Module 2: Regulatory Overview

Legal Requirements under Federal / State Laws

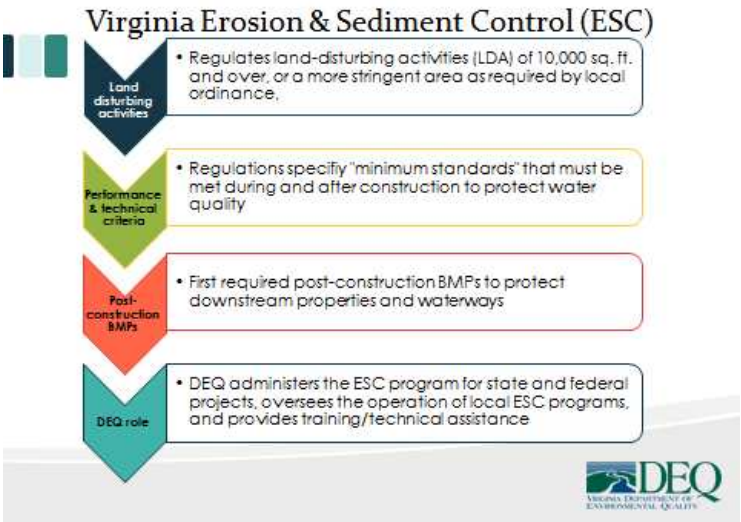
Some laws are enacted by the U.S. Congress and Senate that are passed down for the states to implement. The Virginia General Assembly is the body that enacts all laws in Virginia. In turn, the General Assembly decides if these types of laws are better enacted at the state level or the local level.

A good example of laws passed down from the Federal level is the Clean Water Act.

The Clean Water Act provides statutory authority by:

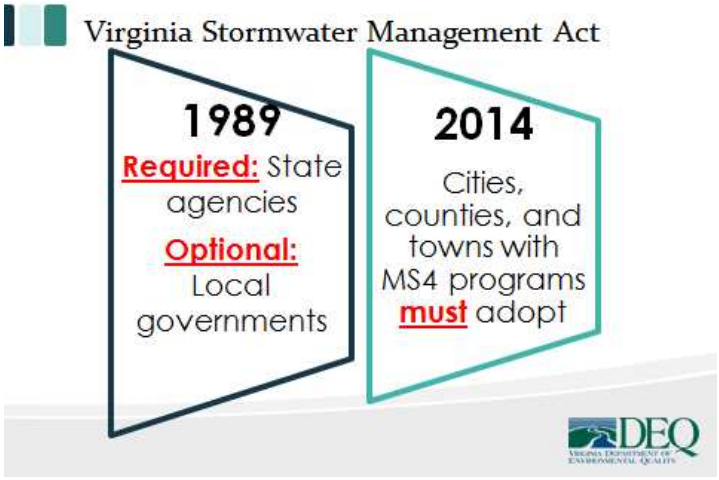
- Consolidating the control of water pollution policy under the administrator of the US Environmental Protection Agency
- Establishing the National Pollutant Discharge Elimination System (NPDES) Permit Program for which delegation was given to Virginia in 1975
- Authorizing stormwater discharge permits from construction activities under the Construction General Permit through NPDES

The General Assembly enacted the Virginia Erosion and Sediment Control (ESC) Law in 1973 and mandated that all Cities and Counties establish local ESC program by 1974. Towns were given the option to either have their own program or be subject to the County program in which the town lies. Currently there are 164 ESC programs in Virginia.



The ESC law has changed many times since the original enactment in 1973.

The Virginina Stormwater Management Act has also been around for many years. It was originally enacted by the Generall Assembly in 1988.

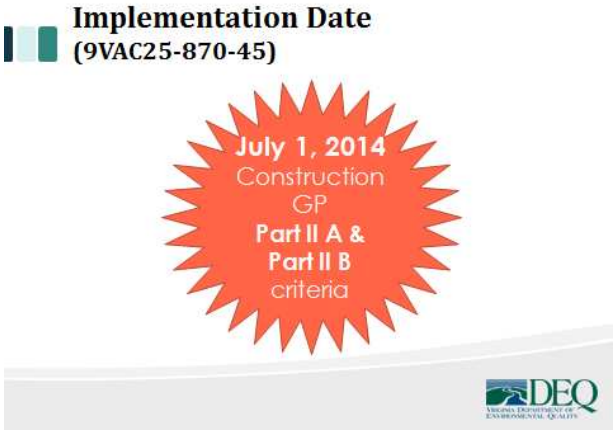


Local Governments were given the "option" to adopt all or parts of the Act. Most localities in Virginia did not adopt but several did to enhance protection of the Chesapeake Bay by adding some of the requirements or options of the Stormwater Management Act into their local ordinances.

