

Town of Vienna, Virginia

PCB TMDL Action Plan

Submittal to DEQ – May 1, 2020



Town of Vienna
Department of Public Works
127 Center Street, South
Vienna, Virginia 22180

Prepared with assistance by:
Wood Environment & Infrastructure Solutions
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CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."


Name

TOWN MANAGER
Title

05/01/20
Date

Town of Vienna, Virginia

PCB TMDL Action Plan

May 1, 2020

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Town of Vienna, Virginia

PCB TMDL Action Plan

May 1, 2020

1. Introduction

1.1 Purpose

This Polychlorinated Biphenyl (PCB) TMDL Action Plan documents how the Town of Vienna intends to meet the “Local TMDL Special Condition” in Part II B of the General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4s). The Town of Vienna’s most recent MS4 permit (VAR040066) issued by the Virginia Department of Environmental Quality (DEQ) became effective November 1, 2018. In accordance with the 2018 MS4 permit, the Town must update previously approved plans no later than 18 months after the effective permit date. This plan replaces the previous plan that was submitted to DEQ in 2015.

The Town’s MS4 permit requires the development and implementation of action plans for impaired streams where a Total Maximum Daily Load (TMDL) approved by the State Water Control Board (SWCB) assigns a waste load allocation (WLA) to the Town. A TMDL establishes the maximum amount of a pollutant that can enter a water body without violating water quality standards. A WLA represents the total pollutant loading that is allocated to a specific permitted source.

The “Total Maximum Daily Loads of Polychlorinated Biphenyls (PCBs) for Tidal Portions of the Potomac and Anacostia Rivers in the District of Columbia, Maryland, and Virginia” (PCB TMDL) was established by the U.S. Environmental Protection Agency in 2007, and adopted by the State Water Control Board on April 11, 2008. The PCB TMDL establishes WLAs for discharges to the tidal Potomac River and tributary waters, which affects the MS4 regulated area of the Town draining to Accotink Creek. The Town of Vienna is part of the aggregated WLA for Fairfax County’s MS4. Table 1A shows the WLAs for Accotink Creek and the entire tidal Potomac River. Map 1A shows the location of the Potomac River PCB impairment delineation.

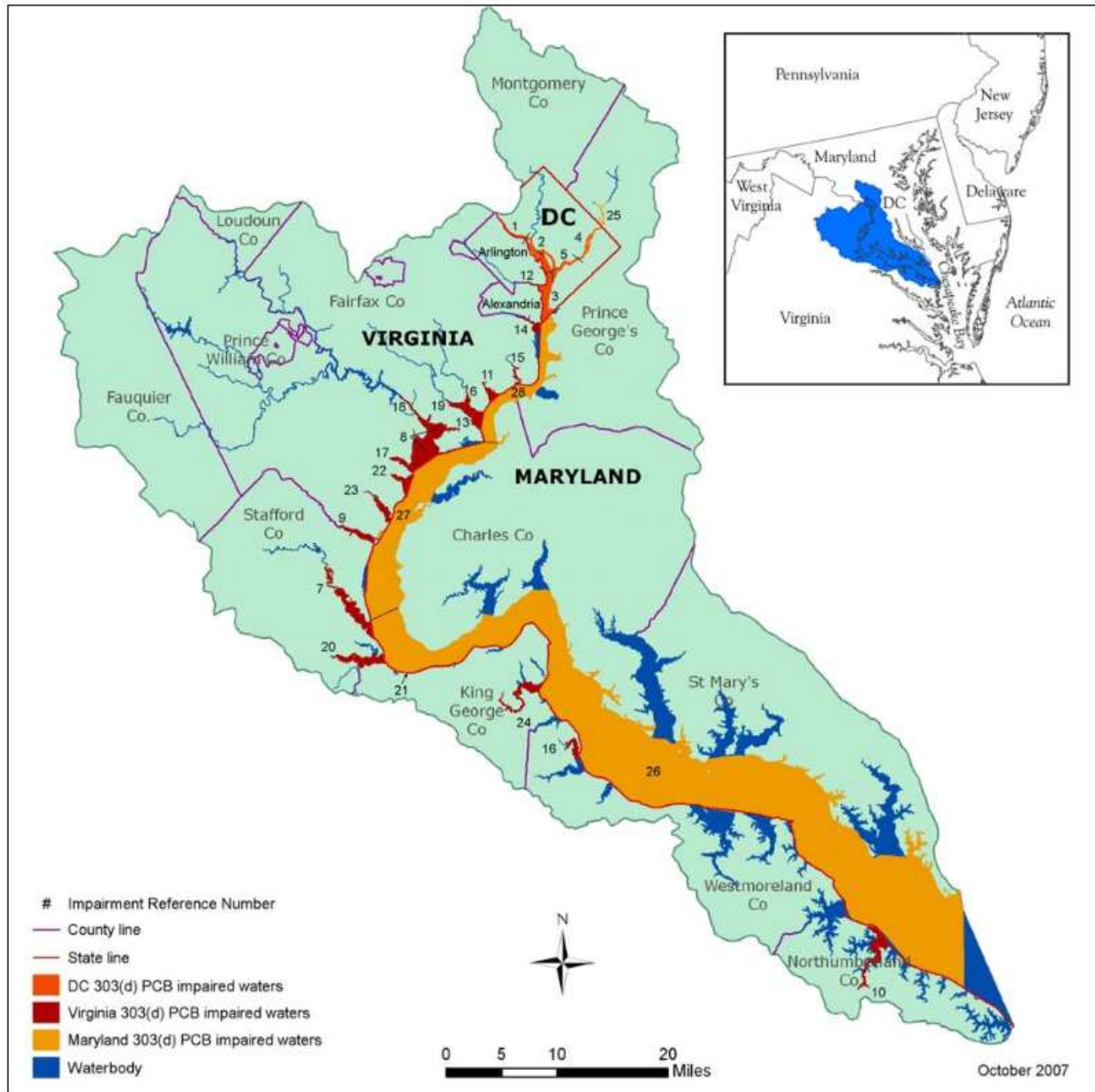
Table 1A – Tidal Potomac River TMDL Allocations Affecting Vienna

