



**Augusta County**  
**Municipal Separate Storm Sewer System**  
**Annual Report**  
for  
**Reporting Period: July 1, 2015 – June 30, 2016**



September 15, 2016



Augusta County – Offices in Verona, VA  
MS4 Program Plan Annual Report

Reporting Period: July 1, 2015 – June 30, 2016

Registration Number: VAR040131

In compliance with the Virginia Stormwater Management Program (VSMP) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4)

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## **1 General Information**

### **1.1 Acronyms and Abbreviations**

POC – Pollutant of Concern

MCM – Minimum Control Measure

MS4 – Municipal Separate Storm Sewer System

NMP – Nutrient Management Plan

SOP – Standard Operating Procedures

SWPPP – Stormwater Pollution Prevention Plan

VSMP – Virginia Stormwater Management Program

### **1.2 Modifications to the MS4 Program Plan**

No modifications to the MS4 Program Plan have been made with this annual report. There were new outfalls added during this reporting period.

All identified BMPs in this annual report address permit requirements and are therefore deemed appropriate



### **1.3 Introduction**

Augusta County's MS4 Annual Report is required as part of the County's coverage under the Virginia General Permit for Discharges from Small Municipal Storm Sewer Systems.

The stormwater management Program Plan was developed by Augusta County in accordance with the VSMP General Permit Registration Statement for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems VAR04. The permit term is July 1, 2015 through June 30, 2016.

The following MS4 Program Plan is a management tool for the County to comply with the six minimum control measures of the general permit. Sections 1 through 6 describe the County's proposed plan to comply with the corresponding minimum control measures (MCM):

1. Public Education and Outreach
2. Public Involvement/Participation
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff
5. Post-Construction Stormwater Management
6. Pollution Prevention/Good Housekeeping for Municipal Operations

A description of the roles and responsibilities, policies and procedures, measurable goals, and schedules are provided for each MCM.

As compliance with the General Permit is a new requirement for Augusta County, the Program Plan will be evaluated for appropriateness and updated annually as necessary.

The MS4 Permit requires the County to develop a MS4 Program Plan and to submit Annual Reports for each period between July 1<sup>st</sup> through June 30<sup>th</sup>. The County's MS4 Program Plan and Annual Reports are available on the County's Engineering webpage: <http://www.co.augusta.va.us/Index.aspx?page=807>



## 1.4 Special Conditions

### Special Conditions for approved TMDLs other than the Chesapeake Bay TMDL

- A. At this time, Augusta County has not been assigned Waste Load Allocations (WLAs) in any TMDLs, due to its previously unregulated state as a point source. Should Implementation Plans be developed for any local waters during this permit term, the County will consider participating as a stakeholder in development of the Implementation Plans.

### Special Conditions for the Chesapeake Bay TMDL

- A. By June 30, 2018 Augusta County will prepare a Chesapeake Bay TMDL Action Plan in accordance with the guidance document developed by DEQ. The Action Plan will include calculations of the Pollutant of Concern (POC) loads based on the land cover as of July 1, 2009, or equivalent, for pervious and impervious regulated acres per Table 2b in the permit. The Action Plan will include provisions for an anticipated 40% load reduction requirement, or as otherwise specified in the next permit cycle (2018-2023).

The County will establish the following components to ensure successful completion of the TMDL Action Plan:

Actions taken within this permit year, including actions started or finished in other permit years

Activity	Description if Action Taken
Determine County's regulated acreage	<b>8882 acres</b> (according to NAD 1938 State Plane Virginia North FIPS4501 feet, in ArcGIS)
Obtain land cover data and analyze pervious/impervious coverage	Data collected analysis beginning
Regulated pervious and impervious surfaces	Data collected analysis in process
Establish target load reduction requirement	Still Developing
Anticipate any grandfathered projects	Still Developing
Develop prioritized water quality project list	Still Developing
Develop implementation plan for next permit cycles	Still Developing



## 2 MCM 1 & 2. Public Education and Outreach and Public Involvement/Participation

### 2.1 BMP: Local Water Quality Issues

- General Information:** The County will identify three high-priority water quality issues, that contribute to the discharge of stormwater (e.g., Chesapeake Bay nutrients, pet wastes and local bacteria TMDLs, high-quality receiving waters, and illicit discharges from commercial sites) and a rationale for the selection of the three high-priority water quality issues.
- Achievements this year:** Augusta County has identified priority water quality issues and rationale, as well as identifying the target audience and population size of each water quality issue to complete the following table.

Local Water Quality Issue	Rationale	Year	Target Audience	Population Size
Trash	Trash including litter, food wrappers and cigarette butts can have a negative effect on the water ways. The County hopes through education the community can reduce the trash that enters our waterways via storm water systems. As the community grows, the issue of trash will also grow and by bringing attention to the issues now will permit solutions and prevention measures to be developed.	2016	County and Volunteers	300+
		2017	County and Wilson Schools	2378
NPS	Non-Point Source contributes a variety of pollutants such as nitrates, phosphorous, and suspended sediments into waterways. These pollutants are in many of the TMDLs established for local impaired waters. While the County is not a "Bay Act" locality, the County does see the importance of giving these pollutants special notice.	2016	County, Developers and Site Inspectors	300, Local Firms
		2017	County Employees, Developers Inspectors	300, Local Firms
Illegal Dumping	Closely tied to Trash, illegal dumping as a water quality issue focuses on contamination from chemicals, such as household pollutants, identification of dumping, and the IDDE. While some of these are addressed in other sections, public education and involvement on this issue will allow for a more efficient program and compliance in the community.	2016	Special Interest Groups, Community Organizations	5 Groups
		2017	Home Owners Associations	10+ groups



## 2.2 BMP: Public Education and Outreach Plan

- General Information:** The County will continue to formalize its public education and outreach plan, which may include some or all of the following programs:

Local Water Quality Issue	Program	Description	Community Members reached	
			2015	2016
Illicit Discharge and Trash	<b>Household Hazardous Waste Day</b>	Augusta County hosts an event in the fall where residents may bring used oil, antifreeze, gas, solvents, oil based paint, acids, pesticides and herbicides to the event for proper disposal or recycling. Events will be posted on the website and will contain location and items to be taken prior to being held. All Staunton, Waynesboro and County residents may participate in these events.	7000+	9000+
All	<b>Website</b>	Residents have the opportunity to review and learn about the MS4 on a County run website. The website contain not only the plan but educational information to help with understanding and compliance. Links are posted on the County website about key aspects of the MS4 and ways the community can do their part. The website will be updated with current information.	127 views	154 views
All	<b>Help desk/Hot line</b>	Residents will be able to contact a representative of the County about the role and actions set forth by the MS4. This will allow community members to have questions answered in a timely manner along will the ability to give impute on the MS4.	not recorded	4 phone calls 3 meeting
NPS	<b>Flyers at contract submittal</b>	Handout will be offered to applicants that are submitting construction permits or other ground disturbance projects. The flyers will also be available in pdf format on the website. Flyers will be reviewed and changed as needed on a yearly base.	Program no started	400 Flyers
NPS	<b>Pet Waste Pick Up</b>	Pamphlets will be available at the Augusta county Government Center Pet display explaining the importance of picking up after dogs. Information will also be available on the County website.	100	175
All	<b>Partnering Session</b>	Local community developers including engineers and designers gather together for an information session with at least one presentation and a question and answering session. Individuals and companies are invited to discuss issues concerning development in the County, and the regulation that relate (local, state, and national).	37	15





### 2.3 BMP: Spring Clean-up

- **General Information:** Augusta County hosts an event in the spring to collect tires, brush, and other garbage free of charge for County residents.
- **Achievements this Year:** The BMP goal of at least 20% of the target audience was reached. Augusta County notified at least 7,500 of the 31,798 households in the County about the event. These numbers do not include the number of individuals that learned about the event through social media and online recourses. The County is happy with the level of community understanding of items excepted, time, and location. For next year the County hopes to reach 20 percent of households with flyers and online recourses. The event was held on April 9-16, 2016. During the 2016 Spring Clean Up, collection locations included those sites chosen by the Ruritan Clubs in addition to five (5) of the County's convenience sites. 2016 collection included 3,406 tires, 86.13 tons of solid waste. This is in addition to normal collection at the County's convenience sites and the Augusta Regional Landfill. Citizens of Augusta County were notified by the local newspapers, County, School, Library and Service Authority websites and distribution of more than 7,500 flyers at the County Government Center, Elementary Schools and Augusta Regional landfill.
- **Schedule of Activities:** The County plans to hold this event on an annual basis throughout the term of permit. The County hopes to meet 20% of the population next year.

### 2.4 BMP: Fall Household Hazardous Waste Collection

- **General Information:** Augusta County hosts an event in the fall to collect used oil, antifreeze, gas solvents, oil based paints, acids, pesticides and herbicides from residents for proper disposal or recycling. Events are posted on the website and contain locations and items collected prior to the events. The County allows participation from neighboring Staunton and Waynesboro city residents, as well as, County residents. The County records vehicle origin and documents the type and tonnage of hazardous waste collected.
- **Achievements this Year:** The BMP goal of at least 20% of the target audience was reached. Augusta County notified at least 7,000 of the 31,798 households in the County about the event. These numbers do not include the number of individuals that learned about the event through social media and word of mouth. The County is happy with the level of community understanding of items excepted, time, and location. The event was held on September 12, 2015. The County and Invista, a local environmental group, worked together to collected hazardous material from citizens of Augusta County, and Cities of Waynesboro and Staunton. Total vehicles that came to event was 169, 113 were from Augusta County. Citizens of Augusta County were notified by the local newspapers, County, School Library and Service Authority websites and distribution of more than 8,000 flyers at the County Government Center, Elementary Schools and Augusta Regional landfill. Volunteers from local high schools and the County's Recycling Committee helped with the event.



- **Schedule of Activities:** For next year the County hopes to reach 20 percent of households with flyers and online recourses The County plans to hold this event on an annual basis throughout the term of permit.

## 2.5 BMP: Watershed Education: Erosion and Pollution

- **General Information:** This event involves elementary school children in Augusta County learning about erosion and how rain water can carry pollutants like fertilizers and pesticides to the Chesapeake Bay. The County teams up with the Augusta County Service Authority to teach kids with videos, interactive games, and a watershed model.
- **Achievements this Year:** The BMP goal of at least 20% of the target audience was reached. August County based this on the number of third grade classes that were able to participate in the watershed model. Over 200 students participated in this event and there are about 740 third grade students.
- **Schedule of Activities:** The County plans to continue this effort in education annual. While the number of third graders changes each year we aim to reach 20 percent every year.

