

Module 2

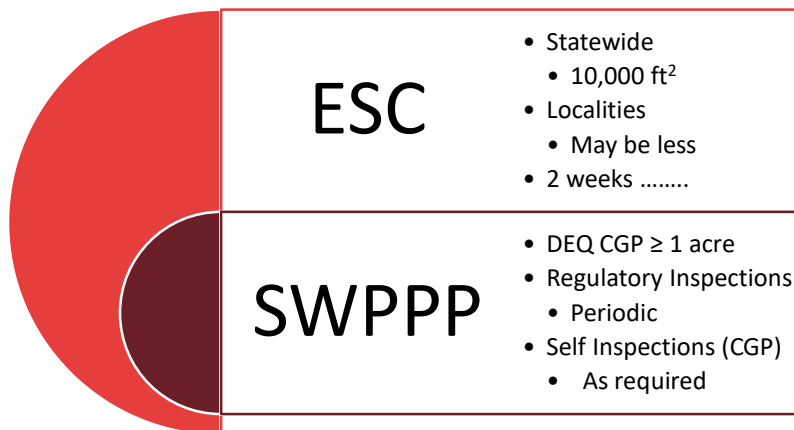


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The different types of construction inspections (from the SW side)



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VESM in Virginia Effective July 1, 2024

ESC & Stormwater
Law
(§ 62.1-44.15:24 &
§62.1-44.15:51)



Combined
Regulations
9 VAC 25-875

Virginia
Erosion
Control and
Stormwater
Management
Program

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Administrative Guidelines

- Each ESC program must contain four elements (which are evaluated during the local ESC program review)
- These components are:
 - Administration
 - Inspection
 - Plan Review
 - Enforcement



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Inspection Requirements

- 62.1-44.15:58-A
 - Requires inspections of land disturbing activities by program authority
 - Allows for monitoring reports to be submitted by the person responsible for the ESC project (RLD)
- 62.1-44.15:60
 - Provides the right of entry by the Department or VESCP for inspection and enforcement



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An Effective Inspection Program



An inspector must:

- Possess an understanding of the rules established by state law, the regulations and the local ordinance
- Organize a system to implement those rules effectively

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Importance of Understanding the Law



- A good understanding of the Law helps to effectively implement local ESC programs
- Unless local officials act within the limits of the law, enforcement actions may become unsuccessful

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Importance of Understanding the Law



- Negligent or inappropriate application of an E&S program may even result in legal action against the Authority
- Training local VESCP officials and experience will help improve local program consistency

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The Inspector



The inspector must be “Certified” according to 62.1-44.15:51 (Definitions) and 62.1-44.15:53 (Certification of Local Program Personnel)

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Role of the SWM Inspector

(9VAC25-875-140.A-B)

- During construction, the inspector is required to ensure that the land disturbing activity (the site) is in compliance with the approved plan and the minimum standards of the regulations.
- For the stormwater program **periodic** inspections are required.

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Role of the SWM Inspector

(9VAC25-875-140.A-B)

Periodic inspections during construction:

1. Providing an inspection:
 - a. during, or immediately following, **initial installation** of erosion and sediment controls;
 - b. at least **once in every two-week period** and within **48 hours following any runoff producing storm event**; and
 - c. at the **completion of the project**, prior to the release of any performance bonds;
2. Establish an **alternative inspection program** approved by DEQ that ensures compliance.

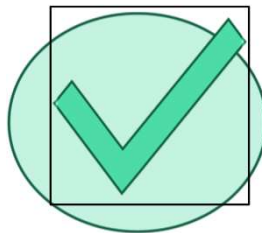
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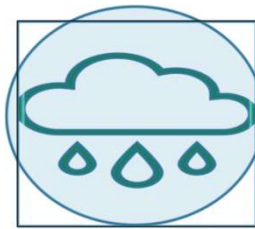
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ESC Inspection Frequency

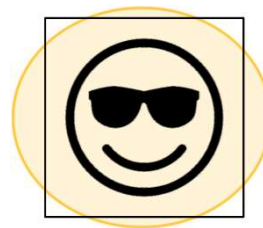
(9VAC25-875-140, 9VAC25-875-330)



