

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

[Department of Conservation and Recreation]
2011 Session of the General Assembly

**Proposal Identifier Number [NR-DCR-1]
Draft Legislation**

A BILL to amend the Code of Virginia by adding a section numbered 10.1-104.5, relating to the establishment of nutrient management planning requirements in the Chesapeake Bay Watershed.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-104.5 as follows:

§ 10.1-104.5. Nutrient management plans required for specified farms.

A. As used in this section:

"Board" means the Virginia Soil and Water Conservation Board.

"Crop" means cultivated plants or agricultural produce such as grain, silage, forages, oilseeds, vegetables, fruit, nursery stock, or turfgrass.

"Farm" means any land on which a crop, hay, pasture, or a specialty crop is produced by an operator.

"Hay" means a grass, legume, or other plants, such as clover or alfalfa, which is cut and dried for feed, bedding, or mulch.

"Nutrient" means an element or compound essential as raw materials for plant growth and development such as carbon, nitrogen, and phosphorus.

"Nutrient management plan" or "plan" means a plan prepared in accordance with § 10.1-104.2 by a Virginia certified nutrient management planner to manage the amount, placement, timing, and application of manure, fertilizer, biosolids, or other materials containing plant nutrients in order to reduce nutrient loss to the environment and to produce crops. The nutrient management plan shall cover all acreage to which nutrients are applied.

"Operator" means any person operating or with an operational interest in a farm or farms subject to the requirements of this section.

"Pasture" means land which supports the grazing of animals for forages.

"Specialty crop" means vegetables, tree crops, perennial vine crops, ornamentals, horticultural crops, and other similar crops.

B. Any operator that cumulatively applies nutrients to 100 or more acres annually in the Chesapeake Bay Watershed shall develop and implement a nutrient management plan in accordance with the following schedule:

1. By March 1, 2013 for operators applying nutrients to 500 or more acres;

2. By March 1, 2015 for operators applying nutrients to 200 or more acres; and

3. By March 1, 2017 for operators applying nutrients to 50 or more acres.

4. Any operator who becomes subject to the requirements of this section after the dates referenced above shall develop and implement a nutrient management plan within 6 months of meeting or exceeding such thresholds.

47 C. A copy of any initial nutrient management plan developed pursuant to subsection B
48 shall be filed with the Board. By March 1 of each year following the submission of the initial
49 nutrient management plan, any operator subject to the requirements of this section shall file an
50 annual nutrient management report with the Board.

51 D. The annual nutrient management report shall include the following information:

52 1. A copy of the current nutrient management plan identification cover sheet consistent
53 with regulations promulgated pursuant to §10.1-104.2;

54 2. A summary of nutrient related information for the farm for the previous calendar year
55 on a form approved by the Board and containing at a minimum the following information by
56 crop type and acreage i) total commercial fertilizer nutrients applied; ii) total manure applied and
57 type of manure; and iii) total biosolids applied.

58 3. A certification statement signed by the operator verifying that the information in the
59 report is accurate and that total acreage of all farmland to which nutrients are applied will be
60 managed consistent with the nutrient management plan during the current cropping season and
61 upcoming cropping year.

62 E. Records shall be maintained by the operator for each farm indicating operator name;
63 identification numbers for fields and acreage; crop or plant type; date, rate, and type of nutrient
64 application (fertilizer, manure, etc.); and method of application (broadcast, starter, topdress,
65 sidedress, injected) on a form approved by the Board.

66 F. The Department may conduct inspections to ensure compliance with the nutrient
67 management plans. The Department will target inspection of at least 10% of the farms with
68 nutrient management plans annually. The nutrient management plan shall be made available to
69 Department personnel or their authorized agents upon request. Department personnel or their
70 authorized agents may review the nutrient management plan, records and other indicators of
71 compliance at the site of the farm or at a location agreed to by the Department and the operator
72 of the farm. In conducting an inspection and reviewing the nutrient management plan and
73 records, the Department shall:

74 1. Provide the operator at least 48 hours advance notice;

75 2. Enter the property at a reasonable time that allows the operator to be present; and

76 3. Conduct the evaluation in a manner that minimizes any inconvenience to the operator.

77 G. The Board may impose penalties for noncompliance with this section.

78 1. In assessing penalties for noncompliance, the Board shall follow the informal fact-
79 finding procedures of the Virginia Administrative Process Act (§ 2.2-4019). The owner may
80 seek judicial review of the final decision of the Board pursuant to the provisions of the
81 Administrative Process Act (§ 2.2-4000 et seq.).

82 2. Noncompliance shall include:

83 a. Failure to cooperate with the Department's or its authorized agent's request to conduct
84 an inspection and review of a nutrient management plan and records relating to the plan;

85 b. Failure to have a current nutrient management plan as required; or

86 c. Failure to properly implement a nutrient management plan.

87 3. Where it is determined that an operator is not in compliance with the requirements of
88 this section, the Department shall issue a written notice to the operator. If the written notice is
89 not addressed within 60 days of issuance, the operator and the Department shall develop a
90 corrective action plan to remedy the noncompliance. If the operator does not implement any
91 corrective action within the timeframe specified in the corrective action plan, the Board may
92 impose a penalty not to exceed \$250 per day for which the corrective action is not implemented.
93 The penalty shall not exceed a total of \$5,000 for a 365 day period. Additionally, the Board may
94 direct the Department to deny or restrict future cost-share payments until the Department
95 determines the operator is in compliance with the provisions of this section.

- 96 4. In determining the amount of the penalty, the Board shall consider:
97 a. The willfulness of the violation, the extent to which the existence of the violation was
98 known to but uncorrected by the operator, and the extent to which the operator exercised
99 reasonable care;
100 b. Any actual harm to water quality or threat to human health;
101 c. Any steps taken to cease, remove, or mitigate the violation; and
102 d. The extent to which the current violation is part of a recurrent pattern of the same or
103 similar type of violation committed by the operator.
104 5. Any civil penalty imposed under this subsection shall be paid to the Nutrient
105 Management Training and Certification Fund established in § 10.1-104.2 and may be utilized for
106 the implementation of this section and the nutrient management program.
107 6. In cases of inability to collect the civil penalty or failure of any operator to pay all or a
108 portion of the penalty, the Board may refer the matter to the Office of the Attorney General
109 which shall institute an action in the appropriate court to recover the penalty. Any civil penalty
110 assessed shall act as a lien on the property of the operator against whom the penalty has been
111 assessed.
112 H. The requirements of this section shall not apply to those farms that are subject to
113 nutrient management requirements pursuant to § 62.1-44.17:1 or § 62.1-44.17:1.1.
114 I. The Board may adopt regulations to further the administration of this section.
115 **2 That the Department shall consider alternatives to improve and streamline nutrient**
116 **management plan development.**

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

[Department of Conservation and Recreation]
2011 Session of the General Assembly

**Proposal Identifier Number [NR-DCR-2]
Draft Legislation**

A BILL to amend the Code of Virginia by adding a section numbered 10.1-104.5, relating to limitations on the composition and use of lawn fertilizers and deicing agents.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-104.5 as follows:

§ 10.1-104.5. Use and application of lawn fertilizers and deicing agents; exemptions; penalty.

