

Module 5: Overview of a VSMP

Module 5 Objectives

After completing this module, you will be able to:

- Discuss the VSMP process from conception to completion of a land-disturbing activity
- Identify the elements a local ordinance must include

Module 5 Content

5a. VSMP Process

5b. Adopting Local Ordinances

5a. VSMP Process - The following flow chart outlines how the VSMP process can run from the conception to the end of a land-disturbing activity.



Step 1: SWPPP preparation

Before starting a land-disturbing activity (LDA), an operator must complete a stormwater pollution prevention plan (SWPPP) in accordance with [9VAC25-870-54](#). The SWPPP must include:

- Approved erosion and sediment control plan
- Approved stormwater management plan ([9VAC25-870-55](#))
- Pollution prevention plan ([9VAC25-870-56](#))
- Description of any additional control measures necessary to address a TMDL ([9VAC25-870-54](#))
- Performance measures ([9VAC25-870-54](#))

In addition to the SWPPP, the operator must prepare a long-term maintenance agreement for permanent stormwater management facilities in accordance with [9VAC25-60-112](#).

(★ Remember, the agreement must be recorded in the local land records before termination of the permit or earlier as required by the VSMP authority).

Step 2: Erosion and sediment control and stormwater management plan submittal

The operator must submit the erosion and sediment control plan to the VESCP authority for review and approval and the stormwater management plan to the VSMP authority for review and approval.

Step 3: Determination of completeness

The VSMP authority (program administrator) has **15 days** to determine the completeness of a stormwater management plan in accordance with [9VAC25-870-55](#) and to notify the applicant of its determination. If the application is not complete, the VSMP authority must notify the applicant in writing or electronically of the reason(s).

DEQ 2012 Impaired Waters GIS Application:

<http://www.deq.virginia.gov/ConnectWithDEQ/VEGIS/2012WQMAssessmentGISApplications.aspx>

Search for Approved TMDL Reports:

<http://www.deq.virginia.gov/Programs/Water/WaterQualityInformation/TMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx>

VESCP authority reviews and approves erosion and sediment control plans in accordance with the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Erosion and Sediment Control Regulations.

Step 4 & 5: Plan review and approval

If a plan is complete and the applicant has been notified within 15 days of submission, the VSMP authority (plan reviewer) has [60 days](#) from the time of notification to review the plan.

Before approving a stormwater management plan, the plan reviewer must approve any long-term maintenance agreements for permanent stormwater management facilities in accordance with [9VAC25-870-112](#).

Step 6: Construction GP registration statement submittal

The operator must submit a complete and accurate registration statement in accordance with [9VAC25-870-59](#) and pay any permit fees required.

By signing the registration statement, the operator certifies the SWPPP has been prepared.

Step 7: Construction GP issued by Department

Before permit coverage can be issued, the program administrator must confirm the following:

- ✓ Registration statement is accurate and complete
- ✓ Stormwater management plan has been approved by the VSMP authority
- ✓ Long-term maintenance agreement for permanent stormwater management facilities has been approved by the VSMP authority
- ✓ Erosion and sediment control plan has been approved by the VESCP authority
- ✓ All fees have been paid

Once the program administrator confirms the above, permit coverage is issued by the Department.

Step 8: VSMP authority approval to start construction

Step 9: VESCP and VSMP authority inspections ([9VAC25-870-114](#))

During construction, the VSMP authority (inspector) must periodically inspect ([§62.1-44.15:37](#)) the land-disturbing activity for:

- Compliance with the approved erosion and sediment control plan
- Compliance with the approved stormwater management plan

VSMP authority confirms operator has updated, modified, and implement the pollution prevention plan, and ensure compliance and implementation of any additional control measures to meet a TMDL (if needed).

The inspectors and program administrator work together to carry out enforcement actions that may become necessary should the work not proceed in accordance with the approved plan ([9VAC25-870-116](#)).

Step 10: Construction ends

Before the operator can submit notice of termination to the VSMP authority, the Construction GP ([9VAC25-880-60](#)) requires them to ensure necessary permanent control measures included in the SWPPP for the site are in place and functioning effectively and that final stabilization has been achieved on all portions of the site for which the operator is responsible. When applicable, long-term responsibility and maintenance requirements for permanent control measures must be recorded in the local land records. For residential construction only, the operator must ensure temporary soil stabilization has been completed and the residence has been transferred to the homeowner. (See [9VAC25-880-60](#) for information about termination of permit coverage when another operator assumes control or when an alternative VPDES or state permit has been obtained.)

Step 11: Operator submits notice of termination to VSMP authority

Notice of termination should be submitted no later than 30 days after meeting the permit termination conditions.

Step 12: VSMP authority inspects site if necessary and confirms maintenance agreements have been recorded

Step 13: Construction GP terminated by DEQ

Step 14: VSMP administrator assembles and maintains records and documentation

Once construction is complete, the program administrator will assemble and maintain the required records and documentation including certified project record drawings (“as-built”), inspection and enforcement records, and registration statements ([9VAC 25-870-126](#)). On a fiscal basis (July 1 to June 30), administrators will report to DEQ by October 1 of each year information on any exceptions granted, enforcement actions, and specifics pertaining to the BMPs installed over the course of the year.

In the future, the program administrators may work with the owners or operators of the finished stormwater management facility to collect fees to offset the VSMP authority’s costs to inspect and ensure long-term effectiveness of any permanent stormwater management measures.

Step 15: VSMP administrator returns bonds or securities

Within 60 days of completing the requirements of the permit conditions, the VSMP authority returns or terminates any bonds or securities provided by the operator at the onset of the project.

Step 16: Inspections after construction ([9VAC25-870-114](#))

The VSMP authority (inspector) must inspect stormwater management facilities at least once every five years to ensure they are being adequately maintained as designed.

5b: Adopting local ordinances ([9VAC25-870-148](#))

To become a VSMP authority, a locality needs to adopt a stormwater management ordinance. The ordinance provides the legal foundation for program implementation, compliance determinations, and enforcement of the local program requirements. The local ordinance must include the following elements:

- Identification of the authority accepting complete registration statements and of the authorities completing plan review, plan approval, inspection, and enforcement
- Submission and approval of erosion and sediment control plans in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations and the submission and approval of stormwater management plans
- Requirements to ensure compliance with stormwater pollution prevention plan requirements ([9VAC25-870-54](#)), stormwater management plans ([9VAC25-870-55](#)), and pollution prevention plans ([9VAC25-870-56](#))
- Requirements for inspections and monitoring of construction activities by the operator for compliance with local ordinances
- Requirements for long-term inspection and maintenance of stormwater management facilities
- Enforcement procedures and civil penalties where applicable

The VSMP authority may require a permittee to provide a bond or other financial surety in accordance with [§ 62.1-44.15:34](#) of the Act to ensure that corrective actions could be taken by the VSMP authority at the permittee's expense if, after proper notice and a specified time, the permittee does not take corrective actions to meet the conditions of the Construction GP. If the locality is going to require a financial surety it needs to be included in the ordinance, as well as a provision that the financial surety will be refunded within 60 days of the completion of the requirements of the Construction GP.