



CHAPTER 7

Administrative Guidelines

INDEX

ADMINISTRATIVE GUIDELINES

	<u>PAGE</u>
<u>Local Programs</u>	
Local Program Reviews	VII-2
Funding and Staffing Local Programs	VII-3
Certification Program	VII-4
Plan Submission	VII-4
Plan Review and Approval	VII-5
Activities Under State Jurisdiction	VII-7
Residential Subdivisions	VII-7
Agricultural Activities	VII-9
Issuing Permits	VII-9
Changing an Approved Plan	VII-10
Performance Guarantees	VII-10
Inspections	VII-12
Violations and Enforcement	VII-12
Projects Commenced Without an Approved Plan	VII-15
Erosion Impact Area	VII-16
Records and Files	VII-16
Citizen Complaints	VII-17
Education and Information	VII-17
Multijurisdictional Projects	VII-18
Conclusions	VII-20

State Agency Projects

Submission of Standards and Specifications VII-22

Submission of Erosion and Sediment Control Plans VII-22

Sample Administrative Forms Appendix 7A

Enforcement Flow Chart Appendix 7B

Directory Appendix 7C

CHAPTER 7

ADMINISTRATIVE GUIDELINES

The Virginia Erosion and Sediment Control Law (VESCL) provides the authority and administrative guidelines for the Virginia Erosion and Sediment Control Program. Counties, cities, and towns are authorized to administer a local erosion and sediment control (E&S) program which is consistent with the state program. These local E&S programs have jurisdiction over land-disturbing activities except for those activities which are otherwise provided for by the VESCL.

The VESCL contains several provisions which place certain land-disturbing activities under the jurisdiction of the Board or the Department of Conservation and Recreation's Division of Soil and Water Conservation (DSWC). Generally, these activities include land-disturbing activities undertaken by state agencies and other activities which are multijurisdictional in nature. (Part II of this chapter contains a thorough presentation of these activities.)

A minimum level of consistency for state and local E&S programs is provided by state guidelines, regulations, and other publications such as the Virginia Erosion and Sediment Handbook. In addition, DSWC functions in an oversight capacity to insure the acceptability of state and local programs. DSWC is directly involved in individual project regulation only when such projects are undertaken by state agencies or other institutions specified in VESCL (Sec. 10.1-563), or if they are multijurisdictional in nature and the applicant requests DSWC involvement.

This chapter is divided into two parts in order to present the administrative guidelines which are applicable to local and state level programs:

PART I - Local Programs: Provides information concerning the minimum administrative criteria which must be met in all local programs, along with ideas and suggestions which may be used to improve local program effectiveness. Also, procedures for multijurisdictional land-disturbing activities are presented.

PART II - State Agency Projects: Provides basic information and administrative guidelines which apply to state agencies and institutions that propose to undertake land-disturbing activities.

The guidelines and standards contained in this chapter are based upon provisions of the VESCL as amended through 1991, including the Erosion and Sediment Control Regulations. Later amendments may affect the applicability of this chapter. Handbook users should therefore be aware of all subsequent amendments to the VESCL and Regulations.

PART I: LOCAL PROGRAMS

There are 170 separate local E&S programs which were adopted by 95 counties, 41 cities, 34 incorporated towns, and one Soil and Water Conservation District (district). Every county, city, and incorporated town in the state is covered by one of these programs. Before local adoption, each of these programs was reviewed by DSWC and deemed to be in compliance with the state program. Each program included a set of administrative procedures which outlined specific local implementation mechanisms.

Local administrative procedures are often subject to variation due to turnover in personnel, changes in governmental structure, amendments to the state program, and other factors. For these reasons, the local programs are reviewed periodically to ensure consistency with the state program and their relevance and effectiveness under current local conditions. Even if the original procedures are being implemented as originally adopted, local conditions may have changed to the degree that the program is no longer serving its intended purpose.

Local administrative procedures may be changed without the permission or approval of DSWC. However, such changes should be documented, and they must be consistent with the criteria set forth in the VESCL. Localities are therefore advised to keep DSWC informed of significant program changes and to seek advice when there is a question of compatibility with the state program.

Local Program Reviews

DSWC periodically reviews and evaluates each local program. These reviews provide assistance to localities in maintaining effective E&S programs which are consistent with the state program and to provide state oversight of the local programs. Program reviews are conducted by the DSWC regional E&S Specialists who visit localities and meet with the appropriate personnel involved with the erosion and sediment control program.

The first part of a program review consists of a meeting with local program officials. Administrative aspects of the program are reviewed and discussed. Discussion topics include the local ordinance, plan review, inspection, and enforcement procedures. Also, revisions in the state program and available options which may be beneficial to the locality are discussed.

The second part consists of a field tour to assess the implementation of the program in the field. Sample plans are reviewed and, if possible, current construction sites are inspected.

Finally, DSWC prepares a program review letter that documents the findings of the program review. This letter outlines the local program and makes recommendations in order to

achieve consistency with the state program and to improve local program effectiveness. DSWC intends to review all local programs on a periodic basis.

Funding and Staffing Local Programs

The problem of funding local E&S programs has been brought to the attention of the General Assembly a number of times since the passage of the VESCL in 1973. The Assembly's response has been to adopt amendments to the VESCL allowing localities to charge plan review or permit fees to cover the cost of program administration. A 1976 amendment, Section 21-89.5(e), allowed localities to charge applicants a fee of up to \$25.00. This section was amended again in 1978 to allow a maximum \$150.00 fee. The most recent amendment in 1988, Section 10.1-562(e), allows localities to charge a fee up to \$1000.00. However, these fees must not exceed the actual costs of the services provided. It is apparent by these amendments that the local programs are intended to be funded by revenues from fees charged to persons who undertake land-disturbing activities.

Many rural localities have difficulty funding and staffing their programs. The small number of plans reviewed each year does not usually generate sufficient revenue to support a separate position to run the program. Consequently, most rural localities have given this responsibility to an existing local official such as the building inspector. Many of these local officials do not feel qualified or do not have the time to carry out the additional responsibilities of the E&S program.

Fortunately, there are sources of assistance available. Many localities utilize the expertise of Soil and Water Conservation Districts. The role of the districts in the local E&S programs varies according to mutual agreements between the district and the locality. Frequently, the districts are involved with plan review and inspection. Oftentimes, this arrangement also includes the technical expertise of the Soil Conservation Service (SCS).

Enforcement of a local program is, at least, partially the responsibility of the local Commonwealth's Attorney. According to Section 10.1-569(g) of the VESCL, the local Commonwealth's Attorney shall take legal action against violators upon request of the locality. If the services of the districts and the Commonwealth's Attorney are fully utilized, the burden of administering the E&S program will be greatly reduced.

Local officials can learn to perform inspections adequately with proper training. Such training is made available periodically by DSWC through statewide seminars. Oftentimes, a local training seminar can be arranged through the cooperative efforts of the local government, the DSWC regional E&S Specialist and the district. Training may also be available through local community colleges which can offer erosion and sediment control courses if sufficient local interest is shown.

The following suggestions are made to rural localities which are attempting to carry out local E&S programs on limited budgets:

1. Send local program officials to statewide training seminars or to any applicable courses available through the community college system.
2. Increase plan review or permit fees to cover a greater portion of administrative costs.
3. Fully utilize the services of districts for plan review and/or inspection assistance where available.

Certification Program

DSWC offers a program for certification of Erosion and Sediment Control Inspectors, Stormwater Management Inspectors, and Program Administrators. The objectives of this program are to encourage a higher standard of performance of duties, to promote updated education and training, to promote employer and public awareness of necessary skills, and to establish a code of consistency and competency among administrators and inspectors. Specific requirements for certification include experience and/or education in addition to a passing score on the examination. DSWC recommends that at least one E&S official in each local program be certified.