A. As used in this section:

"Fertilizer" means any substance containing one or more recognized plant nutrients, which is used for its plant nutrient, and which is designed for use, or claimed to have value, in promoting plant growth.

"Lawn fertilizer" or "turf fertilizer" means any fertilizer, whether distributed by a property owner, renter, commercial entity, or locality, distributed for nonagricultural use such as lawns, golf courses, parks, and cemeteries. Lawn fertilizer does not include fertilizer products intended for gardening, tree, shrub, and indoor plant application.

B. Any locality operating a program under the regulatory oversight of the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.), the Erosion and Sediment Control Law (§ 10.1-560 et seq.), the Stormwater Management Act (§ 10.1-603.1 et seq.), or other nonpoint source regulations promulgated by the Department of Conservation and Recreation or the Soil and Water Conservation Board shall regulate all provisions of this section under § 15.2-924.1.

C. Except as provided in subsection D, effective January 1, 2014 no person shall:

1. Apply on any lawn, fertilizer that is labeled as containing more than zero percent phosphorus or other compound containing phosphorus, such as phosphate;

2. Apply lawn fertilizer or turf fertilizer after December 1 of any calendar year or prior to March 1 of any calendar year or at any other time when the ground is frozen; or

3. Cause fertilizer to be applied to or run onto any impervious surface, including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer shall be immediately contained and collected, and either legally applied to turf or placed in an appropriate container.

D. The prohibition against the use of fertilizer under subsection B shall not apply to the following:

1. Newly established turf or lawn areas during their first growing season;

2. Turf or lawn area where soil tests performed within the past three years confirm that the phosphorus levels indicate the need for phosphorus fertilizer applications based upon the Department of Conservation and Recreation's nutrient management standards and criteria established pursuant to § 10.1-104.2. The fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application based on the soil test;

47 3. Gardens, including vegetable and flower, trees, and shrubs, and indoor applications,
48 including greenhouses; or

49 4. Yard waste compost or other similar materials that are primarily organic in nature and
50 are applied to improve the physical condition of the soil.

51 However, the application of fertilizers under this subsection shall be consistent with the
52 nutrient management standards and criteria of the Department of Conservation and Recreation
53 pursuant to § 10.1-104.2.

54 E. No business shall:

55 1. Store fertilizer unless protected from exposure to precipitation and precipitation runoff;

56 or

57 2. Allow any damaged fertilizer containers or spilled fertilizer to be exposed to
58 precipitation or runoff from precipitation or to be discarded or washed into storm drains.

59 F. Effective January 1, 2014, no person shall display for sale any fertilizer that is labeled
60 as lawn fertilizer or turf fertilizer and containing more than zero percent phosphorus or other
61 compound containing phosphorus. However, should the conditions of subsection B be met,
62 fertilizer with greater than zero percent phosphorus may be sold but user access must be limited
63 to this product.

64 G. Effective January 1, 2014, no person shall sell any deicing agent containing urea or
65 other forms of nitrogen or phosphorus intended for application to parking lots, roadways, and
66 sidewalks or other paved surfaces for use in the Commonwealth.

67 H. Effective January 1, 2014, a sign referencing the requirements of this section and the
68 effects of excessive fertilizer application on state waters such as the Chesapeake Bay shall be
69 prominently displayed where fertilizers are sold. A business shall be deemed to have complied
70 with this requirement by displaying a sign consistent with a sample sign that the Department
71 shall design and make available.

72 I. Any person who violates any provision of this section may be assessed a civil penalty
73 by a locality not to exceed \$250 per violation per day or a locality may also accept a civil charge
74 of up to \$250 per violation per day. The penalty shall not exceed a total of \$2,000 for a 365 day
75 period. All civil penalties assessed under this section shall be deposited in an account dedicated
76 to implementation of this section.

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

[Department of Conservation and Recreation]
2011 Session of the General Assembly

Proposal Identifier Number [NR-DCR-3]
Draft Legislation

A BILL to amend and reenact §§ 10.1-603.8:1 and 15.2-2243 of the Code of Virginia, relating to the establishment of the Nonpoint Nutrient Offset Program.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.8:1 and 15.2-2243 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-603.8:1. Stormwater nonpoint nutrient offsets.

A. As used in this section:

"Best management practice (BMP)" or "BMP" means both structural or nonstructural practices and other management practices used to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of construction activities. Such practices are designed in accordance with standards and specifications provided on the Virginia Stormwater BMP Clearinghouse website or in the Virginia Stormwater Management Handbook.

"Directly discharge to" means the direct conveyance of stormwater from a land disturbing activity into state waters. For purposes of both concentrated discharges through pipes, ditches, MS4s, or other conveyances and sheet flow, the direct discharge is located where the stormwater first enters a state water, either on or off-site.

"Impaired water" means a water contained in the current 303(d) Report on Impaired Waters in Virginia published by the Department of Environmental Quality that does not meet water quality standards and is impaired by one or more pollutants.

"Maximum extent practicable" or "MEP" means thoroughly considering the use of BMPs in alternative site designs in order to demonstrate to the satisfaction of the permit issuing authority that an offset should be allowed for the construction activity. To fully meet this standard, there is an expectation for alternative site designs and calculations to be provided to the permit issuing authority, as well as narrative discussing the options considered. MEP necessarily involves the use of good engineering practices and professional judgment and interaction between the buyer, his professional, and the permit issuing authority.

