(b) If the total number of MS4 outfalls is equal to or less than 50, a schedule to screen all outfalls annually;

(c) If the total number of MS4 outfalls is greater than 50, a schedule to screen a minimum of 50 outfalls annually such that no more than 50% are screened in the previous 12-month period. The 50% criteria is not applicable if all outfalls have been screened in the previous three years; and

(d) A mechanism to track the following information:

(i) The unique outfall identifier;

(ii) Time since the last precipitation event;

(iii) The estimated quantity of the last precipitation event;

(iv) Site descriptions (e.g., conveyance type and dominant watershed land uses);

(v) Whether or not a discharge was observed; and

(vi) If a discharge was observed, the estimated discharge rate (e.g., width and depth of discharge flow rate) and visual characteristics of the discharge (e.g., odor, color, clarity, floatables, deposits or stains, vegetation condition, structural condition, and biology).

(3) A timeframe upon which to conduct an investigation to identify and locate the source of any observed unauthorized nonstormwater discharge. Priority of investigations shall be given to discharges of sanitary sewage and those believed to be a risk to human health and public safety. Discharges authorized under a separate VPDES or state permit require no further action under this permit.

(4) Methodologies to determine the source of all illicit discharges. If the permittee is unable to identify the source of an illicit discharge within six months of beginning the investigation then the permittee shall document that the source remains unidentified. If the observed discharge is intermittent, the permittee shall document that attempts to observe the discharge flowing were unsuccessful.

(5) Methodologies for conducting a follow-up investigation for illicit discharges that are continuous or that permittees expect to occur more frequently than a one-time discharge to verify that the discharge has been eliminated except as provided for in Part I E 3 c (4);

(6) A mechanism to track all illicit discharge investigations to document the following:

(a) The dates that the illicit discharge was initially observed, reported, or both;

(b) The results of the investigation, including the source, if identified;

(c) Any follow-up to the investigation;

(d) Resolution of the investigation; and

(e) The date that the investigation was closed.

d. The MS4 program plan shall include:

(1) The MS4 map and information table required by Part I E 3 a. The map and information table may be incorporated into the MS4 program plan by reference. The map shall be made available to the department within 14 days upon request;

(2) Copies of written notifications of new physical interconnections given by the permittee to other MS4s; and

(3) The IDDE procedures described in Part I E 3 c.

e. The annual report shall include:

(1) A confirmation statement that the MS4 map and information table have been updated to reflect any changes to the MS4 occurring on or before June 30 of the reporting year;

(2) The total number of outfalls screened during the reporting period as part of the dry weather screening program; and

(3) A list of illicit discharges to the MS4 including spills reaching the MS4 with information as follows:

(a) The source of illicit discharge;

(b) The dates that the discharge was observed, reported, or both;

(c) Whether the discharge was discovered by the permittee during dry weather screening, reported by the public, or other method (describe);

(d) How the investigation was resolved;

(e) A description of any follow-up activities; and

(f) The date the investigation was closed.

4. Construction site stormwater runoff control.

a. The permittee shall utilize its legal authority, such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements, to address discharges entering the MS4 from regulated construction site stormwater runoff. The permittee shall control construction site stormwater runoff as follows:

(1) If the permittee is a city, county, or town that has adopted a Virginia Erosion and Sediment Control Program (VESCP), the permittee shall implement the VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.

of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840);

(2) If the permittee is a town that has not adopted a VESCP, implementation of a VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-44:15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840) by the surrounding county shall constitute compliance with Part I E 4 a; such town shall notify the surrounding county of erosion, sedimentation or other construction stormwater runoff problems;

(3) If the permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has developed standards and specifications in accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee shall implement the most recent department approved standards and specifications; or

(4) If the permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has not developed standards and specifications in accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee shall inspect all land disturbing activities as defined in § 62.1-44.15:51 of the Code of Virginia that result in the disturbance activities of 10,000 square feet or greater, or 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay Preservation Act, as follows:

(a) During or immediately following initial installation of erosion and sediment controls;

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

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

(d) At the completion of the project prior to the release of any performance bond.

(5) If the permittee is a subdivision of a local government such as a school board or other local government body, the permittee shall inspect those projects resulting in a land disturbance as defined in § 62.1-44.15.51 of the Code of Virginia occurring on lands owned or operated by the permittee that result in the disturbance of 10,000 square feet or greater, 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay Preservation Act, or in accordance with more stringent thresholds established by the local government, as follows:

(a) During or immediately following initial installation of erosion and sediment controls;

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

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

(d) At the completion of the project prior to the release of any performance bond.

b. The permittee 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 9VAC25-890-20 D through the MS4 is not authorized by this state permit.

c. The permittee's MS4 program plan shall include:

(1) If the permittee implements a construction site stormwater runoff control program in accordance with Part I E 4 a (1), the local ordinance citations for the VESCP program;

(2) If the permittee implements a construction site stormwater runoff control program in accordance with Part I E 4 a (3):

(a) The most recently approved standards and specifications or if incorporated by reference, the location where the standards and specifications can be viewed; and

(b) A copy of the most recent standards and specifications approval letter from the department;

(3) A description of the legal authorities utilized to ensure compliance with Part I E 4 a to control construction site stormwater runoff control such as ordinances, permits, orders, specific contract language, policies, and interjurisdictional agreements;

(4) Written inspection procedures to ensure the erosion and sediment controls are properly implemented and all associated documents utilized during inspection including the inspection schedule;

(5) Written procedures for requiring compliance through corrective action or enforcement action to the extent allowable under federal, state, or local law, regulation, ordinance, or other legal mechanisms; and

(6) The roles and responsibilities of each of the permittee's departments, divisions, or subdivisions in implementing the construction site stormwater runoff control requirements in Part I E 4.

d. The annual report shall include the following:

(1) If the permittee implements a construction site stormwater runoff program in accordance with Part I E 4 a (3):

(a) A confirmation statement that land disturbing projects that occurred during the reporting period have been conducted in accordance with the current department approved standards and specifications for erosion and sediment control; and

(b) If one or more of the land disturbing projects were not conducted with the department approved standards and specifications, an explanation as to why the projects did not conform to the approved standards and specifications.