LOCAL PROGRAM ADMINISTRATION

The remainder of Part I is devoted to discussion of various elements of local program administration. The requirements of the VESCL and the Virginia Erosion and Sediment Control Regulations are outlined and referenced. Also, there are suggestions which may improve local program effectiveness. Appendix 7A contains sample forms which may be modified for use in the local E&S program.

Plan Submission

Requirements

VESCL Sec. 10.1-563(A): ... no person may engage in any land-disturbing activity until he has submitted to the district or locality an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved by the plan-approving authority.

VESCL Sec. 10.1-563(F): ... the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

Discussion

The following items are recommended:

1. The public should be informed of the requirements for plan submission. It is advisable to prepare a brochure or handout sheet which lists the procedures necessary for land development. Include names, addresses and telephone numbers

of local government bodies involved, number of plans to be submitted, time required for review, and schedules of fees. (See Appendix 7A-1.)

2. Provide information on how to obtain copies of the appropriate handbooks or other technical information such as the Virginia E&S Handbook or local E&S handbook. Include a "Checklist for Plan Preparation" (Appendix 7A-2).
3. When the applicant first contacts the locality concerning a proposed development, a screening form may be used to determine whether an E&S plan is required for the project site (Appendix 7A-3).
4. At the time of plan submission, the applicant should fill out an application for a land-disturbing permit or for plan approval, if the locality does not issue such a permit. This application will eventually constitute an agreement between the applicant and the locality. The following items should be included:
 - a. Identification of the landowner of record and the person responsible for carrying out the plan.
 - b. Certification that the plan will be carried out as approved.
 - c. A statement granting right-of-entry to the locality's inspectors or other personnel concerned with the plan (Appendix 7A-4).
5. At the time of plan submission, the E&S plan should be dated, stamped or marked with the date received to establish the 45-day deadline date.

Plan Review and Approval

Requirements

VESCL Sec. 10.1-563(B): ... *The plan-approving authority shall review the conservation plans submitted to it and grant written approval within forty-five days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations. ...*

When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five days. The notice shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the plan-approving authority within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

E&S Regulations Sec. 50: *The plan approving authority may waive or modify any of the regulations that are deemed inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:*

1. *At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan approving authority shall be documented in the plan.*
2. *During construction ... the plan approving authority shall respond in writing either approving or disapproving such a request. If the plan approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. ...*
3. *The plan approving authority shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.*

Note: The minimum standards contained in the E&S Regulations (or other more stringent regulations adopted by the locality) should be satisfied on all E&S plans. These regulations also apply to any land-disturbing activity which might evolve from a construction project (e.g., borrow site, disposal areas, etc.).

Discussion

1. When reviewing a plan, use the "Checklist for Plan Preparation" (Appendix 7A-2) to be sure that no items are overlooked. Variances must be requested in writing with reasons to support the variance.

Note: A site plan without a narrative is usually unacceptable. The narrative may be on separate sheets or may be included as notes on the site plan. Construction specifications usually are not acceptable substitutes for the E&S Narrative.

2. Plan review by more than one reviewer is encouraged. Utilize the expertise and knowledge of other departments or staff. Make plans available to other reviewers quickly and streamline procedures to facilitate meeting the 45-day deadline.
3. On-site inspection of the project location (pre-approval site visit) should be an integral part of the review process.
4. If the plan is adequate, the plan sheet should be stamped or marked "APPROVED," signed and dated.
5. If the plan is inadequate, the applicant must be notified in writing within 45 days of what changes should be made to render the plan acceptable. To expedite the review and any subsequent revisions, the plan reviewer may prefer to discuss the plan with the applicant. **However, the law requires a written communication either approving or disapproving the plan with reasons for disapproval within 45 days.**

6. Consider developing a procedure to abbreviate the re-submitting process so that the plan can reach the reviewer quickly and not delay the applicant for an undue period of time.

Note: At the time of re-submission, another 45-day review period is begun.

7. Appropriate fees may be charged to cover the costs of permit issuance, plan review and inspection. The VESCL limits the total fee to a maximum of \$1000 (Sec. 10.1-562(e), 1990). Many localities charge a fee amount based on the size of the project.

Activities Under State Jurisdiction

Requirements

VESCL Sec. 10.1-563 (D): *Electric and telephone utility companies and railroad companies shall file general erosion and sediment control specifications annually with the Board for review and written comments. The specifications shall apply to:*

1. *Construction, installation and maintenance of electric and telephone utility lines; and*
2. *Construction of the tracks, rights-of-ways, bridges, communication facilities and other related structures and facilities of the railroad company. ...*

VESCL Sec. 10.1-564: *Any state agency that undertakes a project involving a land-disturbing activity shall file specifications annually or a conservation plan for each project with the Department for review and written comments. ...*

Discussion

These agencies/institutions submit either annual E&S specifications or individual plans to DSWC. Approval of individual projects is not necessary when the approved annual specifications are followed. The activities listed above are not subject to the requirements of local E&S programs. Projects not included in subsections 1 and 2 (above) must comply with the local program requirements.

DSWC staff oversees the implementation of the E&S program on state agency projects.

Residential Subdivisions

VESCL Sec. 10.1-560: Definitions

"Land-Disturbing Activity" means any land change ... except that the term shall not include: ... Preparation for single-family residences separately built, unless in conjunction with multiple construction in subdivision development; however, the governing body of any county which has adopted the urban county executive form of government, any city adjacent to such county, and any county contiguous to such county with the county

executive form of government or any town within the contiguous county, and any city completely surrounded by such county, and portions of the Counties of Bedford, Franklin, and Pittsylvania which lie in the Smith Mountain Lake drainage area may regulate land-disturbing activities related to single-family residences separately built whether or not they are developed in conjunction with multiple construction in subdivision development. ...

Discussion

Preparation for single-family residences NOT IN A SUBDIVISION are exempt from E&S law, except as provided for above. [To date, the County of Fairfax is the only county in Virginia with the urban executive form of government.] The portions of the counties of Bedford, Franklin and Pittsylvania that drain into Smith Mountain Lake may regulate single-family residences which are not in a subdivision.

Requirements

E&S Regulations Sec. 1.8:

- B. *If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an "Agreement in Lieu of a Plan" signed by the property owner.*
- C. *Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the act and these regulations.*
- D. *The construction of permanent roads or driveways that disturb in excess of 10,000 square feet and that serve more than one single-family residence separately built is not exempt. ...*

Discussion

Land-disturbing activities on individual lots of a residential development (subdivision) must have an erosion control plan or an agreement in lieu of a plan signed by the lot owner and the locality.

Usually, E&S plans are developed in two phases. The first plan addresses the initial construction of the infrastructure for the development. This plan would include the construction of roads, storm sewers, utilities, and any grading activity that involves more than one lot. The plan would also include stormwater runoff considerations based on the expected final development.

The second phase of construction begins with the construction of houses or buildings on individual lots. Individual E&S plans are required for land-disturbing activities on individual lots; however, many times an "agreement in lieu of an E&S plan" is acceptable. (See Appendix 7A-5.) This agreement reduces the burden on the homeowner of having to prepare an individual plan. The agreement states the conditions to be maintained during construction, such as keeping public streets clean, maintaining perimeter controls, and establishing permanent stabilization.

This requirement applies to land-disturbing activities of less than 10,000 square feet when the activity occurs in a residential development. The intent is to regulate activities which would be considered a part of the development process such as construction of individual houses, outbuildings, garages, driveways, etc.