"Nonpoint nutrient offset" means nutrient reductions certified by the Department as nonpoint nutrient offsets under the Chesapeake Bay Watershed Virginia Stormwater Nonpoint Nutrient Exchange Offset Program (§ 62.1-44.19:12 et seq.) under § 10.1-603.8:1.B.

"Nutrient" means phosphorus.

"Permit issuing authority" has the same meaning as in § 10.1-603.2 and includes any locality that has adopted a local stormwater management program.

"Practicable" means that a buyer and his professional have demonstrated to the satisfaction of the permit issuing authority using good engineering practices and professional

45 judgment that full compliance is not reasonably achievable on-site in light of factors including
46 but not limited to site constraints, cost associated with potential on-site best management
47 practices, and local conditions. Practicable necessarily involves the professional judgment of the
48 buyer and his professional in determining what is appropriate for a given construction project's
49 requirements and site constraints.

50 "Tributary" has the same meaning as in § 62.1-44.19:13.

51 B. The Department shall operate a Virginia Stormwater Nonpoint Nutrient Offset
52 Program that shall certify nonpoint nutrient offsets that may be used to comply with water quality
53 requirements for land disturbing activities operating under a General Virginia Stormwater
54 Management Program (VSMP) Permit for Discharges of Stormwater from Construction
55 Activities or a Construction Individual Permit. Best management practices that are certified as
56 offsets shall achieve reductions beyond those already required by or funded under federal or state
57 law or a Total Maximum Daily Load Watershed Implementation Plan associated with such best
58 management practice.

59 Any person may create an offset and submit such offset to the Department for
60 consideration for certification. July 1, 2011 shall serve as the reference point date for the
61 condition of the land prior to conversion from which you can claim nutrient reductions.

62 Localities may trade certified credits with another locality provided that such trading does
63 not lead to a local water quality impairment and that the other conditions of this section are met.
64 Certified nonpoint nutrient offset credits may also be utilized to meet facility point source
65 reductions required pursuant to § 62.1-44.19:12 et seq. with the approval of the Department of
66 Environmental Quality.

67 A permit issuing authority ~~may~~ shall allow compliance with stormwater nonpoint nutrient
68 runoff water quality criteria established pursuant to § 10.1-603.4, in whole or in part, through the
69 use of the permittee's acquisition of certified nonpoint nutrient offsets in the same tributary in
70 accordance with this section. When approving the use of a certified nonpoint nutrient offset, any
71 entity recognized as a permit issuing authority shall utilize the water quality technical criteria of
72 the Stormwater Management Act and attendant regulations when conducting alternative site
73 design and final plan reviews or Board approved equivalent criteria.

74 C. No permit issuing authority shall allow the use of nonpoint nutrient offsets to address
75 water quantity control requirements. No permit issuing authority shall allow the use of nonpoint
76 nutrient offsets in contravention of ~~local~~ water quality-based limitations: (i) consistent with
77 determinations made pursuant to subsection B of § 62.1-44.19:7, (ii) contained in a municipal
78 separate storm sewer system (MS4) program plan approved by the Department, or (iii) as
79 otherwise may be established or approved by the Board. Where it is determined that a
80 construction activity will directly discharge to an impaired water, the permit issuing authority
81 shall determine whether the nutrient runoff from the construction activity may further contribute
82 to the impairment. In such situation, an offset shall not be allowed unless such offset is located
83 within the upstream portion of the watershed of the impaired segment and it fully offsets any
84 contributions from the land disturbing activity to the impairment.

85 D. ~~A~~ After a land disturbing activity's General Virginia Stormwater Management
86 Program (VSMP) Permit for Discharges of Stormwater from Construction Activities on-site
87 requirements or Construction Individual Permit on-site requirements have been met, as well as
88 the required control of any limiting nutrients in a local TMDL, a permit issuing authority ~~may~~
89 only shall allow the use of nonpoint nutrient offsets ~~when the permit applicant demonstrates to~~
90 the satisfaction of the permit issuing authority that (i) alternative site designs have been

91 ~~considered that may accommodate on-site best management practices, (ii) on-site best~~
92 ~~management practices have been considered in alternative site designs to the maximum extent~~
93 ~~practicable, (iii) appropriate on-site best management practices will be implemented, and (iv) full~~
94 ~~compliance with postdevelopment nonpoint nutrient runoff compliance requirements cannot~~
95 ~~practicably be met on-site. Offset alternatives under this section shall be utilized before options~~
96 ~~for the purposes of addressing stormwater water quality under § 15.2-2243 or any state buy-down~~
97 ~~program under the Virginia Stormwater Management Regulations or local fee-in-lieu-of program~~
98 ~~may be considered. In each of these programs, the best management practices necessary to fully~~
99 ~~mitigate for the land disturbing activities shall be in place at the time the land disturbing activity~~
100 ~~begins.~~

101 E. Documentation of the permittee's acquisition of nonpoint nutrient offsets shall be
102 provided to the permit issuing authority in a certification from an offset broker documenting the
103 number of ~~phosphorus~~-nonpoint nutrient offsets acquired and the associated ratio of ~~nitrogen~~
104 other allowable nonpoint nutrient offsets at the offset generating facility. The offset broker shall
105 pay the permit issuing authority a water quality enhancement fee equal to six percent of the
106 amount paid by the permittee for the nonpoint nutrient offsets. If a locality is not the permit
107 issuing authority, such fee shall be deposited into the Virginia Stormwater Management Fund
108 established by § 10.1-603.4:1. If the permit issuing authority is a locality, such fees shall be used
109 solely in the locality where the associated stormwater permit applies for inspection and
110 maintenance of stormwater best management practices, stormwater educational programs, or
111 programs designed to protect or improve local water quality.

112 F. Except as limited in subsection C in impaired waters, Nonpoint nonpoint nutrient
113 offsets used pursuant to subsection B shall be generated in the same or adjacent eight digit
114 hydrologic unit code as defined by the United States Geological Survey as the permitted site.
115 Nonpoint nutrient offsets outside the same or adjacent eight digit hydrologic unit code may only
116 be used if it is determined by the permit issuing authority that no nonpoint nutrient offsets are
117 available within the same or adjacent eight digit hydrologic unit code when the permit issuing
118 authority accepts the final site design. In such cases, and subject to other limitations imposed in
119 this section, nonpoint nutrient offsets generated within the same tributary may be used. In no case
120 shall nonpoint nutrient offsets from another tributary be used unless such strategy is approved in
121 a TMDL Watershed Implementation Plan.

