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Erosion and Sediment Control Basic Course

Module 3a



History of the Erosion and Sediment Control and Stormwater Management Laws

Law History

Dust Bowl



Law History



“A Nation that destroys it’s soil destroys itself”
Franklin D. Roosevelt





Law History

- **Public Law 46-Established the Soil Conservation Service**
- **Soil & Water Conservation Districts (SWCD) were established under the Franklin D. Roosevelt administration.**
- **VA Soil and Water Conservation District Law (Title 21) 1938 - Created SWCC - SWCB and DCR**
- **Mainly concerned with agricultural practices**
- **Voluntary programs were not very effective**



Clean Water Act (1972)



Federal Clean Water Act (CWA)

Creation of Environmental Protection Agency (EPA)

National Pollutant Discharge Elimination System (NPDES)

Law History

In the 60's urban areas began to experience expansive growth which brought to light the need for sediment control from construction activities. Fairfax was the first locality to adopt a local E&S ordinance.



Law History

In 1971 the Governor's council on the environment created a task force to study erosion and sedimentation resulting from construction projects



Law History

The report from the task force verified the need to regulate those activities and recommended that a statewide program be implemented





State and Local Program Implementation

- Virginia delegates powers to localities through the Virginia Constitution.
- Localities can only exercise powers and authority granted to them by state law.
- This legal approach is known as “Dillon’s Rule”.
- Localities must carry out duties and responsibilities mandated to them.

Law History

1973 - VA Erosion and Sediment Control Law as addendum to the 1938 Law - was re-codified to Title 10 of the Code of Virginia



History of the ESC Law

1973

- Virginia Erosion and Sediment Control Law
- Establish State-wide General Criteria
- Local program

1988

- Amended to promulgate regulations (adopted in 1990)
- Minimum Standard
- Certificate Program (1995)