(2) Total number of inspections conducted; and

(3) The total number and type of enforcement actions implemented and the type of enforcement actions.

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

a. The permittee shall address post-construction stormwater runoff that enters the MS4 from the following land disturbing activities by implementing a post-construction stormwater runoff management program as follows:

(1) If the permittee is a city, county, or town, with an approved Virginia Stormwater Management Program (VSMP), the permittee shall implement the VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as develop an inspection and maintenance program in accordance with Parts I E 5 b and c;

(2) If the permittee is a town that has not adopted a VSMP, implementation of a VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) by the surrounding county shall constitute compliance with Part I E 5 a; such town shall notify the surrounding county of erosion, sedimentation, or other post-construction stormwater runoff problems and develop an inspection and maintenance program in accordance with Part I E 5 b and c;

(3) If the permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has developed standards and specifications in accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870), the permittee shall implement the most recent department approved standards and specifications and develop an inspection and maintenance program in accordance with Part I E 5 b;

(4) If the permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has not developed standards and specifications in accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and Virginia Stormwater Management Regulations (9VAC25-870) the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 and with the implementation of a maintenance and inspection program consistent with Part I E 5 b; or

(5) If the permittee is a subdivision of a local government such as a school board or other local government body, the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 or in accordance with more stringent local requirements, if applicable, and with the implementation of a maintenance and inspection program consistent with Part I E 5 b.

b. The permittee shall implement an inspection and maintenance program for those stormwater management facilities owned or operated by the permittee that discharges to the MS4 as follows:

(1) The permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of its stormwater management facilities;

(2) The permittee shall inspect stormwater management facilities owned or operated by the permittee no less than once per year. The permittee 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 and rationale is included in the MS4 program plan. The alternative inspection frequency shall be no less than once per five years; and

(3) If during the inspection of the stormwater management facility conducted in accordance with Part I E 5 b (2), it is determined that maintenance is required, the permittee shall conduct the maintenance in accordance with the written procedures developed under Part I E 5 b (1).

c. For those permittees described in Part I E 5 a (1) or (2), the permittee shall:

(1) Implement an inspection and enforcement program for stormwater management facilities not owned by the permittee (i.e., privately owned) that includes:

(a) An inspection frequency of no less than once per five years for all privately owned stormwater management facilities that discharge into the MS4; and

(b) Adequate long-term operation and maintenance by the owner of the stormwater management facility by requiring the owner to develop and record a maintenance agreement, including an inspection schedule to the extent allowable under state or local law or other legal mechanism;

(2) Utilize its legal authority for enforcement of the maintenance responsibilities if maintenance is neglected by the owner; and

(3) The permittee may develop and implement a progressive compliance and enforcement strategy provided that the strategy is included in the MS4 program plan.

d. The permittee shall maintain an electronic database or spreadsheet of all known permittee-owned or permittee-operated and privately owned stormwater management facilities that discharge into the MS4. The database shall also include all BMPs implemented by the permittee to meet the Chesapeake Bay TMDL load reduction as required in Part II A. A database shall include the following information as applicable:

(1) The stormwater management facility or BMP type;

(2) The stormwater management facility or BMPs location as latitude and longitude;

(3) The acres treated by the stormwater management facility or BMP, including total acres, pervious acres, and impervious acres;

(4) The date the facility was brought online (MM/YYYY). If the date brought online is not known, the permittee shall use June 30, 2005;

(5) The 6th Order Hydrologic Unit Code in which the stormwater management facility is located;

(6) Whether the stormwater management facility or BMP is owned or operated by the permittee or privately owned;

(7) Whether or not the stormwater management facility or BMP is part of the permittee's Chesapeake Bay TMDL action plan required in Part II A or local TMDL action plan required in Part II B, or both;

(8) If the stormwater management facility or BMP is privately owned, whether a maintenance agreement exists; and

(9) The date of the permittee's most recent inspection of the stormwater management facility or BMP.

e. The electronic database or spreadsheet shall be updated no later than 30 days after a new stormwater management facility is brought online, a new BMP is implemented to meet a TMDL load reduction as required in Part II, or discovered if it is an existing stormwater management facility.

f. The permittee shall use the DEQ Construction Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post-construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities.

g. No later than October 1 of each year, the permittee shall electronically report the stormwater management facilities and BMPs implemented between July 1 and June 30 of each year using the DEQ BMP Warehouse and associated reporting template for any practices not reported in accordance with Part I E 5 f including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in accordance with the Chesapeake Bay Preservation Act regulations (9VAC25-830) and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required.

h. The MS4 program plan shall include:

(1) If the permittee implements a VSMP in accordance with Part I E 5 a (1) and (2):

(a) A copy of the VSMP approval letter issued by the department;

(b) Written inspection procedures and all associated documents utilized in the inspection of privately owned stormwater management facilities; and

(c) Written procedures for compliance and enforcement of inspection and maintenance requirements for privately owned BMPs.