122 G. For that portion of a site's compliance with stormwater nonpoint nutrient runoff water
123 quality criteria being obtained through nonpoint nutrient offsets, a permit issuing authority shall
124 (i) use a 1:1 ratio of the nonpoint nutrient offsets to the site's remaining postdevelopment
125 nonpoint nutrient runoff compliance requirement and (ii) assure that the nonpoint nutrient offsets
126 are secured in perpetuity. All offsets must be placed under a conservation easement, open space
127 easement, restrictive covenant, or other instrument to ensure that the nutrient reducing offsets
128 will remain in place in perpetuity and that the offsets will be appropriately managed and
129 monitored. If structural, the BMPs shall have maintenance agreements developed and recorded
130 in accordance with the Virginia Stormwater Management Regulations.

131 The recorded restrictive covenants or other appropriate instrument shall provide the
132 broker, the holder of the covenant or recorded instrument, and the Department and their
133 authorized agents, with advance notice, the right to enter and go on the offset generating facility
134 to inspect and take actions necessary to verify compliance. The instrument shall be enforceable
135 by the broker, holder, and the Department.

136 H. No permit issuing authority may grant an exception to, or waiver of, postdevelopment
137 nonpoint nutrient runoff compliance requirements unless off-site options, including offsets
138 authorized under this section, pro rata share provisions of § 15.2-2243 when allowed, or any state
139 buy-down programs authorized under the Virginia Stormwater Management Regulations have
140 been considered and found not available.

141 ~~I. In considering off-site options, the permit issuing authority shall give priority to the use~~
142 ~~of nonpoint nutrient offsets unless a local fee in lieu of, pro rata share, or similar program has~~
143 ~~been approved by the Board as being substantially equivalent in nutrient reduction benefits.~~
144 ~~However, prior to approval by the Board, there shall be a rebuttable presumption that any local~~
145 ~~government fee in lieu of, pro rata share, or similar program is substantially equivalent in~~
146 ~~nutrient reduction benefits. The Board shall establish criteria for determining whether any such~~
147 ~~local program is substantially equivalent, which shall be used during the local stormwater~~
148 ~~management program approval process in § 10.1-603.3.~~

149 ~~J. The Board may establish by regulation as necessary, additional elements of a~~
150 ~~stormwater nonpoint nutrient offset program for portions of the Commonwealth that do not drain~~
151 ~~into the Chesapeake Bay.~~

152 ~~K. J.~~ Nutrient reductions obtained through nonpoint nutrient offsets shall be credited
153 toward compliance with any nutrient allocation assigned to a municipal separate storm sewer
154 system in a Virginia Stormwater Management Program Permit or Total Maximum Daily Load
155 applicable to the location where the activity for which the nonpoint nutrient offsets are used takes
156 place. If the activity for which the nonpoint nutrient offsets are used does not discharge to a
157 municipal separate storm sewer system, the nutrient reductions shall be credited toward
158 compliance with the applicable nutrient allocation.

159 K. The nonpoint nutrient offset broker shall provide an annual report to the Department
160 that includes the current ledger and photographs that fully document the status of the certified
161 offset generating facility. Should an acquisition of a nonpoint nutrient offset credit occur from
162 the offset generating facility, an updated ledger indicating at a minimum the amount of offsets as
163 well as information identifying the buyer and the location of the buyer's project shall be provided
164 to the Department within seven business days of the transaction.

165 L. In order to properly credit and account for allowed nonpoint nutrient offsets, a
166 qualifying local program shall report to the Department in accordance with Department
167 procedures, information regarding all off-site reductions that have been authorized to meet state
168 or local water quality requirements.

169 M. On its website, the Department shall maintain a list of certified nonpoint nutrient
170 offsets and the credits against such banks.

171 § 15.2-2243. Payment by subdivider of the pro rata share of the cost of certain facilities.

172 A. A locality may provide in its subdivision ordinance for payment by a subdivider or
173 developer of land of the pro rata share of the cost of providing reasonable and necessary
174 sewerage, water, and drainage facilities, located outside the property limits of the land owned or
175 controlled by the subdivider or developer but necessitated or required, at least in part, by the
176 construction or improvement of the subdivision or development; however, no such payment shall
177 be required until such time as the governing body or a designated department or agency thereof
178 has established a general sewer, water, and drainage improvement program for an area having
179 related and common sewer, water, and drainage conditions and within which the land owned or
180 controlled by the subdivider or developer is located or the governing body has committed itself
181 by ordinance to the establishment of such a program. Such regulations or ordinance shall set forth

182 and establish reasonable standards to determine the proportionate share of total estimated cost of
183 ultimate sewerage, water, and drainage facilities required to adequately serve a related and
184 common area, when and if fully developed in accord with the adopted comprehensive plan, that
185 shall be borne by each subdivider or developer within the area. Such share shall be limited to the
186 amount necessary to protect water quality based upon the pollutant loading caused by the
187 subdivision or development or to the proportion of such total estimated cost which the increased
188 sewage flow, water flow, and/or increased volume and velocity of storm water runoff to be
189 actually caused by the subdivision or development bears to total estimated volume and velocity
190 of such sewage, water, and/or runoff from such area in its fully developed state. In calculating the
191 pollutant loading caused by the subdivision or development or the volume and velocity of storm
192 water runoff, the governing body shall take into account the effect of all on-site storm water
193 facilities or best management practices constructed or required to be constructed by the
194 subdivider or developer and give appropriate credit therefor.

195 Stormwater nutrient load reductions addressed under this section shall only be those
196 water quality requirements beyond those required to be achieved on-site pursuant to a General
197 Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from
198 Construction Activities or Construction Individual Permit issued in accordance with the Virginia
199 Stormwater Management law (§ 10.1-603.2 et seq.) and attendant regulations and where a
200 nonpoint nutrient offset certified and allowable in accordance with § 10.1-603.8:1 is not
201 available.

202 Where stormwater VSMP permit requirements are addressed in accordance with this
203 section, all credits and reductions shall be reported to the Department of Conservation and
204 Recreation in accordance with § 10.1-603.8:1.