Agricultural Activities

Requirement

VESCL Sec. 10.1-560(7): *Tilling, planting, harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.*

Discussion

The definition of land-disturbing activities specifies which agricultural activities are exempted. The construction of agricultural buildings is not included. Therefore, the agricultural exemption does not apply to the construction of farm buildings, such as barns, livestock houses, etc. The reference to ponds applies to ponds that are used primarily for agricultural purposes such as irrigating crops, watering livestock, etc.

Requirement

E&S Regulations Sec. 1.9:

- A. *A property owner who disturbs 10,000 square feet, or more, of land and claims that the activity is exempted from the requirements ... shall have one year from the date of commencement of the activity to demonstrate to the erosion and sediment control enforcement authority that the activity is exempt. As soon as a nonexempt status is determined, the requirements of the Act shall be immediately enforced.*

Discussion

Many agricultural and forestry activities require a reasonable period of time to clearly establish the intent of the activity. Therefore, the one year period was provided.

Claims that an activity is exempt should be consistent with landuse regulations, zoning or other regulations. Several of the exemptions from the E&S program are regulated by another program. For example, surface mining and oil and gas operations are regulated by programs administered by the Department of Mines, Minerals, and Energy. Projects claiming an exemption such as surface mining should be able to substantiate the claim with documentation from the appropriate agency.

Issuing Permits

Requirements

VESCL Sec. 10.1-565: *Agencies authorized ... to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant*

submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

Discussion

It is strongly recommended that a land-disturbing permit be issued. The permit clearly defines the land disturbance as a separate activity from building construction. By issuing a separate permit for the land-disturbing activity, the agency prevents any misunderstanding that the land-disturbing activity was permitted under another permit. Performance guarantees (e.g., bonds, credit, etc.) and certification should be made specifically for the land-disturbing activity, or at least a specified portion of the overall guarantee should be for the land-disturbing activity.

Changing An Approved Plan

Requirements

VESCL Sec.10.1-563(C): *An approved plan may be changed by the authority that approved the plan in the following cases:*

1. *Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or*
2. *Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the plan-approving authority and the person responsible for carrying out the plan.*

Discussion

Even though these procedures allow plans to be changed after initial approval, it is often difficult and troublesome to make changes in the field. Change orders are usually costly and time-consuming. Therefore, the original plan should be as thorough as possible.

Performance Guarantees

Requirements

VESCL Sec. 10.1-565: *... Prior to issuance of any permit, the agency may also require an applicant to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the agency, to ensure that measures could be taken by the agency at the applicant's expense should he fail, after proper notice, ... to initiate or maintain appropriate conservation action. ... If the agency takes such conservation action upon such failure by the permittee, the agency may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within sixty days of the achievement of adequate stabilization of the land-disturbing activity, such bond, ... shall be refunded to the applicant or terminated.*

Discussion

The amount of coverage required as a guarantee for a project should be based on what it would cost the locality to implement the plan, should the applicant fail to do so. If the cost of the unfinished work is more than the amount of the performance guarantee, the locality may collect the additional cost from the permittee. A performance guarantee may be required for issuance of building, grading, land disturbing, or other permits. It is recommended that an E&S performance guarantee be collected separately from other guarantees.

Chapter Two of this handbook contains cost figures which may be used to help determine the amount of performance guarantee needed. At a minimum, the guarantee should be sufficient provide permanent stabilization for the entire disturbance in the event that the proposed development is not completed. The locality is responsible for determining the bond, escrow, etc. and administering these requirements unless stated otherwise in the local E&S ordinance.

Following are brief descriptions of various types of performance guarantees:

- a. Bonding - If a bond is used, the bonding company agrees to complete the erosion and sediment control requirements of the plan, should the applicant fail to do so.
- b. Escrow Accounts - Under an escrow arrangement, the applicant would pay funds into a bank under an agreement among the applicants, the permit issuing authority, and the bank. If the E&S plan was properly carried out, the applicant and the authority would sign a joint letter to the bank directing the bank to pay the money back to the applicant as specified in the agreement. Otherwise, the money would go to the permit issuing authority to pay for completing the unfinished portion of the plan, with any excess money being returned to the applicant.
- c. Letters of Credit - A letter of credit is an agreement by a bank to pay a fixed sum of money upon the happening of a specified contingency. While a letter of credit is sometimes used alone, it is frequently used where a bonding company refuses to issue a bond unless it is provided with a letter of credit. The advantage of having a letter of credit in favor of a bonding company instead of the permit issuing authority is that if the work is not done, the bonding company will undertake to have it finished.

Localities should keep in mind the risk involved in accepting personal checks as performance guarantees. Checks should be deposited into escrow as soon as possible.

The performance guarantee must be returned to the applicant within 60 days of the achievement of adequate stabilization of the land-disturbing activity. Adequate stabilization should be determined by the Program Administrator or his designated agent. Localities should have a means of tracking the expiration dates of bonds and letters of credit. Extensions should be obtained when needed.

Inspections

Requirements

VESCL Sec. 10.1-566(A): *The plan-approving authority or, ... the permit-issuing authority (i) shall provide for periodic inspections of land-disturbing activity and (ii) may require monitoring and reports from the person responsible for carrying out the plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspectors.*

E&S Regulations Sec. 1.7:

- A. *All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan.*
- B. *Periodic inspections are required on all projects by the enforcement authority. An inspection shall be made 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.*

Discussion

1. Pre-construction conferences are recommended, especially for large projects. During this meeting, the plan should be discussed, any problems or misconceptions resolved, and a basis for clear communication and good working relations established. Installation and maintenance of E&S control measures should be discussed.
2. All inspections should be documented by a written report or log. (See Appendix 7A-6 and 7A-7.) These reports should contain the date and time of inspection, comments concerning compliance or non-compliance, and notes on any verbal communications concerning the project. Localities may require the contractor to maintain an inspection log that can be reviewed by the local staff.

Violations And Enforcement

Requirements

VESCL Sec. 10.1-562(F): *The governing body of any [locality which has adopted its own local program] may adopt an ordinance establishing a uniform schedule of civil penalties for violations. ... [T]he civil penalty for any one violation shall not exceed \$100. [I]n no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten-day period, and in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000. ...*

VESCL Sec. 10.1-566(A): *... If the permit issuing authority or plan-approving authority determines that there is a failure to comply with the plan, notice shall be served upon the*

permittee. ... The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and shall be subject to the penalties provided in Sec. 10.1-569.

VESCL Sec. 10.1-569:

- (A): Violators ... shall be guilty of a misdemeanor and subject to a fine not exceeding \$1,000 or thirty days imprisonment for each violation or both.*
- (B): If a locality has adopted an ordinance establishing a uniform schedule of civil penalties ... any [violation] shall, upon a finding of an appropriate general district court, be assessed a civil penalty in accordance with the schedule. ...*
- (C): The appropriate permit-issuing authority ... may apply to the circuit court in any jurisdiction wherein the land lies to enjoin a violation or a threatened violation ... without the necessity of showing that an adequate remedy at law does not exist.*
- (D): In addition to any criminal or civil penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the locality, or the Board, as appropriate, in a civil action for damages.*
- (E): Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. ...*
- (F): With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board, or any condition of a permit or any provision of this article, the ... authority may provide ... for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection D of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection E. ...*

Discussion

Violations include, but are not limited to, failure to comply with an approved plan or undertaking a land-disturbing activity without an approved plan. When a violation is noted, the following steps should be considered to secure compliance: (Also see "Enforcement Flow Chart" in Appendix 7B.)

