



Development of Local Virginia Stormwater Management Program (VSMP) pursuant to the Virginia Stormwater Management Regulations

Frequently Asked Questions

The revisions to the Virginia Stormwater Management Regulations (SWM) became effective on September 13, 2011 after a significant and successful stakeholder process. These regulations are an important part of the state's efforts to protect the quality of local waters and the Chesapeake Bay. During their 2012 session, the General Assembly passed legislation that requires localities throughout the state, except for towns that are not holding Municipal Separate Storm Sewer System (MS4) permits, to adopt local Virginia Stormwater Management Programs (VSMPs).

Realizing there are numerous questions regarding these requirements, DCR has developed this document to address key questions and issues. It is DCR's desire that local adoption of the regulations be as seamless and efficient as possible.

What are the benefits of adopting a stormwater management program?

The benefits to a local government adopting stormwater management program include:

1. **Local Development Control.** Local governments will have direct oversight of development activities in their jurisdiction, including the speed with which plans are reviewed and approved. Administering a local program provides an economic development advantage and the ability to address local issues. Localities will also have the ability to quickly and effectively address compliance issues.
2. **One-Stop-Shop.** Implementation of a local program provides "one-stop-shopping" for the development community in that they can comply with all of their stormwater regulatory requirements through local programs.
3. **New Revenue Source.** Local governments will receive a majority (72%) of permitting fees for stormwater management program operation, providing a new source of local revenue, and will have the option to set and increase those fees, as necessary, to support the local program activities.

4. **Protecting Local Waters/Reducing Future Costs.** Administering a local stormwater program, particularly criteria related to managing the quantity of storm water runoff, will avoid future, expensive stream restoration costs and damage to properties.

Which localities have to adopt a local VSMP program?

All localities in the Commonwealth, excluding towns, (unless such towns operate a regulated MS4), are required to adopt a VSMP program that is consistent with the revised stormwater management regulations and the revised Construction General Permit for Stormwater Discharges from Land Disturbing Activities.

What are the elements of a local VSMP program that a locality must adopt?

In accordance with § 4VAC50-60-148 A 1 -9, of the Stormwater Management Regulations, the **nine** program elements that must be incorporated in local VSMP program include:

1. Identification of the authorities for accepting VSMP registration statements and for completing plan review, plan approval, inspection, and enforcement;
2. Submission and approval of erosion and sediment control plans in accordance with the Virginia Erosion and Sediment Control Law and regulations and the submission and approval of stormwater management plans;
3. Requirements to ensure compliance with a Stormwater Pollution Prevention Plan, which includes an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan and a description of any additional control measures necessary to address a TMDL;
4. Requirements for inspections and monitoring of construction activities by the operator for compliance with local ordinances;
5. Requirements for long-term inspection and maintenance of stormwater management facilities;
6. Collection, distribution to the state if required, and expenditure of fees;
7. Enforcement procedures and civil penalties;
8. Policies and procedures to obtain and release bonds, if applicable; and
9. Procedures for complying with the applicable reporting and recordkeeping requirements in 4VAC50-60-126.

Which of the above elements have to be included in local ordinances?

In accordance with § 4VAC50-60-148 B of the Stormwater Management Regulations, the **six** program elements that must be included in local ordinances include:

1. Identification of the authorities for accepting VSMP registration statements and for completing plan review, plan approval, inspection, and enforcement;
2. Submission and approval of erosion and sediment control plans in accordance with the Virginia Erosion and Sediment Control Law and regulations and the submission and approval of stormwater management plans

3. Requirements to ensure compliance with a Stormwater Pollution Prevention Plan, which includes an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan and a description of any additional control measures necessary to address a TMDL;
4. Requirements for inspections and monitoring of construction activities by the operator for compliance with local ordinances;
5. Requirements for long-term inspection and maintenance of stormwater management facilities;
6. Enforcement procedures and civil penalties.

What does the local government have to submit to obtain approval for its VSMP program?

In accordance with § 4VAC50-60-150 A. of the Stormwater Management Regulations, the **three** items that have to be included in the submittal package to the regional office include:

1. A local stormwater management ordinance
2. Policies and procedures to administer the local VSMP program
3. A funding and staffing plan that demonstrates the locality has adequate resources to administer the program.

If my locality partners with another locality, do we still have to adopt a local ordinance?

Yes. Although the revised Stormwater Management Act does authorize localities to partner with other localities or entities as explained above, the locality remains ultimately responsible for the administration of the VSMP program. Any enforcement actions in particular rest with the local government. The functions which can be provided by other localities, districts or entities are plan review and inspections.

When should I start developing my local VSMP program?

Now.

The Stormwater Management Act requires localities to adopt local VSMP programs within 15 to 21 months of the effective date of the revised stormwater management regulations, which was September 13, 2011. This works out to be between January and June of 2013. The Act also specifies, however, that the Soil & Water Conservation Board can grant a 1-year extension to this deadline. In order to obtain a 1-year extension, the local program must demonstrate that substantive progress is being made. Accordingly, in order to obtain an extension, contact information for the locality during program development, a preliminary draft local VSMP ordinance, and draft funding and staffing plan must be submitted to the regional office that serves the locality by **April 1, 2013**.

When do localities have to start implementing a local VSMP program? I have to adopt the local VSMP program and to whom is the draft program submitted for review and approval?

Local VSMP programs must begin implementing those programs on July 1, 2014. This date is the expected effective date of the revised Construction General Permit. Although localities cannot implement the program before July 1, 2014, they can begin using the Runoff Reduction spread sheet to identify pollutant control technologies. Localities may also use more recent water pollution control Best Management Practices (BMPs).

Can my locality partner with other localities and entities in the administration of their local VSMP?