(2) If the permittee implements a post-development stormwater runoff control program in accordance with Part I E 5 a (3):

(a) The most recently approved standards and specifications or if incorporated by reference, the location where the standards and specifications can be viewed; and

(b) A copy of the most recent standards and specifications approval letter from the department.

(3) A description of the legal authorities utilized to ensure compliance with Part I E 5 a for post-construction stormwater runoff control such as ordinances (provide citation as appropriate), permits, orders, specific contract language, and interjurisdictional agreements;

(4) Written inspection procedures and all associated documents utilized during inspection of stormwater management facilities owned or operated by the permittee;

(5) The roles and responsibilities of each of the permittee's departments, divisions, or subdivisions in implementing the post-construction stormwater runoff control program; and

(6) The stormwater management facility spreadsheet or database incorporated by reference and the location or webpage address where the spreadsheet or database can be reviewed.

i. The annual report shall include the following information:

(1) If the permittee implements a Virginia Stormwater Management Program in accordance with Part I E 5 a (1) and (2):

(a) The number of privately owned stormwater management facility inspections conducted; and

(b) The number of enforcement actions initiated by the permittee to ensure long-term maintenance of privately owned stormwater management facilities including the type of enforcement action;

(2) Total number of inspections conducted on stormwater management facilities owned or operated by the permittee;

(3) A description of the significant maintenance, repair, or retrofit activities performed on the stormwater management facilities owned or operated by the permittee to ensure it continues to perform as designed. This does not include routine activities such as grass mowing or trash collection;

(4) A confirmation statement that the permittee submitted stormwater management facility information through the Virginia Construction Stormwater General Permit database for

those land disturbing activities for which the permittee was required to obtain coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities in accordance with Part I E 5 f or a statement that the permittee did not complete any projects requiring coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities; and

(5) A confirmation statement that the permittee electronically reported BMPs using the DEQ BMP Warehouse in accordance with Part I E 5 g and the date on which the information was submitted.

6. Pollution prevention and good housekeeping for facilities owned or operated by the permittee within the MS4 service area.

   a. The permittee shall maintain and implement written procedures for those activities at facilities owned or operated by the permittee, such as road, street, and parking lot maintenance; equipment maintenance; and the application, storage, transport, and disposal of pesticides, herbicides, and fertilizers designed to:

      (1) Prevent illicit discharges;

      (2) Ensure the proper disposal of waste materials, including landscape wastes;

      (3) Prevent the discharge of wastewater or permittee vehicle wash water or both into the MS4 without authorization under a separate VPDES permit;

      (4) Require implementation of best management practices when discharging water pumped from utility construction and maintenance activities;

      (5) Minimize the pollutants in stormwater runoff from bulk storage areas (e.g., salt storage, topsoil stockpiles) through the use of best management practices;

      (6) Prevent pollutant discharge into the MS4 from leaking municipal automobiles and equipment; and

      (7) Ensure that the application of materials, including fertilizers and pesticides, is conducted in accordance with the manufacturer's recommendations.

   b. The written procedures established in accordance with Part I E 6 a shall be utilized as part of the employee training program at Part I E 6 m.

   c. Within 12 months of state permit coverage, the permittee shall identify which of the high-priority facilities have a high potential of discharging pollutants. The permittee shall maintain and implement a site specific stormwater pollution prevention plan (SWPPP) for each facility identified. High priority facilities that have a high potential for discharging pollutants are those facilities 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:

      (1) Areas where residuals from using, storing or cleaning machinery or equipment remain and are exposed to stormwater;

(2) Materials or residuals on the ground or in stormwater inlets from spills or leaks;

(3) Material handling equipment;

(4) Materials or products that would be expected to be mobilized in stormwater runoff during loading or unloading or transporting activities (e.g., rock, salt, fill dirt);

(5) Materials or products stored outdoors (except final products intended for outside use where exposure to stormwater does not result in the discharge of pollutants);

(6) 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;

(7) Waste material except waste in covered, nonleaking containers (e.g., dumpsters);

(8) Application or disposal of process wastewater (unless otherwise permitted); or

(9) 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.

d. Each SWPPP as required in Part I E 6 c shall include the following:

(1) A site description that includes a site map identifying all outfalls, direction of stormwater flows, existing source controls, and receiving water bodies;

(2) A description and checklist of the potential pollutants and pollutant sources;

(3) A description of all potential nonstormwater discharges;

(4) Written procedures designed to reduce and prevent pollutant discharge;

(5) A description of the applicable training as required in Part I E 6 m;

(6) Procedures to conduct an annual comprehensive site compliance evaluation;

(7) An inspection frequency of no less than once per year and maintenance requirements for site specific source controls. The date of each inspection and associated findings and follow-up shall be logged in each SWPPP; and

(8) A log of each unauthorized discharge, release, or spill incident reported in accordance with Part III G including the following information:

(a) Date of incident;

(b) Material discharged, released, or spilled; and

(c) Estimated quantity discharged, released or spilled .

e. No later than June 30 of each year, the permittee shall annually review any high-priority facility owned or operated by the permittee for which a SWPPP has not been developed to determine if the facility has a high potential to discharge pollutants as described in Part I E 6

c. If the facility is determined to be a high-priority facility with a high potential to discharge pollutants, the permittee shall develop a SWPPP meeting the requirements of Part I E 6 d no later than December 31 of that same year.