Impaired Waterway	Baseline g/year	WLA (g/year)		LA g/year	Margin of Safety g/year	TMDL g/year	% Reduction
		MS4	Total				
Accotink Creek	618	0.0992	0.0992	46.9	2.47	49.5	92%
Total All Tidal	37,156	132	258	1,180	71.8	1,510	96%

This plan addresses the requirements of the MS4 permit by: describing the WLAs assigned to the Town and the corresponding reduction requirements; identifying significant sources of the pollutants of concern discharging from the Town’s MS4; identifying best management practices (BMPs) to reduce the

pollutants of concern in accordance with special permit requirements; calculating existing and planned pollutant reductions; developing outreach strategies to enhance the public's ability to eliminate and reduce discharges of pollutants; and, establishing an implementation schedule for the permit term.

Map 1A - Potomac River PCB Impairment Delineation



Source: Total Maximum Daily Loads of PCBs for Tidal Portions of the Potomac and Anacostia Rivers in the District of Columbia, Maryland, and Virginia

1.2 Cooperative Approach with Fairfax County

The Town has entered into an agreement with Fairfax County to cooperate in the development and implementation of TMDL action plans. The agreement, included in Appendix A, was originally adopted by the Town of Vienna on October 28, 2013 and by Fairfax County on April 1, 2014. The agreement was updated by both parties effective March 8, 2017. While this TMDL action plan does not include cooperative approaches at this time, the Town reserves the right to develop and implement cooperative PCB reduction strategies. Any changes in strategies will be reported to DEQ in the Town’s MS4 annual reports.

1.3 Permit Compliance Crosswalk

The Town’s original plan was prepared in accordance with the 2013 MS4 permit and DEQ Guidance Memo 16-2006 “TMDL Action Planning for Local TMDL Maximum Daily Loads,” published in April 2015. To maintain consistency, this plan largely reflects the original structure updated for new requirements in the 2018 MS4 permit. Table 1B provides an overview of the organization of this plan and how each section addresses the 2018 MS4 permit.

Table 1B – Action Plan and Permit Compliance Crosswalk

Action Plan	Plan Element	2018 MS4 Permit	
Section 1	Introduction	Part II B 3	a. The TMDL project name. b. The EPA approval date of the TMDL. c. The wasteload allocated to the permittee (individually or in aggregate), and the corresponding percent reduction, if applicable.
Section 2	Identification of Significant Sources of PCBs	Part II B 3	d. Identification of the significant sources of the pollutants of concern discharging to the permittee’s MS4 and that are not covered under a separate VPDES permit. For the purpose of this requirement, a significant source of pollutants means a discharge where the expected pollutant loading is greater than the average pollutant loading for the land use identified in the TMDL.
Section 3.1	Best Management Practices	Part II B 3	e. The BMPs designed to reduce the pollutants of concern in accordance with Parts II B 4, B 5, and B 6.
Section 3.2	PCB-Specific Permit Requirements	Part II B 3	f. Any calculations required in accordance with Part II B 4, B 5, or B 6.
		Part II B 6	a. For each PCB TMDL action plan, the permittee shall include an inventory of

Action Plan	Plan Element	2018 MS4 Permit	
			<p>potentially significant sources of PCBs owned or operated by the permittee that drains to the MS4 that includes the following information: (1) location of the potential source; (2) whether or not the potential source is from current site activities or activities previously conducted at the site that have been terminated (i.e., legacy activities); (3) a description of any measures being implemented or to be implemented to prevent exposure to stormwater and the discharge of PCBs from the site.</p> <p>b. If at any time during the term of this permit, the permittee discovers a previously unidentified significant source of PCBs within the permittee’s MS4 regulated service area, the permittee shall notify DEQ in writing 30 days of discovery.</p>
Section 4	Schedule of Anticipated Actions	Part II B 3	h. A schedule of anticipated actions planned for implementation during this permit term.
Section 5	Opportunity for Public Comment	Part II B 7	Prior to submittal of the action plan required in Part II B 1, the permittee shall provide an opportunity for public comment proposed to meet the local TMDL action plan requirements for no less than 15 days.

2. Identification of Significant Sources of PCBs

This action plan focuses on those facilities and activities that are most likely to constitute a significant source of PCBs to surface waters. A source is considered significant if the pollutant loading is expected to be greater than the average pollutant loading for the land use identified in the TMDL.

PCBs are considered a legacy pollutant and were used as a coolant and as an insulator, particularly in transformers, hydraulic equipment, and electrical equipment. The manufacture of PCBs was banned in 1979; however, PCBs are persistent in the environment and do not readily biodegrade under normal conditions. They also tend to settle into the sediment of waterways or adsorb to terrestrial soils. PCBs may still be released by illegal or improper dumping of PCB-containing wastes or leaks from legacy electrical transformers containing PCBs.

2.1 Town Facilities within the Accotink Creek Watershed

The regulated Vienna MS4 service area is shown in Map 2A. The PCB TMDL affects the Accotink Creek watershed portion of the Town. Although there are several Town parks in the watershed, only one Town operations facility is located in this watershed – the Nutley Street Maintenance Yard located at 247 Nutley Street NW.