Yes. The Stormwater Management Act specifically authorizes a local VSMP authority to “enter into agreements or contracts with soil and water conservation districts, adjacent localities, or other entities” to assist with the administration of the VSMP program. This coordination is limited, however, to plan reviews and inspections.” (§10.1-603.3 A)

If the VSMP program for my non-MS4 town is going to be administered by the county, does the town still need a local ordinance?

For towns that choose not to adopt a local VSMP program, such programs are to be administered by the county in which the town lies. In these cases, the town does not have to adopt a local VSMP ordinance. The town should indicate its choice on program adoption to DCR and to the county.

I understand there is a state fee schedule. Does the local VSMP program have to use that exact schedule?

No. The local VSMP program is required to assess the state wide fee schedule and shall have the authority to reduce or increase such fees. Whatever fee schedule is decided upon by the locality, the fees, as well as other funding sources shall be sufficient to effectively administer the local VSMP program consistent with the revised stormwater management regulations. Any fee change must be approved by the Soil & Water Conservation Board.

Can the local VSMP retain all of the fees collected?

The local VSMP is required to forward 28% of the State fee schedule to DCR to support the Agency’s program oversight and technical assistance activities. However, the locality retains 72% of the state fees.

Does single family residential construction have to obtain a local VSMP permit?

Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development, including additions or modifications to existing single-family detached residential structures are exempt from the VSMP requirements. However, localities subject to the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.)

may still regulate these single family residences where land disturbance exceeds 2,500 square feet.

Do localities have to review the Pollution Prevention Plan (PPP) as part of the plan review process?

No. The revised regulations require local VSMP authorities to have procedures for the inspection of construction sites that ensure the updating and implementation of pollution prevention plans in the field. There is no requirement for the review and approval of PPP as part of the plan review process.

Will there be any training on the new stormwater management regulations?

Yes. DCR is developing a comprehensive training program for local staff, engineers and other interested stakeholders. DCR will be conducting a series of regional training sessions for local government staff focusing on the technical provisions of the regulations. Although the scheduling of these has not been finalized, it is anticipated that they will take place in the Fall of this year. DCR is also developing a stormwater certification program to compliment the current Erosion and Sediment Control (ESC) certification program. The stormwater certification program is expected Spring 2013.

Does DCR expect localities to coordinate ESC control, stormwater management, and CBPA programs to mirror the State program?

DCR's overall goal is to have consolidated or unified local stormwater management programs that integrate the stormwater management requirements with the erosion and sediment control, flood insurance, flood plain management and Chesapeake Bay Preservation Act requirements into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the locality and those responsible for compliance with these programs.

However, how this integration occurs is up to each individual local government. Where feasible, local governments should attempt to consolidate and streamline local reviews in a coordinated manner so they can be implemented as efficiently as possible, facilitating ease of compliance. A good example of such consolation is the process for local site plan review team conferences at which the developer receives input from staff from all applicable reviewing departments (including those for Erosion & Sediment and CBPA).

Will the existing certification for erosion and sediment control be expanded to include stormwater certification, or will it be a separate certification?

Based on the provisions of the 2012 Integration Bill, DCR will be developing separate certifications for stormwater which will parallel those in place already for ESC. Stormwater Plan Reviewer, Stormwater Inspector, and Stormwater Combined Administrator certifications will be provided. A Dual Program Administrator certificate

will be provided to those who obtain ESC Program Administrator and Stormwater Program Administrator certifications.

Will there be opportunities to obtain financial grants to assist with the development of local stormwater management programs?

Yes. DCR released an RFP for local program development on July 30, 2012 and the deadline for the submittal of proposals in response to the RFP is September 10, 2012.

Required activities for the grant include:

- Submission to DCR of a primary contact name and contact information for the development of the local stormwater management program by April 1, 2013.
- Proposals must include a development of a preliminary draft ordinance (does not have to be approved by local elected body) by April 1, 2013.
- Proposals must include a development of a draft funding and staffing plan which must include: a list of program funding sources, a description of staff roles and numbers of staff personnel by locality department by April 1, 2013.

Eligible activities for the grant include:

- Development of new or revised local ordinances to address stormwater runoff in accordance with the revised Virginia Stormwater Management Regulations that became effective on September 13, 2011.
- Local program assessment and capacity building resulting in development of a funding and staffing plan to include

Staff is also continuing to identify other sources of funding and technical assistance opportunities to help local governments develop their local programs. Finally, DCR is in the process of developing a suite of technical assistance tools and guidance for local governments to assist with the development of local stormwater management programs.

Can a locality adopt a program without hiring additional staff?

There are several options for running a local program without hiring additional staff. The locality may enter into contracts with other localities, PDCs, Soil & Water Conservation Districts for the plan review and inspection functions of a local stormwater management program. Doing so can avoid the hiring of staff at the local level to perform those functions.

Will there be two separate “stormwater” permits – one from DCR, the other from the local VSMP?

DCR’s role in the approval of land disturbing activities is to provide *coverage* under the VSMP General Permit for Discharges of Stormwater from Construction Activities, whereas the locality, as a VSMP authority, issues a permit allowing the commencement of a land disturbing activity. The permit application for the local approval must include a VSMP registration statement, evidence of VSMP coverage, a stormwater management plan and an erosion & sediment control plan. Land disturbing activities are not to be

conducted until the permit has been issued by the local VSMP authority. The ePermitting System is being designed to facilitate this into one stormwater permit.

Will DCR provide technical assistance?

Yes. Each locality has been assigned a regional office staff member to assist them with the development of their local VSMP programs. Further, DCR is in the process of finalizing a Local VSMP Program Development Tool Kit, which will contain a variety of program development templates and tools. DCR is also providing training in the Fall of 2012.

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