## 2.6 BMP: Partnering Sessions

- **General Information:** Local community developers including engineers and designers gather together for an information session with at least one presentation and a question and answering session. Individuals and companies are invited to discuss issues concerning development in the County, and the regulation that relate (local, state, and national).
- **Achievements this Year:** The BMP goal of at least 20% of the target audience was reached. The event was conducted on October 16, 2015 and the second meeting was canceled due to few presenters. The October event was attended by 15 people. Topics included Economic Development, ACSA policy updates and Design and Construction Standards proposed updates/changes, Comprehensive Plan updates, VDOT Manual updates VSMP/VESCP program, Stormwater Management.
- **Schedule of Activities:** The County hope to reach 20% of our target population for the 2016-2017 FY. The County plans to hold this event on a semi-annual basis throughout the term of permit.



### 3 MCM 3. Illicit Discharge Detection and Elimination

#### 3.1 BMP: Illicit Discharge Detection and Elimination (IDDE) Program

- **General Information:** Augusta County will formalize its Illicit Discharge Detection and Elimination Program by the 2016 Annual Report Submittal. This document may be any legal mechanism that will prohibit non-stormwater discharge into the storm sewer system. The written procedures will describe County protocol for detecting, identifying, and addressing unauthorized discharge, including dumping, into the MS4. The written procedures will also describe County protocol for dry weather screening, that includes: a schedule that prioritizes field screening activities based on infrastructure, a minimum of 50 outfalls yearly, methodologies to collect general information, time frames for investigations, methodologies for determining source of illicit discharge, mechanisms to eliminate any identified sources, method for conducting follow-up, mechanisms to track all investigations and related data. Furthermore the developed document will be reviewed and approved by the County Board of Supervisors.
- **Achievements this Year:** The County's IDDE Ordinance was passed June of 2016 with a 7 to 0 vote. The Ordinance covers the MS4 urbanized area along with contributing watersheds. There was a 30 day public comment time as required by the county code. A IDDE Investigation Process and a Dry Screening Outfall Inspection Methodology was created for the ordinance. These documents can be found in the Appendix 3.1.
- **Schedule of Activities:** Continue to update manuals and the data base of outfalls. The methodology and procedures will be followed to meet the MS4 minimal control measure.



### 3.2 BMP: Storm Sewer System and Outfall Map of MS4 Regulated Area

- **General Information:** Augusta County will complete development of a storm sewer system and outfall map within the MS4 regulated area. The map will include the location of all outfalls (along with their unique identifier) and the name and location of all waters that receive discharges from the MS4 outfalls (including the associated HUC). An information table associated with the storm sewer map will also be maintained and include the unique identifier of each outfall, an estimate of the MS4 acreage served, the name of any applicable TMDL, and the name of any receiving surface water and indication if the receiving water is impaired. The table will be included as an appendix in the annual reports and be provided to the public or DEQ, if requested. The County will identify any other points of discharge and notify (in writing) the downstream MS4 of any known interconnection.
- **Achievements this year:** County is continuing to update GIS system with drainage facilities with MS4 coverage area. The outfall area locations have not been confirmed through field investigations. Map shown in appendix 3.2.
- **Schedule of Activities:**

Permit Year	Action	Percent of Map Covered
1	Compiling the existing information Determining order for future mapping	Amount unknown
2	Complete first designated area	25%
3*	Complete second designated area (Secondary roads or low traffic areas)	50%
4	Complete third designated area	75%
5	Complete remainder of areas	100%

All percentages are based of designated areas and are liable to change based off the dictions of the County.

\* Permit Year 3 is current reporting year ('15-'16)



### **3.3 BMP: Written Notifications of Physical Interconnection**

- **General Information:** Augusta County will provide a list of any written notifications of physical interconnection given by the County to other MS4s.
- **Achievements this Year:** Notifications of physical interconnection given by the County to the following MS4 Operators: Staunton City Virginia, Waynesboro City Virginia, Virginia Department of Transportation.
- **Schedule of Activities:** Augusta County will continue to look for other interconnected operators while continuing to communicate with the three known interconnected operators throughout the following permit cycle.



## 4 MCM 4. Construction Site Stormwater Runoff Control

### 4.1 BMP: Virginia Erosion and Sediment Control Program (VESCP)

- **General Information:** Augusta County's Erosion and Sediment Control Program deals with erosion resulting from (water) raindrop impact on un-stabilized soil, primarily during the development process. The County's erosion and sediment control program focuses primarily on construction activities. Erosion resulting from these activities can be 200 times greater than the amount of erosion generated from cropland and 2,000 times greater than that naturally occurring in woodlands. Land-disturbing activity in Augusta County is defined as any clearing (including removal of trees), grading, excavating, transporting or filling of land or any other activity that removes vegetation, root mat or topsoil that may result in soil erosion from water or wind and the movement of sediments. In Augusta County, land-disturbing activities equal to or exceeding 10,000 square feet in area require an approved erosion and sediment control plan.
- **Achievements this Year:** In the FY, 451 inspections were conducted. 34 Notice to Comply letters were sent out to 17 different locations, with 5 Stop Work Orders sent out to a single site. All Notice to Comply Letter and SWO are tracked and recorded through the signed certified mail return slips. The location receiving the SWO was contacted and staff members worked with the owner, engineer, and the construction company to define the minimum requirements needed for the site. While at the end of the FY there had been improvement not all issues had been addressed, continual work with the project is needed.

#### New Sites during Reporting Period

Construction Site Runoff	
Number of Regulated Land Disturbing Activities	4
Total Number of Acres Disturbed	54.6 acres
Total Number of Inspections Conducted	50
Enforcement Type	
Verbal	All enforcement is documented
Notice to Comply	5
Stop Work Order	0



### Total Sites during Reporting Period

Construction Site Runoff	
Number of Regulated Land Disturbing Activities	42
Total Number of Acres Disturbed	359 acres
Total Number of Inspections Conducted	451
Enforcement Type	
Verbal	All enforcement is documented
Notice to Comply	34
Stop Work Order	5

- **Schedule of Activities:** Augusta County will continue to operate its Virginia Erosion and Sediment Control Program (VESCP) for land-disturbing activities pursuant to § 62.1-44.15:54 of the Code of Virginia. The County's Erosion and Sediment Control Ordinance is located within Appendix A4.1 and Chapter 9 of the County Code. The erosion and sediment control plans or agreements of plan for land-disturbing activities will continue to be reviewed in lieu in accordance with Chapter 9 of the County Code.

#### **4.2 BMP: Virginia Stormwater Management Program (VSMP)**

- **General Information:** Augusta County has established a local Virginia Stormwater Management Program (VSMP) for land-disturbing activities and has adopted the applicable Regulations that specify standards and specifications for VSMPs promulgated by the state board, pursuant to §62.1-44.15:27 of the Code of Virginia, unless otherwise authorized by the State. The implementation of its local VSMP will further establish plan review, inspection, compliance, and enforcement procedures for construction site stormwater runoff control.
- **Achievements this Year:** The County has continued to formalize the stormwater program and integrate with the standard practices of the community. The County's environmental ordinance was approved by the County's Board of Supervisors on May 28, 2014 and the Department of Environmental Quality on June 19, 2014 (Attachment 4.2).
- **Schedule of Events:** The County will continue to improve the stormwater program and evaluate existing documents to assist the development community.



## 5 MCM 5. Post-construction Stormwater Management

### 5.1 BMP: Local Virginia Stormwater Management Program

- **General Information:** Augusta County will implement a local Virginia Stormwater Management Program to address post-construction stormwater management in new development and development on prior developed lands pursuant to §62.1-44.15:27 of the Code of Virginia, unless otherwise authorized by the State. The Department of Community Development will be designated as the Administrator of the Virginia Stormwater Management Program and be responsible for review and approval of stormwater pollution prevention plans (SWPPP).
- **Achievements This Year:** Augusta County has established the following activities:
  - County has continues to review construction plans both before and during construction to verify plans are being implemented properly.
  - New BMPs have been noted and once completed will be recorded and responsibility for routine maintenance will be administered by the County.
- **Schedule of Activities:** County has continues to review construction plans both before and during construction to verify plans are being implemented properly. Planned BMPs will be tracked and responsibility for routine maintains will be administered by the County. An integrated tracking system will be established for ease of verification.

### 5.2 BMP: Track Permanent Stormwater Management Facilities

- **General Description:** Augusta County will track all known permanent SWM facilities that discharge within the regulated MS4 boundaries
- **Activities This Year:** The County has complied owner stormwater management facilities within the MS4 area. The data is shown below:

Owner Stormwater Management Facilities	Number of Facilities
Operator-owned	3
Privately-owned	7 complete





- **Schedule of Activities:**

Activity	Schedule
Develop a list of all known county-owned facilities	Year 1
Track all new stormwater management facilities that require a maintenance agreement per new requirements	Years 1 through 5
Inspect county owned SW facilities	Years 1 through 5



## 6 MCM 6. Pollution Prevention/Good Housekeeping for Municipal Operations

### 6.1 BMP: County Owned Land Identified Needing SWPPPs or NMPs

- General Information:** The County will determine which municipal properties fall within the County's regulated MS4 boundary, and identify which of those properties may require Stormwater Pollution Prevention Plans (SWPPPs) and which may require nutrient management plans (NMPs), if any.
- Achievements this Year:** Augusta County owns three locations inside the MS4 designated areas that need NMPs. One is agricultural, Mill Place Industrial Park in Verona, and two are urban, Augusta Co Library in Fishersville and the Augusta Co Government Center Complex in Verona. These locations added up to approximately 410 acres. SWPPPs have been made for the Government Center Complex and the Wilson School Complex, NMP have been made for all three locations by a certified Planner and are registered with DCR. All SWPPPs and NMP documents can be found in the offices of the MS4 Coordinator and the corresponding Operators

Property ID	SWPPP	NMP
Mill Place Industrial Park	No	Yes
Augusta Co Government Center Complex	Yes	Yes
Augusta Co Library – Fishersville	No	Yes
Does Not Need Implementation Plan		
Co10 Fire House (1026 Richmond Road, Staunton)	No	No
Courthouse Complex (E Johnston St, Staunton)	No	No
Verona Park	No	No

- Schedule of Activities:**

Permit Year	Activity
1	Determine municipal properties within MS4 boundary
2	Establish implementation schedules of SWPPPs and NMPs
3	Establish SWPPPs and standard operating procedures for daily municipal operations
4	Continue establishing SWPPP and NMP procedures
5	County will implement all SWPPPs and NMPs.