2.2 Identification of Significant Sources of PCBs

High risk category sites identified by the U.S. Environmental Protection Agency (EPA) for potential sources of residual PCBs includes the following SICs: 26&27 (Paper and Allied Products), 30 (Rubber and Misc. Plastics), 33 (Primary Metal Industries), 34 (Fabricated Metal Products), 37 (Transportation Equipment), 49 (Electrical, Gas, and Sanitary Services), 5093 (Scrap Metal Recycling), and 1221 & 1222 (Bituminous Coal). Activities completed by the Town to assess PCB risk included:

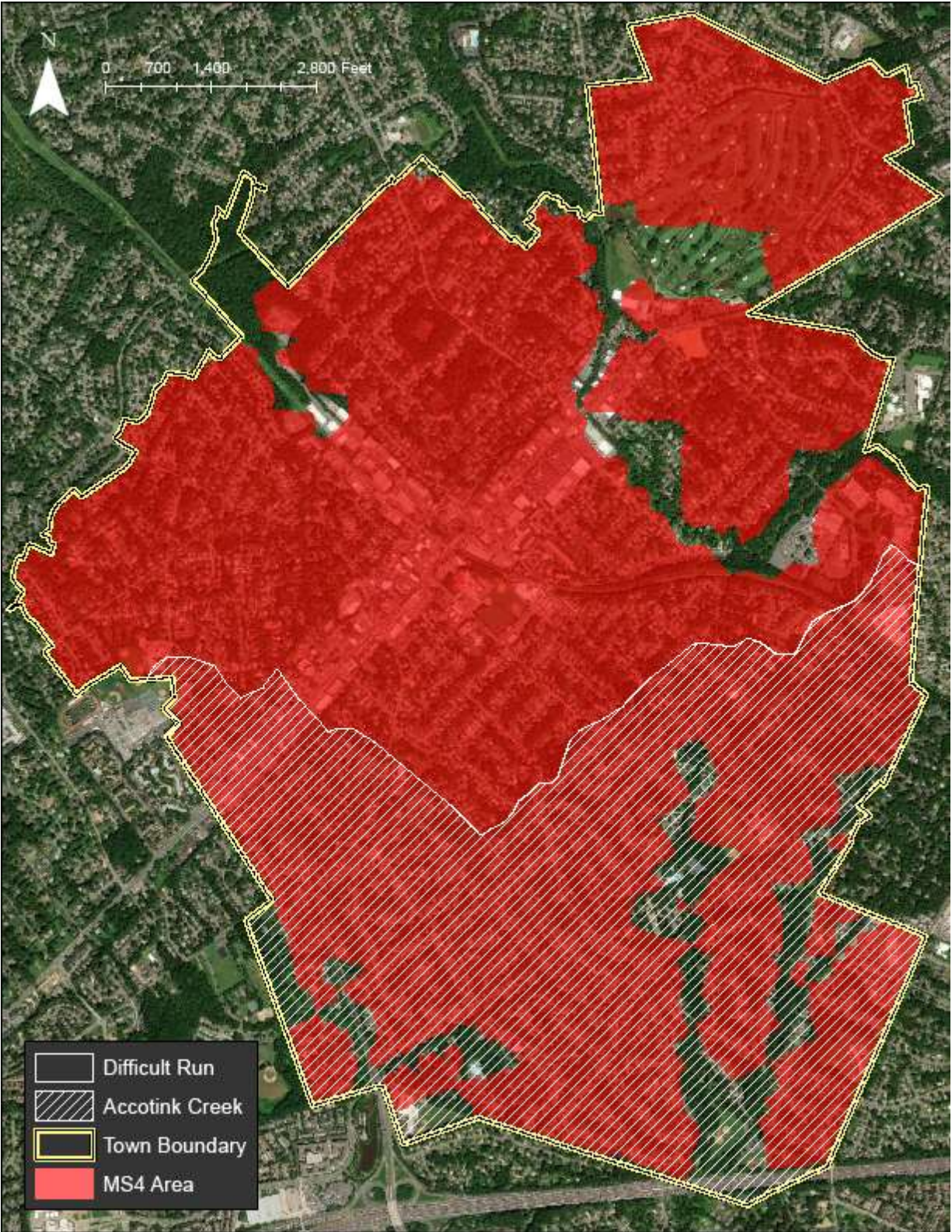
- The Town conducted a review of all businesses and industries within the Town in FY2013 and again in FY2020 against the SIC codes listed above. No businesses or industries were identified as high risk for PCBs; thus no further action was required.
- The Town conducts annual dry weather outfall inspections in accordance with the MS4 permit. Identification of sources of PCBs is a component of the Town's Illicit Discharge Detection and Elimination (IDDE) program. Each outfall within the Accotink Creek has been inspected multiple times since issuance of the Town's first MS4 permit. No illicit discharges involving PCBs have been discovered.
- In FY2012, the Town conducted an evaluation of publicly-owned properties within the entire Town (with a focus on the Nutley Street Maintenance Yard) to determine if any were potential sources of PCBs. The assessment did not identify any potential sources of PCBs. As a result, no further action was required.

The Town searched the EPA's PCB Transformer Registration Database at www.epa.gov/pcbs/registering-transformers-containing-polychlorinated-biphenyls-pcbs to determine if any properties in the Town are registered, indicating the presence and location of PCB-containing transformers that may be located within the Town. No facilities are listed as operating a PCB-containing transformer in the Town of Vienna. The database is up-to-date through September 13, 2019.

Dominion Virginia Power operates transformers within the Town limits. Dominion confirmed in FY2015 that transformers associated with their large substation near Town Hall (located outside of the Accotink Creek watershed) contain non-PCB mineral oil dielectric fluid. For the smaller transformers providing electric service to residential, commercial, and industrial customers within the Town limits, Dominion confirmed that the majority of these are also filled with non-PCB mineral oil. However, there may be transformers in service that were manufactured prior to July 1979 that could contain detectable levels of PCB. Dominion noted that under normal operating conditions, these facilities are not subject to leaking or spilling. If an incident were to occur, Dominion has in place plans and procedures to promptly respond in accordance with state and federal regulatory requirements.