DURING OR AFTER
INSTALLATION OF
PERIMETER
CONTROLS



EVERY TWO WEEKS
AND WITHIN 48
HOURS OF RUNOFF
PRODUCING
RAINFALL EVENT



AT THE END OF
PROJECT

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Inspection Report



- Serve as notice of either non-compliance or compliance
- Issues of non-compliance must have a deadline for correction

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Inspections



Does the project/regulated land disturbance activity meet the requirements of:

- ESC/SWM Law
- VESMA
- Local ordinances
- VSWMH
- Approved VESM plan

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Changes to Approved ESC Plan

- Plan changes may be required when:
 - Inspection reveals inadequacies
 - Change in circumstances, so approved ESC plan no longer effective
- All changes must be consistent with law, regulations, and specifications

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Changes to Approved VESM Plan

- **Red line changes** may be allowed for minor changes – changes not affecting stormwater flow or construction sequence.
- More significant changes may require the site's engineer to submit an updated plan.
- **Discuss this with your management to understand what your role is.**

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Variances

Request

- At time of plan submittal
- During construction when field conditions/situations changes
- Must be in writing
- Cannot be granted for economic reasons

Review

- Auto-denial after 10 days
- Must be judicious

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Alternative Inspection Program

Ensures compliance with the approved erosion and sediment control plan.

- Approved by the Board prior to implementation;
- Established in writing
- Based upon a system of priorities that, at a minimum, address the amount of disturbed area, site conditions and stage of construction
- Documented by inspection records

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Photographs



- Enforcement or legal action may take a long time and situation in the field **WILL** change
- Enforcement action will be more effective
- Take **before** photographs

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Photographs



- Take pictures of environmentally sensitive areas, adjacent areas, downstream areas
- Take photographs of final stabilization conditions
- Set time/date stamps or use apps that provide date, time, and GPS coordinates

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Taking Photographs of Alleged Violations



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Taking Photographs of Alleged Violations

Concrete Washout



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Enforcement

The Process of Compliance



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Documentation

- Document each inspection in writing
- Record alleged violations
- The more QUALITY documentation the better for enforcement or legal proceedings
- Photographs provide clarity

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Compliance Formula



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Notice to Comply

Served upon permittee if locality VESCP authority or DEQ determines failure to comply with

- Approved ESC plan
- Minimum standards
- Failure to properly install or maintain ESC measures



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Notice to Comply



Served by either:

- Mailing with conformation of delivery to address in permit application or in plan certification
- Delivery at the site of the land-disturbing activity to the agency or employee supervising activities

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Notice to Comply

Email notification?

- Used by DEQ
- Efficient, quick, confirm delivery
- **Before using** check with local stakeholders
- program administration, enforcement, and legal representation agree



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Notice to Comply



Must specify:

- Measures needed to comply with the approved ESC plan
- Time within which such corrective measures shall be completed



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Failure to Comply



Failure to comply within time specified:



Local land
disturbance
permit



Penalties,
injunctions,
other legal
actions



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Stop Work Order – ESC

(§ 62.1-44.15:37, § 62.1-44.15:58.C)

Issued by the VESCP authority or DEQ in the following three scenarios



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Stop Work Order – Scenario 1

Failure to comply with an ESC plan



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Stop Work Order – Scenario 1

How to deliver:

- Hand-deliver at the site of the LDA or
- Mail stop work order, with confirmation of delivery, to the address specified in the permit application or plan certification
- Email

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Stop Work Order – Scenario 1

- LDA must stop on all or part of the site until specific corrective measures listed in the notice to comply are taken
- Stop work order remains in effect for 7 days from the date of service
- If corrective actions are completed sooner, the stop work order may be lifted

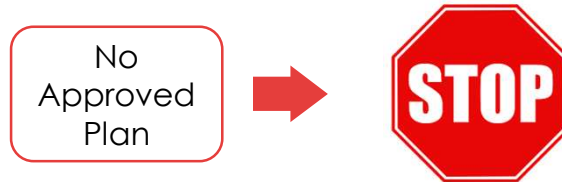
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Stop Work Order – Scenario 2