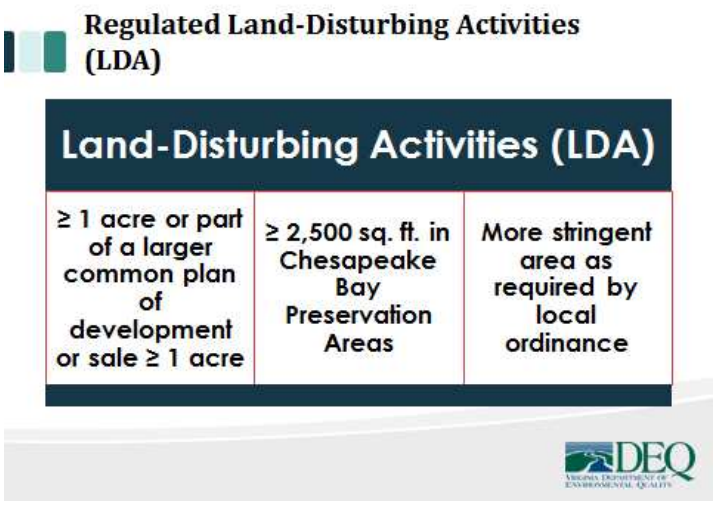
In 2012 the General Assembly passed House Bill 1065 which required all Counties, Cities and MS-4 programs to adopt a SWM program statewide. Then in 2013, the General Assembly revised the Act again to allow certain local goverments to "opt-out" and allow the state (DEQ) to operate the SWM program in their jurisdiction.

The 2012 law amendment also included integration of the revised Stormwater Managements Regulations which include the 2014 Construction General Permit which became effective on July 1, 2014.

General Permit (or Construction GP) means a state permit authorizing a category of discharges under the CWA and the Act within a geographical area. [(9VAC25-870-10)]



The Construction General Permit restricts and authorizes certain kinds of Stormwater Discharges during construction depending on the acreage of land disturbance. Land disturbing activites which fall into the categories below must either have coverage under the Construction General Permit or meet the requirements of the permit.



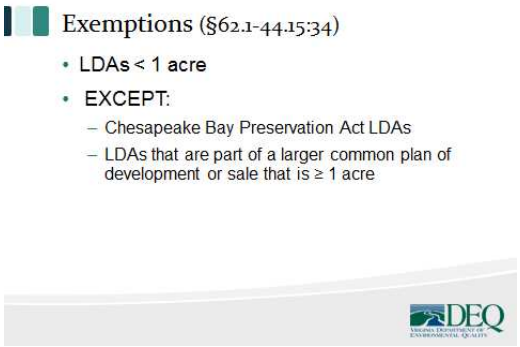
Aren't sure if your project needs coverage under the Construction General Permit?

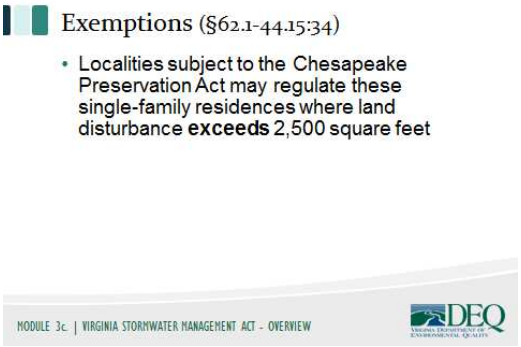
Contact your local VSMP Authority or DEQ

Localities are allowed by law to adopt more stringent requirments than the minimum requirements stated in the law and regulations.

Some land disturbing activities are exempt from the law and regulations. Examples of those are:

- Mining or oil and gas operations
- Clearing of land for agricultural purposes
- Discharges to a sanitary sewer or combined sewer system
- Activities under a state or federal reclamation program to return abandoned property to an agricultural or open land use
- Routine maintenance that is performed to maintain the original grade line and grade, hydralic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance
- Conducting land disturbance in response to a public emergency to avoid imminent endngerment to human health or the environment





The LDA's less than one acre but fall under the CBPA must comply with the Permit condictions but do not need coverage under the state permit. They may however require a local land disturbance permit.

Each regulated Land Disturbing Activity must have an approved Stormwater Management Plan before land disturbance takes place. The stormwater management plan will incorporate several different elements for the construction phase as well as post construction conditions of the site. The stormwater management plan must also have a SWPPP (Stormwater Pollution Prevention Plan). The stormwater management plan is part of the SWPPP and must be approved by the VSMP authority prior to land disturbance takes place.

The SWPPP must address the following nine requirements:

1. Control stormwater volume and velocity within the site to minimize soil erosion
2. Control stormwater discharges, including peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion
3. Minimize the amount of soil exposed during construction activity
4. Minimize the disturbance of steep slopes
5. Minimize sediment discharges from the site through the design, installation and maintenance of controls that address factors such as:
    - Amount, frequency, intensity, and duration of precipitation
    - Nature of resulting stormwater runoff
    - Soil characteristics, including the range of particle sizes
6. Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible
7. Minimize soil compaction and, unless infeasible, preserve topsoil
8. Immediately initiate stabilization of disturbed areas where LDA ceases longer than 14 days; and in arid, semiarid, and drought areas, employ alternative stabilization measures as specified by the VSMP authority
9. Utilize outlet structures that discharge water from the surface of impoundments

SWPPP Availability

Location – While there is construction activity on the site, the SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.

1. Operators with day-to-day operational control over SWPPP implementation must have a copy of the SWPPP available at a central location on-site
2. Operator must make SWPPP available upon request to:
    1. DEQ
    2. VSMP authority
    3. VESCP authority
    4. EPA
    5. Local government officials
    6. Operator of an MS4 receiving discharges from the construction activity
3. The operator must make the SWPPP available for ***public*** review in either an electronic format or as a hard copy
    1. Access information should be posted at main entrance
    2. If not electronic, SWPPP access may be arranged at a public location

SWPPP Amendments - The SWPPP is a living document. Changes and updates must be made during the life of the construction project. The operator is responsible for updating the SWPPP and keeping it current with the stage of the project. The SWPPP is also updated when certain phases of a project are completed or as major activities such as grading occur or are complete.

