

## CHAPTER 4

# GRANDFATHERED AND PREVIOUSLY PERMITTED PROJECTS AND APPLICABLE TECHNICAL CRITERIA

### 4.1 INTRODUCTION

On September 11, 2011, modifications to the Virginia Stormwater Management Program (VSMP) regulations became effective that included new stormwater design criteria for controlling the quality and quantity of stormwater runoff from development projects. The regulations also included provisions to avoid delaying or negatively impacting previously designed projects that were in the review and approval process and those that had obtained coverage under a General Construction Permit prior to July 1, 2014. These provisions were included in the Henrico County Code and are described in this chapter.

### 4.2 APPLICABILITY

Sec. 10-44 and Sec. 10-50 of the Henrico County Code detail the conditions under which land-disturbing activities in Henrico County may remain subject to the technical criteria adopted by the County on August 14, 2001 (Chapter 14 of this Manual) in lieu of those found in Section 9.3 of this Manual.

Nothing in this chapter shall be construed as limiting the applicability of other laws and regulations. The determination of *grandfathered* or *previously permitted* status only affects the stormwater management technical criteria that apply to the project. All other requirements (administrative, GCP conditions, enforcement, etc.) apply.

### 4.3 GRANDFATHERED PROJECTS

Projects that meet the following criteria will be considered grandfathered by the Administrator:

1. A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the Administrator was approved by the County prior to July 1, 2012;

2. The approved document provided a conceptual layout/drawing sufficient to provide for the specified SWM facilities required at the time of approval (layout as defined by Sec. 10-28 of the Henrico County Code);
3. The project described in the approved document will comply with the technical criteria in Chapter 14 of this Manual;
4. The proposed project has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
5. No General Construction Permit (GCP) was issued prior to July 1, 2014; and
6. Land disturbance did not commence prior to July 1, 2014.

Local, state and federal projects that meet the following criteria will be considered grandfathered by the Administrator:

1. There has been an obligation of funding, either in whole or in part, prior to July 1, 2012 or a stormwater management plan for the project was approved by the Department prior to July 1, 2012;
2. No General Construction Permit (GCP) was issued prior to July 1, 2014; and
3. Land disturbance did not commence prior to July 1, 2014.

Projects that are considered grandfathered shall remain subject to the technical criteria in Chapter 14 of this Manual for one GCP cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the Board and the County.

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 criteria of Chapter 14 of this Manual.

Although a project may be considered grandfathered, more stringent standards that have been approved by the Department and Administrator may be applied at the applicant's or operator's discretion in lieu of those included in Chapter 14.

#### **4.4 PREVIOUSLY PERMITTED PROJECTS**

VSMP land-disturbing activities that obtain an initial GCP or commence land-disturbance prior to July 1, 2014, shall be conducted in accordance with the technical criteria in Chapter 14 of this Manual. These projects shall remain subject to the

technical criteria in Chapter 14 of this Manual for two additional GCP cycles. After such time, portions of the project not under construction shall become subject to the latest technical criteria adopted by the Board and the County.

Although a project may be previously permitted, more stringent standards that have been approved by the Department and Administrator may be applied at the applicant's or operator's discretion in lieu of those included in Chapter 14.