LDA started without an approved ESC plan or required permits



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Stop Work Order – Scenario 2

How to issue:

- Mail and/or Email with confirmation of delivery to the address specified in the land records of the locality **and**
- Post on the site where the disturbance is occurring

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Stop Work Order – Scenario 2



- LDA must stop on the **entire site**
- Order remains in effect until an ESC plan is approved and required permits are obtained

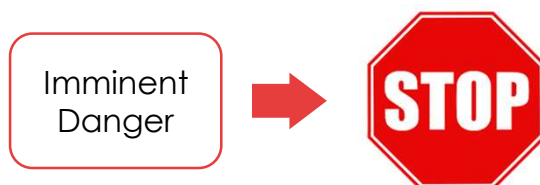
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Stop Work Order – Scenario 3

- Alleged noncompliance is causing, or is in imminent danger of causing, harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth



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Stop Work Order – Scenario 3

- Remains in effect for **7 days** from date of service
- If corrective actions are completed sooner, stop work order may be lifted

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Stop Work Order – Scenario 3

After issuing an emergency stop work order, DEQ must provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order.

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Appealing a Stop Work Order

Property owner may appeal issuance of a stop work order to the circuit court of the jurisdiction wherein violation was alleged to have occurred or other appropriate court.



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Stop Work Order – SWM

(§62.1-44.15:37), (9VAC25-875-160)



Issued by the VESMP authority or DEQ in two scenarios:

1. Stop Work Order
2. Emergency Stop Work Order

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Stop Work Order – SWM



Stop Work Order

- Follow up to NTC
- LDA without required permit

In effect until:

- Conditions are corrected
- Permits are obtained

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Stop Work Order - SWM



Emergency Stop Work Order

- Imminent and substantial danger
- Substantially impact water quality

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State Agency Projects

- 62.1-44.15:56-F
 - Makes state agency responsible for compliance with approved plans
- 62.144.15:56-G
 - Makes state and federal agencies responsible for plan review and inspections with DEQ's oversight, enforcement, compliance review and evaluation

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Construction General Permit

Projects disturbing land equal to or greater than one acre must have coverage under the Virginia Construction General Permit (CGP).



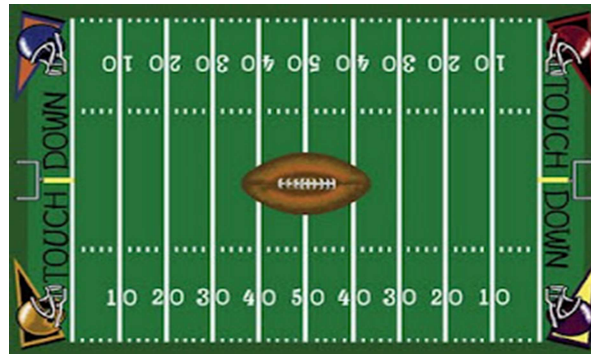
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How big is an acre?

An acre is 43, 560 sq. ft. or roughly the size of an American football field.



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General Permit No.: VAR10

Effective Date: July 1, 2024

Expiration Date: June 30, 2029

GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA EROSION AND STORMWATER MANAGEMENT ACT

PART IIB

STORMWATER POLLUTION PREVENTION PLAN

1. General Information
2. Erosion and Sediment Control Plan
3. Stormwater Management Plan
- 4. Pollution Prevention Plan**
5. Requirements for discharges to nutrient and sediment impaired waters
6. Requirements for discharges to PCB impaired waters
7. Requirements for discharges exceptional waters
8. Requirements for construction dewatering
9. Qualified Personnel
10. Delegation of Authority
11. SWPPP Signatures

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Pollution Prevention (P2) Plan

- Each project must have a SWPPP on site that includes a P2 (Pollution Prevention Plan)
- P2 plan is dynamic, “living” document that addresses other forms of potential pollution during construction
- Potential pollutant sources/activities and P2 practices may change over time

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Pollution Prevention (P2) Plan



- The P2 plan changes as site conditions change.
- The operator is responsible for updating the P2 plan.