1993

- Agreement in Lieu of Plan



2001

- **Responsible Land Disturber (RLD) program**

2003

- **Waive RLD requirement in case of Agreement in Lieu of Plan**

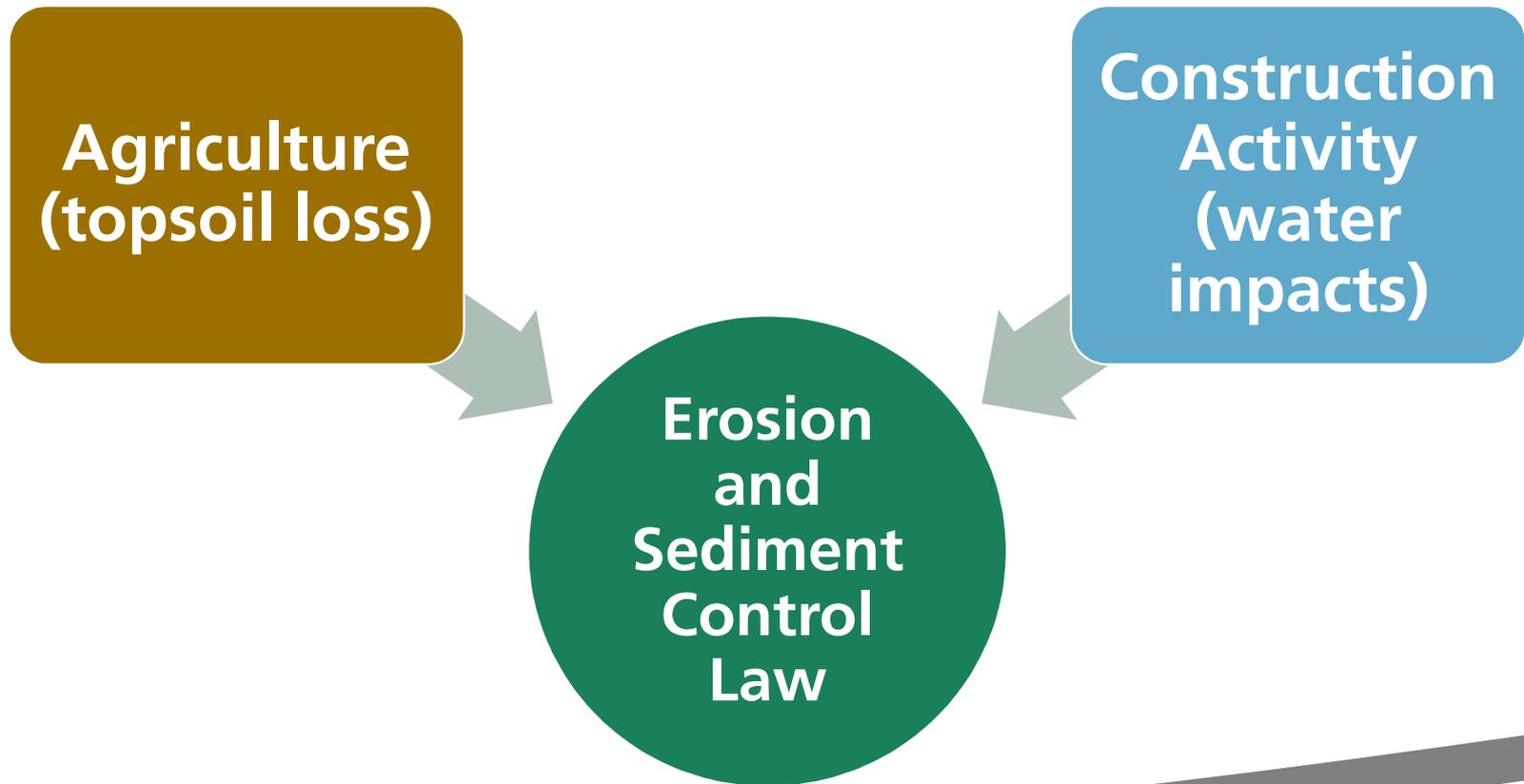
2012

- **Integration Bill**

2013

- **Move of the Program to DEQ**
- **State Water Control Board given jurisdiction of program**

In Summary





Basic Program Concept Today

- Anyone wishing to disturb land must prepare an erosion and sediment control plan that satisfies state Minimum Standards.
- The plan must be submitted and approved.
- Compliance with the approved plan and Minimum Standards must be adhered to.

Module 3b.



The integration of the VSMP

Integration of the VSMP

- During construction, stormwater runoff can also pickup and transport construction related waste which can pollute waterways and property
- The Virginia Stormwater Management Program (VSMP) regulations require operator's of regulated LDAs to develop and implement a "stormwater pollution prevention plan "

Integration of the VSMP)

Virginia Stormwater Management Act authorizes the Virginia Stormwater Management Program (VSMP)

Requires



LDA of a specific size obtain coverage under the Construction GP and follow the design criteria to control nonpoint source pollution, localized flooding, and channel erosion

Integration of the VSMP

- After July 1, 2014 LDA's must also incorporate the requirements of the Virginia Stormwater Management Act and Regulations
- Starting July 1, 2014, any locality that operates a regulated MS4 is required to adopt and administer a VSMP. Non-MS4 localities may choose to adopt a VSMP or have DEQ administer the program.

Integration of the VSMP

The following LDAs must follow the provisions of the Virginia Stormwater Management Act and regulations and obtain state permit coverage and local VSMP authority permit where applicable:

- ≥ 1 acre
- Part of a larger common plan of development or sale that is one acre or more
- Smaller area as established in local ordinance
- $\geq 2,500$ ft.² in Chesapeake Bay Preservation Areas

Integration of the VSMP

- These plans must detail how erosion and sediment control measures, and pollution prevention measures will be implemented on the construction site