1. Informal Contact/Verbal Warning - The inspector should complete a standard inspection report form detailing the observed violation and circumstances pertaining to it. (See Appendix 7A-7.) The report should specify the measures needed for compliance and a time frame for completion. The on-site job superintendent should be notified verbally, if possible, and asked to sign the inspection report to verify that

verbal notification has been given. Copies of the inspection report should be given or sent to the permittee and other concerned parties.

2. Notice to Comply - If the informal contact is unsuccessful, the plan approving or permit issuing authority should issue a "Notice to Comply" as required by Sec. 10.1-566(a). This notice should specify the measures required for compliance and the deadline for completion. The notice must be sent to the permittee by registered or certified mail (return receipt requested) to the address specified by the permittee in his application (Appendix 7A-8) or the notice can be delivered to the person supervising the activity.
3. Enforcement Options - If the permittee fails to respond adequately to the "Notice to Comply," the locality should consider the following actions:
 - a. Utilize Performance Guarantee (where applicable) - The local authorities may utilize the performance guarantee to complete the required work according to the terms specified in the guarantee. Many times, a letter of intent to utilize the guarantee, sent by certified mail to the permittee, is sufficient to prompt the desired results. Such a letter should be cleared by the locality's attorney. If the cost of the unfinished work is more than the amount of the performance guarantee, the locality may also collect the additional amount from the permittee.
 - b. Permit Revocation - Upon failure to complete the measures within the deadlines specified in the notice to comply, the land-disturbing permit can be revoked and the permittee can be considered in violation of the law.
 - c. Stop Work Order - This highly recommended enforcement option allows the chief administrative officer of the locality to issue an order requiring all or part of the land-disturbing activities on the site be stopped until the specified corrective measures have been taken. (See Appendix 7A-9.) This order is issued either with or after a "Notice to Comply." The order shall be in effect for seven days allowing the locality time to pursue other means of legal action if problems are not corrected. A notice or card may be posted at the site notifying the public that a Stop Work Order has been issued for the project.
 - d. Legal Action - Legal action against the violator is recommended when other enforcement options have failed or if a land disturbance poses a serious threat of damage to downstream or downslope property owners or the environment. There are four types of legal action which may be considered by the locality:
 - 1) Criminal Penalties - A misdemeanor charge subject to a fine up to \$1000 or thirty days imprisonment for each violation;

- 2) Civil Penalties - (1) Civil penalties in accordance with the schedule of penalties up to \$3,000; (2) Civil action charge subject to a fine up to \$2000 for each violation;
- 3) Administrative Fines - With the consent of the violator, the payment of a civil charge for violations instead of the civil penalty;
- 4) Injunctive Relief - A suit for an injunction is a civil action, but it is possible to ask for an injunction and for penalties in the same action. Because of the length of time needed to decide the penalty question, it is advisable to always file for an injunction as well as a penalty unless the land-disturbing activity has already been completed.

There are principally three types of injunctions, depending upon the amount of speed required:

- a) Temporary Restraining Order - This is the quickest form of injunction, usually issued for a limited time. It is issued to prevent irreparable harm to the plaintiff by preserving the status quo until the defendant can be notified and a preliminary hearing held.
- b) Preliminary or Temporary Injunction - This injunction provides a short period of notice to the defendant and is issued on a temporary basis until a full hearing and decision can be made.
- c) Permanent Injunction - This finally disposes of the matter at issue. It is issued only after a full hearing of the evidence and argument has occurred.

An injunction will not be issued automatically. The court will probably weigh the damage to the environment against the damage to the builder. If it is just a question of enforcing the law with no great danger of sediment damage, the court might refuse the injunction and leave the enforcement to the penalty provisions of the law.

Projects Commenced Without an Approved Plan

Requirement

VESCL Sec 10.1-563(E): ... [No] person may engage in any land-disturbing activity until he has submitted to ... [the] locality an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved by the plan-approving authority.

Discussion

If a land-disturbing activity is detected for which no E&S plan has been approved, an attempt should be made to contact the owner and advise him that he is in violation of the VESCL. He should be asked to stop all land disturbance until an approved plan is obtained, unless he agrees to perform work toward satisfactorily controlling erosion and sedimentation. A "Notice of Permit Requirement" should be sent to the owner by certified mail to establish that a warning was given. (See Appendix 7A-10.) Since there may be no permits issued or performance guarantees for the project at this early stage of development, the only enforcement options may be a stop work order or legal action. It is advisable to seek an injunction in accordance with Sec. 10.1-569(c) so that the problem will be addressed quickly.

Erosion Impact AreaRequirements

VESCL Sec. 10.1-560: *"Erosion Impact Area" means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of one acre or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.*

VESCL Sec. 10.1-563(E): *In order to prevent further erosion a local program may require approval of a conservation plan for any land identified in the local program as an erosion impact area.*

Discussion

A locality may declare a site to be an Erosion Impact Area and require the property owner to submit an E&S plan. A formal notice should be sent to the owner informing him of this requirement with a deadline for compliance. (See Appendix 7A-11.) Upon failure to comply with this notice, appropriate legal actions should be taken.

Records And FilesDiscussion

1. For each project requiring an E&S plan, there should be a project file containing the following:
 - a. permit application
 - b. records of performance guarantee (bond, etc.)
 - c. approved plan
 - d. reviewer's comments
 - e. inspection reports
 - f. any photos taken
 - g. any correspondence

2. Assign a project number to each plan, record the project number on each item in the file and cross-reference to other departments. The project number might also be the permit number (if permits are issued). This procedure will prevent confusion caused by changes in the name of the project or other projects with similar names.

Citizen Complaints

Discussion

Being involved in controlling a highly visible form of pollution, local program personnel will be recipients of many complaints and comments concerning drainage, erosion, stormwater, flooding, and sediment problems.

Develop procedures or steps to handle these inquiries efficiently. If the problem is related to a project under the jurisdiction of the local program, keep a record of all activity pertaining to the problem in the project file or provide a cross-reference to the appropriate file. If the problem pertains to some other program or agency, refer it to that organization. If the problem is not regulated, make that clear to the citizen and suggest legal alternatives or some means by which the citizen can obtain more information. (See Appendix 7A-12.)

The DSWC and districts are also available for technical assistance on E&S complaints.

Education And Information

Discussion

Local programs should consider the following steps:

1. Inform developers and other land disturbers of the requirements of the local program and develop printed material for this purpose. (See Appendix 7A-1 and 2.) Some localities hold annual meetings that address local development concerns and requirements for developers, consultants, contractors, etc.
2. Prepare training sessions or workshops for developers, engineers, landscape architects, consultants, contractors, excavators and others involved in the technical aspects of the program. Community college courses may be available for this purpose. Check with your local college for more information.
3. Conduct periodic workshops for local government and district personnel having responsibilities in the program, such as inspection, plan review or administrative duties. Inspectors and administrators should be certified by the state E&S certification program.
4. Prepare an orientation program for new employees and for cross-training inspectors in other departments. Assistance in training programs is available from the DSWC,

districts, SCS, other state agencies and other sources. These programs may be conducted on a regional or local basis.

Multijurisdictional Projects

Requirements

VESCL Sec. 10.1-563(A): *Where land-disturbing activities involve lands under the jurisdiction of more than one local control program an erosion and sediment control plan may, at the option of the applicant, be submitted to the Board for review and approval rather than to each jurisdiction concerned.*

Discussion

When a land-disturbing activity involves two or more local programs, the person responsible for plan submission has the option of submitting the plan for review and approval to: (1) each local program in which the project lies; or, (2) to DSWC.