Some example of SWPPP amendments, modifications, & updates would be:

- B1. Change in the design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to surface waters and not previously addressed in the SWPPP
- B2. Inspections find ineffective control measures
    - If VESCP or VSMP authority approval is needed, revisions to SWPPP must be made within 7 days of approval
- B3. SWPPP must identify contractor(s) that will implement and maintain control measures in SWPPP
    - Amended when new contractor assigned
- B4. SWPPP must be updated within 7 days following modification to its implementation
    - Modifications or updates to the SWPPP must include:

- Record of dates for when:
    - Major grading activities occur
    - Construction activities temporarily or permanently stop
    - Stabilization measures are initiated

Helpful hint!

The U.S. EPA maintains a website with guidance on developing and maintaining an effective SWPPP: **http://water.epa.gov/polwaste/npdes/stormwater/Stormwater-Pollution-Prevention-Plans-for-Construction-Activities.cfm**

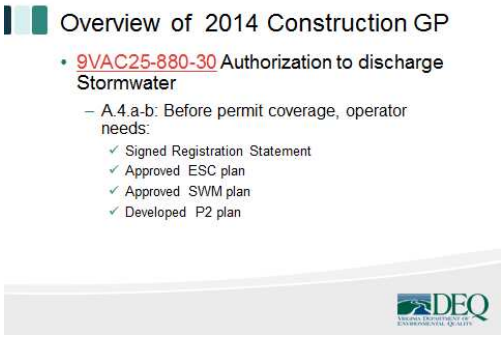
(See the SWPPP checklist in Appendix A)

Overview of the 2014 Construction General Permit

The Construction General Permit (GP) Regulation (9VAC25-880) governs stormwater discharges from regulated construction activities (i.e., what the permittee must do). State individual construction permits are administered by the Department of Environmental Quality (Department).

The Construction GP covers stormwater discharges from construction activities that are:

- ≥ 1 acre
- ≤ 1 acre that is part of a larger common plan of development or sale that is ≥ 1 acre



DEQ will grant coverage under the Construction GP to an operator after the following has been completed:

- ✓ Complete and accurate registration statement has been submitted to the VSMP authority and accepted by DEQ (Not required for construction of single-family detached residential structures, within or outside a common plan of development or sale. See 9VAC25-880-50(A)(1)(c).)
- ✓ Operator obtains approval of:
  - ESC plan, "agreement in lieu of a plan," or prepares ESC plan in accordance with annual standards and specifications approved by the Department
  - SWM plan, "agreement in lieu of a plan," or prepares a SWM plan for the project in accordance with annual standards and specifications approved by DEQ
- ✓ Operator has prepared a P2 plan
- ✓ All required permit fees must have been submitted. Operator complies with the applicable requirements of the permit.

Support activities

The Construction GP also authorizes stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided the support activity is:

- Is exclusively for the main construction activity
- Is not a commercial operation, no serve multiple unrelated construction activities
- Does not operate longer than the construction activity
- Identified in the registration statement
- Controls measures are identified in SWPPP
- Applicable state, federal, and local approvals are obtained

Discharge Authorization and Special Conditions

Authorized non-stormwater discharges:

- ✓ Discharges from firefighting activities
- ✓ Fire hydrant flushing
- ✓ Waters used to wash vehicles or equipment where soaps, solvents or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge
- ✓ Water used to control dust that has been filtered, settled, or similarly treated prior to discharge
- ✓ Potable water sources, including uncontaminated waterline flushing
- ✓ Routine external building wash down where soaps, solvents or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge
- ✓ Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled or leaked material has been removed prior to washing); where soaps, solvents, or detergents have not been used, and where the wash water has been filtered, settled, or similarly treated prior to discharge
- ✓ Uncontaminated air conditioning or compressor condensate
- ✓ Uncontaminated ground water or spring water

- ✓ Foundation or footing drains where flows are not contaminated with process materials such as solvents
- ✓ Uncontaminated excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge
- ✓ Landscape irrigation

Prohibited Discharges: We will discuss these in more detail in Module 4

- × Wastewater from washout of concrete
- × Wastewater from the washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials
- × Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance
- × Oils, toxic substances, or hazardous substances from spills or other releases
- × Soaps, solvents, or detergents used in equipment and vehicle washing

During the construction phase, regular, periodic inspections will be performed to make sure compliance with the Permit, the approved ESC plan, the approved SWM plan, the pollution prevention plan (P2 plan) is adhered to. The local VSMP authority is required to conduct regular inspections during the construction phase. The VSMP authority must periodically inspect the LDA during construction for:

- Compliance with the approved erosion and sediment control plan
- Compliance with the approved stormwater management plan
- Development, updating, and implementation of a P2 plan
- Development and implementation of any additional control measures necessary to address a TMDL

In accordance with the VESCP regulations, the VESCP authority must either:

- Provide for an inspection during or immediately following initial installation of erosion and sediment controls,
- at least once in every two-week period,
- within 48 hours following any runoff producing storm event,
- and at the completion of the project prior to the release of any performance bonds.