Based on this evaluation, the Town has determined that no particular site or operation is a significant source of PCBs. While transformers operated by Virginia Dominion Power may contain legacy PCBs, Dominion has plans in place to meet all state and federal requirements to prevent leaks and spills and to respond in the case that a leak or spill was to occur. Therefore, the actions proposed in this action plan focus on educating staff on how to recognize and respond to an unexpected potential source of PCBs.

Map 2A – Town of Vienna MS4 Service Area Delineation



3. Best Management Practices

The Town of Vienna has put into place all the necessary programmatic and legal requirements to meet the “Local TMDL Special Condition” in Part II B of the General Permit. The details of the Town’s program elements, as well as how the Town meets the PCB-specific requirements of the MS4 permit, are discussed in this section.

3.1 PCB Stormwater Pollution Control Program

The Town’s legal authority for preventing the discharge of PCBs to the storm sewer system is Section 16.2.2 of the Code of the Town of Vienna, which states “It shall be unlawful for any person, firm or corporation to deposit, or cause to be deposited, in any public storm drainage facility, including gutters, ditches and water courses, any substance including, but not limited to, trash, accumulations of grass clippings, petroleum products, petroleum waste, or other noxious or flammable substance; provided, however, that leaves may be piled at curbs during such seasons and in such areas as may now or in the future be furnished mechanical leaf collection service.”

Because PCBs are primarily a legacy pollutant, with most uses banned since the 1970s, additional legal authority is not necessary to prevent the discharge of new sources of PCBs. Rather, the most effective means identified by the Town for reducing and eliminating residual PCBs is to educate those land owners that have been identified as potential sources of PCBs and to ensure that PCBs are addressed during the redevelopment of any such property. However, with the exception of transformers operated by Virginia Dominion Power, no facilities in the Town have been identified as potential sources of PCBs. Virginia Dominion Power has its own plans in place for preventing or mitigating leaks and spills.

The Town has enhanced its dry weather outfall screening program and field personnel pollution prevention training to heighten awareness of potential PCB sources and provide direction on how to respond to the discovery of an unexpected source of PCBs. The MS4 Program Plan (MCM #3) and Illicit Discharge Detection and Elimination (IDDE) plan include specific reference to PCBs.

The Town’s training program (MS4 Program Plan, BMP 6.3) was updated in the last permit cycle to include specific training on the recognition and reporting of PCBs. Training is provided at least once every 24 months in accordance with the schedule in the MS4 Program Plan. The training includes the following components:

- Potential sources that may be encountered at Town facilities;
- Legacy activities that could contribute to PCB pollution on historic Town sites; and,
- What to do if you discover equipment, machinery, or contaminated soil that may contain, or had contained PCBs.

The full MS4 Program Plan can be found at <https://www.viennava.gov/index.aspx?nid=788>. Appendix B contains a sample of the training slides presented to Town field crews.

3.2 PCB-Specific Permit Requirements

Part II B 6 requires the Town to include an inventory of potentially significant sources of PCBs that are owned or operated by the Town. As noted Section 2.1, the Town has one operations facility (Nutley Street Maintenance Yard) within the Accotink Creek watershed. The Nutley Street Maintenance Yard consists of a water tower, several small equipment maintenance buildings, and vehicle storage areas. An assessment conducted by the Town did not identify any potentially significant sources of PCBs on the site. In

accordance with the MS4 permit, if the Town discovers a previously unidentified significant source of PCBs within the regulated MS4 service area, the Town will notify DEQ within 30 days of discovery.

4. Schedule of Anticipated Actions

The BMPs identified in this plan have already been incorporated into the MS4 Program Plan as required in the MS4 permit. They will be implemented in accordance with the schedule in the MS4 Program Plan. Table 4A presents a summary of the actions planned for implementation to address the PCB TMDL.

Table 4A – Schedule of Anticipated Actions

Element	Description	Implementation Schedule	Responsible Party
Legal Authority	Enforcement of the Town’s prohibition of illicit discharges in Section 16-2.2 of the Town Code.	Ongoing.	Town Attorney; Public Works
Dry Weather Screening Program	Program designed to detect and eliminate pollutant sources from the MS4, including PCBs.	At least 50 outfalls annually in accordance with the MS4 Program Plan.	Public Works
Personnel Training Program	Training designed to heighten awareness of potential PCB sources and provide direction on how to respond to the discovery of an unexpected source of PCBs.	Once every 24 months in accordance with the MS4 Program Plan.	Public Works
Newly Discovered Significant Sources	Report any newly discovered sources of PCBs to DEQ in accordance with Part II B 6 b of the MS4 permit.	Within 30 days of discovery.	Town Manager; Public Works

5. Opportunity for Public Comment

This plan was made available for public comment in accordance with Part II B 7 of the MS4 permit. No comments were received before the May 1, 2020 deadline to submit the plan to DEQ. A snapshot of the Town’s stormwater webpage inviting public comment is on the following page.

Stormwater and Streams

Stormwater Management

Interested in the town's current progress and goals towards protecting the Chesapeake Bay? Check out our updated Action Plans for the Difficult Run and Accotink Creek Watersheds:

[Sediment TMDL Action Plan](#)

[Bacteria TMDL Action Plan](#)

[PCB TMDL Action Plan](#)



Northern Virginia Clean Water Partners

These drafts have been prepared and are ready for review and public comment. The town will be submitting the draft plans and any public comments to the Virginia Department of Environmental Quality on May 1, 2020. For additional information or to submit comments, please email or call the town's Water Quality Engineer, Christine Horner. She can be reached at Christine.Horner@viennava.gov or 703-319-8630.