f. The permittee shall review the contents of any site specific SWPPP no later than 30 days after any unauthorized discharge, release, or spill reported in accordance with Part III G to determine if additional measures are necessary to prevent future unauthorized discharges, releases, or spills. If necessary, the SWPPP shall be updated no later than 90 days after the unauthorized discharge.

g. The SWPPP shall be kept at the high-priority facility with a high potential to discharge and utilized as part of staff training required in Part I E 6 m. The SWPPP and associated documents may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site.

h. If activities change at a facility such that the facility no longer meets the criteria of a high-priority facility with a high potential to discharge pollutants as described in Part I E 6 c, the permittee may remove the facility from the list of high-priority facilities with a high potential to discharge pollutants.

i. The permittee shall maintain and 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 permittee where nutrients are applied to a contiguous area greater than one acre. If nutrients are being applied to achieve final stabilization of a land disturbance project, application shall follow the manufacturer's recommendations.

j. Permittees with lands regulated under § 10.1-104.4 of the Code of Virginia, including state agencies, state colleges and universities, and other state government entities, shall continue to implement turf and landscape nutrient management plans in accordance with this statutory requirement.

k. The permittee 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.

l. The permittee shall require through the use of contract language, training, standard operating procedures, or other measures within the permittee's legal authority that contractors employed by the permittee and engaging in activities with the potential to discharge pollutants use appropriate control measures to minimize the discharge of pollutants to the MS4.

m. The permittee shall develop a training plan in writing for applicable staff that ensures the following:

(1) Field personnel receive training in the recognition and reporting of illicit discharges no less than once per 24 months;

(2) Employees performing road, street, and parking lot maintenance receive training in pollution prevention and good housekeeping associated with those activities no less than once per 24 months;

(3) Employees working in and around maintenance, public works, or recreational facilities receive training in good housekeeping and pollution prevention practices associated with those facilities no less than once per 24 months;

(4) Employees and contractors hired by the permittee who apply pesticides and herbicides are trained or certified in accordance with the Virginia Pesticide Control Act (§ 3.2-3900 et seq. of the Code of Virginia). Certification by the Virginia Department of Agriculture and Consumer Services (VCACS) Pesticide and Herbicide Applicator program shall constitute compliance with this requirement;

(5) 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) Employees and contractors implementing the stormwater program obtain the appropriate certifications as required under the Virginia Stormwater Management Act and its attendant regulations; and

(7) Employees whose duties include emergency response have been trained in spill response. Training of emergency responders such as firefighters and law-enforcement officers on the handling of spill releases as part of a larger emergency response training shall satisfy this training requirement and be documented in the training plan.

n. The permittee shall maintain documentation of each training event conducted by the permittee to fulfill the requirements of Part I E 6 m for a minimum of three years after the training event. The documentation shall include the following information:

(1) The date of the training event;

(2) The number of employees attending the training event; and

(3) The objective of the training event.

o. The permittee may fulfill the training requirements in Part I E 6 m, in total or in part, through regional training programs involving two or more MS4 permittees; however, the permittee shall remain responsible for ensuring compliance with the training requirements.

p. The MS4 program plan shall include:

(1) The written procedures for the operations and maintenance activities as required by Part I E 6 a;

(2) A list of all high-priority facilities owned or operated by the permittee required in accordance with Part I E 6 c, and whether or not the facility has a high potential to discharge;

(3) A list of lands for which turf and landscape nutrient management plans are required in accordance with Part I E 6 i and j, including the following information:

(a) The total acreage on which nutrients are applied;

(b) The date of the most recently approved nutrient management plan for the property; and

(c) The location in which the individual turf and landscape nutrient management plan is located;

(4) A summary of mechanisms the permittee uses to ensure contractors working on behalf of the permittees implement the necessary good housekeeping and pollution prevention procedures, and stormwater pollution plans as appropriate; and

(5) The written training plan as required in Part I E 6 m.

q. The annual report shall include the following:

(1) A summary of any operational procedures developed or modified in accordance with Part I E 6 a during the reporting period;

(2) A summary of any new SWPPPs developed in accordance Part I E 6 c during the reporting period;

(3) A summary of any SWPPPs modified in accordance with Part I E 6 f or the rationale of any high priority facilities delisted in accordance with Part I E 6 h during the reporting period;

(4) A summary of any new turf and landscape nutrient management plans developed that includes:

(a) Location and the total acreage of each land area; and

(b) The date of the approved nutrient management plan; and

(5) A list of the training events conducted in accordance with Part I E 6 m, including the following information:

(a) The date of the training event;

(b) The number of employees who attended the training event; and

(c) The objective of the training event.

Part II
TMDL Special Conditions

A. Chesapeake Bay TMDL special condition.

1. The Commonwealth in its Phase I and Phase II Chesapeake Bay TMDL Watershed Implementation Plans (WIPs) committed to a phased approach for MS4s, affording MS4 permittees 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 Phase II WIPs to meet the Level 2 (L2) scoping run for existing developed lands as it represents an implementation of an additional 35% of L2 as specified in the 2010 Phase I and Phase II WIPs. In combination with the 5.0% reduction of L2 that has already been achieved, a total reduction at the end of this permit term of 40% of L2 will be achieved. Conditions of future permits will be consistent with the TMDL or WIP conditions in place at the time of permit issuance.

2. The following definitions apply to Part II of this state permit for the purpose of the Chesapeake Bay TMDL 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.