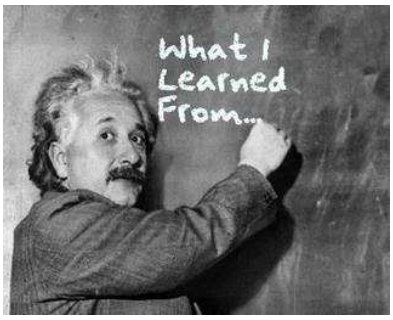
The Authority may also require reports by the land disturber (VA Code §62.1-44.15:58 A. ii)

A comparison of inspections is listed below.

Construction Inspections

	Construction GP Regulation (9VAC25-880-70 Part II (F))	ESC Regulation (9VAC25-840-60)	VSMP Regulation (9VAC25-870-114)
Inspector	Designated by operator	VESCP authority	VSMP authority
Frequency	(See Permit)	Per the ESC Regulations	Periodically
Inspection criteria	(See Permit)	Local ordinance and state law and regulations	Local ordinance and state law and regulations

DEQ



Module 2b The Pollution Prevention Plan (P2 Plan)

To many of you, this may be a new term or phrase. We have become accustomed to the condition of construction sites over the years meaning that, a site is generally a mess until it all gets cleaned up and looking good at the end. Many of the things laying around a construction site that we are used to seeing are sources of pollution. As noted in the Construction GP section above, the operator must prepare implement and update a P2 plan. This plan includes good housekeeping practices and other control measures that are designed to prevent contamination of stormwater from a wide range of materials and waste that are used in and generated by the construction process. P2 plans typically address all or most of the following pollution prevention practices:

- Provide for waste management
- Establish proper building material staging areas
- Designate paint and concrete washout areas
- Establish proper equipment/vehicle fueling and maintenance practices
- Control equipment/vehicle washing and allowable non-stormwater discharges
- A spill prevention and response plan

The Stormwater Management Regulations requires a "Qualified Person" to conduct regular inspections of a site during construction. The Regulations defines that Qualified person as: **Qualified personnel** means "a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity..." [(9VAC25-870-10)](),

The name and contact information of the Qualified Person must be included in the SWPPP

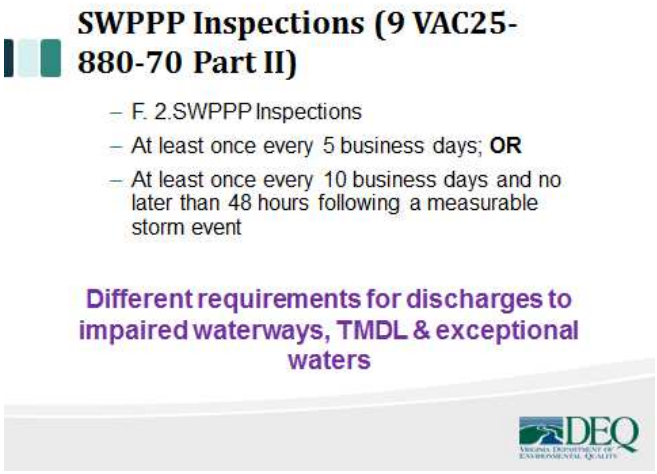
This is the reason for this training. The Qualified Personnel may or may not be the Responsible Land Disturber (RLD) which is required by the ESC law. However, this training is designed to provide the knowledge of both ESC and SWM requirements. It does NOT take the place of the required RLD.

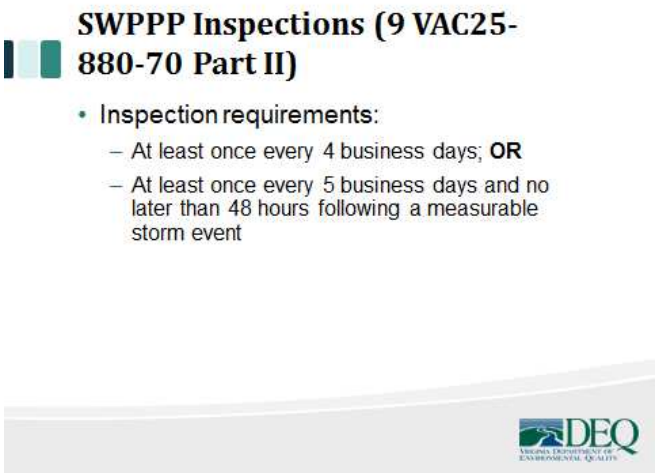
DEQ is being proactive by providing this training in order to provide the knowledge needed and resources available to assist the operators of construction projects in complying with the conditions of the construction general permit and other associated laws and regulations addressing land disturbing activities on construction projects.

The self-inspections required by the regulations include compliance with the approved ESC & SWM plans as well as the P2 plan and other more stringent requirements depending on the location of your project. The VSMP Regulations (9VAC25-870-56) define a ***Pollution Prevention (P2) Plan*** as a plan for implementing pollution prevention measures during construction activities which must be developed, implemented, and updated as necessary. The pollution prevention plan must detail the design, installation, implementation, and maintenance of ***effective*** pollution prevention measures to minimize the discharge of pollutants.

We will discuss the details of the P2 plan later in this module.