205 B. Each such payment received shall be expended only for necessary engineering and
206 related studies and the construction of those facilities identified in the established sewer, water,
207 and drainage program; however, in lieu of such payment the governing body may provide for the
208 posting of a personal, corporate or property bond, cash escrow or other method of performance
209 guarantee satisfactory to it conditioned on payment at commencement of such studies or
210 construction. The payments received shall be kept in a separate account for each of the individual
211 improvement programs until such time as they are expended for the improvement program. All
212 bonds, payments, cash escrows or other performance guarantees hereunder shall be released and
213 used, with any interest earned, as a tax credit on the real estate taxes on the property if
214 construction of the facilities identified in the established water, sewer and drainage programs is
215 not commenced within twelve years from the date of the posting of the bond, payment, cash
216 escrow or other performance guarantee.

217 C. Any funds collected for pro rata programs under this section prior to July 1, 1990, shall
218 continue to be held in separate, interest bearing accounts for the project or projects for which the
219 funds were collected and any interest from such accounts shall continue to accrue to the benefit
220 of the subdivider or developer until such time as the project or projects are completed or until
221 such time as a general sewer and drainage improvement program is established to replace a prior
222 sewer and drainage improvement program. If such a general improvement program is
223 established, the governing body of any locality may abolish any remaining separate accounts and
224 require the transfer of the assets therein into a separate fund for the support of each of the
225 established sewer, water, and drainage programs. Upon the transfer of such assets, subdividers
226 and developers who had met the terms of any existing agreements made under a previous pro rata
227 program shall receive any outstanding interest which has accrued up to the date of transfer, and

228 such subdividers and developers shall be released from any further obligation under those
229 existing agreements. All bonds, payments, cash escrows or other performance guarantees
230 hereunder shall be released and used, with any interest earned, as a tax credit on the real estate
231 taxes on the property if construction of the facilities identified in the established water, sewer and
232 drainage programs is not commenced within twelve years from the date of the posting of the
233 bond, payment, cash escrow or other performance guarantee.

234 **2. All nonpoint nutrient offset credits that have been certified by the Department of**
235 **Environmental Quality shall be transferred to the books of the Department of**
236 **Conservation and Recreation and shall remain as certified credits.**

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

Department of Conservation and Recreation
2011 Session of the General Assembly

Proposal Identifier Number [NR-DCR-4]
Draft Legislation

A BILL to amend and reenact § 10.1-603.3 of the Code of Virginia, relating to the adoption and establishment of stormwater programs by localities.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.3 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-603.3. Establishment of stormwater management programs by localities.

A. ~~All localities~~ Any locality located within Tidewater Virginia as defined by the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.), or any locality that is partially or wholly designated as required to obtain coverage under an MS4 permit under the provisions of the federal Clean Water Act, shall be required to adopt a local stormwater management program for land disturbing activities consistent with the provisions of this article. Each locality shall submit an application package to the Board for review and approval according to a schedule set by the Board. Such schedule shall require adoption no sooner than 15 12 months and not more than 24 24 months following the effective date of the regulation that establishes local program criteria and delegation procedures, unless the Board deems that the Department's review of the local program warrants an extension up to an additional 12 months, provided the locality has made substantive progress. A locality may submit an application to the Board for review and approval adopt a local stormwater management program at an earlier date with the consent of the Board. The Board shall delegate a local stormwater management program to a locality when it deems a program consistent with this article. Each Board approved program shall become effective on July 1, 2014 or as soon after that date as consistency is demonstrated.

B. ~~Any locality not specified in subsection A may elect to adopt and administer a local stormwater management program for land disturbing activities pursuant to this article. Such localities shall inform the Board and the Department of their initial intention to seek delegation for the stormwater management program for land disturbing permits within six months following the effective date of the regulation that establishes local program criteria and delegation procedures. Thereafter, the Department shall provide an annual schedule by which localities can submit applications for delegation.~~

C. ~~In the absence of the delegation of a stormwater management program to a locality, the Department will administer the responsibilities of this article within the given jurisdiction in accordance with an adoption and implementation schedule set by the Board.~~

D. The Department shall develop a model ordinance for establishing a local stormwater management program consistent with this article.

E. ~~C. Each locality that is required to or that elects to adopt and administer an approved local stormwater management program shall, by ordinance, establish a local stormwater~~

45 management program that may be administered in conjunction with a local MS4 program and a
46 local erosion and sediment control program, which shall include, but is not limited to, the
47 following:

48 1. Consistency with regulations adopted in accordance with provisions of this article;

49 2. Provisions for long-term responsibility for and maintenance of stormwater
50 management control devices and other techniques specified to manage the quality and quantity of
51 runoff; and

52 3. Provisions for the integration of locally adopted stormwater management programs
53 with local erosion and sediment control, flood insurance, flood plain management, and other
54 programs requiring compliance prior to authorizing construction in order to make the submission
55 and approval of plans, issuance of permits, payment of fees, and coordination of inspection and
56 enforcement activities more convenient and efficient both for the local governments and those
57 responsible for compliance with the programs.

58 ~~F. D. The Board shall delegate a local stormwater management program to a locality~~
59 ~~when it deems a program consistent with this article~~ Until program consistency is approved for a
60 locality, the Department shall continue to issue general permit coverage in that locality.

61 G. E. Delegated localities may enter into agreements with soil and water conservation
62 districts, adjacent localities, or other entities to carry out the responsibilities of this article.

63 H. F. Localities with a Board approved ~~that adopt a local~~ stormwater management
64 program shall have the authority to issue a consolidated stormwater management and erosion and
65 sediment control permit that is consistent with the provisions of the Erosion and Sediment
66 Control Law (§ 10.1-560 et seq.).

67 I. G. Any local stormwater management program adopted pursuant to and consistent with
68 this article and approved by the Board shall be considered to meet the stormwater management
69 requirements under the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.) and attendant
70 regulations.

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

[Department of Conservation and Recreation]
2011 Session of the General Assembly

Proposal Identifier Number [NR-DCR-5]
Draft Legislation

A BILL to amend and reenact §§ 10.1-2100 through 10.1-2102, 10.1-2109, and 10.1-2110 of the Code of Virginia, relating to the expansion of Chesapeake Bay Preservation Act to cover the entire Chesapeake Bay Watershed.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2100 through 10.1-2102, 10.1-2109, and 10.1-2110 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2100. Cooperative state-local program.