1. Submission of Plans to Localities for Review - If this option is chosen, the applicant must contact each locality in which the project lies and comply with each set of local administrative procedures separately.
2. Submission of Plans to DSWC for Review - Under this option, the following procedures will apply:
 - a. Plan Submission and Review

Plans shall be submitted to the DSWC Central Office in Richmond or to the appropriate Regional Office. (See Appendix 7C.) Four copies of the plan must be provided. After the plan is approved, additional copies of the approved plan, if necessary, will be requested by DSWC (one for each locality). The plan should include the name, address and phone number of the landowner, the person responsible for implementing the plan, and the person preparing the plan.

The plan should be prepared according to the guidelines in Chapter 6 of this handbook. The plan should include a precise location of the project and a listing of all localities in which it lies.

DSWC shall review the plan within 45 days of submission. Localities will have the opportunity to review the plan and comment. Where localities have adopted more stringent standards in accordance with Section 10.1-570, DSWC will consider and apply those standards where deemed appropriate for local conditions.

If the plan is not approved, the applicant will be notified in writing of the modifications needed to gain approval. If DSWC takes no action to approve

or disapprove the plan within 45 days, the plan is automatically approved as submitted.

DSWC will notify all localities in which the project lies of any action it takes for approval or disapproval of the plan. If the plan is finally approved, each locality will receive a copy of the approved plan. Upon receipt of the approved plan, each locality may issue applicable permits, collect appropriate fees for permits, and obtain performance guarantees as provided under local administrative procedures.

Approved plans may be changed under the following conditions:

- 1) Where inspection (by the locality or localities) has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of the plan, and proposed amendments are agreed to by the locality or DSWC;

or,

- 2) Where the person responsible for carrying out the approved plan finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of the VESCL, are agreed to by the locality or DSWC.

b. Inspections

Inspections shall be the responsibility of the locality (or localities). The person responsible for implementing the plan shall notify the localities when land disturbing commences. DSWC may also periodically monitor the project to ensure that the plan is properly implemented. Before making any on-site visits, DSWC will notify the locality involved.

c. Enforcement

Responsibility for enforcement of the approved plan rests with the locality (or localities). The locality may require performance bonds, cash escrow accounts, letters of credit or other appropriate guarantees to ensure that the plan is properly carried out.

d. Appeals

Appeals shall be carried out in the following manner:

- 1) Appeals on acts or decisions of a locality shall be filed in accordance with the E&S ordinance of that locality.

- 2) Appeals on the requirements of the plan or other action or proposed action by DSWC shall be subject to the review of the Board, provided an appeal is filed within thirty days from the date of the written decision.
- 3) Final decisions of the Board shall be subject to judicial review in accordance with the provisions of the Administrative Process Act (Sec. 9-6.14:1 et seq.).

Discussion

Some localities have agreements with adjacent localities regarding multijurisdictional projects. Frequently, the locality which contains the greater portion of the project area will handle all or part of the E&S administrative procedures (plan review, permit issuance, fee collection, inspection and enforcement).

Conclusions

To help localities reduce erosion and sedimentation from urban construction, DSWC recommends the following measures*:

1. Ensure that no land-disturbing activity is allowed to commence grading or receive any other permits for construction prior to the approval of the project's E&S plan.
2. Provide the necessary staff and resources, including adequate education and training for program personnel, to effectively implement the local E&S Program.
3. Conduct periodic inspections of all active construction projects to ensure that the Law, program regulations and approved E&S plans are being followed.
4. Establish a clear, efficient enforcement procedure to ensure that E&S violations and other problems are corrected quickly. Enlist the support of the Commonwealth and municipal attorneys and local judges in enforcing the program.
5. Periodically conduct information programs for the general public as well as for those in the land-development industry to explain program requirements and promote compliance.
6. Ensure that all local government-funded construction (schools, fire stations, industrial parks, landfills, etc.) have approved E&S plans that are effectively implemented. Generally conduct E&S activities in an exemplary manner to provide a model of compliance for private sector projects.
7. Ensure that at least one, preferably all, local E&S officials become certified under the DSWC's certification program.

8. Identify all "erosion impact areas" (as defined in the VESCL) and require them to be stabilized.

* From Nonpoint Source Pollution Management Program, Revised 1989

PART II: STATE AGENCY PROJECTS

The VESCL requires that DSWC must review E&S plans or specifications for all state-sponsored land-disturbing activities. This may be accomplished in one of two ways: (1) annual E&S specifications, or (2) E&S plans for each project.

Submission of Annual E&S Specifications

State agencies may prepare their own standards and specifications for erosion and sediment control. These standards and specifications must be reviewed and approved annually by DSWC. The agency is then responsible for the preparation of plans for individual projects and the inspection and enforcement of the plans.

State agencies which choose this option must submit standards and specifications at least annually for review by DSWC. The standards and specifications should be submitted by November 1 of each year. DSWC will promptly review the standards and specifications and notify the agency within 60 days of its approval or disapproval.

To use this option, the agency must have sufficient capabilities to prepare E&S plans for each land-disturbing activity and to properly inspect and enforce the plans. DSWC will periodically inspect active construction sites to ensure that the program is effective and administered adequately.

Submission of Erosion and Sediment Control Plans

State agencies which have not submitted annual standards and specifications must submit an E&S plan for each land-disturbing activity to DSWC for approval. This E&S plan requirement applies to capital improvement projects as well as other land-disturbing activities as defined by VESCL (Sec. 10.1-560).

Note: When determining the amount of land disturbance for a project, the agency should include the project site, staging areas and any off-site areas such as borrow sites and surplus material disposal areas. In the event that off-site areas were not included in the original site plan, contact the appropriate DSWC regional office for approval before commencing the off-site activity.

The E&S plan should be prepared in accordance with the guidelines in Chapter 6 of this handbook. Plans should be sent to the appropriate regional office. (See Appendix 7C.) Four copies of the plan must be submitted by the agency or by its designated representative, such as an engineer or architect. All replies will be made to the person submitting the plan.

To facilitate planning, preliminary plans may also be submitted to DSWC. Comments will be made concerning erosion and sediment controls on the plan; however, the comments will not be binding and final approval will be granted only on final working drawings.

Minimum Standards - When determining plan adequacy, DSWC will generally apply the Minimum Standards contained in the E&S Regulations. The standards and specifications in Chapter 3 of this handbook (with standard symbols and abbreviations) should be used in the design of the E&S plan.

Note: State agency projects must comply with the Virginia Stormwater Management Program (SWM). With regard to stormwater runoff, the plan shall comply with the more stringent regulation of either the E&S or SWM program as determined by DSWC.

Approval or Disapproval - DSWC will promptly review all E&S plans submitted. Reviews will be conducted expeditiously, and, in all cases, the review will be completed within 60 days. The person submitting the plan will be notified in writing of its approval or disapproval. If the project is disapproved, the applicant will be notified of the modifications necessary to obtain approval. DSWC will provide copies of all final correspondence concerning each project to the Department of General Services' Division of Engineering and Buildings and the local E&S program administrator.

Modifications to an Approved Plan - An approved E&S plan may be changed under the following circumstances:

a. Where inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of the plan;

or

b. Where the agency responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of the E&S program, are agreed to by DSWC.

Inspection - A state agency which engages in a land-disturbing activity is responsible for inspection and enforcement of each E&S plan. This task may be delegated to someone such as an engineer or architect, but the agency retains the ultimate responsibility. The DSWC's Regional E&S Specialists will monitor state-sponsored construction sites to ensure that the plans are being properly carried out.