3. Reduction requirements. No later than the expiration date of this permit, the permittee shall reduce the load of total nitrogen, total phosphorus, and total suspended solids from existing developed lands served by the MS4 as of June 30, 2009, within the 2010 Census urbanized areas by at least 40% of the Level 2 (L2) Scoping Run Reductions. The 40% reduction is the sum of (i) the first phase reduction of 5.0% of the L2 Scoping Run Reductions based on the lands located within the 2000 Census urbanized areas required by June 30, 2018; (ii) the second phase reduction of at least 35% of the L2 Scoping Run based on lands within the 2000 Census urbanized areas required by June 30, 2023; and (iii) the reduction of at least 40% of the L2 Scoping Run , which shall only apply to the additional lands that were added by the 2010 expanded Census urbanized areas required by June 30, 2023. The required reduction shall be calculated using Tables 3a, 3b, 3c, and 3d below as applicable:

Table 3a
Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the James River, Lynnhaven, and Little Creek Basins

		A	B	C	D	E	F	G
Pollutant	Subsource	Loading rate (lbs/ac/yr)[1]	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres)[2]	Load(lbs/yr)[3]	Percentage of MS4 required Chesapeake Bay total L2 loading	Percentage of L2 required reduction by 6/30/2023	40% cumulative reduction Required by 6/30/2023 (lbs/yr)[4]	Sum of 40% cumulative reduction (lb/yr)[5]
Nitrogen	Regulated urban impervious	9.39			9%	40%		
	Regulated urban pervious	6.99			6%	40%		
Phosphorus	Regulated urban impervious	1.76			16%	40%		
	Regulated urban pervious	0.5			7.25%	40%		
Total suspended solids	Regulated urban impervious	676.94			20%	40%		
	Regulated urban pervious	101.08			8.75%	40%		

[1]Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.

[2]To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

[3]Column C = Column A x Column B.

[4]Column F = Column C x Column D x Column E.

[5]Column G = The sum of the subsource cumulative reduction required by 6/30/23 (lbs/yr) as calculated in Column F.

Table 3b
Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the Potomac River Basin

		A	B	C	D	E	F	G
Pollutant	Subsource	Loading rate (lbs/ac/yr)[1]	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres)[2]	Load (lbs/yr)[3]	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	Percentage of L2 required reduction by	40% cumulative reduction required by 6/30/2023 (lbs/yr)[4]	Sum of 40% cumulative reduction (lb/yr)[5]
Nitrogen	Regulated urban impervious	16.86			9%	40%		
	Regulated urban pervious	10.07			6%	40%		
Phosphorus	Regulated Urban Impervious	1.62			16%	40%		
	Regulated urban pervious	0.41			7.25%	40%		
Total suspended solids	Regulated urban impervious	1171.32			20%	40%		
	Regulated urban pervious	175.8			8.75%	40%		

[1]Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2

[2]To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

[3]Column C = Column A x Column B.

[4]Column F = Column C x Column D x Column E.

[5]Column G = The sum of the subsource cumulative reduction required by 6/30/23 (lbs/yr) as calculated in Column F.

Table 3c
Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the Rappahannock River Basin

		A	B	C	D	E	F	G
Pollutant	Subsource	Loading rate (lbs/ac/yr)[1]	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres)[2]	Load (lbs/yr)[3]	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	Percentage of L2 required reduction by 6/30/2023	40% cumulative reduction Required by 6/30/2023 (lbs/yr)[4]	Sum of 40% cumulative reduction (lb/yr)[5]
Nitrogen	Regulated urban impervious	9.38			9%	40%		
	Regulated urban pervious	5.34			6%	40%		
Phosphorus	Regulated urban impervious	1.41			16%	40%		
	Regulated urban pervious	0.38			7.25%	40%		
Total suspended solids	Regulated urban impervious	423.97			20%	40%		
	Regulated urban pervious	56.01			8.75%	40%		

[1]Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.

[2]To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

[3]Column C = Column A x Column B.

[4]Column F = Column C x Column D x Column E.

[5]Column G = The sum of the subsource cumulative reduction required by 6/30/23 (lbs/yr) as calculated in Column F.

Table 3d
Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the York River and Poquoson Coastal Basin

		A	B	C	D	E	F	G
Pollutant	Subsource	Loading rate (lbs/ac/yr)[1]	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres)[2]	Load (lbs/yr)[3]	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	Percentage of L2 required reduction by 6/30/2023	40% cumulative reduction required by 6/30/2023 (lbs/yr)[4]	Sum of 40% cumulative reduction (lb/yr)[5]
Nitrogen	Regulated urban impervious	7.31			9%	40%		
	Regulated urban pervious	7.65			6%	40%		
Phosphorus	Regulated urban impervious	1.51			16%	40%		
	Regulated urban pervious	0.51			7.25%	40%		
Total suspended solids	Regulated urban impervious	456.68			20%	40%		
	Regulated urban pervious	72.78			8.75%	40%		

[1]Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.

[2]To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

[3]Column C = Column A x Column B.

[4]Column F = Column C x Column D x Column E.

[5]Column G = The sum of the subsource cumulative reduction required by 6/30/23 (lbs/yr) as calculated in Column F.

4. No later than the expiration date of this permit, the permittee shall offset 40% of the increased loads from new sources initiating construction between July 1, 2009, and June 30, 2019, and designed in accordance with 9VAC25-870 Part II C (9VAC25-870-93 et seq.) if the following conditions apply:

   a. The activity disturbed one acre or greater; and

   b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is equivalent to an average land cover condition of 16% impervious cover.

   The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent pollutant load for nitrogen and total suspended solids for new sources meeting the requirements of this condition.