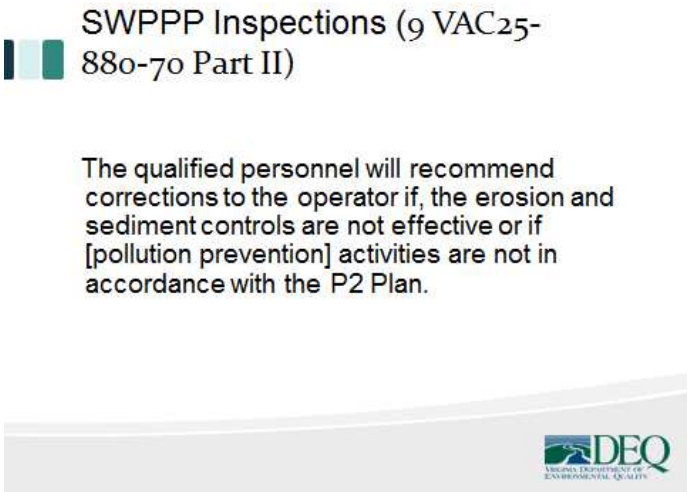
SWPPP Inspections





The Construction General Permit issued by DEQ will let the operator know if the site will be discharging into watershed with a TMDL, impaired waters or exceptional waters. This will notification will help established the required inspection frequency of the self-inspections.

Measurable storm event – The operator has a choice of how to determine if a measurable storm event has occurred. For instance, he/she may choose to have a rain gauge on site or use the rainfall data from a source close to the site such as an airport. See (9VAC25-880-1)



SWPPP Inspections (9 VAC25-880-70 Part II)

If a site inspection required by Part II F identifies a control measure that is not operating effectively, corrective action(s) shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.

MODULE 2b. | POLLUTION PREVENTION

DEQ VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

A word of advice: Read the permit!

P2 Plan Requirements

The P2 plan must describe and document procedures for providing ***pollution prevention awareness*** of applicable wastes and applicable disposal procedures to personnel, which may include subcontractors, vendors, material handlers, mobile re-fuelers and mechanics, and other on-site personnel who deal with potential stormwater pollutants. The operator is required to describe and implement the procedures as follows:

- **Prevent and respond to leaks, spills and other releases** including(i) procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases; and (ii) procedures for reporting leaks, spills, and other releases;
- **Prevent the discharge of spilled and leaked fuels and chemicals from vehicle fueling and maintenance activities** (e.g., providing secondary containment such as spill berms, decks, spill containment pallets, providing cover where appropriate, and having spill kits readily available);
- **Prevent the discharge of soaps, solvents, detergents, and wash water from construction materials**, including the clean-up of stucco, paint, form release oils, and curing compounds (e.g., providing (i) cover (e.g., plastic sheeting or temporary roofs) to prevent contact with stormwater; (ii) collection and proper disposal in a manner to prevent contact with stormwater; and (iii) a similarly effective means designed to prevent discharge of these pollutants).
- **Minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water and other types of washing** (e.g., locating activities away from surface waters and stormwater inlets or conveyance and directing wash waters to sediment basins or traps, using filtration devices such as filter bags or sand filters or using similarly effective controls);
- **Direct concrete wash water into a leak-proof container or leak-proof settling basin**. The container or basin shall be designed so that no overflows can occur due to inadequate sizing or precipitation. Hardened concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wastes. Liquid concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wash waters and shall not be discharged to surface waters;
- **Minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials and wastes** including (i) building products such as asphalt sealants, copper flashing, roofing materials, adhesives, concrete admixtures; (ii) pesticides, herbicides, insecticides, fertilizers, and landscape materials; and (iii) construction and domestic wastes such as packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, styrofoam, concrete, and other trash or building materials;
- **Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, and sanitary wastes**; and
- Address any other discharge from the potential pollutant-generating activities not addressed above.

Steps to Prepare a P2 Plan

In order to effectively assess the P2 plan and P2 measures at a construction site, the inspector or operator should be familiar with the basic steps needed to prepare a P2 plan. Good P2 plan preparation can also help avoid site compliance issues. Preparation of a P2 plan can be very involved and the plan complexity will depend on the nature and duration of construction activities, the size of the project, and other potentially complicating factors. The following outlines a very simplified generic process for P2 plan preparation that can be used as a starting point in considering the required components:

Step 1 – *Identify and Describe Activities:*

- Potential pollutant generating activities
- Locations where activities will occur
- All non-stormwater discharges
- Responsible person(s) for implementing P2 for each activity
- Qualified Personnel for implementation of P2 plan components

Step 2 – *Procedures and Practices:*

- Prevent and respond to leaks and spills
- Eliminate spillage and leaking from vehicle fueling and maintenance
- Prevent discharges of soaps, detergents, and solvents
- Minimize pollutants from washwater
- Appropriately handle concrete washwater
- Minimize pollutants from construction waste
- Prevent discharges of fuels, toxics, and hazardous wastes

The Construction GP requires that a P2 plan describe the location where pollutant generating activities will occur; or identify locations of pollutant generating activities on a plan (or by reference to a site plan).

Some VSMP authorities may adopt more stringent VSMP programs and require P2 plans to be submitted for review and approval.