DSWC Assistance - DSWC will assist state agencies in formulating E&S plans on both capital and non-capital improvement projects upon request. As time and manpower permit, DSWC will also make its personnel and other resources available for inspections, workshops, research, and other activities to improve the effectiveness of erosion and sediment control on state construction projects.

Appeals - Appeals of any final decisions of DSWC shall be reviewed by the Soil and Water Conservation Board (Board). Appeals must be filed with the Board within 30 days from the date of the written decision. Decisions by the Board are subject to the appeals process provided by VESCL (Sec. 10.1-568 (c)).

APPENDIX 7A**SAMPLE ADMINISTRATIVE FORMS**

The following sample forms are intended to streamline and improve efficiency of program administration. They are intended as suggestions, not requirements. Most localities have already developed forms for some of these procedures. We suggest that you review these and incorporate them into your program. Each one may be modified to fit your local program.

1. Brochure - "Obtaining a Land-Disturbing Permit" (for land developers/general public).
2. Checklist for Erosion and Sediment Control Plans (to assist with plan preparation and review).
3. Screening Form for Land-Disturbing Permit (for determining whether or not an E&S plan is required).
4. Application for Land-Disturbing Permit (or E&S Plan Approval) (for those submitting E&S plans).
5. Agreement in Lieu of an E&S Plan (option for those disturbing individual lots in residential subdivision development).
6. Inspector's Daily Log Entry (for E&S inspectors).
7. Inspection Report Form - Erosion and Sediment Control.
8. Notice to Comply (to be sent to violators).
9. Stop Work Order (to be sent to violators).
10. Notice of Permit Requirement (to be sent to violators).
11. Erosion Impact Area (to officially declare property such).
12. Citizen Request for Assistance (to record pertinent information).

OBTAINING A LAND-DISTURBING PERMIT

Before you grade, excavate, fill, or clear land, you may have to obtain a Land-Disturbing Permit. To find out if you need one, contact:

(Local Program Administrator)
(Address)
(Phone Number)

You will be asked what type of project you plan, location, and the total area of the property and number of square feet to be disturbed.

If Your Project Requires an Erosion and Sediment Control Plan:

- You must:
- a. Fill out an application;
 - b. Submit a plan, consisting of a narrative and site plan. (Obtain a copy of the E&S Handbook; it will tell you how to prepare a plan);
 - c. Pay a plan review fee of _____.

Your plan will be reviewed and evaluated. If changes are required, you will be notified and advised of them. A revised plan may be required.

Upon final approval of the plan, you will be required to post a bond (surety bond, cash escrow, letter of credit) and sign certain agreements connected with the permit.

Your land-disturbing permit will then be issued. Building permits can be issued and the approved construction may commence.

CHECKLIST**FOR EROSION AND SEDIMENT CONTROL PLANS**

_____ **Minimum Standards** - All applicable Minimum Standards must be addressed.

NARRATIVE

_____ **Project description** - Briefly describes the nature and purpose of the land-disturbing activity, and the area (acres) to be disturbed.

_____ **Existing site conditions** - A description of the existing topography, vegetation and drainage.

_____ **Adjacent areas** - A description of neighboring areas such as streams, lakes, residential areas, roads, etc., which might be affected by the land disturbance.

_____ **Off-site areas** - Describe any off-site land-disturbing activities that will occur (including borrow sites, waste or surplus areas, etc.). Will any other areas be disturbed?

_____ **Soils** - A brief description of the soils on the site giving such information as soil name, mapping unit, erodibility, permeability, depth, texture and soil structure.

_____ **Critical areas** - A description of areas on the site which have potentially serious erosion problems (e.g., steep slopes, channels, wet weather/ underground springs, etc.).

_____ **Erosion and sediment control measures** - A description of the methods which will be used to control erosion and sedimentation on the site. (Controls should satisfy minimum standards in Chapter 3.)

_____ **Permanent stabilization** - A brief description, including specifications, of how the site will be stabilized after construction is completed.

_____ **Stormwater runoff considerations** - Will the development site cause an increase in peak runoff rates? Will the increase in runoff cause flooding or channel degradation downstream? Describe the strategy to control stormwater runoff.

_____ **Calculations** - Detailed calculations for the design of temporary sediment basins, permanent stormwater detention basins, diversions, channels, etc. Include calculations for pre- and post-development runoff.

SITE PLAN

- _____ Vicinity map - A small map locating the site in relation to the surrounding area. Include any landmarks which might assist in locating the site.
- _____ Indicate north - The direction of north in relation to the site.
- _____ Limits of clearing and grading - Areas which are to be cleared and graded.
- _____ Existing contours - The existing contours of the site.
- _____ Final contours - Changes to the existing contours, including final drainage patterns.
- _____ Existing vegetation - The existing tree lines, grassed areas, or unique vegetation.
- _____ Soils - The boundaries of different soil types.
- _____ Existing drainage patterns - The dividing lines and the direction of flow for the different drainage areas. Include the size (acreage) of each drainage area.
- _____ Critical erosion areas - Areas with potentially serious erosion problems. (See Chapter 6 for criteria.)
- _____ Site Development - Show all improvements such as buildings, parking lots, access roads, utility construction, etc.
- _____ Location of practices - The locations of erosion and sediment control and stormwater management practices used on the site. Use the standard symbols and abbreviations in Chapter 3 of the E&S Handbook.
- _____ Off-site areas - Identify any off-site land-disturbing activities (e.g., borrow sites, waste areas, etc.). Show location of erosion controls. (Is there sufficient information to assure adequate protection and stabilization?)
- _____ Detail drawings - Any structural practices used that are not referenced to the E&S Handbook or local handbooks should be explained and illustrated with detail drawings.
- _____ Maintenance - A schedule of regular inspections and repair of erosion and sediment control structures should be set forth.

4. Other work (grading, excavating, construction) on the project shall not commence until the appropriate erosion and sediment controls are in-place as specified on the plan.
5. Applicant agrees to be responsible for any and all damages to any other conservation measures already in-place as a result of work covered by this permit.
6. Applicant agrees to maintain the conservation measures in satisfactory operating condition until final, permanent stabilization is achieved.
7. The land-disturbing permit may be revoked, should the locality determine that the project is not in compliance with the conditions of the approved plan.

I, applicant, certify that I have read and understand the above requirements of this permit.

Section _____ of the _____ Code requires that a Performance Guarantee be posted with the Commonwealth's Attorney in the amount determined by the Program Administrator. Such Performance Guarantee shall be conditioned to conform any work to approved standards and specifications as specified in the approved Erosion and Sediment Control Plan.

Final inspection of the project shall be made by the Program Administrator or designated agent. The release of any Performance Guarantee is contingent upon the findings of such inspection. Release of the Performance Guarantee shall occur within 60 days after the project site is deemed adequately stabilized by the Program Administrator. The amount of such Performance Guarantee is hereby set at \$ _____. The fee for plan review and inspection for this project is hereby stated to be \$ _____.

SUBMITTED:

(Applicant signature)	(Date)
-----------------------	--------

APPROVED:

(Program Administrator)	(Date)
-------------------------	--------

(Plan Approving Authority)	(Date)
----------------------------	--------

Attachments: () copies of E&S plan
 Fee Payment
 Performance Guarantee

**AGREEMENT IN LIEU OF AN EROSION AND SEDIMENT CONTROL
PLAN FOR A SINGLE FAMILY RESIDENCE**

Land-Disturbing Permit No.: _____
Building Permit Number: _____
Subdivision: _____
Lot Number: _____

In lieu of submission of an erosion and sediment control plan for the construction of this single family dwelling, I agree to comply with any reasonable requirements determined necessary by employees of _____ **[Locality]** _____, representing the Erosion and Sediment Control Program Administrator. Such requirements shall be based on the conservation standards contained in the _____ **[Locality]** _____ Erosion and Sediment Control Ordinance, and shall represent the minimum practices necessary to provide adequate control of erosion and sedimentation on or resulting from this project.