5. No later than the expiration date of this permit, the permittee shall offset the increased loads from projects grandfathered in accordance with 9VAC25-870-48 that begin construction after July 1, 2014, if the following conditions apply:

   a. The activity disturbs one acre or greater; and

   b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is equivalent to an average land cover condition of 16% impervious cover.

   The permittee shall utilize Table 4 below to develop the equivalent pollutant load for nitrogen and total suspended solids for grandfathered sources meeting the requirements of this condition.

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, Lynnhaven, and Little Creek Basins	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 (including Poquoson Coastal Basin)	1.0	9.5	531.6

6. Reductions achieved in accordance with the General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems effective July 1, 2013, shall be applied toward the total reduction requirements to demonstrate compliance with Part II A 3, A 4, and A 5.

7. Reductions shall be achieved in each river basin as calculated in Part II A 3 or for reductions in accordance with Part II A 4 and A 5 in the basin in which the new source or grandfathered project occurred.

8. Loading and reduction values greater than or equal to 10 pounds calculated in accordance with Part II A 3, A 4, and A 5 shall be calculated and reported to the nearest pound without regard to mathematical rules of precision. Loading and reduction values of less than 10 pounds reported in accordance with Part II A 3, A 4, and A 5 shall be calculated and reported to two significant digits.

9. Reductions required in Part II A 3, A 4, and A 5 shall be achieved through one or more of the following:

   a. BMPs approved by the Chesapeake Bay Program;

   b. BMPs approved by the department; or

   c. A trading program described in Part II A 10.

10. The permittee may acquire and use total nitrogen and total phosphorus credits in accordance with § 62.1-44.19:21 of the Code of Virginia and total suspended solids in accordance with § 62.1-44.19:21.1 of the Code of Virginia for purposes of compliance with the required reductions in Table 3a, Table 3b,Table c, Table 3d of Part II A 3; Part II A 4; and Part II A 5, provided the use of credits has been approved by the department. The exchange of credits is subject to the following requirements:

    a. The credits are generated and applied to a compliance obligation in the same calendar year;

    b. The credits are generated and applied to a compliance obligation in the same tributary;

    c. The credits are acquired no later than June 1 immediately following the calendar year in which the credits are applied;

    d. No later than June 1 immediately following the calendar year in which the credits are applied, the permittee certifies on an MS4 Nutrient Credit Acquisition Form that the permittee has acquired the credits;

    e. Total nitrogen and total phosphorus credits shall be either point source credits generated by point sources covered by the Watershed Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed general permit issued pursuant to § 62.1-44.19:14 of the Code of Virginia, or nonpoint source credits certified pursuant to § 62.1-44.19:20 of the Code of Virginia;

    f. Sediment credits shall be derived from one of the following:

       (1) Implementation of BMP in a defined area outside of an MS4 service area, in which case the necessary baseline sediment reduction for such defined area shall be achieved prior to the permittee's use of additional reductions as credit; or

       (2) A point source wasteload allocation established by the Chesapeake Bay total maximum daily load, in which case the credit is the difference between the wasteload allocation specified as an annual mass load and any lower monitored annual mass load that is discharged as certified on an MS4 Sediment Credit Acquisition Form.

g. Sediment credits shall not be associated with phosphorus credits used for compliance with the stormwater nonpoint nutrient runoff water quality criteria established pursuant to § 62.1-44.15:28 of the Code of Virginia.

11. No later than 12 months after the permit effective date, the permittee shall submit an updated Chesapeake Bay TMDL action plan for the reductions required in Part II A 3, A 4, and A 5 that includes the following information:

    a. Any new or modified legal authorities, such as ordinances, permits, policy, specific contract language, orders, and interjurisdictional agreements, implemented or needing to be implemented to meet the requirements of Part II A 3, A 4, and A 5.

    b. The load and cumulative reduction calculations for each river basin calculated in accordance with Part II A 3, A 4, and A 5.

    c. The total reductions achieved as of July 1, 2018, for each pollutant of concern in each river basin.

    d. A list of BMPs implemented prior to July 1, 2018, to achieve reductions associated with the Chesapeake Bay TMDL including:

        (1) The date of implementation; and

        (2) The reductions achieved.

    e. The BMPs to be implemented by the permittee prior to the expiration of this permit to meet the cumulative reductions calculated in Part II A 3, A 4, and A 5, including as applicable:

        (1) Type of BMP;

        (2) Project name;

        (3) Location;

        (4) Percent removal efficiency for each pollutant of concern; and

        (5) Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 8 for each pollutant of concern; and

    f. A summary of any comments received as a result of public participation required in Part II A 12, the permittee's response, identification of any public meetings to address public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a result of public participation.

12. Prior to submittal of the action plan required in Part II A 11, the permittee shall provide an opportunity for public comment on the additional BMPs proposed to meet the reductions not previously approved by the department in the first phase Chesapeake Bay TMDL action plan for no less than 15 days.

13. For each reporting period, the corresponding annual report shall include the following information:

    a. A list of BMPs implemented during the reporting period but not reported to the DEQ BMP Warehouse in accordance with Part I E 5 g and the estimated reduction of pollutants of concern achieved by each and reported in pounds per year;

    b. If the permittee acquired credits during the reporting period to meet all or a portion of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were acquired;

c. The progress, using the final design efficiency of the BMPs, toward meeting the required cumulative reductions for total nitrogen, total phosphorus, and total suspended solids; and

d. A list of BMPs that are planned to be implemented during the next reporting period.