Some other pollution items to think about:

Fueling and Maintenance

- Static or mobile operations and activities
- Secondary containment, absorbents, barriers, and spill response kits for fuel and lubricant storage, and equipment and vehicle fueling and maintenance activities
- Implement preventative maintenance to identify potential leaks and spills and repair equipment and vehicles immediately
- Properly handle, store, dispose of equipment/vehicle waste lubricants and coolants

Soaps, Detergents, and Solvents

- Provide cover to minimize exposure to stormwater
- Collection and disposal procedures (no discharge)
- Use other practices effective to prevent discharge (recycle wash systems)

Concrete Washout Facilities

- All concrete washout must be appropriately controlled
- See EPA Fact Sheet on P2 for Concrete Washout: http://www.epa.gov/npdes/pubs/concretewashout.pdf

Dewatering Operations

- Utility trenches, foundations, general excavation, etc.
- No discharge of contaminated water from dewatering operations
- Contaminated water should be treated by filtering, settling, or similarly treatment prior to discharge as uncontaminated water

Vehicle Washwater

- Avoid use of soaps, detergents, and solvents (no discharge otherwise)
- Physical separation from surface waters and inlets
- Use filtration and settling devices to remove sediments
- Direct washwaters to basins, traps, or other suitable BMPs

Construction Material Handling and Storage

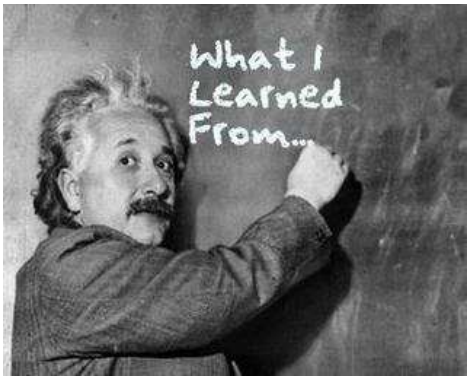
- Conventional pollutants common on construction sites: soil, aggregates, drywall, roofing materials, asphalt, bagged cement products, etc.
- Potentially toxic or hazardous materials: paints, coatings, fertilizers, pesticides, etc.
- Eliminate exposure to stormwater, both rainfall and runoff, by storing under roof or in sealed, leak-proof containers
- Provide secondary containment measures if non-exposure is not viable
- Locate storage outside of stormwater flowpaths and floodplains

Construction Waste

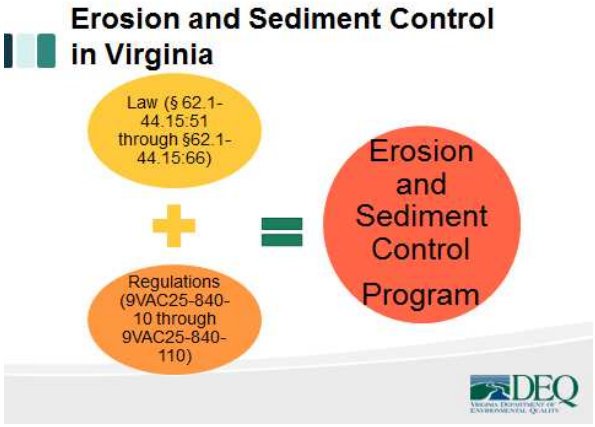
- Solid trash and debris common to construction sites
- Washout for painting or other operations that generate liquid wastes
- Provide trash receptacles and dumpsters for collection of waste and debris and empty the receptacles to maintain proper storage capacity
- Designate washout areas located at least 50 yards from storm drains and waterways that are not exposed to rainfall
- No discharge from designated washout areas; liquid wastes should be hauled off-site for proper treatment and disposal or allowed to evaporate and handled as solid waste

Sanitary Waste

- No discharge of sanitary waste from the site
- Provide sufficient Port-a-Johns or other suitable sanitary facilities for personnel
- Keep sanitary facilities clean so personnel will use them


What I
Learned
From...

The Virginia Erosion and Sediment Control Law (VESCL) authorizes the Virginia Erosion and Sediment Control Program (VESCP) and associated regulations. The regulations explain the technical, operational, and legal details necessary to implement the law.



Program Authorization

"The Board shall develop… for the effective control of soil erosion, sediment deposition, and non-agricultural runoff to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources" (Va. Code § 62.1-44.15:52)

Definitions

The following list includes the more pertinent definitions from the law (Va. Code § 62.1-44.15:51).

"Erosion and sediment control plan" or "plan"

A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Land Disturbance Activity"

Any man-made change to the land which may result in soil erosion from water or wind and the movement of sediments into state waters or onto state lands including but not limited to, clearing, grading, excavating, transporting, and filling of land.

"VESCP Authority"

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

VESCP personnel (VA Code §62.1-44.15:53)

Certified inspector: an employee or agent of a VESCP authority who holds a certificate of competence from the Board in the area of project inspection or is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment

- Conducts regular inspections of active construction sites to ensure proper construction, function, and maintenance of BMPs and other erosion and sediment control measures
- Documents inspections
- Initiates enforcement action when needed
- Ensures compliance to correct deficiencies or violations

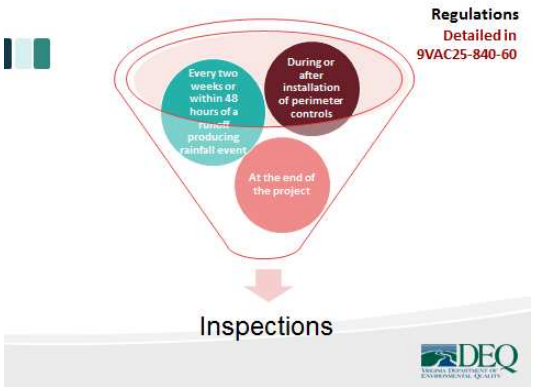
Inspection frequency

(VA Code §62.1-44.15:58 and 9VAC25-840-60)

In accordance with the VESCP regulations, the VESCP authority must either:

Provide for an inspection

- **during or immediately following initial installation of erosion and sediment controls,**
- **at least once in every two-week period,**
- **within 48 hours following any runoff producing storm event,**
- **and at the completion of the project prior to the release of any performance bonds.**



The Authority may also require reports by the land disturber (VA Code §62.1-44.15:58 A. ii)

Monitoring, reports, investigations, inspections, and stop work orders (§62.1-44.15:37)

This section defines the procedures for enforcement of the approved plan, outlining both the responsibilities and the authorities assigned to the VSMP authority.

