



July 1, 2014: Stormwater Regulations

Authority officially transfers from state to locality

As required by the Code of Virginia, beginning July 1, 2014, local governments have become the Virginia Stormwater Management Program (VSMP) authorities. Prior to this date, this responsibility belonged to the Virginia Department of Conservation and Recreation. The Commonwealth will maintain oversight of local programs to ensure that all applicable state regulations are applied and enforced. This oversight responsibility will now lie with the Virginia Department of Environmental Quality (DEQ). Any town that does not adopt its own stormwater program will be subject to the County's program.

Each County, City and MS4 permitted Town in northern Virginia is preparing a Stormwater Management Ordinance consistent with the requirements of Virginia's stormwater regulations. The VSMP General Permit for Discharges of Stormwater from Construction Activities (VSMP permit) will continue to be the vehicle by which land disturbing activities are monitored for compliance with the provisions of the Virginia Stormwater Management Act and associated regulations. While the local jurisdiction will administer the VSMP, developers/contractors will continue to obtain VSMP permit coverage *from the state* following the process outlined on page 2.

WHAT WILL THE LOCAL VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) DO?

The local program will ensure that land disturbing activities comply with its Stormwater Management Ordinance, and thereby, the Virginia Stormwater Management Act and associated regulations. These regulations provide for the control of stormwater from development sites, both during construction and in the long-term, after construction is complete. To accomplish this goal, the local program will:

- Review and approve Stormwater Pollution Prevention Plans (SWPPP), which consists of:
 - Erosion and Sediment Control Plan
 - Stormwater Management Plan
 - In some cases, a description of any additional control measures necessary to address a TMDL (What's a TMDL? http://pubs.ext.vt.edu/442/442-559/442-559_pdf.pdf).
 - Your SWPPP will also include a Pollution Prevention Plan (plan of how non-stormwater pollutants will be controlled on a construction site, e.g. gasoline for generators, trash, etc.). This plan may be subject to review and approval before construction, check with the specific locality before submittal.
- Review and approve your complete and accurate registration statement, allowing you to obtain your VSMP permit from the DEQ.
- Inspect construction sites to ensure activities conform to the approved SWPPP.
- Enforce the provisions of the jurisdiction's Stormwater Management Ordinance, which establishes violation criteria and a process for the imposition of penalties.
- Oversee a maintenance program that ensures the postdevelopment long-term functionality of stormwater management controls.

OBTAINING YOUR VSMP PERMIT ON & AFTER JULY 1, 2014

While the local jurisdiction will administer the VSMP, developers/contractors will obtain the VSMP permit by filing the registration statement online using the state's ePermitting system. The total VSMP fees can vary between localities so check with jurisdiction's fee schedule once their final Stormwater Management

Ordinance is adopted. A portion of the total VSMP fee will be paid directly to DEQ online using the ePermitting system to fund the oversight of local programs.



HOW DO I KNOW IF I NEED A VSMP PERMIT?

In general, a VSMP permit is required for:

- Operators of construction activities resulting in land disturbance equal to or greater than one acre.
- Construction activities with land disturbance less than one acre that are part of a larger common plan of development or sale that disturbs one or more acres. A larger common plan of development or sale is a contiguous area where separate and distinct construction may be taking place at different times on different schedules (e.g. a subdivision, a shopping center, a mixed use development, or any other such development under construction by multiple developers).

Note: Check with the locality for specific exemptions, especially the handling of Single Family Residential.

Note: A VSMP permit is required *in addition to*, NOT instead of, a Land Disturbing Permit or an Agreement in Lieu of a Plan waiver.

WHAT ELSE CHANGES ON JULY 1, 2014? NEW STORMWATER MANAGEMENT REGULATIONS

In 2011, the Virginia Soil and Water Conservation Board approved new stormwater management regulations. Compliance with these new rules will be required by the 2014 VSMP permit and the localities Stormwater Management Ordinance, both of which take effect July 1, 2014. The main regulatory changes include:

- New technical criteria for stormwater control:

| Stormwater Technical Criteria | | |
|-------------------------------|--|--|
| Criteria | Old Regs | New Regs |
| Land Use | Impervious cover (IC) only | IC + Forest/Open Space + Managed Turf |
| Event | 0.5 inches of Runoff from the IC only | 1.0 inches of Rainfall from the whole site |
| New Design Criteria | Average land condition/ technology based | 0.41 lbs./ac/yr Total Phosphorus (TP) |
| Redevelopment Criteria | 10% reduction TP | <1 acre = 10% red. TP, >1 acre = 20% red. TP |
| Compliance Methodology | Simple Method | Runoff Reduction Method |
| Water Quantity | Varied | Criteria for: Manmade conveyance systems Restored conveyance systems Natural conveyance systems |

WHAT ELSE CHANGES ON JULY 1, 2014? NEW STORMWATER MANAGEMENT REGULATIONS (continued)

- The *Virginia Stormwater Management Handbook* (Blue Book) is being updated to reflect the new regulations and design criteria. The *Handbook* will be available online, by chapter. Until the final version is published, practitioners can access approved Best Management Practice specifications at the Virginia Stormwater BMP Clearinghouse: <http://vwrrc.vt.edu/SWC/PostConstructionBMPs.html>. Under the old stormwater regulations, specific BMP utilization within a jurisdiction was primarily at the discretion of the locality. Under the new regulations, the BMP must be listed on the Clearinghouse.

- Maintenance agreements:

The VSMP permit will require fully enforceable maintenance agreements for stormwater controls (structural and non-structural best management practices). The agreements will be deeded to run with the land, and allow for inspections and maintenance to occur that will ensure the long-term function of stormwater controls.

- Grandfathering:

State regulations and local ordinance allow for projects to proceed through construction under the old technical criteria for stormwater management, if one of several circumstances applies. These are:

 - Projects for which plan approval status has been received by July 1, 2012 or before, but for which no VSMP permit is obtained before July 1, 2014.
 - Documentation may take the form of a locality approved plan, plat, zoning approval, or other approved document determined permissible under the localities ordinance.
 - Any modification to said locality-approved document may call into question the eligibility of the project to be grandfathered.
 - Construction must be complete by June 30, 2019.
 - Projects with government bonds or public debt financing before July 1, 2012
 - Projects that obtain 2009 VSMP permit coverage before July 1, 2014 have two 5-year permit cycles (until June 30, 2024) to be completed, if permit coverage is maintained

RESOURCES

Virginia Stormwater Management Act (§ 10.1-603.3 - § 10.1-603.15)

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+10.1-603.2>

Virginia Stormwater Management Regulations

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+4VAC50-60-10>

Stormwater Regulations Rollout website

http://www.dcr.virginia.gov/stormwater_management/swmrollout.shtml