## 6.2 BMP: Training Plan and Schedule for appropriate employees

- General Information:** The County will help provide training to all appropriate municipal employees to meet the illicit discharge requirements set forth by the MS4. This training can be met by use of regional training programs along with the Counties existing program. Training may cover recognition and reporting of illicit discharges, good housekeeping and pollution prevention practices applicable to road, street, parking lot maintenance, working in public works facilities, recreational facilities.
- Achievements this Year:** SWPPP list the coordination of both MS4 and other training frequencies within each program. Cooperation between MS4 Coordinator and Staff to inform and educate employees on the MS4.

<i>Event</i>	<i>Date</i>	<i>Participants</i>	<i>#</i>	<i>Description</i>	<i>Water Quality Issues</i>
<i>Recycling: what to recycle and what happens to the stuff recycled</i>	2 time	Elementary school aftercare program	22	Meets Standards of learning, show before and after of recycling	Trash
<i>Riverheads High School Career Fair</i>	Sep-15		500	Talked with students about the MS4 program and what an EMP does.	MS4 understanding
<i>3rd Grade water cycle, watershed, erosion model</i>	2/18/2016	3rd Graders at SD ES	About 60 kids	Model and video and water cycle and erosion for construction and post construction	NPS
<i>Awareness Training MCM6 recycling</i>	3/9/2016	Com Dev	15	County recycled materials, why, where	Trash
<i>3rd Grade water cycle, watershed, erosion model</i>	3/15/2016	3rd Graders at Riverheads ES	100 Kids	Model and video and water cycle and erosion for construction and post construction	NPS



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<i>3rd Grade water cycle, watershed, erosion model</i>	4/14/2016	3rd Graders at Wilson ES	40 Kids	Model and video and water cycle and erosion for construction and post construction	NPS
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**Schedule of Activities:** County will continue to train pertinent staff on recognition and reporting of illicit discharges, good housekeeping and pollution prevention.



## 7 Persons Responsible for Coordinating Small Phase II MS4 Program

Following is a list of primary contact persons for coordinating and implementing the program. These names will be updated as necessary and included as part of the annual report.

### Principal Executive Officer

Title: County Administrator  
Name: Timothy Fitzgerald  
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Verona, VA 24482  
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### Duly Authorized Representatives

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Title: County Engineer  
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## 8 Signed Certification

Certification Statement for Augusta County's MS4 Program Plan and MS4 Annual Report for July 1, 2015 through June 30, 2016.

"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."

Signature: \_\_\_\_\_

Printed Name: Timothy Fitzgerald, County Administrator

Date: \_\_\_\_\_



## 9 Appendix

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### Appendix 3.1



## IDDE Ordinance with procedural documents

### CHAPTER 9. ENVIRONMENT

#### ARTICLE II. Illicit Discharge Detection and Elimination

##### § 9-30. Purpose and Authority

1. The purpose of this article is to promote the general health, safety, and welfare of the citizens of the County by protecting property and state waters through the prohibition of illicit discharges of non-storm water within the County's regulated MS4 area into the County's MS4, subject to certain exceptions.

2. This ordinance is adopted pursuant to Article 2.3 of Chapter 3.1 of Title 62.1 of the Code of Virginia.

##### § 9-31. Applicability.

This ordinance is applicable to the MS4 designated areas and contributing watersheds consisting of approximately 20,600 acres and highlighted in red on a map entitled "Illicit Discharge Detection and Elimination Ordinance" which is declared part of this ordinance and which shall be kept on file in the Offices of the Department of Community Development.

##### § 9-32. Definitions.

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Article.

**Best Management Practices (BMPs).** A schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**Clean Water Act.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

**Director.** The Director of the Community Development Department of Augusta County. The term includes any person or persons designated to perform certain specific administrative functions by the Director of the Community Development Department.

**Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to





human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Illicit Discharge.** Any direct or indirect non-storm water discharge to the storm sewer system, except as exempted in Section 9-33 C of this ordinance.

**Municipal Separate Storm Sewer System (MS4).** The County's municipal separate storm sewer system. The terms "municipal separate storm sewer" and "municipal separate storm sewer system" shall have the meanings set forth within 9VAC25-870-10

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Non-Storm Water Discharge.** Any discharge to the storm sewer system that is not composed entirely of storm water.

**Person.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous materials and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Storm Sewer System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**Storm Water Pollution Prevention Plan (SWPPP).** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

**Virginia Stormwater Management Program (VSMP).** A program approved by the State after September 13, 2011, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in the Act and associated regulations, and evaluation consistent with the requirements of the Storm Water Management Act (§62.1-44.15:24 et seq.) and associated regulations.

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

**Wastewater.** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.



### § 9-33. Prohibited Discharges.

A. It shall be unlawful and a violation of this article to cause or allow any illicit discharge to enter, or have the potential of entering, the MS4.

B. Illicit discharges include, but are not limited to:

(1) Discharging, or allowing any discharge of sewage, industrial wastes, yard wastes, or other wastes, into the storm sewer system, or any component thereof, or onto driveways, sidewalks, parking lots, the ground, or any other areas draining to the storm sewer system.

(2) Connecting, or allowing any connection of any sanitary sewer to the storm sewer system.

(3) Connecting, or allowing any connection to the storm sewer system, without a valid VSMP, VPDES, or NPDES permit, any structure that conveys any liquid other than storm water or discharges listed in subsection (c), including, but not limited to, pipes, drains, sanitary sewer lines, washing machine drains, or floor drains.

(5) Throwing, placing, or depositing, or causing to be thrown, placed, or deposited in the storm sewer system anything that impedes or interferes with the free flow of storm water therein, or adversely affects water quality.

C. The following non-storm water discharges are allowable under this article:

(1) Discharges or flows covered by a separate individual or general VPDES or VSMP permit for non-storm water discharges;

(2) Individual non-storm water discharges or flows that have been identified in writing by the Virginia Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state waters and do not require a VPDES permit;

(3) Non-storm water discharges or flows as listed in the following categories;

- a. Water line flushing;
- b. Landscape irrigation, irrigation water, lawn and garden watering;
- c. Diverted stream flows or rising groundwater;
- d. Uncontaminated ground water infiltration;
- e. Uncontaminated pumped groundwater;
- f. Discharges from potable water sources;
- g. Foundation drains;
- h. Air conditioning condensate;
- i. Springs;
- j. Water from crawl space pumps;
- k. Footing drains;
- l. Individual residential car washing;



- m. Flows from riparian habitats and wetlands;
- n. Dechlorinated swimming pool discharges;
- o. Street wash water; and
- p. Firefighting activities.
- q. Dye testing, following notification to the County's Community Development Department

D. In the event any of the activities listed in subparagraph C (3) of this section are found to be a significant contributor of pollutants to be discharged into the MS4, the Director shall so notify the person performing such activities, and shall order that such activities be ceased or be conducted in such a manner as to avoid the discharge of pollutants into the MS4. The failure to comply with any such order shall constitute a violation of the provisions of this article.

#### **§ 9-34. Inspections and Monitoring.**

A. The Director shall have the authority to carry out all inspections and monitoring procedures necessary to determine compliance and/or noncompliance with this article, and to enforce the requirements of this article.

B. The Director shall have the authority, at his/her sole discretion, to require a SWPPP from any person whose property discharges, or has the potential to discharge, to the MS4.

C. The Director and/or his/her duly authorized employees, agents, or representatives of the county, bearing proper credentials and identification, shall be authorized to enter any public property or to request entry into private property at any reasonable time for the purpose of enforcing this article, including, but not limited to taking samples of discharges, inspecting monitoring equipment, inspecting and copying documents relevant to the enforcement of this article, and such other items as may be deemed necessary for the enforcement of this article.

If the owner or person in charge of the property refuses to allow the Director or his/her designees to enter in accordance with this subsection, then the Director may present sworn testimony to a magistrate or court of competent jurisdiction and request the issuance of an inspection warrant to enter the property for the purpose of making such inspections and investigations. The Director shall make a reasonable effort to obtain consent from the owner or person in charge of the property prior to seeking the issuance of an inspection warrant under this section.

D. The Director shall have the authority to require any person responsible for a discharge to the MS4 to document that such discharge meets and is in compliance with the requirements of this article. This includes, but is not limited to, the ability of the Director to require such person to provide monitoring reports, test results, and such other matters as may be deemed necessary to show that such discharge is in compliance with the requirements of this article. The cost of any required documentation shall be the responsibility of the person responsible for the discharge.



E. The failure of any person to comply with any of the requirements of this section shall constitute a violation of this article.

### **§ 9-35. Enforcement and Penalties.**

A. Any person who violates any of the provisions of this article shall be guilty of a class I misdemeanor and, upon conviction, is subject to punishment by a fine of not more than two thousand five hundred dollars (\$2,500.00) per violation per day and confinement in jail for not more than twelve (12) months, either or both.

B. Each day during which a violation of this article occurs or continues shall be deemed a separate and distinct violation of this article.

C. Any person who commits any of the acts prohibited by this article or violates any of the provisions of this article shall be liable to the county for all costs of testing, containment, cleanup, abatement, removal, disposal, monitoring, and any other related costs or expenses that the County may incur in connection with the enforcement of this article and/or the prohibition and/or correction of a violation of this article.

D. The Director may bring legal action to enjoin a violation of this article and the existence of any other remedy shall be no defense to any such action.

E. In addition to any of the remedies set forth above, the Director may seek to impose, or have imposed by the appropriate authority, any of the remedies provided for by § 62.1-44.15:48, Code of Virginia (1950), as amended, which are incorporated herein by reference.

F. In any court action that may result from enforcement of this article, a judge hearing the case may direct the person responsible for the violation or the property owner to correct the violation and each day that the violation continues shall constitute a separate violation of this article.

G. Any person who knowingly makes any false statements, representations, or certifications in any record, report, or other document, either filed or requested pursuant to this article, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the Director under this article in monitoring discharges, shall be guilty of a violation of this article.

H. The remedies set forth in this section shall be cumulative, not exclusive, and it shall be no defense to any action that one (1) or more of the remedies set forth in this section has been sought or granted.