As a minimum, all denuded areas on the lot shall be stabilized within 7 days of final grading with permanent vegetation or a protective ground cover suitable for the time of year.

I further understand that failure to comply with such requirements within three working days following notice by the representatives of _____ **[Locality]** _____ could result in citation for violation of the _____ **[Locality]** _____ Erosion and Sediment Control Ordinance.

Measures Specified by the Plan Approving Authority: _____

Signature of Landowner: _____

Party Responsible for Erosion and Sediment Control (if different from landowner): _____

Approved By: _____ Date: _____

INSPECTOR'S DAILY LOG ENTRY

Date: _____

Time: _____

Project: _____

Stage of Project:

Condition of Site:

Verbal Comments (Violations, potential problems, etc.):

Initialed _____

INSPECTION REPORT

7A-7

Sheet ___ of ___

Project Name: _____ File No. _____

Inspection Date: _____ Time: _____ Inspected by: _____

STAGE OF CONSTRUCTION

___ Pre-Construction Conference ___ Rough Grading ___ Finish Grading
___ Clearing and Grubbing ___ Building Construction ___ Final Stabilization

INSPECTION CHECKLIST

Yes	No	NA	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*MS-1 Have all denuded areas requiring temporary or permanent stabilization been stabilized? Seeded? yes/no Mulched? yes/no Graveled? yes/no
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-2 Are soil stockpiles adequately stabilized with seeding and/or sediment trapping measures?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-3 Does permanent vegetation provide adequate stabilization?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-4 Have sediment trapping facilities been constructed as a first step in LDA?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-5 For perimeter sediment trapping measures, are earthen structures stabilized?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-6 Are sediment basins installed where needed?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-7 Are finished cut and fill slopes adequately stabilized?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-8&9 Are on-site channels and outlets adequately stabilized?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-10 Do all operational storm sewer inlets have adequate inlet protection?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-11 Are stormwater conveyance channels adequately stabilized with channel lining and/or outlet protection?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-12 Is in-stream construction conducted using measures to minimize channel damage?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-13 Are temporary stream crossings of non-erodible material installed where applicable?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-15 Is necessary restabilization of in-stream construction complete?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-16 Are utility trenches stabilized properly?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-17 Are soil and mud kept off public roadways at intersections with site access roads?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-18 Have all temporary control structures that are no longer needed been removed? Have all control structure repairs and sediment removal been performed?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MS-19 Are properties and waterways downstream from development adequately protected from erosion and sediment deposition due to increases in peak stormwater runoff?

* Refers to the minimum standards of the Virginia Erosion and Sediment Control Regulations (VR 625-02-00).

Comments: _____

Verbal/Written notification given to: _____

Report by: _____ Date: _____

NOTICE TO COMPLY

Project File #: _____

Date: _____

To: _____

Re: _____
(Project Name)

An inspection of the above-referenced project on [date] revealed that the following violations are present: _____

The following recommendations are made regarding the necessary corrections:

Notice is hereby given that these violations shall be corrected in accordance with the approved Erosion and Sediment Control Plan on or before [date]. The site will be re-inspected at that time.

Failure to comply with this notice will result in necessary legal enforcement action by the locality to effect the implementation of the approved plan. Please contact this department if there are any questions.

Inspector: _____
(Signature)

Program Administrator: _____
(Signature)

Copies to: Commonwealth's Attorney
Board of Supervisors/Town or City Council
Plan Approving Authority

STOP WORK ORDER

To: _____ Date: _____

Address: _____

Project File#: _____ Name: _____

Project Location: _____

The above-referenced project is in violation of the [locality] Erosion and Sediment Control Ordinance. A "Notice to Comply" was issued on [date] . Corrective measures specified for compliance were not performed.

This order requires that all land-disturbing activities on the above-referenced site be stopped until the specified corrective measures have been taken. If work is not begun to correct this violation by [date] , further legal action will be taken. Upon completion of the corrective action, the order shall immediately be lifted.

Program Administrator _____ Date _____

Chief Administrative Officer [of locality] _____ Date _____

cc: Commonwealth's Attorney
Plan Approving Authority

NOTICE OF PERMIT REQUIREMENT

Date: _____

To: _____
(Name)_____
(Address)Re: _____
(Project Name)

It has come to the attention of this department that a land-disturbing activity is occurring on your property located at [location] .

This activity requires a Land-Disturbing Permit. Pursuing the activity without such a permit is a violation of the [locality] Erosion and Sediment Control Ordinance.

It is hereby requested that you cease the land-disturbing activity until a permit has been obtained from this office. Contact us as soon as possible so that we may assist you in bringing your project into compliance with the Law.

Signed: _____
(Program Administrator)

cc: Commonwealth's Attorney
Board of Supervisors/Town or City Council
Plan Approving Authority

EROSION IMPACT AREA

To: _____ Date: _____

Address: _____

[Locality] has identified the property located _____
as an Erosion Impact Area. You, as the property owner, are required to submit an Erosion
and Sediment Control Plan to this office by [date]. Failure to comply with this notice is
a violation of the [locality] Erosion and Sediment Control Ordinance.

If you have any questions regarding the content of the required Erosion and Sediment
Control Plan, please contact the Program Administrator as listed below.

Program Administrator _____ Date _____
(signature)

cc: Commonwealth's Attorney
Plan Approving Authority

* An Erosion Impact Area is defined as "an area of land not associated with current
land-disturbing activity but subject to persistent soil erosion resulting in the delivery
of sediment onto neighboring properties or into state waters" (Sec. 10.1-560 in the
Virginia Erosion and Sediment Control Law, Code of Virginia).

REQUEST FOR ASSISTANCE

Received By: _____ Date: _____

Referred To: _____ Date: _____

Assistance Requested By: _____

Street Address/P. O. Box: _____

City/Town/Zip: _____

Telephone: _____

Location of Problem: _____

Description of Problem: _____

Is the problem related to a land-disturbing activity? _____

If yes, Project File# _____

Problem Satisfactorily Resolved? _____ Date _____

Chronological Summary of Actions Taken: _____

APPENDIX 7C

**DCR/DSWC URBAN PROGRAMS CONTACT INFORMATION
Erosion and Sediment Control (ESC) and Stormwater Management (SWM) Programs
URBAN PROGRAMS HOME PAGES**

<http://www.state.va.us/~dcr/sw/e&s.htm> <http://www.state.va.us/~dcr/sw/stormwat.htm>

TRAINING & CERTIFICATION HOME PAGE

<http://www.state.va.us/~dcr/sw/estr&crt.htm>

LINKS TO LOCAL GOVERNMENTS

<http://www.vipnet.org/vipnet/government/local-government.html>

DCR CENTRAL OFFICE
203 Governor Street, Suite 206
Richmond, VA 23219

Program Support Technician Regina Greene (804) 371-7533 fax 786-1978	Assistant Program Support Technician Nicole Gordon (804) 371-7489 fax 786-1978
Urban Programs Training/Certification Coordinator VACANT (804)371-7532 fax 786-1978	Urban Programs Regulatory Coordinator Michael C. Gerel (804) 371-7440 fax 786-1978
Urban Programs Engineer - VACANT (804) 786-4508 fax 371-2630	
Stormwater Management Program Manager Joseph G. Battiata (804) 371-7492 fax 371-2630	Erosion and Sediment Control Program Manager Jacob A. Porter (804) 786-3997 fax 371-2630