VSMP Permit requirements for LDAs

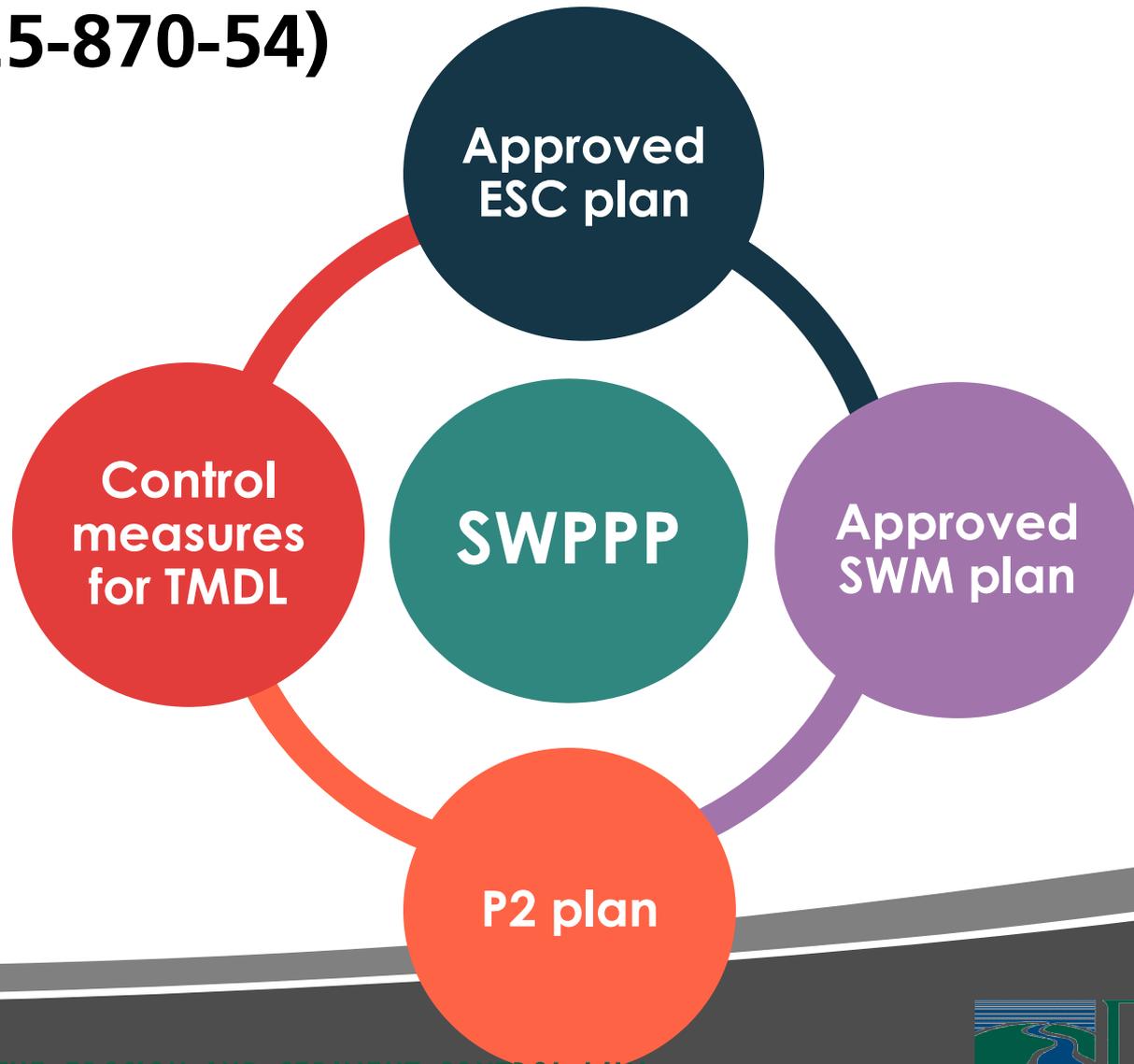
- **Have an approved stormwater management plan for post-construction control of stormwater quality and quantity**
- **Have an approved erosion and sediment control plan**