### **§ 9-36. Civil charges.**

With the consent of any person who has violated any provision of this article, the county may provide for the payment of civil charges for violations in specific sums, not to exceed \$1,000. Civil



charges shall be in lieu of any appropriate civil penalty. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damages in the county.



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## Augusta County MS4

### Illicit Discharge

## Dry Screening and Outfall Inspection Management and Methodologies

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Date of Issue: 3/11/2016

Official Document Location:

MS4 Coordinator

Area of Application:

MS4 Regulated and Extending MS4 System

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### Objectives, Targets and Actions

Activity/Product/Service:

Dry screening and outfall inspections in Augusta County's MS4 done annually, including a minimum number of 50 outfalls, as required by the MS4 permit to detect and eliminate illicit discharges.

Policy Commitment:

Detecting and eliminating illicit discharges in the storm sewer system. Reporting to DEQ with the MS4 Annual Report including: the screenings results, and details of any follow-up actions necessitated by screening results

Objective:

Properly fulfill the role and duties of the MS4 Permit.

Target:

50 Dry screening and outfall inspections in every permit year.

Target Status:

Development

Lead Person:

Morgan Shrewsbury, MS4 Coordinator



**Comment:** No actions are needed at this time.

## **Standard Operating Procedure (SOPs)**

### **1.0 Purpose**

- 1.1 Dry screening of outfalls from Augusta County's MS4 will be done annually to include a minimum number of 50 outfalls to be inspected, as required by the MS4 permit.

### **2.0 Scope**

- 2.1 The Illicit Discharge Detection and Elimination Program monitors, inspects, determines and stops discharge that leads to the pollutions of state waters in accordance with MS4 requirements.
- 2.2 This aspect is being managed in accordance with DEQ and EPA regulations.

### **3.0 Responsibility**

- 3.1 The MS4 Coordinator or his/her designee is responsible for documentation of investigations.
- 3.2 The MS4 Coordinator or his/her designee is responsible for inspection procedures.

### **4.0 Procedure**

#### **4.1 Pre-Inspection Procedure**

- Materials needed:
  - Outfall Maps
  - Field Screening Inspection Report (if available)
  - Illicit Discharge Reporting Form
  - GPS
  - Pen
  - Waders
  - Camera/Smartphone
- Print out maps of the anticipated outfalls to be inspected prior to field screenings.
  - Outfall maps can be located at G\COMDEV\Engineering\GIS\MS4\MS4 Outfall and are available to be printed directly from ArcGIS.
- Print out Field Screening Inspection Reports prior to field screenings.
  - Field Screening Inspections Reports are still in development.
- A portable unit with GPS capabilities may be used to record/update outfall data, if needed.
- The majority of outfalls are not verified in the GIS system with accurate GPS data and outfall information.
  - This will be the responsibility of the MS4 Program Coordinator or his/her appointees.

#### **4.2 Inspection Procedure**



- Inspection instructions shall be as follows:
  1. Walk from downstream to upstream (if in the stream, as to not disturb water or sediments which could alter assumptions of an outfall, inspect outfalls one at a time).
  2. Collect data and enter into portable GPS unit (if needed).
  3. Fill out the Field Screening Inspection Report as you walk along the stream.
  4. Take pictures of each outfall and make notes on the Report.
  5. In the event that an outfall is suspected to have an illicit discharge, document the outfall/illicit discharge on the Field Screening Inspection Report and fill out an Illicit Discharge Reporting Form. The suspected illicit discharge shall be handled with illicit discharge procedures set forth at U:\Stormwater\Illicit Discharge Detection & Elimination\Illicit Discharge\Administrative
    - Investigation will be done with support from IDDE Field Backpack for data collection and the Illicit Discharge Detection and Elimination Field Guide: How to Identify an Quickly Report Pollution Problems.
    - Illicit Discharge Reporting Form should be completed and saved to the proper tax map ID folder at U:\Stormwater\Illicit Discharge Detection & Elimination\Illicit Discharge as outlined in the illicit discharge procedures.
      - If the illicit discharge is potential, pursue investigation through the illicit discharge procedures.
      - If the illicit discharge is historical (staining, dried material, etc.) take note on the Field Screening Inspection Report and note if follow-up/education activities are necessary.

#### 4.3 Post-Inspection Procedure

- When back in the office, load all pictures and store in designated outfall folder with the name as outfall ID and month year (Fish28Mar\_2016).
- Inspection Date and Status are to be updated in the GIS Attribute Table. If the first time an outfall has been inspected performed completely fill out the GIS Attribute Table with collected data from the field. If assistance is needed, contact the MS4 Coordinator.
- Outfall inspection data will be archived by the MS4 Coordinator or his/her designees.
- Dry weather field screening to detect illicit discharges in specific areas may also be defined based on criteria such as infrastructure, land use, historical illegal discharges, dumping or cross connections. These areas will be prioritized by the MS4 Coordinator.





Augusta County MS4  
Illicit Discharge

**IDDE Investigation Process**

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Date of Issue: 3/11/2016

Official Document Location:

MS4 Coordinator

Area of Application:

MS4 Regulated and Extending MS4 System

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**Objectives, Targets and Actions**

Activity/Product/Service:	Illicit discharge inspections in Augusta County’s MS4 done upon complaint or suspicion of discharge, as required by the MS4 permit to detect and eliminate illicit discharges.
Policy Commitment:	Detecting and eliminating illicit discharges in the storm sewer system. Reporting to DEQ with the MS4 Annual Report including: the screenings results, and details of any follow-up actions necessitated by screening results
Objective:	Properly fulfill the role and duties of the MS4 Permit.
Target:	Detecting and mitigating illicit discharges into the storm sewer system.
Target Status:	Development
Lead Person:	Morgan Shrewsbury, MS4 Coordinator

**Comment:** No actions are needed at this time.

**Standard Operating Procedure (SOPs)**

**1.0 Purpose**



- 1.1 Illicit Discharge Investigation for Augusta County's MS4 will be done upon complaint or suspicion of discharge.

## **2.0 Scope**

- 2.1 The Illicit Discharge Detection and Elimination Program monitors, inspects, determines and stops discharge that leads to the pollutions of state waters in accordance with MS4 requirements.
- 2.2 This aspect is being managed in accordance with DEQ and EPA regulations.

## **3.0 Responsibility**

- 3.1 The MS4 Coordinator or his/her designee is responsible for documentation of investigations.
- 3.2 The MS4 Coordinator or his/her designee is responsible for inspection procedures.
- 3.3 Hazardous spill response is the responsibility of the Fire Department.  
Storm sewer overflows are the responsibility of Public Utilities,
- 3.4 Other spill response or pollution complaints may be routed through another agency such as the Virginia Department of Environmental Quality.

## **4.0 Procedure**

### **4.1 Investigation and Documentation Process**

#### **4.1.1 Types of Illicit Discharge**

- Potential Illicit Discharge: A pollutant having entered the storm sewer system but there is no evidence that the pollutant entered a live waterway.
- Actual Illicit Discharge: A pollutant having entered the storm sewer system and there is evidence that the pollutant entered a live waterway.
- Suspect Illicit Discharge: A dumping activity or spill that has not entered the storm sewer system or a live waterway.

#### **4.1.2 Receiving Reports**

- Report of illicit discharge events are received by County staff. Report may have been received by phone or in person.
- The Fire Department will notify MS4 Program Coordinator – Morgan Shrewsbury of an incident that may affect the storm sewer system. If the incident occurs outside of business hours, they will notify her during the next business day.
- Spills during municipal operations will be responded according to the procedures set forth by that department. Significant spills that require interdepartmental coordination should be routed to Augusta County Community Development and Augusta County Service Authority.

#### **4.1.3 Initial Investigation**

- The MS4 Coordinator will evaluate the Report to determine if an Illicit Discharge Investigation is needed.
- The appointed investigator/s will travel to the site to inspect the potential illicit discharge.
- Materials needed:
  - Maps of relevance
  - Field Screening Inspection Report (if available)
  - Illicit Discharge Reporting Form



- GPS
- Pen
- Waders
- Camera/Smartphone

4.1.4 Lead investigators will trace back manholes or the stream to find the source of the pollution if safe.

- If an illicit discharge is found, but within six months of the beginning of the investigation neither the source nor the same non-stormwater discharge has been identified, then this shall be documented.
- If the observed discharge is intermittent, then Lead Investigator must document that a minimum of three separate investigations were made in attempt to observe the discharge when it was flowing. If these attempts are unsuccessful, the investigator must document.

4.2 Inspection Procedure

- Inspection instructions shall be as follows:
  1. Walk from downstream to upstream (if in the stream, as to not disturb water or sediments which could alter assumptions of an outfall, inspect outfalls one at a time).
  2. Collect data and enter into portable GPS unit (if needed).
  3. Fill out the Field Screening Inspection Report as you walk along the stream.
  4. Take pictures of each outfall and make notes on the Report.
  5. In the event that an outfall has an illicit discharge, document the outfall/illicit discharge on the Field Screening Inspection Report and fill out an Illicit Discharge Reporting Form. The suspected illicit discharge shall be handled with illicit discharge procedures set forth at U:\Stormwater\Illicit Discharge Detection & Elimination\Illicit Discharge\Administrative
    - Investigation will be done with support from IDDE Field Backpack for data collection and the Illicit Discharge Detection and Elimination Field Guide: How to Identify a Quickly Report Pollution Problems.
    - Illicit Discharge Reporting Form should be completed and saved to the proper tax map ID folder at U:\Stormwater\Illicit Discharge Detection & Elimination\Illicit Discharge as outlined in the illicit discharge procedures.
- If the illicit discharge is potential, pursue investigation through the illicit discharge procedures.
- If the illicit discharge is historical (staining, dried material, etc.) take note on the Field Screening Inspection Report and note if follow-up/education activities are necessary.