Appendix A

Cooperative Agreement with Fairfax County and the Town of Herndon

COOPERATIVE AGREEMENT BETWEEN THE FAIRFAX COUNTY BOARD OF SUPERVISORS, THE TOWN OF VIENNA, and TOWN OF HERNDON TO SHARE CERTAIN STORMWATER SERVICE DISTRICT FEES AND RESPONSIBILITY FOR RELATED SERVICES

This Agreement (“Agreement”) is entered into on this 8th day of MARCH, 2017, by and between the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA (“FAIRFAX”), the TOWN COUNCIL OF VIENNA, VIRGINIA (“VIENNA”), and the TOWN COUNCIL OF HERNDON, VIRGINIA (“HERNDON”) (referenced collectively as the “Parties” or “the Governing Bodies”, and individually as the “Party”).

WITNESSETH:

WHEREAS the Towns of Vienna and Herndon (also referenced herein as “the Towns”) are located within Fairfax County (also referenced herein as “the County”); and

WHEREAS Fairfax County, the Town of Vienna, and the Town of Herndon each maintain, operate, and improve stormwater systems that affect one another; and

WHEREAS Fairfax County and the Towns are each subject to a Municipal Separate Storm Sewer System (“MS4”) permit issued by the Virginia Department of Environmental Quality (“DEQ”); and

WHEREAS FAIRFAX has cooperated with VIENNA and HERNDON to maintain, operate, and improve their respective stormwater systems and wish to continue such cooperation in the future in the best interests of their residents; and

WHEREAS pursuant to Va. Code Ann. § 15.2-2400 (2012), FAIRFAX has established a Stormwater Service District (“Service District”), and is authorized, pursuant to Va. Code Ann. § 15.2403(6) (Supp. 2016) to levy and collect an annual fee upon any property located within such Service District (“the Service District Fee”); and

WHEREAS the Towns of Vienna and Herndon are located within Fairfax County's Service District; and

WHEREAS, pursuant to Va. Code Ann. § 15.2-2403(6), Fairfax County collects revenues from properties located within the Towns of Vienna and Herndon; and

WHEREAS, pursuant to Va. Code Ann. § 15.2-2403.3 (Supp. 2016), by virtue of the Towns' maintenance of separate MS4 permits and their location within the Service District, the Towns are entitled to the Service District Fee revenues collected by Fairfax County within their respective jurisdictions; and

WHEREAS, the actual amount of revenues collected from the Service District Fee will vary from year to year; and

WHEREAS, each MS4 permit, among other things, assigns jurisdiction-specific, pollutant load reduction requirements for nitrogen, phosphorus, and sediment to address the Chesapeake Bay Total Maximum Daily Load (referred to herein as "TMDL"), and requires each MS4-permit jurisdiction to develop a Chesapeake Bay TMDL Action Plan that identifies the practices, means, and methods that are to be implemented by the permittee to achieve the required pollutant reductions; and

WHEREAS, the Commonwealth's Chesapeake Bay TMDL Watershed Implementation Plan (referred to herein as "the WIP") establishes the total pollutant reduction loads required to achieve the Chesapeake Bay TMDL and the timeframe for MS4-permit jurisdictions to achieve their assigned pollutant reductions; and

WHEREAS, each MS4 permit also requires the development of action plans for other pollutants where a TMDL assigns a wasteload allocation ("WLA") to the permittee; and

WHEREAS, pursuant to their respective MS4 permits, the Towns submitted their initial Chesapeake Bay TMDL Action Plans to DEQ prior to the deadline of October 1, 2015 while the County's initial Chesapeake Bay TMDL Action Plan will be submitted to DEQ prior to the deadline of April 1, 2017. Action plans for other TMDLs are submitted in accordance with the schedule contained in each MS4 permit; and

WHEREAS, while each MS4-permit jurisdiction is ultimately responsible for compliance with its MS4 permit, MS4 permits allow and encourage cooperation and coordination among permit holders, and such cooperation and coordination can mutually benefit MS4-permit jurisdictions through more effective and cost-efficient protection of water resources in each jurisdiction; and

WHEREAS, the purpose this Agreement, in part, is for the Parties to work cooperatively to satisfy the pollutant load reduction requirements of their current and future MS4 permits by implementing stormwater management practices within the Parties' jurisdiction that reduce the discharge of pollutants; and

WHEREAS, FAIRFAX, VIENNA, or HERNDON may terminate this Agreement as set forth by the terms herein if, pursuant to applicable law, either locality chooses not to participate under this Agreement or chooses not to share the Stormwater Service District Fees; and

WHEREAS FAIRFAX, VIENNA, and HERNDON have determined and agreed that the best interests of each locality's residents are fulfilled if FAIRFAX utilizes a portion of the Service District Fees collected by FAIRFAX from properties within the Towns to assist the Towns in maintaining, operating, and improving their respective stormwater systems to achieve the goals of effective regional water quality improvement and local initiatives in these localities and to satisfy certain MS4 permit requirements;

NOW, THEREFORE, in consideration of the mutual obligations set forth herein and other good and valuable consideration, so long as FAIRFAX continues to administer the Service District in FAIRFAX that encompasses VIENNA and HERNDON, and so long as VIENNA and HERNDON qualify to receive the Service District Fees collected by FAIRFAX from properties within the Towns, FAIRFAX, VIENNA, and HERNDON agree as follows:

1. FAIRFAX will continue to engage in a coordinated approach with VIENNA, and HERNDON to maintain and operate their respective stormwater systems throughout the incorporated and unincorporated parts of FAIRFAX. Moreover, FAIRFAX, VIENNA, and HERNDON will engage in a coordinated approach for future improvements to their respective stormwater systems.

2. This Agreement's duration shall be for one fiscal year and shall renew at the beginning of each fiscal year thereafter unless terminated pursuant to the terms set forth herein below. For the purposes of this Agreement, "fiscal year" shall mean Fairfax County's fiscal year, which, at the time of the execution of this agreement, ends on June 30.