A. Healthy state and local economies and a healthy Chesapeake Bay are integrally related; balanced economic development and water quality protection are not mutually exclusive. The protection of the public interest in the Chesapeake Bay, its tributaries, and other state waters and the promotion of the general welfare of the people of the Commonwealth require that: (i) the counties, cities, and towns of ~~Tidewater Virginia~~ Virginia's Chesapeake Bay Watershed incorporate general water quality protection measures, including measures that advance strategies to address the Chesapeake Bay Total Maximum Daily Load established by the United States Environmental Protection Agency, into their comprehensive plans, zoning ordinances, and subdivision ordinances; (ii) the counties, cities, and towns of ~~Tidewater Virginia~~ Virginia's Chesapeake Bay Watershed establish programs, in accordance with criteria established by the Commonwealth, that define and protect certain lands, hereinafter called Chesapeake Bay Preservation Areas, which if improperly developed may result in substantial damage to the water quality of the Chesapeake Bay and its tributaries; (iii) the Commonwealth make its resources available to local governing bodies by providing financial and technical assistance, policy guidance, and oversight when requested or otherwise required to carry out and enforce the provisions of this chapter; and (iv) all agencies of the Commonwealth exercise their delegated authority in a manner consistent with water quality protection provisions of local comprehensive plans, zoning ordinances, and subdivision ordinances when it has been determined that they comply with the provisions of this chapter.

B. Local governments have the initiative for planning and for implementing the provisions of this chapter, and the Commonwealth shall act primarily in a supportive role by providing oversight for local governmental programs, by establishing criteria as required by this chapter, and by providing those resources necessary to carry out and enforce the provisions of this chapter.

§ 10.1-2101. Definitions.

For the purposes of this chapter, the following words shall have the meanings respectively ascribed to them:

45 "Board" means Chesapeake Bay Local Assistance Board.

46 "Chesapeake Bay Preservation Area" means an area delineated by a local government in
47 accordance with criteria established pursuant to § 10.1-2107.

48 "Criteria" means criteria developed by the Board pursuant to § 10.1-2107 of this chapter
49 for the purpose of determining the ecological and geographic extent of Chesapeake Bay
50 Preservation Areas and for use by local governments in permitting, denying, or modifying
51 requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas.

52 "Department" means the Department of Conservation and Recreation.

53 "Director" means the Director of the Department of Conservation and Recreation.

54 "Person" means any corporation, association, or partnership, one or more individuals, or
55 any unit of government or agency thereof.

56 "Secretary" means the Secretary of Natural Resources.

57 "State waters" means all waters, on the surface or under the ground, wholly or partially
58 within or bordering the Commonwealth or within its jurisdiction.

59 "Virginia's Chesapeake Bay Watershed" means the following jurisdictions: The Counties
60 of Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath,
61 Bedford, Botetourt, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesterfield,
62 Clarke, Craig, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Frederick,
63 Giles, Gloucester, Goochland, Greene, Hanover, Henrico, Highland, Isle of Wight, James City,
64 King and Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison,
65 Mathews, Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland,
66 Nottoway, Orange, Page, Powhatan, Prince Edward, Prince George, Prince William,
67 Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Shenandoah, Spotsylvania,
68 Stafford, Surry, Warren, Westmoreland, and York; the Cities of Alexandria, Buena Vista,
69 Charlottesville, Chesapeake, Colonial Heights, Covington, Fairfax, Falls Church, Fredericksburg,
70 Hampton, Harrisonburg, Hopewell, Lexington, Lynchburg, Manassas, Manassas Park, Newport
71 News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Staunton, Suffolk, Virginia
72 Beach, Waynesboro, Williamsburg, and Winchester.

73 "~~Tidewater Virginia~~" means the following jurisdictions: ~~The Counties of Accomack,~~
74 ~~Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico,~~
75 ~~Isle of Wight, James City, King George, King and Queen, King William, Lancaster, Mathews,~~
76 ~~Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William,~~
77 ~~Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York, and the Cities of Alexandria,~~
78 ~~Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell,~~
79 ~~Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach,~~
80 ~~and Williamsburg.~~

81 § 10.1-2102. Chesapeake Bay Local Assistance Board established.

82 A. There is hereby established the Chesapeake Bay Local Assistance Board. The Board
83 shall consist of nine ~~Tidewater Virginia~~ residents of Virginia's Chesapeake Bay Watershed
84 appointed by the Governor, subject to confirmation by the General Assembly. The Board
85 membership shall be geographically representative of the Chesapeake Bay watershed and consist
86 of at least no more than one individual member from each any Planning District in which there is
87 located one or more Tidewater Virginia localities within the Chesapeake Bay watershed.
88 Members of the Board shall be representative of, but not limited to, citizens with an interest in
89 and experience with local government, business, the use and development of land, agriculture,
90 forestry and the protection of water quality. Upon initial appointment, three members shall be

91 appointed for four-year terms, three for three-year terms, and three for two-year terms.
92 Thereafter, all members shall be appointed for terms of four years each. Vacancies occurring
93 other than by expiration of a term shall be filled by the Governor in the same manner as the
94 original appointment for the unexpired portion of the term.

95 B. The Board shall adopt rules and procedures for the conduct of its business.

96 C. The Board shall elect a chairman from among its members.

97 D. A quorum shall consist of ~~five~~ a majority of the members. The decision of a majority
98 of those members present and voting shall constitute a decision of the Board; however, a
99 favorable vote of the majority of the Board membership is required to adopt criteria pursuant to §
100 10.1-2107 of this chapter or for any action taken by the Board under subdivision 8 of § 10.1-
101 2103. If at a meeting of the Board action will be taken under subdivision 8 of § 10.1-2103 with
102 respect to the comprehensive plan, zoning or subdivision ordinance of a county, city or town,
103 written notice of such meeting shall be given to the governing body of the locality at least ten
104 days in advance of the meeting.

105 E. The Board shall meet at least four times a year, and other meetings may be held at any
106 time or place determined by the Board or upon call of the chairman or upon written request to the
107 chairman of any two members. All members shall be duly notified of the time and place of any
108 regular or other meeting at least ten days in advance of such meetings.

109 F. The Board shall keep a complete and accurate record of its proceedings. A copy of the
110 record shall be available for public inspection and copying.

111 § 10.1-2109. Local governments to designate Chesapeake Bay Preservation Areas;
112 incorporate into local plans and ordinances; impose civil penalties.