- An unknown substance can be tested through a third party consultant, and/or with the Central Shenandoah Planning District Commission's IDDE kit – available to IDDE Team by calling (540) 885-5174. ( See attachment)
- 4.2.1 As needed, investigators and IDDE Team will coordinate and dispatch a clean-up (this may involve other County departments), contact the property owner and/or responsible party, and request from the property owner/responsible party mitigation procedures (Corrective Action Plan) be documented and put into place as soon as possible. Any procedures developed will be filed with the County's IDDE Report to ensure corrective action. Enforcement escalation is outlined below. Timeframe for follow-up investigation and corrective action is determined on a case-by-case basis.
- i. Warning Letter - A warning letter is issued for a first offense illicit discharge with typically a two week follow-up investigation by the County.
  - ii. Corrective Action Plan – A Corrective Action Plan is requested from the responsible party of larger spill incidents during a first offense which will address the spill response specifically and mitigation measures to be implemented to prevent further spills.
  - iii. Notice of Violation (second offense) – A notice of violation is issued after a second offense or if corrective action has not been taken upon a follow-up 2 week investigation.
  - iv. Criminal Fines
- 4.3 Post-Inspection Procedure
- The individual from the IDDE Team that responded to the incident will fill out an Illicit Discharge Reporting Form regardless of whether the event was a potential, suspect, or actual illicit discharge. This individual is also responsible for coordinating with the IDDE Team to follow up on the investigation and ensure sufficient pictures, documentation of correspondence, etc.
  - When back in the office, load all pictures and store in designated outfall folder with the name as outfall ID and month year (OF37Mar\_2016).
  - Inspection Date and Status are to be updated in the GIS Attribute Table. If the first time an outfall has been inspected performed completely fill out the GIS Attribute Table with collected data from the field. If assistance is needed, contact the MS4 Coordinator.
- 
- The completed IDDE form will be filed in the ComDev/Engineering/SWP/MS4/IDDE and will be named based on property tax map number as well
  - Illicit discharge team will update IDDE folder with documentation, photos, letters, emails, etc. associated with the illicit discharge event.
  - Files saved in the folder will be saved by [tax map number] [date investigation initiated year – month -day] [other additional title]. Examples:
  - 066-C-8 2016-04-14 IDDE Report Form.pdf



- 049A-8 2014-02-28 Investigation Notes.docx

## 5.0 Time Frame

- 5.1 A time frame upon which to conduct an investigation or investigations to identify and locate the source of any observed continuous or intermittent non-stormwater discharge to be prioritized as follows per the MS4 permit:
- 5.2
- Illicit discharges suspected of being sanitary sewage or significantly contaminated must be discharged first,
  - Investigations of illicit discharges suspected of being less hazardous to human health and safety such as noncontact cooling water or wash water may be delayed until after all suspected sanitary or significantly contaminated discharges have been investigated, eliminated, or identified. Discharges authorized under a separate VPDES or state permit require no further action under this permit.

## 6.0 Recourses

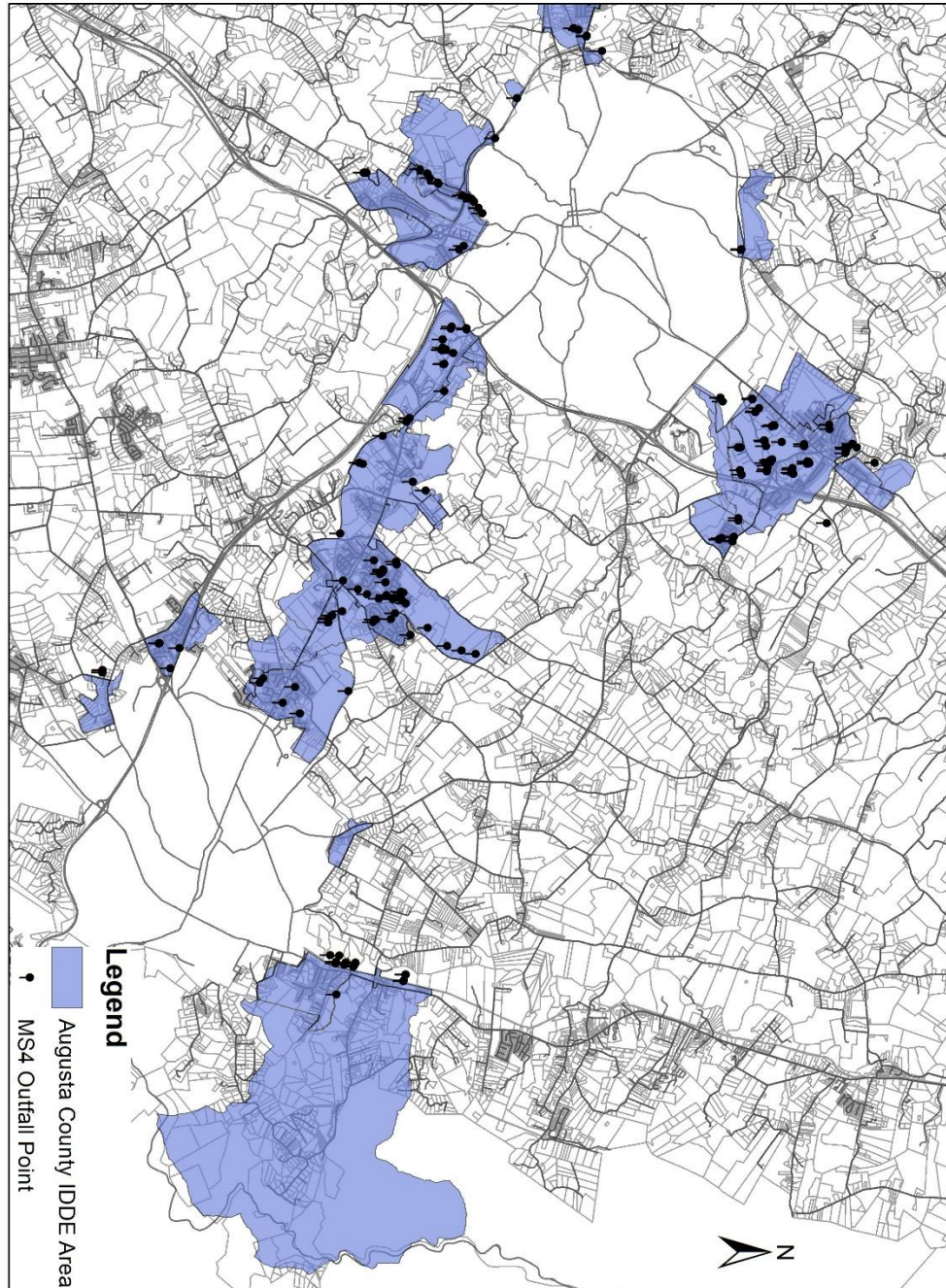
- 6.1 Investigators may use the Center for Watershed Protection's publications as guides, [http://www.cwp.org/online-watershed-library/cat\\_view/64-manuals-and-plans/79-illicitdischarge-detection-and-elimination](http://www.cwp.org/online-watershed-library/cat_view/64-manuals-and-plans/79-illicitdischarge-detection-and-elimination):
- Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments
  - Illicit Discharge Detection and Elimination: Technical Appendices
  - Illicit Discharge Detection and Tracking Guide
  - Illicit Discharge Detection and Elimination Field Guide: How to Identify and Quickly Report Pollution Problems:  
[http://www.cspdc.org/programs/environment/documents/IDDEFieldGuide\\_Shenandoah\\_121914\\_002.pdf](http://www.cspdc.org/programs/environment/documents/IDDEFieldGuide_Shenandoah_121914_002.pdf)

## 7.0 MS4 Annual Report

- 7.1 A summary of the illicit discharge inspection reports will be included with the MS4 Annual Report and will include required information: (i) date that suspected discharge was observed, reported, or both; (ii) how the investigation was resolved, including any follow-up, and (iii) resolution of the investigation and the date the investigation was closed.

### Appendix 3.2

### Storm Sewer System and Outfall Map



IDDE Area and Outfall Locations



## Appendix 4.1 & 4.2

# CHAPTER 9. ENVIRONMENT

## ARTICLE I. REGULATION OF STORMWATER AND EROSION AND SEDIMENT CONTROL

### § 9-1. Purpose and authority

1. Pursuant to Virginia Code § 62.1-44.15:27, this ordinance integrates stormwater management requirements with the erosion and sediment control requirements into an integrated erosion and sediment control and stormwater program. The integrated program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the County and those responsible for compliance with these programs. This ordinance accounts for any town lying within the County unless such towns choose to adopt their own program

2. The purpose of this ordinance is to establish minimum stormwater management (SWM) and erosion and sediment control (ESC) requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in watersheds within the County, and protect aquatic resources.

3. This ordinance is adopted pursuant to Articles 2.3 & 2.4 of Chapter 3.1 of Title 62.1 of the Code of Virginia.

### § 9-2. Definitions

As used in the ordinance, unless the context requires a different meaning, the following terms shall have the meanings indicated:

**"Administrator"** means the VSMP authority responsible for administering the VSMP on behalf of the County and the VESCP authority responsible for administering the VESCP on behalf of the County. The Department of Community Development is designated as the Administrator.

**"Agreement in lieu of a plan"** means a contract between the Administrator and the owner or permittee that specifies methods that must be implemented to comply with the requirements of a VSMP and/or Erosion and Sediment Control Plan in the construction of a single-family residence; this contract may be executed by the Administrator in lieu of a formal site plan. Fees associated with Agreement in lieu of a Plan do not require payment to Department.

**"Applicant"** means any person submitting a development plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.



**"Best management practice" or "BMP"** means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

**"Certified inspector"** means an employee or agent of the County of Augusta who (i) holds a certificate of competence from the state board in the area of project inspection pertaining to VESCP and/or VSMP or (ii) is enrolled in the state board's VESCP and/or VSMP training program for project inspection and successfully completes such program within one year after enrollment.

**"Certified plan reviewer"** means an employee or agent of the County of Augusta who (i) holds a certificate of competence from the state board in the area of plan review pertaining to VESCP and/or VSMP, (ii) is enrolled in the state board's VESCP and/or VSMP training program for plan review and successfully completes such program within one year after enrollment..

**"Certified program administrator"** means an employee or agent of the County of Augusta who (i) holds a certificate of competence from the state board in the area of program administration pertaining to VESCP and/or VSMP or (ii) is enrolled in the state board's VESCP and/or VSMP training program for program administration and successfully completes such program within one year after enrollment.

**"Clearing"** means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.

**"Common plan of development or sale"** means a contiguous area where separate and distinct construction activities may be taking place at different times on difference schedules.

**"Conservation Plan," "Erosion and Sediment Control Plan," or "Plan"** means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

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

**"Clean Water Act" or "CWA"** means the federal Clean Water Act (33 U.S.C §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution





Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

**"County" or "Program Authority"** means the County of Augusta, Virginia, which has adopted an erosion and sediment control program that has been approved by the state board.