B. Local TMDL special condition.

1. The permittee shall develop a local TMDL action plan designed to reduce loadings for pollutants of concern if the permittee discharges the pollutants of concern to an impaired water for which a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) as described in Part II B 1 a and 1 b:

   a. For TMDLs approved by the EPA prior to July 1, 2013, and in which an individual or aggregate wasteload has been allocated to the permittee, the permittee shall update the previously approved local TMDL action plans to meet the conditions of Part II B 3, B 4, B 5, B 6, and B 7 as applicable, no later than 18 months after the permit effective date and continue implementation of the action plan; and

   b. For TMDLs approved by EPA on or after July 1, 2013, and prior to June 30, 2018, and in which an individual or aggregate wasteload has been allocated to the permittee, the permittee shall develop and initiate implementation of action plans to meet the conditions of Part II B 3, B 4, B 5, B 6, and B 7 as applicable for each pollutant for which wasteloads have been allocated to the permittee's MS4 no later than 30 months after the permit effective date.

2. The permittee shall complete implementation of the TMDL action plans as soon as practicable. TMDL action plans may be implemented in multiple phases over more than one permit cycle using the adaptive iterative approach provided adequate progress is achieved in the implementation of BMPs designed to reduce pollutant discharges in a manner that is consistent with the assumptions and requirements of the applicable TMDL.

3. Each local TMDL action plan developed by the permittee shall include the following:

   a. The TMDL project name;

   b. The EPA approval date of the TMDL;

   c. The wasteload allocated to the permittee (individually or in aggregate), and the corresponding percent reduction, if applicable;

   d. Identification of the significant sources of the pollutants of concern discharging to the permittee's MS4 and that are not covered under a separate VPDES permit. For the purposes of this requirement, a significant source of pollutants means a discharge where the expected pollutant loading is greater than the average pollutant loading for the land use identified in the TMDL;

   e. The BMPs designed to reduce the pollutants of concern in accordance with Parts II B 4, B 5, and B 6;

   f. Any calculations required in accordance with Part II B 4, B 5, or B 6;

   g. For action plans developed in accordance with Part II B 4 and B 5, an outreach strategy to enhance the public's education (including employees) on methods to eliminate and reduce discharges of the pollutants; and

h. A schedule of anticipated actions planned for implementation during this permit term.

4. Bacterial TMDLs.

a. If the permittee is an approved VSMP authority, the permittee shall select and implement at least three of the strategies listed in Table 5 below designed to reduce the load of bacteria to the MS4. Selection of the strategies shall correspond to sources identified in Part II B 3 d.

b. If the permittee is not an approved VSMP authority, the permittee shall select at least one strategy listed in Table 5 below designed to reduce the load of bacteria to the MS4 relevant to sources of bacteria applicable within the MS4 regulated service area. Selection of the strategies shall correspond to sources identified in Part II B 3 d.

Table 5
Strategies for Bacteria Reduction Stormwater Control/Management Strategy

Source	Strategies (provided as an example and not meant to be all inclusive or limiting)
Domestic pets (dogs and cats)	Provide signage to pick up dog waste, providing pet waste bags and disposal containers. Adopt and enforce pet waste ordinances or policies, or leash laws or policies. Place dog parks away from environmentally sensitive areas. Maintain dog parks by removing disposed of pet waste bags and cleaning up other sources of bacteria. Protect riparian buffers and provide unmanicured vegetative buffers along streams to dissuade stream access.
Urban wildlife	Educate the public on how to reduce food sources accessible to urban wildlife (e.g., manage restaurant dumpsters and grease traps, residential garbage, feed pets indoors). Install storm drain inlet or outlet controls. Clean out storm drains to remove waste from wildlife. Implement and enforce urban trash management practices. Implement rooftop disconnection programs or site designs that minimize connections to reduce bacteria from rooftops Implement a program for removing animal carcasses from roadways and properly disposing of the same (either through proper storage or through transport to a licensed facility).

Illicit connections or illicit discharges to the MS4	Implement an enhanced dry weather screening and illicit discharge, detection, and elimination program beyond the requirements of Part I E 3 to identify and remove illicit connections and identify leaking sanitary sewer lines infiltrating to the MS4 and implement repairs. Implement a program to identify potentially failing septic systems. Educate the public on how to determine whether their septic system is failing. Implement septic tank inspection and maintenance program. Implement an educational program beyond any requirements in Part I E 1 though E 6 to explain to citizens why they should not dump materials into the MS4.
Dry weather urban flows (irrigations, carwashing,	Implement public education programs to reduce dry weather flows from storm sewers related to lawn and park irrigation practices, carwashing, powerwashing and other nonstormwater flows. Provide irrigation controller rebates.
powerwashing,	Implement and enforce ordinances or policies related to outdoor (etc.) water waste. Inspect commercial trash areas, grease traps, washdown practices, and enforce corresponding ordinances or policies.
Birds (Canadian geese, gulls, pigeons, etc.)	Identify areas with high bird populations and evaluate deterrents, population controls, habitat modifications and other measures that may reduce bird-associated bacteria loading. Prohibit feeding of birds.
Other sources	Enhance maintenance of stormwater management facilities owned or operated by the permittee. Enhance requirements for third parties to maintain stormwater management facilities. Develop BMPs for locating, transporting, and maintaining portable toilets used on permittee-owned sites. Educate third parties that use portable toilets on BMPs for use. Provide public education on appropriate recreational vehicle dumping practices.