3. This Agreement's purpose is to set forth how the Parties shall share revenues to be collected pursuant to the Service District Fee, including revenues collected from properties within VIENNA and HERNDON, and the respective obligations of the Parties with respect to the stormwater management services described herein.

STORMWATER FEE REVENUE SHARING

4. FAIRFAX shall collect all revenues to be collected pursuant to the Service District Fee, including revenues collected from properties within the Towns.

5. Revenues actually collected throughout the Service District are referred to herein as "STORMWATER FEE REVENUES."

6. At the end of each fiscal year, FAIRFAX shall calculate separately the total amount of stormwater fee revenues that were actually collected from properties within VIENNA and HERNDON from the amount of stormwater fee revenues collected elsewhere in FAIRFAX (the "VIENNA STORMWATER FEE" and "HERNDON STORMWATER FEE").

7. On or before October 30th of each fiscal year, FAIRFAX shall estimate the anticipated VIENNA STORMWATER FEE and HERNDON STORMWATER FEE for that year, and shall pay to VIENNA and HERNDON an amount equal to twenty-five percent (25%) of the estimated VIENNA STORMWATER FEE and HERNDON STORMWATER FEE, respectively, for that fiscal year, rounded to the nearest penny (the "PAID VIENNA REVENUES" and "PAID HERNDON REVENUES").

8. The Parties acknowledge and agree that PAID VIENNA REVENUES and/or PAID HERNDON REVENUES may be more or less than the amount that is actually due and owing to either or both of the Towns, and which amount is calculated at the end of each fiscal year.

9. If the PAID VIENNA REVENUES for a particular fiscal year are determined to have been less than 25% of the actual VIENNA STORMWATER FEE actually collected for that fiscal year, then FAIRFAX shall pay VIENNA the difference between the PAID VIENNA REVENUES and 25% of the VIENNA STORMWATER FEE actually collected for that fiscal year. FAIRFAX shall pay this difference at the same time as it pays the next fiscal year's PAID VIENNA REVENUES.

10. If the PAID HERNDON REVENUES for a particular fiscal year are determined to have been less than 25% of the actual stormwater fee actually collected for that fiscal year in HERNDON, then FAIRFAX shall pay HERNDON the difference between the PAID

HERNDON REVENUES and 25% of the HERNDON STORMWATER FEE actually collected for that fiscal year in HERNDON. FAIRFAX shall pay this difference at the same time as it pays the next fiscal year's PAID HERNDON REVENUES.

11. If the PAID VIENNA REVENUES for a particular fiscal year are determined to have been more than 25% of the actual VIENNA STORMWATER FEE actually collected for that fiscal year, then FAIRFAX shall deduct the difference between the PAID VIENNA REVENUES and 25% of the VIENNA STORMWATER FEE actually collected for that fiscal year from the amount that FAIRFAX pays for the next fiscal year's PAID VIENNA REVENUES.

12. If the PAID HERNDON REVENUES for a particular fiscal year are determined to have been more than 25% of the actual HERNDON STORMWATER FEE actually collected for that fiscal year, then FAIRFAX shall deduct the difference between the PAID HERNDON REVENUES and 25% of the HERNDON STORMWATER FEE actually collected for that fiscal year from the amount that FAIRFAX pays for the next fiscal year's PAID HERNDON REVENUES.

13. Once FAIRFAX has determined the amount of the actual VIENNA STORMWATER FEE and HERNDON STORMWATER FEE, which shall occur within 90 days of the fiscal year end, FAIRFAX shall forward the respective amounts to the Towns' Mayors in writing ("FINAL ACCOUNTING"). If VIENNA and/or HERNDON disputes the amount of the FINAL ACCOUNTING, then within 30 days of the Mayors' receipt of this FINAL ACCOUNTING, VIENNA and/or HERNDON, shall state the complete factual basis for any such dispute in writing to the Fairfax County Executive, and the Parties shall endeavor in good faith to resolve any such dispute. Upon the resolution of any such dispute, or if VIENNA and/or

HERNDON fails to dispute the amount of the FINAL ACCOUNTING within 30 days of either Mayor's receipt thereof, then VIENNA and/or HERNDON shall be deemed to have accepted payment of the respective fiscal year's PAID VIENNA REVENUES or PAID HERNDON REVENUES, which shall result in the waiver of any right to request from FAIRFAX any additional amount of the collected STORMWATER FEE REVENUES. VIENNA's and/or HERNDON's waiver of any such balance, however, is conditioned upon FAIRFAX's obligations to VIENNA and/or HERNDON pursuant to this Agreement.

14. Pursuant to Va. Code Ann. § 15.2-2403.3 VIENNA and HERNDON shall expend the PAID VIENNA REVENUES and PAID HERNDON REVENUES, respectively, only for costs directly related to the Towns' stormwater systems and not for non-stormwater-system costs, such as public safety, schools, or road maintenance.

15. Under this Agreement, neither VIENNA nor HERNDON is required to expend any of the paid revenues within any specific amount of time. This Agreement does not affect any other authority that VIENNA or HERNDON might have to carry over revenues from year-to-year or to expend revenues in one fiscal year when the revenues were collected in a previous fiscal year.

16. If, at any time in the future, either VIENNA or HERNDON becomes unincorporated or ceases to qualify to receive paid revenues for any reason or terminates its stormwater program or ceases to maintain its stormwater systems, none of the previously paid revenues shall be expended for anything other than the maintenance, operation, and improvement of such Town's stormwater systems. If any such amounts are returned to FAIRFAX they may be used for other qualified uses in the Service District as FAIRFAX, or its designee, in its or his sole discretion, deems appropriate.

TMDL COMPLIANCE AND THE TMDL ADVISORY COMMITTEE

17. Fairfax, Vienna, and Herndon agree that Fairfax will implement stormwater management practices throughout the County and in the Towns sufficient to achieve the TMDL pollutant load reduction requirements that are incorporated into each Party's respective current and future MS4 permit.

