

Virginia Offsite Compliance Options (4VAC50-60-69)

Offsite Compliance Fact Sheet

A. Qualifying Local Program:

1. Comprehensive Watershed Plan
 - Water Quality and/or Quantity
 - Completely offsite, or in combination with on-site practices
2. Pro Rata Fee
 - Water Quality and/or Quantity
 - Payment set as that needed to adequately fund improvements
3. Nonpoint Nutrient Offset Purchase
 - Water quality only
 - Quantity must be met on-site or through other means (items A-1,2, or 4)
4. Offsite Stormwater Management Facilities
 - Water quality only
 - No comprehensive Plan or Pro Rata Fee exists; or
 - Locality otherwise allows offsite facilities for compliance
 - Operator must provide for the offsite implementation and compliance.

B. Public Option: Buy Down Purchase of requirements for water quality only:

- Offsite options of Section A don't exist; or
- Fee established under Pro Rata (Section A.2) is greater than \$23,900/lb (it is doubtful that this provision will trump the pro-rata fee established by §15.2-2243; so if a pro-rata fee program exists in a locality, the fee must be paid regardless of the amount); or
- Qualifying local program otherwise allows use of Buy-Down provision.

The following provisions then apply:

- Fee paid to Virginia Stormwater Management Fund (VSMF)
- 50% of funds to be utilized for local water quality issues (no indication who decides);
- Remaining funds to purchase nutrient Offsets (held in perpetuity) or fund long-term contracts for agriculture BMP (20 years)
- 6% administration fee taken off the top

1. Buy Down Purchase Price by Project Location:

- i. UDA: \$15,000/lb
- ii. Non-UDA: \$23,900/lb

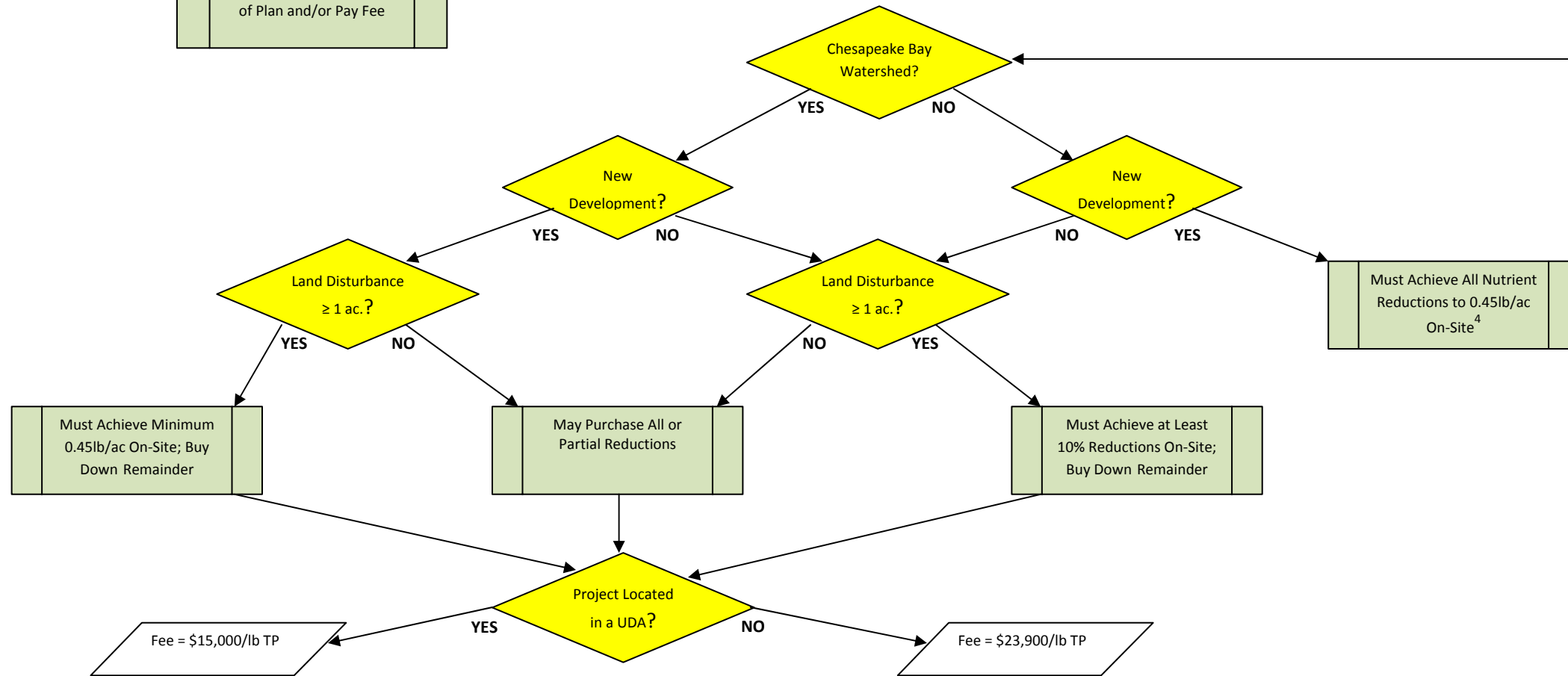
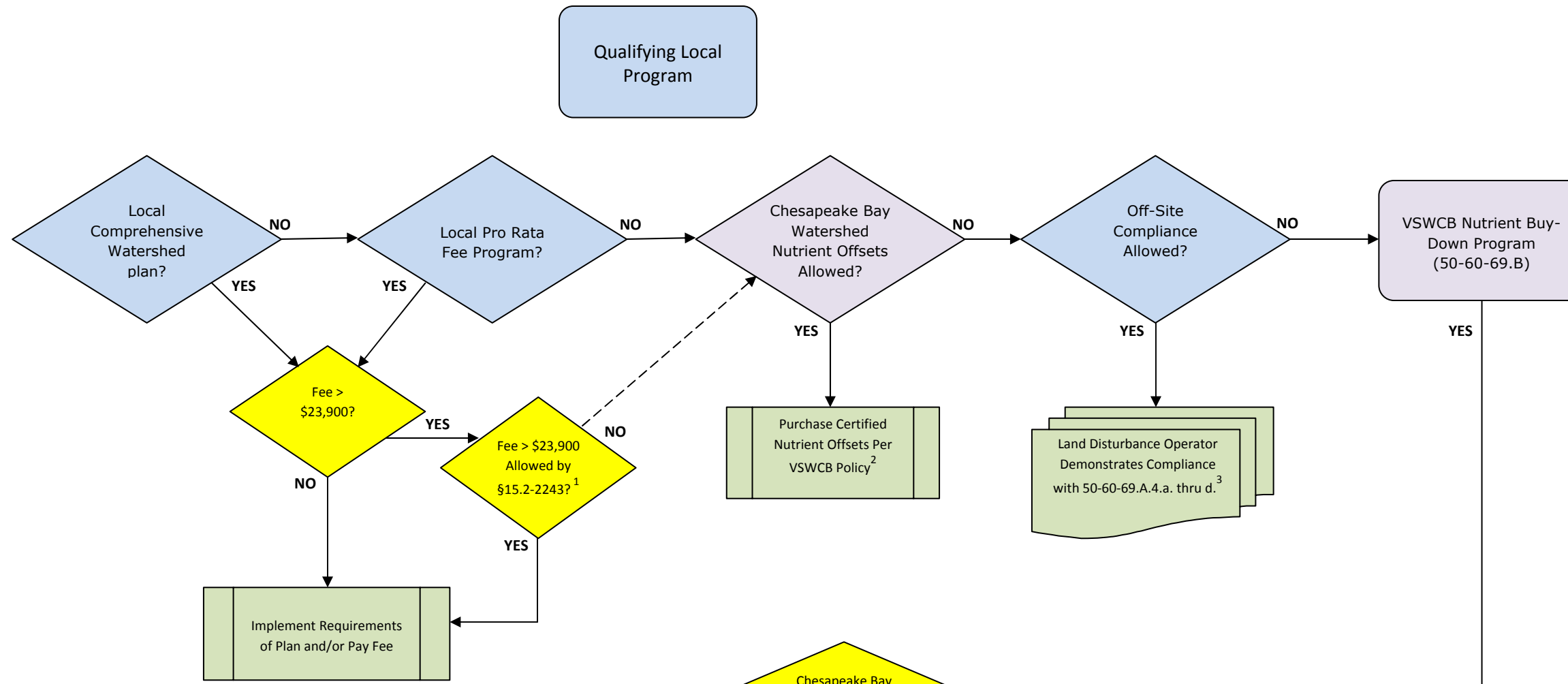
2. Chesapeake Bay Watershed:

- i. New Development
 - ≥ 1 acre of disturbance: must achieve maximum 0.45lb/ac on-site
 - < 1 acre of disturbance: may purchase entire reduction requirements
- ii. Re-Development
 - ≥ 1 acre of disturbance: must achieve at least 10% reductions on-site, buy down remainder
 - < 1 acre of disturbance: may purchase entire reduction requirements

3. Non-Chesapeake Bay Watershed

- i. New Development: Must achieve all reductions to maximum 0.45lb/ac on-site
- ii. Re-Development
 - ≥ 1 acre of disturbance: must achieve at least 10% reductions on-site, buy down remainder
 - < 1 acre of disturbance: may purchase entire reduction requirements

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1. A Pro rata fee program in accordance with §15.2-2243 of the Code of Virginia specifically requires that the fees are to be based on the minimum required to implement the required improvements. Presumably, this statute and local implementation cannot be trumped by the Off-site compliance provisions of the stormwater Regulations (4VAC50-60-69.B).
2. VSWCB Nutrient Offset Policy dated 7/23/2009; Part III.B: Approval of Offsets; Part III.C: Preliminary Authorization Review a) through f); and Final Authorization Review a) through d).
3. Land Disturbing Operator must demonstrate:
 - a. Offsite reductions are equal to or greater than those that would otherwise be required on site;
 - b. Runoff from the site and the off-site treatment area is controlled in accordance with 4VAC50-60-66: Water Quantity;
 - c. Off-site facilities are located within the HUC or within the upstream HUCs as the land disturbing activity or within the same watershed as determined by the plan approving authority; and
 - d. The right to use the off-site area and that any necessary easements have been obtained and maintenance agreements pursuant to 4VAC50-60-124 have been established.
4. There is no distinction between land disturbing activities of greater than or less than one acre outside the Chesapeake Bay Watershed.