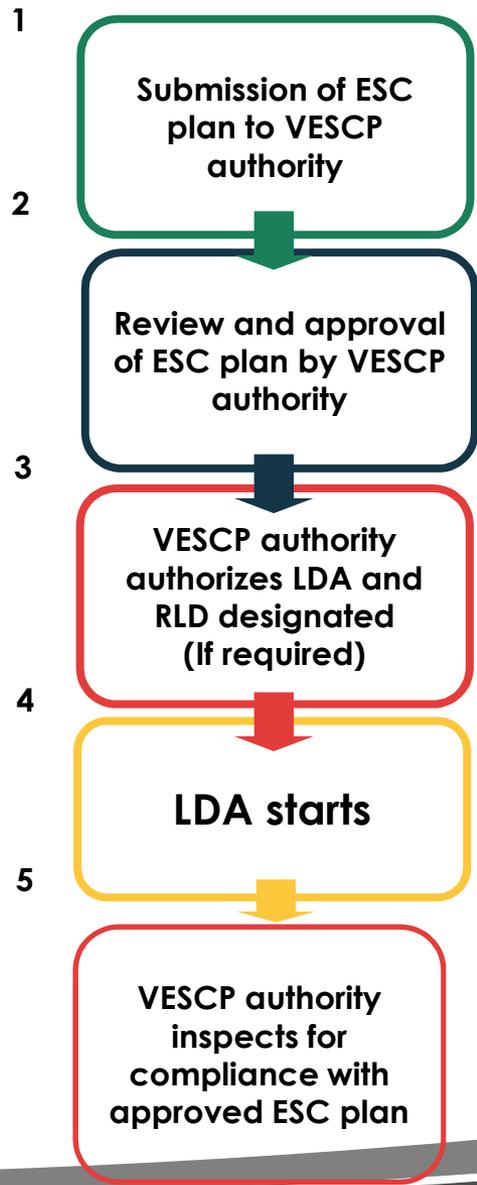


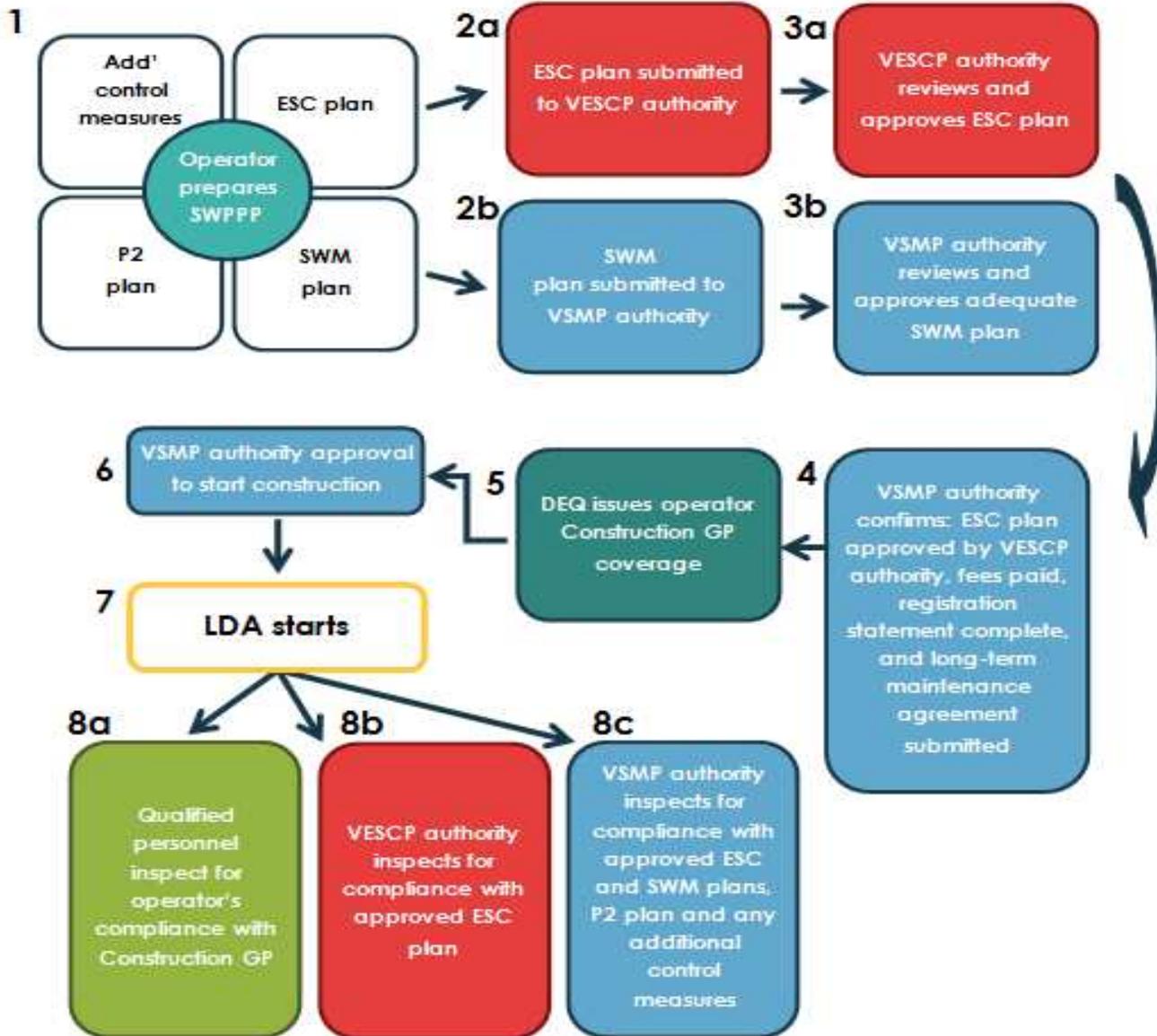
VSMP Permit requirements for LDAs

- **Develop a pollution prevention plan**
- **Develop long-term maintenance agreements**
- **Obtain local VSMP authority permit and state permit coverage where applicable before starting LDA**

SWPPP Requirements (9VAC25-870-54)









End of Module 3