113 A. Counties, cities and towns in ~~Tidewater Virginia~~ Virginia's Chesapeake Bay
114 Watershed shall use the criteria developed by the Board to determine the extent of the
115 Chesapeake Bay Preservation Area within their jurisdictions. ~~Designation of Those counties,~~
116 ~~cities, and towns newly delineated as part of the area subject to this Chapter as of July 1, 2011~~
117 ~~shall have 18 months to designate Chesapeake Bay Preservation Areas shall be accomplished by~~
118 ~~every county, city and town in Tidewater Virginia not later than twelve months after adoption of~~
119 ~~criteria by the Board within their jurisdictions and to implement development and performance~~
120 ~~criteria established by the Board, and shall have 36 months to implement any remaining program~~
121 ~~elements established by the Board.~~

122 B. Counties, cities, and towns in ~~Tidewater Virginia~~ Virginia's Chesapeake Bay
123 Watershed shall incorporate protection of the quality of state waters into each locality's
124 comprehensive plan consistent with the provisions of this chapter.

125 C. All counties, cities and towns in ~~Tidewater Virginia~~ Virginia's Chesapeake Bay
126 Watershed shall have zoning ordinances which incorporate measures to protect the quality of
127 state waters in the Chesapeake Bay Preservation Areas consistent with the provisions of this
128 chapter. Zoning in Chesapeake Bay Preservation Areas shall comply with all criteria set forth in
129 or established pursuant to § 10.1-2107.

130 D. Counties, cities and towns in ~~Tidewater Virginia~~ Virginia's Chesapeake Bay
131 Watershed shall incorporate protection of the quality of state waters in Chesapeake Bay
132 Preservation Areas into their subdivision ordinances consistent with the provisions of this
133 chapter. Counties, cities and towns in ~~Tidewater Virginia~~ Virginia's Chesapeake Bay Watershed
134 shall ensure that all subdivisions developed pursuant to their subdivision ordinances comply with
135 all criteria developed by the Board.

136 E. In addition to any other remedies which may be obtained under any local ordinance
137 enacted to protect the quality of state waters in Chesapeake Bay Preservation Areas, counties,
138 cities and towns in ~~Tidewater Virginia~~ Virginia's Chesapeake Bay Watershed may incorporate
139 the following penalties into their zoning, subdivision or other ordinances:

140 1. Any person who: (i) violates any provision of any such ordinance or (ii) violates or
141 fails, neglects, or refuses to obey any local governmental body's or official's final notice, order,
142 rule, regulation, or variance or permit condition authorized under such ordinance shall, upon such
143 finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each
144 day of violation. Such civil penalties may, at the discretion of the court assessing them, be
145 directed to be paid into the treasury of the county, city or town in which the violation occurred
146 for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation
147 Areas therein, in such a manner as the court may direct by order, except that where the violator is
148 the county, city or town itself or its agent, the court shall direct the penalty to be paid into the
149 state treasury.

150 2. With the consent of any person who: (i) violates any provision of any local ordinance
151 related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or
152 fails, neglects, or refuses to obey any local governmental body's or official's notice, order, rule,
153 regulation, or variance or permit condition authorized under such ordinance, the local
154 government may provide for the issuance of an order against such person for the one-time
155 payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each
156 violation. Such civil charges shall be paid into the treasury of the county, city or town in which
157 the violation occurred for the purpose of abating environmental damage to or restoring
158 Chesapeake Bay Preservation Areas therein, except that where the violator is the county, city or
159 town itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall
160 be in lieu of any appropriate civil penalty that could be imposed under subdivision 1 of this
161 subsection. Civil charges may be in addition to the cost of any restoration required or ordered by
162 the local governmental body or official.

163 F. Localities that are subject to the provisions of this chapter may by ordinance adopt an
164 appeal period for any person aggrieved by a decision of a board that has been established by the
165 locality to hear cases regarding ordinances adopted pursuant to this chapter. The ordinance shall
166 allow the aggrieved party a minimum of 30 days from the date of such decision to appeal the
167 decision to the circuit court.

168 § 10.1-2110. Local governments outside of ~~Tidewater Virginia~~ Virginia's Chesapeake
169 Bay Watershed may adopt provisions.

170 Any local government, although not a part of ~~Tidewater Virginia~~ Virginia's Chesapeake
171 Bay Watershed may employ the criteria developed pursuant to § 10.1-2107 and may incorporate
172 protection of the quality of state waters into their comprehensive plans, zoning ordinances and
173 subdivision ordinances consistent with the provisions of this chapter.

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

[Department of Conservation and Recreation]
2011 Session of the General Assembly

Proposal Identifier Number [NR-DCR-6]
Draft Legislation

A BILL to amend and reenact §§ 10.1-2111 of the Code of Virginia, relating to establishing local government authority to exclude livestock from streams by ordinance.

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-2111 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-2111. Local government requirements for water quality protection.

A. Local governments shall employ the criteria promulgated by the Board to ensure that the use and development of land in Chesapeake Bay Preservation Areas shall be accomplished in a manner that protects the quality of state waters consistent with the provisions of this chapter.

B. Local governments shall adopt ordinance provisions which require the installation of livestock stream exclusion practices on all agricultural lands upon which animal grazing occurs in order to minimize livestock impacts to state surface waters. Such ordinance provisions shall provide that practices shall be installed no later than December 31, 2017.

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

[Department of Conservation and Recreation]
2010 Session of the General Assembly

Proposal Identifier Number [NR-DCR-10]
Draft Legislation

A BILL to amend the Code of Virginia by adding a section numbered 10.1-104.5, relating to the establishment of supplemental environmental projects.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-104.5 as follows:

§ 10.1-104.5. Supplemental environmental projects.

A. As used in this section:

"Supplemental environmental project" means an environmentally beneficial project undertaken as partial settlement of a civil enforcement action and not otherwise required by law.

B. The Virginia Soil and Water Conservation Board or the Director acting on behalf of the Board or under his own authority in issuing any administrative order, or any court of competent jurisdiction as provided for under this Code, may, in its or his discretion and with the consent of the person subject to the order, provide for such person to undertake one or more supplemental environmental projects. The project shall have a reasonable geographic nexus to the violation or, if no such project is available, shall advance at least one of the declared objectives of the environmental law or regulation that is the basis of the enforcement action. Performance of such projects shall be enforceable in the same manner as any other provision of the order.