DCR WATERSHED OFFICES*

Urban Program Compliance Engineer (UPCE), Urban Program Engineer (UPE), and Urban Program Planner (UPP) Field Representatives

Shenandoah Watershed Office Manager - Charlie Wade Tamara Keeler (UPCE) John S. Mlnarcik (UPE) Lynn A. Snyder (UPCE – Shen-James West) Route 4, Box 99-J Staunton, VA 24401 (540) 332-9991 fax: 332-8956	James Watershed Office Manager - Michael Bowman Robert E. Cooper (UPE) John McCutcheon (UPCE - James East) David Aho (UPCE - James Central) 3800 Stillman Parkway, Suite 102 Richmond, VA 23233 (804) 527-4484 fax: 527-4483	Potomac Watershed Office Manager - Mary Apostolico VACANT (UPCE) Jamie B. Lowery (UPE) 98 Alexandria Pike, Suite 33 Warrenton, VA 22186 (540) 347-6420 fax: 347-6423
Rappahannock Watershed Office Manager - Matthew Criblez VACANT (UPP) Michael J. Lee (UPCE) Commonwealth Building, 2601 Princess Anne St., Suite 101 Fredericksburg, VA 24401 (540) 899-4074 fax 899-4389	York Watershed Office Manager - Darryl Glover Kenny W. Harper (UPCE) Post Office Box 1425 Tappahannock, VA 22560 (804) 443-6752 fax: 443-4534	Upper Tennessee & Big Sandy (UTBS) Watershed Office Manager - Neal Kilgore Phyllis A. Hinch (UPCE) 252 W. Main St., Suite 3 Abingdon, VA 24210 (540) 676-5529 fax: 676-5527
Roanoke Watershed Office Manager - Tim Ott VACANT (UPP) Clarence F. Huff (UPCE) 411 Boyd Street Chase City, VA 23924 (804) 372-2191/2192 fax: 372-4962	New River Watershed Office Manager – Charlotte Burnett Vacant (UPE) Vacant (UPCE) Post Office Box 1506 148 Broad Street Dublin, VA 24084 (540) 643-2590 fax: 643-2597	Chowan & Albermarle Watersheds Office Manager - Ernie Brown Vacant (UPE) Jeffrey T. Hancock (UPCE) 1548-A Holland Road Suffolk, VA 23434 (757) 925-2468 fax: 925-2388

APPENDIX 7C
LOCAL GOVERNMENT JURISDICTIONS AND
CORRESPONDING URBAN PROGRAMS CONTACTS

COUNTIES

<u>County</u>	<u>Watershed Office*</u>	<u>County</u>	<u>Watershed Office*</u>
Accomack	Chowan/Albermarle	King & Queen	York
Albermarle	James Central	King William	York
Alleghany	Shen – James West	Lancaster	Rappahannock
Amelia	James East	Lee	UTBS
Amherst	James Central	Loudoun	Potomac
Appomattox	James Central	Louisa	James Central
Arlington	Potomac	Lunenburg	Roanoke
Augusta	Shen – James West	Madison	Rappahannock
Bath	Shen - James West	Mathews	York
Bedford	Roanoke	Mecklenburg	Roanoke
Bland	New River	Middlesex	York
Botetourt	Shen - James West	Montgomery	New River
Brunswick	Roanoke	Nelson	James Central
Buchanan	UTBS	New Kent	York
Buckingham	James Central	Northampton	Chowan/Albermarle
Campbell	James Central	Northumberland	Rappahannock
Caroline	York	Nottoway	James East
Carroll	New River	Orange	Rappahannock
Charles City	York	Page	Shenandoah
Charlotte	Roanoke	Patrick	New River
Chesterfield	James East	Pittsylvania	Roanoke
Clarke	Shenandoah	Powhatan	James East
Craig	Shen - James West	Prince Edward	James East
Culpeper	Rappahannock	Prince George	James East
Cumberland	James East	Prince William	Potomac
Dickenson	UTBS	Pulaski	New River
Dinwiddie	Chowan/Albermarle	Rappahannock	Rappahannock
Essex	York	Richmond	Rappahannock
Fairfax	Potomac	Roanoke	Roanoke
Fauquier	Potomac	Rockbridge	Shen - James West
Floyd	New River	Rockingham	Shenandoah
Fluvanna	James Central	Russell	UTBS
Franklin	Roanoke	Scott	UTBS
Frederick	Shenandoah	Shenandoah	Shenandoah
Giles	New River	Smyth	UTBS
Gloucester	York	Southampton	Chowan/Albermarle
Goochland	James East	Spotsylvania	Rappahannock
Grayson	New River	Stafford	Rappahannock
Greene	Rappahannock	Surry	Chowan/Albermarle
Greensville	Chowan/Albermarle	Sussex	Chowan/Albermarle
Halifax	Roanoke	Tazewell	New River
Hanover	York	Warren	Shenandoah
Henrico	James East	Washington	UTBS
Henry	Roanoke	Westmoreland	Rappahannock
Highland	Shen – James West	Wise	UTBS
Isle of Wight	Chowan/Albermarle	Wythe	New River
James City	York	York	York
King George	Rappahannock		

*see Page VII-39

APPENDIX 7C
LOCAL GOVERNMENT JURISDICTIONS AND
CORRESPONDING URBAN PROGRAMS CONTACTS

CITIES

<u>City</u>	<u>Watershed Office*</u>	<u>City</u>	<u>Watershed Office*</u>
Alexandria	Potomac	Manassas	Potomac
Bedford	Roanoke	Manassas Park	Potomac
Bristol	UTBS	Martinsville	Roanoke
Buena Vista	Shen – James West	Newport News	Chowan/Albermarle
Charlottesville	James Central	Norfolk	Chowan/Albermarle
Chesapeake	Chowan/Albermarle	Norton	UTBS
Clifton Forge	Shen – James West	Petersburg	Chowan/Albermarle
Colonial Heights	James East	Poquoson	York
Covington	Shen – James West	Portsmouth	Chowan/Albermarle
Danville	Roanoke	Radford	New River
Emporia	Chowan/Albermarle	Richmond	James East
Fairfax	Potomac	Roanoke	Roanoke
Falls Church	Potomac	Salem	Roanoke
Franklin	Chowan/Albermarle	Staunton	Shen - James West
Fredericksburg	Rappahannock	Suffolk	Chowan/Albermarle
Galax	New River	Virginia Beach	Chowan/Albermarle
Hampton	Chowan/Albermarle	Waynesboro	Shen - James West
Harrisonburg	Shenandoah	Williamsburg	York
Hopewell	James East	Winchester	Shenandoah
Lexington	Shen – James West		
Lynchburg	James Central		

TOWNS

<u>Town</u>	<u>Watershed Office*</u>	<u>Town</u>	<u>Watershed Office*</u>
Abingdon	UTBS	Haymarket	Potomac
Alta Vista	Roanoke	Herndon	Potomac
Ashland	York	Narrows	New River
Berryville	Shenandoah	Occoquan	Potomac
Blacksburg	New River	Pearisburg	New River
Bluefield	New River	Pulaski	New River
Bridgewater	Shenandoah	Scottsville	James Central
Cape Charles	Chowan/Albermarle	South Boston	Roanoke
Chase City	Roanoke	South Hill	Roanoke
Christiansburg	New River	Stephens City	Shenandoah
Culpeper	Rappahannock	Tappahannock	York
Dayton	Shenandoah	Vienna	Potomac
Dublin	New River	Warrenton	Potomac
Dumfries	Potomac	West Point	York
Farmville	James East	Woodstock	Shenandoah
		Wytheville	New River

*see Page VII-39