Inspections, monitoring, and reports

- The authority must provide for **periodic** inspections of the installation of stormwater management measures and may require monitoring and reports from the person responsible for carrying out the permit conditions

Notice to comply

- If it is determined by the VSMP authority or Department that there is a failure to comply with the permit conditions, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by registered or certified mail or at the development
- The notice must specify the measures needed to comply with the permit conditions and specify the time within which such measures shall be completed
- Upon failure to comply within the time specified, a stop work order may be issued, or the permit may be revoked by the VSMP authority, or the state permit may be revoked by the Board. The Board or the VSMP may also take enforcement action

Stop work order

If a permittee fails to comply with a notice within the time specified, the VSMP authority or the Department may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or person conducting the LDAs without an approved plan or required permit to cease all LDA until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued:

- In accordance with local procedures if issued by a locality VSMP authority
- After a hearing held in accordance with the requirements of the Administrative Process Act if issued by the Department

Such orders shall become effective upon service on the person by mailing.

If the VSMP authority or the Department finds that any such violation is grossly affecting or presents an **imminent** and **substantial danger** of causing harmful erosion of lands or sediment deposition in the watershed of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing the LDA to cease immediately. The Department or the VSMP authority must provide an opportunity for a hearing and give reasonable notice as to the time and place. The hearing will affirm, modify, amend, or cancel such emergency order.

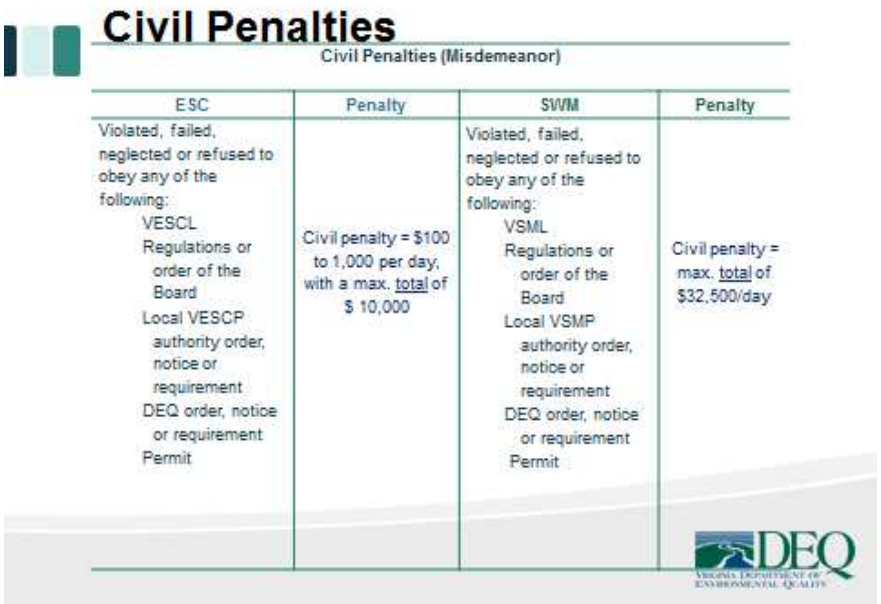
Compliance with the Erosion and Sediment Law, Regulations and Minimum Standards is a requirement of the Construction General Permit conditions

Penalties, injunctions, and other legal actions

Consent orders (§ 62.1-44.15:48)

The Board, Department, or VSMP authority may issue a consent order to any person who has violated or failed, neglected, or refused to obey the VSMA, an ordinance, a permit condition, a regulation of the Board, or an order of the Board, Department, or VSMP authority. A consent order may include civil charges up to $32,500 for each violation instead of a civil penalty.

Civil penalties (VA Code §62.1-44.15:63) - Civil penalties are assessed by the court in accordance with the requirements below.



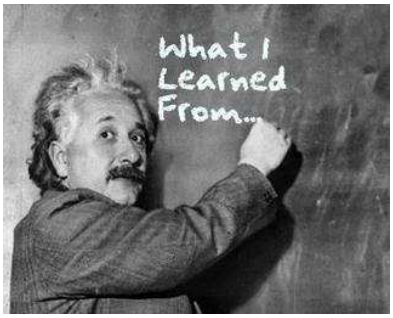
Criminal actions

Violators who act willfully, negligently, or knowingly may also be subject to the criminal penalties under the VSMA that are listed in the table on the next page. Criminal actions are prosecuted by the Commonwealth's Attorney in the locality where the criminal act occurred.