**"Department" or "DEQ"** means the Department of Environmental Quality.

**"Department of Community Development"** means the County of Augusta, Virginia, Department of Community Development.

**"Development"** means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

**"Director"** means the Director of DEQ.

**"District" or "Soil and Water Conservation District"** refers to the Headwaters Soil and Water Conservation District.

**"Erosion Impact Area"** means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action.

**"Excavating"** means any digging, scooping or other methods of removing earth materials.

**"Filling"** means any depositing or stockpiling of earth materials.

**"General permit"** means the state permit titled GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (9VAC25-880-1 et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

**"Grading"** means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

**"Land disturbance" or "land-disturbing activity"** means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in Section 9-4(E)-2 of this Ordinance.



**"Land-disturbing Permit" or "Permit"** means a permit issued by the County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.

**"Layout"** means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

**"Local erosion and sediment control program" or "local control program"** means an outline of the various methods employed by the County to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

**"Minimum Standards or Minimum Standard"** means any or all of the 19 minimum standards set forth by DEQ.

**"Minor modification"** means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

**"Operator"** means the owner or operator of any facility or activity subject to regulation under this Ordinance.

**"Owner"** means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

**"Perimeter Erosion and Sediment Control Permit"** means a permit issued by the County for installation of only perimeter erosion and sediment control measures on any project requiring a land-disturbing permit. This permit does not authorize the permittee to engage in a land disturbance activity outside that required for installation of the perimeter erosion and sediment control measures. Projects involving an agreement in lieu of a plan do not require this permit.

**"Permit" or "VSMP Authority Permit"** means an approval to conduct a land-disturbing activity issued by the Administrator for the initiation of a land-disturbing activity, in accordance with this Ordinance, and which may only be issued after evidence of general permit coverage has been provided by DEQ.



**"Permittee"** means the person to whom the VSMP and/or land disturbing permit is issued.

**"Person"** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

**"Regulations"** means the Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870, as amended.

**"Responsible Land Disturber"** means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who:

- (A). Holds a Responsible Land Disturber certificate of competence,
- (B). Holds a current certificate of competence from the state board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review,
- (C). Holds a current Contractor certificate of competence for erosion and sediment control, or
- (D). Is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

**"Single-family residence"** means a noncommercial dwelling that is intended to be occupied exclusively by one family.

**"Site"** means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity.

**"State"** means the Commonwealth of Virginia.

**"State Board"** means the Virginia State Water Control Board.

**"State erosion and sediment Control program"** or **"state program"** means the program administered by the state board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.

**"State permit"** means an approval to conduct a land-disturbing activity issued by the state board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the state board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.



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

**"State waters"** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

**"Stop Work Order"** A written notice sent to the responsible land disturber or appropriate agent that stops all land-disturbing activity on the project for a specified time period.

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

**"Stormwater management plan"** means a document(s) containing material describing methods for complying with the requirements of Section 9-7 of this Ordinance.

**"Stormwater Pollution Prevention Plan"** or **"SWPPP"** means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this Ordinance. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

**"Subdivision"** means a division of a parcel of land into two or more lots, tracts or parcels for any purpose. The term includes re-subdivision and boundary line adjustments.

**"Total maximum daily load"** or **"TMDL"** means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source tradeoffs.

**"Transporting"** means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

**"Virginia Erosion and Sediment Control Program"** or **"VESCP"** means a program approved by the state board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other



natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of the Act and this chapter.

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

**"Virginia Stormwater Management Act" or "Act"** means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

**“Virginia Stormwater BMP Clearinghouse website”** means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

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

**"Virginia Stormwater Management Program authority" or "VSMP authority"** means an authority approved by the state board after September 13, 2011, to operate a Virginia Stormwater Management Program.

### **§ 9-3. Programs Established**

A. Pursuant to §62.1-44.15:27 of the Code of Virginia, Augusta County hereby establishes a Virginia Stormwater Management Program (VSMP) for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the state board for the purposes set out in §9-1 of this Ordinance. Augusta County hereby designates the Department of Community Development as the Administrator of the Virginia stormwater management program.

B. Pursuant to § 62.1-44.15:54 of the Code of Virginia, Augusta County hereby establishes a Virginia Erosion and Sediment Control Program (VЕСP) for land-disturbing



activities and adopts the regulations, references, guidelines, standards and specifications promulgated by the state board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended. The County hereby designates the Department of Community Development as the VESCP authority.

#### **§ 9-4. Storm Water Permit and Land Disturbing Permit Requirement; Exemptions**

A. Except as provided herein, no person may engage in any land-disturbing activity until both a VSMP permit and a perimeter erosion and sediment control permit have been issued by the Administrator in accordance with the provisions of this Ordinance. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by § 62.1-44.15:55, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance. Property owners may be issued one agreement in lieu of a plan per calendar year for which a responsible land disturber need not be named. Subsequent permits in the same year however, will require naming of a responsible land disturber.

B. No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit and until the following items have been submitted to and approved by the Administrator as prescribed herein:

1. A permit application that includes a general permit registration statement, if such statement is required, and evidence that general permit coverage is obtained;
2. An erosion and sediment control plan approved in accordance with this chapter.
3. A stormwater management plan that meets the requirements of § 9-7 of this chapter.
4. Any fees and bond required to be paid in accordance with § 9-19.

C. No grading, building or other local permit shall be issued for a property unless a VSMP authority permit, when required, has been issued by the Administrator.



D. No land disturbing permit shall be issued until the applicant submits with his application approved erosion and sediment control plans and certification that the plan will be followed and all perimeter erosion and sediment control measures have been installed, inspected and approved by the Administrator.

E. Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:

**1. Exemptions to Stormwater Management Plan, Pollution Prevention Plan and VSMP permit requirement**

a. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;

b. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

c. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;

d. Land disturbing activities that disturb less than one acre of land that are not part of a larger common plan of development or sale that is one acre or greater of disturbance;

e. Discharges to a sanitary sewer or a combined sewer system;

f. Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;

g. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and



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

**2. Exemptions to Erosion & Sediment Control Plan and land disturbing permit requirement.**

a. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

b. Individual service connections;

c. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;

d. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

e. Surface or deep mining activities authorized under a permit issued by the Department of Mines, Minerals and Energy;

f. Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;

g. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Sec. 10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;

h. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;





- i. Disturbed land areas of less than 10,000 square feet in size
- j. Installation of fence posts, sign posts or telephone and electric poles and other kinds of posts or poles;
- k. Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and
- l. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the Administrator.

#### **§ 9-5. Stormwater Pollution Prevention Plan; Contents of Plan**

A. The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit. Such requirements shall include, but not be limited to:

1. an approved erosion and sediment control plan in accordance with § 9-6 of this chapter
2. an approved stormwater management plan in accordance with § 9-7 of this chapter
3. a pollution prevention plan for regulated land-disturbing activities in accordance with § 9-8 of this chapter
4. and a description of any additional control measures necessary to address a TMDL in accordance with § 9-9 of this chapter

B. The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.

C. The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main



entrance of the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

#### **§ 9-6. Erosion & Sediment Control Plan; Contents of Plan**

A. Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the Administrator an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the Administrator. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the state board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the Administrator.

B. The standards contained within the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook as amended are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The Administrator, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines.

C. Except for single family or two family dwellings covered by an Agreement in Lieu of an Erosion & Sediment Control Plan, stormwater detention or retention facilities will be required for proposed development where land disturbance is 10,000 square feet or greater and where there is a net increase in runoff between pre-developed and post-developed conditions.

D. In cases where the contributing drainage area being developed is equal to or less than 1% of the entire watershed, stormwater detention will not be required unless otherwise required by VSMP regulations. However, any concentrated water leaving the development site will be required to discharge into an adequate on or off site receiving channel.

E. All stormwater management facilities shall be designed and constructed in accordance with "Minimum Standard 19" of the Virginia Erosion and Sediment Control Law and Regulations, and the Virginia Stormwater Management Handbook, Latest Edition.

F. An approved plan may be changed by the Administrator when:

1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

2. The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance are agreed to by the Administrator and the person responsible for carrying out the plans.



G. Variances: The Administrator may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the Administrator shall be documented in the plan.

2. During construction, the person responsible for implementing the approved plan may, with the property owner's written permission, request a variance in writing from the Administrator. The Administrator shall respond in writing within 10 calendar days either approving or disapproving such a request. If the Administrator does not approve a variance within 10 calendar days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

H. In order to prevent further erosion, the County may require approval of a plan for any land identified in the local program as an erosion impact area.

I. When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

J. In accordance with the procedure set forth by § 62.1-44.15:55E of the Code of Virginia, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the state board for review and approval consistent with guidelines established by the state board.

### **§ 9-7. Stormwater Management Plan; Contents of Plan**

A. The Stormwater Management Plan, required in § 9-4 of this Ordinance, must apply the stormwater management technical criteria set forth in § 9-11 of this Ordinance to the entire land-disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information:



1. Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post development drainage areas;
2. Contact information including the name, address, and telephone number of the owner and the tax map number and parcel number of the property or properties affected;
3. A narrative that includes a description of current site conditions and final site conditions
4. A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
5. Information on the proposed stormwater management facilities, including:
  - a. The type of facilities;
  - b. Location, including geographic coordinates;
  - c. Acres treated; and
  - d. The surface waters or karst features, if present, into which the facility will discharge.
6. Hydrologic and hydraulic computations, including runoff characteristics;
7. Documentation and calculations verifying compliance with the water quality and quantity requirements of § 9-11 of this ordinance.
8. A map or maps of the site that depicts the topography of the site and includes:
  - a. All contributing drainage areas;
  - b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
  - c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
  - d. Current land use including existing structures, roads, and locations of known utilities and easements;



- e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
- f. The limits of clearing and grading, and the proposed drainage patterns on the site;
- g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
- h. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.

B. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for a stormwater management plan if executed by the Administrator. A registration statement shall not be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale

C. If an operator intends to meet the water quality and/or quantity requirements set forth in § 9-11 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of reservation from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.

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

E. A stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners

## **§ 9-8. Pollution Prevention Plan; Contents of Plans**

A. Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of



pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

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

B. The pollution prevention plan shall include effective best management practices to prohibit the following discharges:

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

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

#### **§ 9-9. Additional Control Measures to Address a TMDL**

In addition to the requirements of §9-6 through §9-8 of this chapter, if a specific Waste Load Allocation (WLA) for a pollutant has been established in a TMDL implementation plan and is assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the WLA in a state board approved plan.

#### **§ 9-10. Review of Submitted Plans**

A. The Administrator shall determine the completeness of a plan in accordance with this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar



days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.