18. A TMDL Compliance Advisory Committee (hereinafter referred to as the "Advisory Committee") shall be established and shall be comprised of one or more representatives from each governing body.

19. Regardless of the number of representatives appointed by each governing body, each locality will have one vote on the Advisory Committee.

20. The Advisory Committee shall:

- a. establish, pursuant to each Party's respective MS4 permit, the nitrogen, phosphorus, and sediment (referred to as "pollutants of concern" or "POCs") load reductions necessary for each individual Party to achieve full compliance with the Chesapeake Bay TMDL and the WIP (referred to herein as "the Chesapeake Bay TMDL Endpoint").
- b. establish the "TOTAL POLLUTANT REDUCTION," which is the total amount of each POC that the Parties must reduce in order to reach the Chesapeake Bay TMDL Endpoint.
- c. establish the percentage of the TOTAL POLLUTANT REDUCTION for which each locality is responsible. That percentage assigned to each Party shall hereinafter be referred to, respectively, as the "FAIRFAX PERCENTAGE," "VIENNA PERCENTAGE," and "HERNDON PERCENTAGE."

- d. as determined by the Advisory Committee, the FAIRFAX PERCENTAGE, VIENNA PERCENTAGE, and the HERNDON PERCENTAGE may be established for each POC, an average of POCs, or by another mutually agreed upon methodology that will allocate pollutant reduction credits for projects completed under this Agreement as provided for in paragraph 27 below, in a manner necessary to meet the Chesapeake Bay TMDL Endpoint.
- e. establish a watershed-specific FAIRFAX PERCENTAGE, VIENNA PERCENTAGE, and HERNDON PERCENTAGE to allocate pollutant reduction credits for projects implemented within a watershed to meet a non-Chesapeake Bay TMDL Endpoint.

21. VIENNA and HERNDON may at any time provide FAIRFAX with a list of stormwater management projects to be considered for implementation. Before submitting any such project, the submitting Town must thoroughly investigate and analyze each project to ensure that any such project is feasible. Any project submitted before June 30 of each year will be considered by FAIRFAX for implementation during the following fiscal year. If a project is not implemented, it will continue to be considered for implementation in subsequent fiscal years until such time that the project is determined to be infeasible. Selection of projects for implementation and determination of final feasibility are at the sole discretion of the Director of the Fairfax County Department of Public Works and Environmental Services ("Director").

22. By April 1 of each year, the Director will send to the Towns of VIENNA and HERNDON and/or their designees a proposed list of projects within their jurisdiction.

23. Within 30 days after each Mayors' receipt of this list, the Towns shall provide comments and suggestions regarding each project, its timing, and its costs for implementation,

lifetime maintenance, and replacement. If the Towns provide any comments or suggestions, the Director shall fully consider any such comments, and may, but shall not be obligated to implement or adhere to them. In the event that a dispute exists regarding implementation of any project on the list sent by the Director, the Director and the disputing Town shall endeavor in good faith to resolve any such dispute, but final authority for the implementation of any such projects rests solely with Fairfax County and the Director.

24. FAIRFAX will pay for the development of the updated Chesapeake Bay TMDL Action Plan for each Town that is due at the beginning of each new MS4 permit cycle. Each Town will be responsible for routine annual updates as required in the MS4 permits. FAIRFAX will also pay for the initial development of other TMDL action plans necessary for compliance with each Town's MS4 permit and any substantial updates to these action plans required in future permit cycles. The action plans will include all information necessary to demonstrate compliance with MS4 permit requirements. Changes or additions to projects identified in the action plans will be reported to each Town annually in accordance with paragraph 31.

25. FAIRFAX shall be solely responsible for implementing projects under this Agreement, excluding the acquisition of any permanent or temporary land rights necessary to construct and maintain a project located within a Town. The Parties may, as necessary, have agreements that are separate from this Agreement that address the Parties' responsibilities over specific projects, facilities, and other funding.

26. A project is subject to this Agreement if it is funded in whole or in part by the Service District Fee and substantially completed on or after July 1, 2009.

27. For each project substantially completed under this Agreement on or after July 1, 2009, whether the project or facility is located within VIENNA, HERNDON, or elsewhere

within Fairfax County, the Parties will receive a pollutant reduction credit for each POC. The reduction credit is determined by applying the VIENNA PERCENTAGE and the HERNDON PERCENTAGE to the estimated total POC load reductions for each project that is substantially completed pursuant to this Agreement (the "VIENNA CREDIT," "HERNDON CREDIT," "FAIRFAX CREDIT," and collectively "REDUCTION CREDITS"). For completed projects and facilities, the REDUCTION CREDITS shall survive any termination of this Agreement unless otherwise agreed to by the Parties or in the event that a constructed facility or improvement is not maintained in accordance with paragraph 28 of this Agreement.

28. The Party in whose jurisdiction any stormwater management facility or improvement is constructed under this Agreement shall ensure that the long-term maintenance of such facility or improvement is performed as necessary to maintain the functionality and performance thereof. Each party shall ensure long-term maintenance in accordance with Va. Code Ann. § 62.1-44.15.15:27(E)(2) and 9 Va. Admin. Code §§ 25-870-58 and 112. In the event that a Party's failure to maintain a project completed under this Agreement results in a decrease in the amount of POCs removed therefrom, as determined by DEQ, then that Party shall, at its sole cost, maintain or improve the facility to restore the facility to its original functionality.

29. In the event that a Party is unable to meet its load reduction requirement for a specific reporting period, and another Party has exceeded its load reduction requirement, the Director may, with written notification to the Parties, transfer credit from shared credit projects among Parties in a manner to ensure that each Party is able to meet its load reduction requirement. Any such transfer shall be temporary and last only as long as it is needed to address the immediate shortfall. Further, no transfer will occur or stay in force that would result in a donating Party being in non-compliance with an MS4 permit condition.