5. Local sediment, phosphorus, and nitrogen TMDLs.

   a. The permittee shall reduce the loads associated with sediment, phosphorus, or nitrogen through implementation of one or more of the following:

      (1) One or more of the BMPs from the Virginia Stormwater BMP Clearinghouse listed in 9VAC25-870-65 or other approved BMPs found on the Virginia Stormwater BMP Clearinghouse website;

      (2) One or more BMPs approved by the Chesapeake Bay Program; or

(3) Land disturbance thresholds lower than Virginia's regulatory requirements for erosion and sediment control and post development stormwater management.

b. The permittee may meet the local TMDL requirements for sediment, phosphorus, or nitrogen through BMPs implemented to meet the requirements of the Chesapeake Bay TMDL in Part II A as long as the BMPs are implemented in the watershed for which local water quality is impaired.

c. The permittee shall calculate the anticipated load reduction achieved from each BMP and include the calculations in the action plan required in Part II B 3 f.

d. No later than 36 months after the effective date of this permit, the permittee shall submit to the department the anticipated end dates by which the permittee will meet each WLA for sediment, phosphorus, or nitrogen. The proposed end date may be developed in accordance with Part II B 2.

6. Polychlorinated biphenyl (PCB) TMDLs.

a. For each PCB TMDL action plan, the permittee shall include an inventory of potentially significant sources of PCBs owned or operated by the permittee that drains to the MS4 that includes the following information:

(1) Location of the potential source;

(2) Whether or not the potential source is from current site activities or activities previously conducted at the site that have been terminated (i.e. legacy activities); and

(3) A description of any measures being implemented or to be implemented to prevent exposure to stormwater and the discharge of PCBs from the site.

b. If at any time during the term of this permit, the permittee discovers a previously unidentified significant source of PCBs within the permittee's MS4 regulated service area, the permittee shall notify DEQ in writing within 30 days of discovery.

7. Prior to submittal of the action plan required in Part II B 1, the permittee shall provide an opportunity for public comment proposed to meet the local TMDL action plan requirements for no less than 15 days.

8. The MS4 program plan as required by Part I B of this permit shall incorporate each local TMDL action plan. Local TMDL action plans may be incorporated by reference into the MS4 program plan provided that the program plan includes the date of the most recent local TMDL action plan and identification of the location where a copy of the local TMDL action plan may be obtained.

9. For each reporting period, each annual report shall include a summary of actions conducted to implement each local TMDL action plan.

Part III
Conditions Applicable to All State and VPDES Permits

NOTE: Discharge monitoring is not required for compliance purposes by this general permit. If the operator chooses to monitor stormwater discharges for informational or screening purposes, the operator does not need to comply with the requirements of Parts III A, B, or C.

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitoring activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this state permit. Analyses performed according to test procedures approved under 40 CFR Part 136 shall be performed by an environmental laboratory certified under regulations adopted by the Department of General Services (1VAC30-45 or 1VAC30-46).

3. The operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Monitoring records and reports shall include:

   a. The date, exact place, and time of sampling or measurements;

   b. The individuals who performed the sampling or measurements;

   c. The dates and times analyses were performed;

   d. The individuals 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 as may be performed in accordance with 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 that 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 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 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, department, or EPA 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 board, department, or EPA upon request, copies of records required to be kept by this state 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 § 62.1-44.5 of the Code of Virginia, except in compliance with a state permit issued by the department, 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, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-44.34:19 of the Code of Virginia 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 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 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 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" (Part III U) or "upset," (Part III V), 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 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 within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include 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 to the department shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:
   a. Any unanticipated bypass; and
   b. Any upset that 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 department may waive the written report on a case-by-case basis for reports of noncompliance under Part 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 Part III I 1 or 2, in writing, as part of the annual reports that are submitted. The reports shall contain the information listed in Part III I 2.

   NOTE: The reports required in Part III G, H, and I shall be made to the department. Reports may be made by telephone, email, or fax. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management 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, including a registrations statement, to the department, the operator 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 that may meet one of the criteria for determining whether a facility is a new source in 9VAC25-870-420:

   b. The operator plans an 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 that 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 chapter, 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-making 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 that 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 chapter, 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 and other information. All reports required by state permits, including annual reports, and other information requested by the board or department shall be signed by a person described in Part 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 Part 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 signed and dated written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the MS4, a new authorization satisfying the requirements of Part 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 Part 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. 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" (Part III U), and "upset" (Part 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 and in compliance with all applicable state and federal laws and regulations.

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 9VAC25-870-10, 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 ensure efficient operation. These bypasses are not subject to the provisions of Part III U 2 and U 3.

2. Notice.

   a. Anticipated bypass. If the operator knows in advance of the need for a bypass, the operator shall submit prior notice to the department, 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 Part III I.

3. Prohibition of bypass.

   a. Except as provided in Part III U 1, bypass is prohibited, and the board or department 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 Part III U 2.

   b. The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three conditions listed in Part III U 3 a.

V. Upset.

1. An "upset," as defined in 9VAC25-870-10, means an exceptional incident in which there is unintentional and temporary noncompliance with technology based state permit effluent limitations because of factors beyond the reasonable control of the operator. 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.

2. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based state permit effluent limitations if the requirements of Part III V 4 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.

3. 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.

4. 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 causes 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 Part III I; and

d. The operator complied with any remedial measures required under Part III S.

5. 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, EPA, or an authorized representative (including an authorized contractor), 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 and photograph 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 ensuring 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 Part III Y 2, a state permit may be transferred by the operator to a new 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 Part III Y 1, this state permit may be automatically transferred to a new operator if:

a. The current operator notifies the department at least 30 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 department 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 Part 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.