B. The Administrator shall have an additional 30 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subsection (A) of this section, then plan shall be deemed complete and the Administrator shall have 30 calendar days from the date of submission to review the plan..

C. The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission..

D. During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance.

E. If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subsection (B) of this section for review, the plan shall be deemed approved.

F. Approved stormwater plans may be modified as follows:

(1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.

(2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.

G. The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 9-12 (B).

## **§ 9-11. Technical Criteria for Regulated Land Disturbing Activities**

A. To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-62 [technical criteria]; 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater



harvesting]; 9VAC25-870-76 [linear development project]; and, 9VAC25-870-85 [stormwater management impoundment structures or facilities]; 9VAC25-870-92 [comprehensive plans]; 9VAC25-870-93 [grandfathered projects]; 9VAC25-870-94 [applicability]; 9VAC25-870-95 [general]; 9VAC25-870-96 [water quality]; 9VAC25-870-97 [stream channel erosion]; 9VAC25-870-98 [flooding]; and 9VAC25-870-99 [regional plans], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Subsection (B) of this Section.

Notwithstanding the above references to specific sections of 9VAC25-870-60, the technical criteria are modified to include the following:

1. Stormwater runoff shall be calculated by the following methods unless an alternative method for a specific project has been approved by the Administrator:
  - a. Using the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to TR-55 and TR-20; hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers; or other standard hydrologic and hydraulic methods.
  - b. The Rational Method may be used for evaluating peak discharges or the Modified Rational Method for evaluating volumetric flows to stormwater conveyances with drainage areas of 200 acres or less.
2. Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices and performed with methods approved and illustrated in the Virginia Stormwater Management Handbook. Calculations and designs must be prepared by a licensed professional engineer, a land surveyor – B, or certified landscape architect.
3. Retention or detention facilities shall be designed according to the standards and specifications in the Virginia Stormwater Management Handbook as amended. Stricter regulations may be enforced in areas where the board of supervisors have established a general drainage improvement program. Development within these areas must also be in compliance with §9-13 (A).
4. Except for by right agricultural development, in cases of additions or incremental development, the pre-developed condition with respect to impervious or semi-impervious areas shall be the condition that existed on January 1, 1990. Stormwater detention or retention facilities may be required for proposed development where the sum of the currently proposed land disturbance and the existing impervious and semi-impervious surface is 10,000 square feet or greater and where there is a net increase in runoff between pre-developed and post-developed conditions. Existing stormwater management facilities must be verified adequate through calculations regardless of the type of development or the size of the addition or incremental development.





5. Natural channel characteristics shall be preserved to the maximum extent practicable.

6. For manmade or restored conveyance systems, bottom slopes shall, where reasonably possible, be no less than 1%. Side slopes shall be no steeper than 3:1. If side slopes of 3:1 cannot be achieved, the easement shall be piped.

7. All well-defined manmade or restored conveyance systems across lots one-half (1/2) acre or less in area shall be installed within drainage easements on lot lines. For the purposes of this section a well-defined channel is a channel with side slopes steeper than 3:1 and deeper than 2 feet or otherwise would be difficult to maintain with normal lawn equipment.

8. Construction of stormwater management facilities within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater management facility construction shall be in compliance with all applicable regulations under the National Flood Insurance Program, 44 CFR Part 59, and Chapter 25, Division H, Article XLVII, Floodplain Overlay Districts and the Augusta County Code. These stormwater management facilities shall be designed and located, to the extent practical, to provide an unrestricted release up to at least the 25-year flood elevation of the receiving state water.

9. Any stormwater management facilities that are designed to have a permanent pool of water constructed in or adjacent to residential and commercial zoning areas shall be constructed with an aquatic bench or have a minimum of a six-foot fence installed around the perimeter of the facility.

10. Stormwater management facilities designed to detain or retain water on a temporary or permanent basis shall not be built on multiple lots, but located on one lot under single ownership. An access easement of sufficient width given site specific conditions, must be provided.

11. A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

B. Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the County as being



equivalent thereto, was approved by the County prior to July 1, 2012, for which no coverage under a state permit has been issued prior to July 1, 2014, and land disturbance did not commence prior to July 1, 2014 shall be considered grandfathered by the Administrator and shall not be subject to the technical criteria of Part II B [of the Regulations], but shall be subject to the technical criteria of Part II C [of the Regulations] and Chapter 18 of this Code as it existed at the time of such approval for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the County as being equivalent thereto, (i) provides for a layout as defined in 9VAC25-870-10 and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C [of the Regulations]. In the event that the Locality-approved document is subsequently modified or amended in a manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.

1. Until June 30, 2019, for local, state, and federal projects for which there has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which DEQ has approved a stormwater management plan prior to July 1, 2012; a state permit has not been issued prior to July 1, 2014, and land disturbance did not commence prior to July 1, 2014 such projects shall be considered grandfathered by the County and shall not be subject to the technical requirements of Part II B of the Regulations, but shall be subject to the technical requirements of Part II C of the Regulations for those areas that were included in the approval.

2. For land-disturbing activities grandfathered under this Subsection shall remain subject to the Part II C [of the Regulations] for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to the technical requirements of Subsection (a) above.

C. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements Part IIC of the Regulations.

D. The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.



1. Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.

2. Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

E. Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

### **§ 9-12 Long-Term maintenance of permanent stormwater facilities**

A. The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records and shall at a minimum:

1. Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;
2. Be stated to run with the land;
3. Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
4. Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
5. Be enforceable by all appropriate governmental parties.
6. Be recorded among the land records prior to release of bonds..

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

C. If a recorded instrument is not required pursuant to Subsection 9-12 (B), the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on



which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator.

D. For all types of development, the owner (s) or developer shall be responsible for maintenance of stormwater management facilities. In residential subdivisions only, the County may assume long-term maintenance of stormwater detention facilities and drainage easements from the developer in accordance with the provisions of the agreement required by Paragraph F below after eighty-five percent (85%) of the lots within the development have been built upon.

E. In residential subdivisions only, for final plats recorded on or after January 1, 2014 and where no homeowners association is required by this code, the County will assume both routine and long-term maintenance of stormwater detention or retention facilities in accordance with the percentage requirements of the above Paragraph D and in accordance with the provisions of the agreement required by Paragraph F below if the facility:

1. Has a capacity of at least fifteen thousand (15,000) cubic feet, and
2. Is located on property dedicated to the County.

F. For all types of development, including residential development, the responsibility of the property owner or developer and their successors for maintenance shall be set forth in a legal stormwater agreement which shall be recorded by the property owner or developer. This agreement is separate and distinct from any agreements and bonding required in accordance with a site plan or §21-36 (Subdivision). The agreement shall provide that:

1. The County will periodically conduct inspections to ensure stormwater management facilities are being properly maintained.
2. If deficiencies are found, the owner or developer and its successors will correct the deficiencies in a timely manner.
3. If applicable under Paragraph D above, the developer and its successors shall contact the county when the percentage requirement is met. At that time the county will conduct a final inspection and the developer and its successors will be notified of the results of the inspection. Any deficiencies shall be corrected by developer and its successors. If there are no deficiencies the county will accept the facilities for long term maintenance by written certificate. For purposes of this chapter, long term maintenance is defined as maintenance other than routine maintenance, such as the repair of erosion and failures that do not occur on a regular basis.

4. The property owners of all stormwater management facilities and easements shall be responsible for routine maintenance. For purposes of this chapter,



routine maintenance is defined as mowing so that vegetation never exceeds the height limitation imposed in §15-22 of this code for the underlying zoning district and lot size, and removing debris and trash that occurs on a regular basis.

5. If the property owners fail to perform routine maintenance, the county reserves the right to complete the work. In such event the cost or expenses thereof shall be chargeable to and paid by the lot owners of such property and may be collected by the county as taxes and levies are collected.

### **§9-13. General drainage improvement programs and multi-jurisdictional systems.**

A. When the board of supervisors has established a general drainage improvement program for an area having related and common drainage problems and within which the land owned or controlled by the subdivider or developer is located, the subdivider or developer shall pay a pro rata share of the cost of providing reasonable drainage facilities located outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of the subdivision or development.

B. Where stormwater resulting from a project flows into another political jurisdiction, final approval of the proposed development may be deferred until the county and the other jurisdiction mutually agree that the proposed system will be satisfactory.

### **§9-14. Monitoring and inspections, Notice to Comply**

A. The Administrator shall inspect the land-disturbing activity during construction in accordance with the County's VESCP Alternate Inspection Program for:

1. Compliance with the approved stormwater management plan;
2. Compliance with the approved erosion and sediment control plan;
3. Development, updating, and implementation of a pollution prevention plan;

and

4. Development and implementation of any additional control measures necessary to address a TMDL.

B. The Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.



C. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

D. Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.

E. Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator pursuant to the Locality's adopted and state board approved inspection program, and shall occur, at minimum, at least once every five (5) years.

#### F. Notice to comply

1. If the Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

2. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.

#### G. Action in case of violation

1. Upon determination of a violation of this ordinance, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

2. If land-disturbing activities have commenced without an approved plan, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this



ordinance, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

3. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, a stop work order shall be issued without regard to whether the permittee has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

4. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the Administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained.

5. The stop work order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the County.

6. The owner may appeal the issuance of an order to the Augusta County Circuit Court.

7. Any person violating or failing, neglecting or refusing to obey an order issued by the Administrator may be compelled in a proceeding instituted in the Augusta County Circuit Court to obey same and to comply therewith by injunction or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the stop work order shall immediately be lifted.

8. Nothing in this section shall prevent the Administrator from taking any other action authorized by this ordinance.

### **§ 9-15. Hearings and appeals**

A. Any applicant under the provision of this ordinance who is aggrieved by any action or inaction of the Administrator or its agent pursuant to this ordinance shall have the right to apply for and receive a review of such action by the Board of Supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Board of Supervisors shall be heard at the next regularly scheduled Board of Supervisors public hearing provided that the Board of Supervisors and other involved parties have at least 15 days prior notice. In reviewing the agent's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the Board of Supervisors may affirm, reverse or modify



the action. The Board of Supervisor's decision shall be final, subject only to review by the Circuit Court of Augusta County.

B. A verbatim record of the proceedings of such hearings shall be taken and filed with the Board of Supervisor meeting minutes. Depositions may be taken and read as in actions at law.

C. Final decisions of the Administrator under this ordinance shall be subject to review by the Augusta County Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities. Decisions of the Circuit Court shall be subject to review by the Court of Appeals.