Criminal Actions		
Misdemeanor (Comparison of Erosion & Stormwater)		
Behavior	**Punishment for individuals**	**Punishment for non individuals**
Violated, failed, neglected or refused to obey any of the following any of the following: VESCL Regulations or order of the Board Local VESCP authority ordinance or order Department order Permit Order of a court	A fine between $100 and $1,000 per day. ***Maximum total = $10,000*** Each day of violation of each requirement constitutes a separate offense	
Violated, failed, neglected or refused to obey any of the following any of the following: VSMA Regulations or order of the Board Local VSMP authority ordinance or order Department order Permit Order of a court	Jail for up to 12 months and/or a fine between $2,500 and ***a maximum of $32,500***. Each day of violation of each requirement constitutes a separate offense	Fine ≥ $10,000 Each day of violation of each requirement constitutes a separate offense

Felony (Stormwater)

Behavior	Punishment for individuals	Punishment for non individuals
Knowingly violates any of the following: VSMA Regulations or order of the Board Local VSMP authority ordinance or order Department order Permit Order of a court	Imprisonment for 1-3 years, or in the discretion of the jury or the court, confinement in jail for up to 12 months and a fine between $5,000 and $50,000 for each violation Each day of violation of each requirement constitutes a separate offense	Fine ≥ $10,000 Each day of violation of each requirement constitutes a separate offense
Knowingly makes any false statement in any form required by VSMA		
Knowingly causes any required monitoring device or method to be inaccurate		
Knowingly violates a provision of VSMA and knows at the time that they are placing another person in imminent danger of death or serious bodily harm	Imprisonment for 2-15 years and/or a fine up to $250,000 Maximum fine and imprisonment doubled for subsequent convictions of same person	Fine up to the greater of $1 million or 3x the economic benefit realized by the defendant as a result of the offense Maximum fine and imprisonment doubled for subsequent convictions of same non individual



Module 2 Tips and take home points for what NOT to see on your site:

Spill prevention and response plan

Non-compliant	Compliant
	
Improper hazardous material/liquid storage	Spill response

Good housekeeping suggestions for: Spill prevention and response plan

- ✓ Spill prevention and response plan incorporated in SWPPP
  - Clear identification of ways to reduce chance of spills;
  - Stop source of spills;
  - Contain and clean up spills; and
  - Dispose of materials contaminated by spills
- ✓ Personnel trained in spill prevention and response
- ✓ Spill prevention control and counter measures plan (if applicable)

Equipment/vehicle fueling and maintenance practices

Non-compliant	Compliant

Fuel spills, located next to curb and gutter

Off-site vehicle fueling under covered area

Hazardous liquid spill

Proper on-site fuel containment

Improper fueling station

Good housekeeping suggestions for: Equipment/vehicle fueling and maintenance practices

- ✓ Equipment/vehicles fueled and maintained off-site when feasible
- ✓ Clean and dry on-site fueling and maintenance area
  - Located away from away from drainage facilities and waterways
  - Under covered area if possible
  - Spill kit on-site
- ✓ Spent fluids stored in appropriate labeled containers in proper storage areas

Equipment/vehicle washing

Non-compliant

Vehicle wash water flows to storm drain inlet

Compliant

Good vehicle wash facility

Good housekeeping suggestions for: Equipment/vehicle washing

- ✓ Use of off-site wash facilities
- ✓ Wash in designated, contained areas only
- ✓ No discharges to the storm drain
  - Infiltrate wash water
- ✓ High-pressure water spray used at vehicle washing facilities without any detergents
- ✓ Only vehicle washing occurs in wash area

Paint and concrete washout areas

Non-compliant

Paint washout area flows to storm drain inlet

Concrete washout not lined

Wash water not contained

Compliant

Above ground washout structure

Good housekeeping suggestions for: Paint and concrete washout areas

Concrete, paint and stucco

- ✓ Designated and signed washout areas for specific materials
- ✓ Washout areas located at least 50 yards away from storm drains and waterways
- ✓ Use of prefabricated containers; or
- ✓ Adequately constructed washout area:
  - Pit dug out and lined with 10 mil plastic sheeting; or
  - Above ground structure constructed out of straw bales or sandbags with a plastic liner
- ✓ Wash water contained
- ✓ Washout materials disposed of properly

Building material handling and staging areas

Non-compliant	Compliant

Building materials exposed to precipitation

Haphazard fueling operation

Uncovered paint cans

Designated site area for storage

Good housekeeping suggestions for: Building material handling and staging areas

Storage:

- ✓ Designated site areas for storage
- ✓ Storage containers are not leaking, corroding, or showing other signs of deterioration
- ✓ Indoor storage or cover provided for paints, solvents, pesticides, fuels and oils, other hazardous materials, or building materials that have the potential to contaminate stormwater
- ✓ Secondary containment techniques such as dikes, berms, curbing, or other containment methods in place to prevent spills from spreading and to protect groundwater
- ✓ Designated staging areas for fueling vehicles and mixing paints, plaster, mortar, etc.

Waste management

Non-compliant

Construction debris/trash

Leaky dumpster

Porta-potty over storm drain inlet

Compliant

Proper containment of waste
(Covered is best)

Good housekeeping suggestions for: Waste management

Solid or construction waste:

- ✓ Designated trash and bulk-waste collection area on-site
- ✓ Litter and debris picked up daily
- ✓ Waste collection areas located away from streets, gutters, waterways, and storm drains
- ✓ Secondary containment around waste collection area

Sanitary waste facilities:

- ✓ Convenient, well-maintained, and properly located
- ✓ Inspected, serviced, and cleaned regularly
- ✓ Stabilized and located away from storm drain inlets and waterways

Hazardous materials and waste:

- ✓ Designated hazardous waste collection areas on-site
- ✓ Hazardous and toxic material waste in secondary containment
- ✓ Hazardous waste containers labeled properly and not leaking