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Pollution Prevention (P2) Plan

Must:

- Potential pollutants and their location
- Describe location of potential pollutant-generating activities
(Can reference the site plan)

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Pollution Prevention (P2) Plan

Must:

- Identify all authorized non-stormwater discharges that will be commingled with stormwater discharges
- Identify the person responsible for implementing the pollution prevention practice or practices for each pollutant-generating activity

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Pollution Prevention (P2) Plan



- Describe pollution prevention practices and procedures that will be implemented to:
- Prevent and respond to leaks, spills, and other releases

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Pollution Prevention (P2) Plan



- Describe pollution prevention practices and procedures that will be implemented to:
- Prevent the discharge of spilled and leaked fuels and chemicals from vehicle fueling and maintenance activities

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Mobile Fueling

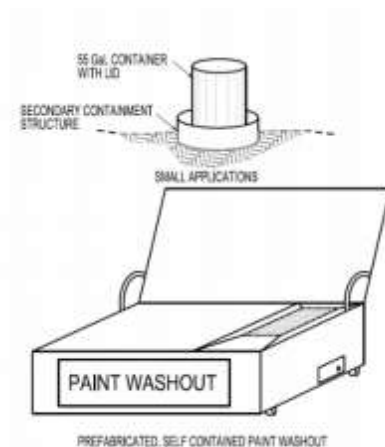


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Pollution Prevention (P2) Plan



- Describe pollution prevention practices and procedures that will be implemented to:
- Prevent the discharge of soaps, solvents, detergents, and wash water from construction materials

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Pollution Prevention (P2) Plan



- Describe pollution prevention practices and procedures that will be implemented to:
- Minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water, and other types of washing

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Pollution Prevention (P2) Plan

Good housekeeping tips:

- Wash offsite at an appropriate facility
- Locate away from storm drain inlets, drainage facilities and waterways
- Use filtration and settling devices to remove sediments
- Direct wash waters to basins, traps or other suitable BMPs

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Pollution Prevention (P2) Plan

Remember, **NO**
discharge of
soaps, solvents,
or detergents!



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Pollution Prevention (P2) Plan



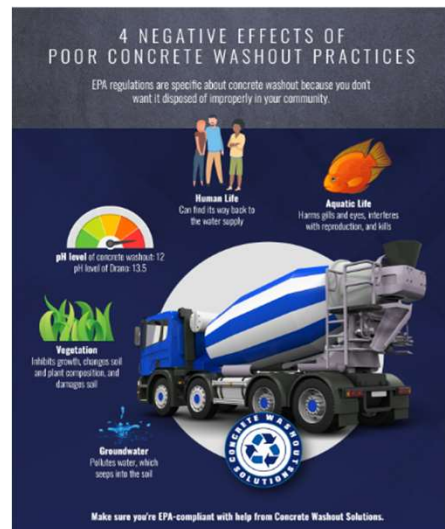
- Describe pollution prevention practices and procedures that will be implemented to:
- Direct concrete wash water into a leak-proof container or leak-proof settling basin (Included in 2024 SWHB, chapter 7)

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Pollution Prevention (P2) Plan



- Container or basin cannot overflow
- Hardened and liquid concrete waste must be removed and properly disposed
- www.epa.gov/npdes/pubs/concretewashout.pdf

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Pollution Prevention (P2) Plan



- Describe pollution prevention practices and procedures that will be implemented to:
- Minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials, and wastes

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Pollution Prevention (P2) Plan



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Pollution Prevention (P2) Plan



- Describe pollution prevention practices and procedures that will be implemented to:
- Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, and sanitary wastes

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Pollution Prevention (P2) Plan

- Describe pollution prevention practices and procedures that will be implemented to:
 - Address any other discharge from the potential pollutant-generating activities
- Describe procedures for providing pollution prevention awareness to personnel in order to comply with the conditions of the permit

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