**§ 9-16. Penalties, Injunctions, and other legal actions under the VESCP**

A. Violators of any VESCP provision of this article shall be guilty of a class I misdemeanor.

B. The adoption of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection (a) of this section (refer to Code of Virginia, § 62.1-44.15:63(A)).

1. A civil penalty in the amount listed on the schedule below shall be assessed against the owner of the property where the violation has occurred, for each violation of the respective offenses:

a. Commencement of land disturbing activity without an approved plan as provided in §1-4(A) shall be \$1,000.00/day.

b. A site with an approved erosion and sediment control plan or agreement in lieu of a plan found in violation of any of the 19 Minimum Standards shall be assessed civil penalties as follows:

	Single Violation	Multiple Violations (Based on # of violations, not to exceed amounts below)
1 <sup>st</sup> Inspection:	Warning issued	Warning issued
2 <sup>nd</sup> Inspection:	\$100	\$250
3 <sup>rd</sup> Inspection:	\$150	\$500
4 <sup>th</sup> Inspection:	\$200	\$1,000





5 <sup>th</sup> Inspection:	\$250	\$1,500
6 <sup>th</sup> Inspection:	Refer to Co. Atty.	Refer to Co. Atty.

c. Failure to obey a stop work order shall be \$100.00/day.

2. The permittee shall be notified of each violation and associate assessment in writing, via certified mail or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. This notification shall be sent or posted no later than the first working day after the violation.

3. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000.00, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.00. The assessment of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection (a) of this section.

C. The County, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Augusta County Circuit Court to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property will not apply for injunctive relief unless:

1. He has notified in writing the person who has violated the local program, and the County, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and

2. Neither the person who has violated the local program nor the County has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

D. In addition to any criminal penalties provided under this article, any person who violates any provision of this article may be liable to the County in a civil action for damages.

E. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. A civil action for such violation or failure may be brought by the County. Any civil penalties assessed by a court shall be paid into the treasury of the County, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.



F. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this article, the County may provide an order for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (b) or (e).

G. The County Attorney may, upon request of the Administrator, take legal action to enforce the provisions of this article.

H. Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

I. A Certificate of Occupancy and/or inspections by the County's building inspection department shall not be granted until all assessed civil penalties are paid and corrections to all erosion and sediment control practices have been made in accordance with the approved plans, notice of violation, stop work order, or agreement in lieu of a plan requirements, and accepted by the County.

J. Any violator may be required to restore land to its undisturbed condition or in accordance with a notice of violation, stop work order, or permit requirements. In the event that restoration is not undertaken within a reasonable time after notice, the County may take necessary corrective action, the cost of which shall be covered by the performance bond, or become a lien upon the property to be collected as taxes or levies, or be billed directly to the land owner.

## **§9-17. Enforcement**

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

1. The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (b) or the permit may be revoked by the Administrator.

2. If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner,



permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 9- 17 (c).

B. In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the enforcement provisions contained in §1-12 of this chapter, *mutatus mutandus*.

C. Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in the Circuit Court of Augusta County by the County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

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

1. Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:

- a. No state permit registration;
- b. No SWPPP;
- c. Incomplete SWPPP;



- d. SWPPP not available for review;
- e. No approved erosion and sediment control plan;
- f. Failure to install stormwater BMPs or erosion and sediment controls;
- g. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- h. Operational deficiencies;
- i. Failure to conduct required inspections;
- j. Incomplete, improper, or missed inspections; and
- k. Discharges not in compliance with the requirements of Section 9VAC25-880- 70 of the general permit.

2. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

3. In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.

4. Any civil penalties assessed by a court as a result of a summons issued by the Locality shall be paid into the treasury of the County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

E. Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

## **§9-18. Permits; Fees; Security for Performance**

A. No person may engage in a land disturbing activity until they have acquired the necessary permits, have paid all applicable fees per the current policy of the Board



of Supervisors, posted the required bond and installed all perimeter controls, unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance

#### B. Fees for a land disturbing permit when a SWM permit is not also required

An administrative fee shall be paid to the County at the time of submission of the land disturbance permit application. The land disturbance permit fee is separate from all other fees paid to other departments in the County. The following fee is hereby adopted and shall be applied to land disturbance permits:

1. Land disturbance: where no more than one acre disturbed -- \$500.00
2. Fees for applications requiring sediment basins -- \$100.00 each basin
3. Fees for applications requiring stream crossings -- \$100.00 each crossing
4. Fee for applications requiring storm water detention or retention facilities -- \$250.00 each facility
5. Additional fee for applications requiring newly constructed storm water conveyance channels -- \$50.00 for each channel
6. Additional fee for each resubmittal of the required erosion and sediment control plan due to the owner's failure to include required information -- \$100.00



C. Fees for coverage under the general permit shall be imposed in accordance with Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to Table 1.

**Table 1: Fees for coverage for sites purchased for development within a previously permitted common plan of development or sale**

Type of Permit	Total Fee Amount	State Share (28%)	County Share (72%)
Agreement in lieu of a plan of a SWPPP and/or Erosion and Sediment Control Plan in the construction of a single family dwelling	\$250	N/A	\$250
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$600	\$81.20	\$681.20
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)	\$2,700	\$756	\$1,944
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952	\$2,448
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing [Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]	\$4,500	\$1,260	\$3,240
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)		\$1,708	\$4,392
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688	\$6,912



D. Fees for the modification or transfer of registration statements from the general permit issued by the County shall be imposed in accordance with Table 2. If the permit modifications result in changes to stormwater management plans that require additional review by the County, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1.

**Table 2: Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities**

Type of Permit	Fee Amount
VSMP General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
VSMP General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)	\$200
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700

**E. Permit maintenance fees. (9VAC-870-830):**

The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated.



**Table 3: Permit Maintenance Fees**

<b>Type of Permit</b>	<b>Fee Amount</b>
VSMP General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
VSMP General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)	\$1,400

General permit coverage maintenance fees shall be paid annually to the County, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

F. The fees set forth in Sections C-E, above shall apply to:

1. All persons seeking coverage under the general permit.
2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.





3. Persons whose coverage under the general permit has been revoked shall apply to DEQ for an Individual Permit for Discharges of Stormwater from Construction Activities.

4. Permit and permit coverage maintenance fees outlined under Section E may apply to each general permit holder.

5. County departments, groups, organizations or agencies specified in the County of Augusta Fee Waiver Policy approved by the Board of Supervisors will pay 28% of any required VSMP fee to the state in accordance with the fee schedule in §9-16, item C.

G. No permit application fees will be assessed to:

1. Permittees who request minor modifications to permits as defined in Section 9-3 of this chapter. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this section.

2. Permittees whose permits are modified or amended at the initiative of DEQ, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.

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

I. No land-disturbing permit shall be issued until the applicant submits with his application approved erosion and sediment control plan and certification that the plan will be



followed and all perimeter erosion and sediment control measures have been installed, inspected and approved by the Administrator.

J. All applicants for permits will provide to the Administrator a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the Administrator and the County Attorney, to ensure that measures could be taken by the plan approving authority at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity.

The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the plan approving authority to take such conservation action, the Administrator may collect from the applicant any costs in excess of the amount of the surety held.

Once the Administrator approves the conservation plan and receives a completed application for land disturbing permit, applicable fees and the required surety bond, the Administrator will issue a Perimeter Erosion and Sediment Control Permit. The owner may then install all perimeter controls as detailed in the approved erosion plan as indicated by Virginia Code, §



9VAC25-870-40 (4). Once perimeter controls are functional and seeded/stabilized, the Administrator will inspect erosion measures. If installed measures are satisfactory to the Administrator, a land disturbing permit shall be issued.

Within sixty (60) days of adequate stabilization, as determined by the Administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.



	ESC Plan & Land Disturbing Permit Required	SWM Plan and VSMP Permit Required	Pollution Prevention Plan Required	Additional Control Measures - TMDL
Development < 10,000 ft <sup>2</sup> and not part of a common plan of development disturbing ≥ 10,000 ft <sup>2</sup> .	NO	NO	NO	NO
Development < 10,000 ft <sup>2</sup> , and IS part of a common plan of development disturbing ≥ 10,000 ft <sup>2</sup> but ≤ 1 acre.	YES	NO	NO	YES
Development < 10,000 ft <sup>2</sup> , and IS part of a common plan of development disturbing ≥ 1 acre.	YES	YES	YES	YES
Development ≥ 10,000 ft <sup>2</sup> and < 1 acre and IS NOT part of a common plan of development disturbing ≥ 1 acre.	YES	NO	NO	YES
Development disturbing ≥ 1 acre or IS part of a common plan of development disturbing ≥ 1 acre	YES	YES	YES	YES

Agreement-In-Lieu of an Erosion and Sediment Control Plan and SWPPP may be permitted for construction of Single Family Dwelling



**Appendix 4.2 – VSMP approval letter**



**COMMONWEALTH of VIRGINIA**

*DEPARTMENT OF ENVIRONMENTAL QUALITY*  
Street address: 629 East Main Street, Richmond, Virginia 23219  
Mailing address: P.O. Box 1105, Richmond, Virginia 23218  
Fax: 804-698-4019 - TDD (804) 698-4021  
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Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director  
(804) 698-4020  
1-800-592-5482

June 19, 2014

Patrick Coffield, County Administrator  
Augusta County  
P.O. Box 590  
Verona, VA 24482

Dear Mr. Coffield:

In accordance with §62.1-44.15:27 G of the Virginia Stormwater Management Act (Act), Department of Environmental Quality (DEQ) has completed the review of Augusta County’s final Virginia Stormwater Management Program (VSMP) application package submitted on January 15, 2014. Based on this review, DEQ has determined that Augusta County’s VSMP is consistent with the Act, the VSMP regulation and the General VPDES Permit for Discharges of Stormwater from Construction Activities.

In light of this determination, DEQ approves Augusta County’s VSMP and the County is authorized to operate a VSMP beginning on July 1, 2014. Please note that this approval is based on the content of the application package. Any changes made to the documents in the package after the approval date, including changes to the adopted ordinance, may necessitate DEQ evaluation as part of its compliance review of your approved VSMP.

Thank you for your cooperation in developing a VSMP. We look forward to continuing to assist the County with the implementation of its VSMP.

Sincerely,

David K. Paylor

cc: Melanie Davenport, Director, DEQ Water Division  
Frederick Cunningham, Director, DEQ Office of Water Permits  
Joan Salvati, Manager, DEQ Local Government Stormwater Programs