30. Any Party that completes a stormwater management project from funds not generated by or transferred through Fairfax County shall be entitled to claim all resulting load reduction credits for purposes of satisfying its MS4 permit requirements.

31. FAIRFAX will prepare an annual report that details the activities performed under this Agreement. The report will provide sufficient detail so that each locality may use it to meet their respective MS4 permit reporting obligations to DEQ. Fairfax will provide the report annually no later than one month before the date the annual report is due to DEQ.

STAFF TRAINING

32. Without any additional invitation or payment, VIENNA's and/or HERNDON's staff may attend MS4 permit-related training programs that are conducted or hosted by FAIRFAX. FAIRFAX will provide VIENNA and HERNDON with at least one-month's advance notice of such training opportunities.

TERMINATION

33. Any Party may terminate this Agreement by resolution of that Party's governing body. Any such resolution shall be at a public meeting with notice in writing to the non-terminating Parties. Notice shall be made at least three weeks in advance of any such meeting to the Mayor(s) or, as applicable, the County Executive, of Fairfax County. After adoption of any such resolution, the terminating Party shall notify the remaining Parties. The termination shall be effective no earlier than the end of the fiscal year in which the governing body's vote for the resolution for the termination occurs.

34. If this Agreement is terminated by any party other than FAIRFAX, the Agreement shall remain in force as to the remaining parties. The terminating Town shall have responsibility to maintain and replace, as necessary, any facility constructed under this Agreement that is

located within its boundaries and shall assume all liability for such facility. Unless otherwise agreed to by the Parties, neither Town shall have any liability or responsibility for any facility that is located outside of its jurisdictional boundaries and was developed and implemented under this Agreement.

ADDITIONAL PROVISIONS

35. This Agreement is integrated and contains all provisions of the Agreement between the Parties.

36. In the event of a conflict between any term(s) of this Agreement and either of the Parties' MS4 permits or other permit requirements, either Party's respective permit provision(s), shall control.

37. Any provision or term of this Agreement may be modified only by a writing that is approved by resolution at a public meeting of each of the localities' respective governing bodies.

38. This Agreement shall be binding on the Parties' respective agencies, employees, agents, and successors-in-interests.

39. This Agreement shall not be assigned by either of the Parties unless both of the Parties agree to such an assignment in writing.

40. Nothing in this Agreement otherwise limits the respective regulatory and police powers of the Parties.

41. The Parties agree that nothing in this Agreement creates a third-party beneficiary. The Parties also agree that this Agreement does not confer any standing or right to sue or to enforce any provision of this Agreement or any other right or benefit to any person who is not a

party to this Agreement, including but not limited to a citizen, resident, private entity, or local, state, or federal governmental or public body.

42. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one in the same Agreement.

43. This Agreement shall be governed by Virginia law, and any litigation relating to this Agreement shall be brought and/or maintained only in the Circuit Court of Fairfax County, Virginia.

IN WITNESS WHEREOF, the Parties have executed this Agreement, as verified by their signatures below.

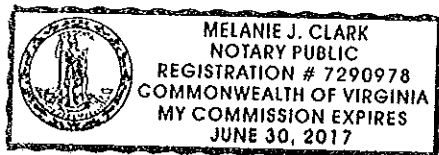
[Signatures appear on the following pages.]

TOWN OF VIENNA

By: Laurie A. DiRocco
Laurie A. DiRocco
Mayor
Town of Vienna, VA

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

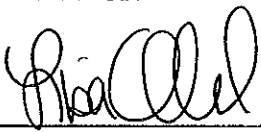
The foregoing Agreement was acknowledged before me by Laurie A. DiRocco
of the Town of VIENNA, this 21st day of February 2018 on behalf of the Town of
VIENNA.



Melanie J. Clark
Notary Public

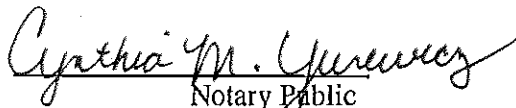
My commission expires: June 30, 2017
Notary Registration Number: 7290978

TOWN OF HERNDON

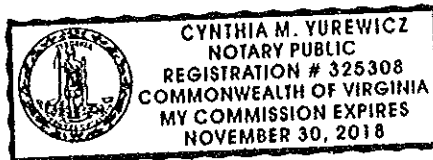
By: 
(Name and Title)
Lisa C. Merkel
Mayor

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Lisa C. Merkel
of the Town of HERNDON, this 2nd day of March 2017 on behalf of the Town
of HERNDON.


Notary Public

My commission expires: 11/30/2018
Notary Registration Number: 325308



APPROVED AS TO FORM:


Lesa J. Yeatts
Town Attorney

Appendix B

Example PCB Slides from Field Crew Pollution Prevention Training

Polychlorinated Biphenyls (PCBs)

- ▶ The Potomac River is contaminated with PCBs.
- ▶ PCBs are considered a legacy pollutant – its manufacture was banned in 1979.
- ▶ Health risks include cancer and damage to the nervous system.
- ▶ Because it does not readily break down, it can still persist in the environment.

PCB Sources

- ▶ Improperly discarded building caulk (pre-1979).
- ▶ Improperly discarded fluorescent light ballast manufactured prior to 1979:
 - ▶ Electronic ballast does not contain PCBs and is clearly labeled as electronic ballast.
 - ▶ Magnetic ballast is assumed to contain PCBs unless specifically labeled "No PCBs."
- ▶ Improperly discarded or accidentally damaged transformers. Some existing Dominion transformers may still contain amounts above reportable thresholds.
- ▶ Other electrical equipment containing substances under the trade names Aroclor, Pyranol, Inerteen, and Noflamol.





Report Potential PCBs Immediately

- ▶ Report potential sources of PCBs to the Town immediately!
- ▶ Do not try to handle the material yourself.