C. The following categories of projects may qualify as supplemental environmental projects, provided the project otherwise meets the requirements of this section: public health, pollution prevention, pollution reduction, environmental restoration and protection, environmental compliance promotion, and emergency planning and preparedness. In determining the appropriateness and value of a supplemental environmental project, the following factors shall be considered by the enforcement authority: net project costs, benefits to the public or the environment, innovation, impact on minority or low income populations, multimedia impact, and pollution prevention. The costs of those portions of a supplemental environmental project that are funded by state or federal low-interest loans, contracts or grants shall be deducted from the net project cost in evaluating the project. In each case in which a supplemental environmental project is included as part of a settlement, an explanation of the project with any appropriate supporting documentation shall be included as part of the case file.

D. Nothing in this section shall require the disclosure of documents exempt from disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

E. Any decision whether or not to agree to a supplemental environmental project is within the sole discretion of the Board, official or court and shall not be subject to appeal.

F. Nothing in this section shall be interpreted or applied in a manner inconsistent with applicable federal law or any applicable requirement for the Commonwealth to obtain or maintain federal delegation or approval of any regulatory program.

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

[Department of Conservation and Recreation]
2011 Session of the General Assembly

Proposal Identifier Number [NR-DCR-11]
Draft Legislation

A BILL to amend and reenact §§ 10.1-2128.1 and 62.1-44.118 of the Code of Virginia, relating to the consolidation of reporting requirements within the Secretary of Natural Resource's impaired waters plan reports.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2128.1 and 62.1-44.118 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2128.1. Virginia Natural Resources Commitment Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Natural Resources Commitment Fund hereafter referred to as "the Subfund," which shall be a subfund of the Virginia Water Quality Improvement Fund and administered by the Department of Conservation and Recreation. The Subfund shall be established on the books of the Comptroller. All amounts appropriated and such other funds as may be made available to the Subfund from any other source, public or private, shall be paid into the state treasury and credited to the Subfund. Interest earned on moneys in the Subfund shall remain in the Subfund and be credited to it. Any moneys remaining in the Subfund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Subfund. Moneys in the Subfund shall be used as provided in subsection B solely for the Virginia Agricultural Best Management Practices Cost-Share Program administered by the Department of Conservation and Recreation.

B. Beginning on July 1, 2008, and continuing in each subsequent fiscal year until July 1, 2018, out of such amounts as may be appropriated and deposited to the Subfund, distributions shall be made in each fiscal year for the following purposes:

1. Eight percent of the total amount distributed to the Virginia Agricultural Best Management Practices Cost-Share Program shall be distributed to soil and water conservation districts to provide technical assistance for the implementation of such agricultural best management practices. Each soil and water conservation district in the Commonwealth shall receive a share according to a method employed by the Director of the Department of Conservation and Recreation in consultation with the Virginia Soil and Water Conservation Board, that accounts for the percentage of the available agricultural best management practices funding that will be received by the district from the Subfund;

2. Fifty-five percent of the total amount distributed to the Virginia Agricultural Best Management Practices Cost-Share Program shall be used for matching grants for agricultural best management practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed; and

3. Thirty-seven percent of the total amount distributed to the Virginia Agricultural Best Management Practices Cost-Share Program shall be used for matching grants for agricultural

47 best management practices on lands in the Commonwealth exclusively outside of the
48 Chesapeake Bay watershed.

49 C. The Department of Conservation and Recreation, in consultation with stakeholders,
50 including representatives of the agricultural community, the conservation community, and the
51 Soil and Water Conservation Districts, shall determine an annual funding amount for effective
52 Soil and Water Conservation District technical assistance and implementation of agricultural best
53 management practices pursuant to § 10.1-546.1. Pursuant to § 2.2-1504, the Department shall
54 provide to the Governor the annual funding amount needed for each year of the ensuing biennial
55 period. The Department ~~also shall report~~ include the annual funding amount ~~to the Chairmen of~~
56 ~~the House Appropriations and Senate Finance Committees by October 15 of each year as part of~~
57 the reporting requirements in § 62.1-44.118.

58 § 62.1-44.118. Status reports on progress; legislative oversight.

59 The Secretary of Natural Resources shall submit the impaired waters clean-up plan as
60 described in § 62.1-44.117 no later than January 1, 2007, to the House Committee on
61 Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the
62 Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate
63 Committee on Finance. Thereafter, a progress report on the implementation of the plan shall be
64 submitted semiannually to these committees of oversight. Reports shall be due on July 1 and
65 December 15 of each year. Water Quality reporting requirements in §§10.1-2127 D, 10.1-2128.1
66 C, and 10.1-2134 shall be annually consolidated into the December 15 report. If there are
67 questions as to the status of the clean-up effort the chairman of any of these committees may
68 convene his committee for the purpose of receiving testimony. The executive branch
69 departments and the Secretary of Natural Resources may request a meeting of any of the
70 committees to inform them as to the progress of the cleanup or to propose specific initiatives that
71 may require legislative action.

REQUIRED FORMAT: THE PROPOSED DRAFT BILL

[Department of Conservation and Recreation]
2011 Session of the General Assembly

Proposal Identifier Number [NR-DCR-15]
Draft Legislation

A BILL to amend the Code of Virginia by adding a section numbered 10.1-104.5, relating to the development and implementation of nutrient management plans by specified localities.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-104.5 as follows:

§ 10.1-104.5. Nutrient management plans required for locally managed or owned lands within the Chesapeake Bay Watershed.

A. Localities lying partially or wholly within the Chesapeake Bay watershed that own or manage land upon which fertilizer, manure, sewage sludge or other compounds containing nitrogen or phosphorus are applied to support agricultural, turf, plant growth, or other uses shall develop and implement a current site-specific nutrient management plan for any such land. Nutrient management plans for all such lands shall be prepared by a certified nutrient management planner pursuant to § 10.1-104.2 and attendant regulations and shall be considered current if developed within the past three years. The Department may conduct periodic reviews of the nutrient management plans and associated nutrient application sites as part of its responsibilities authorized under this section.

B. Compliance with the provisions of this section shall be enforced through Municipal Separate Storm Sewer System (MS4) permits issued pursuant to § 10.1-603.2 et seq. and through local program reviews conducted under the Erosion and Sediment Control Law pursuant to § 10.1-560 et seq.

C. The provisions of this section shall be implemented by July 1, 2014 for all areas covered by MS4 permits and by January 1, 2017 for all other areas.