

# VSMP Administrative Guidance Manual

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## 1.0 Introduction

This Administrative Guidance Manual (Manual) was prepared for the City of Lynchburg, the VSMP Authority, to comply with 9VAC25-870-148 – VSMP and erosion and sediment control administrative requirements to implement and enforce the regulations and includes guidance for reviewing stormwater pollution prevention plans (SWPPPs), obtaining and releasing of bonds, completing site inspections, reporting and recordkeeping, enforcement, and long-term maintenance and inspection programs.

This manual is also intended to provide guidance to the development community regarding requirements and expectations for erosion and sediment control and stormwater management plan submittals, in accordance with 9VAC25-840 and 9VAC25-870, respectively.

For reference, the [Virginia Stormwater Management Act](#) (§62.1-44.15:24 et seq), the [VSMP Regulations](#) (9VAC25-870), and City of Lynchburg's [Stormwater Management Ordinance](#) can be found in Appendix A, B, and C, respectively. Please note the Virginia law and regulations provided may not be the latest; refer to <http://townhall.virginia.gov/L/ViewBoard.cfm?BoardID=103> for the latest documents.

The information contained in this document is subject to change without notification and may be updated for compliance with any subsequent changes in laws and regulations.

## 2.0 Applicability

### 2.1 Single-Family Residential Dwelling Land-Disturbing Activity

- 2.1.1 Agreement-in-lieu-of: The construction of a single family detached residential structure, with or outside of a common plan of development or sale, equal to or less than 5 acres, may be eligible for an agreement in-lieu-of a stormwater management plan. This agreement shall not require a registration statement or the Department's portion of the state permit fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities (General Permit).
- 2.1.2 Requirements: Even though a registration statement for coverage under the General Permit is not required for such a structure, the land-disturbing activity must adhere to the requirements of the General Permit, including, but not limited to preparation of an Erosion and Sediment Control Plan, a Stormwater Management Plan (quality and quantity controls), a Pollution Prevention Plan, long-term maintenance agreement, and construction record drawing.

At the discretion of the locality, an agreement in-lieu-of may waive the requirements for the plans and/ or construction record drawing to be signed by a licensed professional. If the VSMP Authority waives the requirements for a licensed professional to complete the plans and/or construction record drawings, then subsequent references to the requirement of a licensed professional seal and signature in the Administrative Guidance Manual and its appendices shall also be waived.

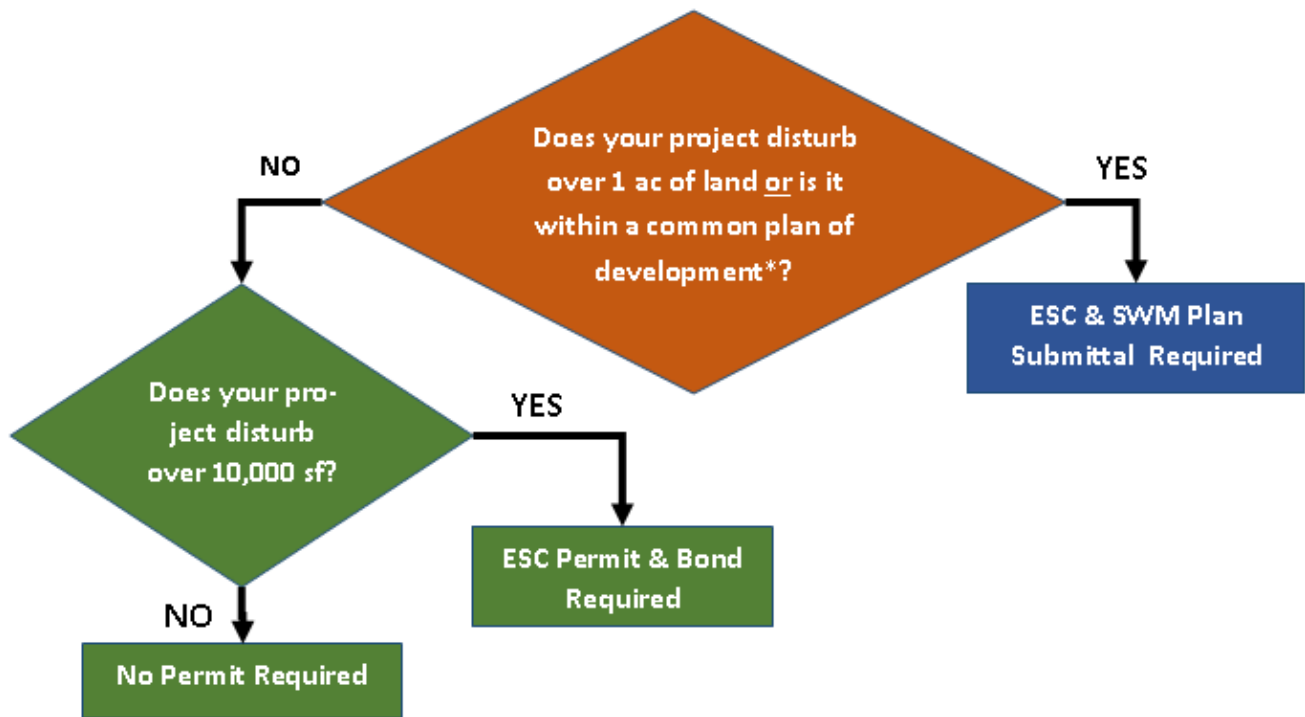
### 2.2 All Other Land-Disturbing Activities

Pursuant to § 62.1-44.15:34 of the Code of Virginia, a stormwater management (SWM) plan and related submittals are required if a land-disturbing activity, which is not a single-family residential dwelling land-disturbing activity, is

1. Equal to or greater than one (1) acre, and/or
2. Part of a Common Plan of Development or Sale (\*Refer to section 3.1 below for exceptions and additional information).

For land development projects that disturb 5,000 square feet or more of land area, no person shall develop any land for residential, commercial, industrial or institutional use without having provided for appropriate stormwater management measures that control or manage stormwater runoff quality, quantity, and velocity as provided within this article, except those development activities exempted in accordance with subsections 16.2-9(c)2, 16.2-9(c)3, 16.2-9(c)4, 16.2-9(c)5, 16.2-9(c)6, 16.2-9(c)7 and 16.2-9(c)8 of the Code of Ordinances for the City of Lynchburg, Virginia. A VSMP authority permit is only required for projects that disturb one acre or more of land or are part of a common plan of development, except as provided in subsection 16.2-9(b).

(Ord. No. O-01-079, 4-24-01, eff. 5-1-01; Ord. No. O-07-047, 4-10-07; Ord. No. O-14-070, § 1, 6-10-14 )



### 3.0 Supplemental Guidance

#### 3.1 Common Plan Of Development or Sale

As per the Virginia Department of Environmental Quality Virginia Stormwater Management Program (VSMP) Frequently Asked Questions (FAQ), the following provides clarification regarding applicability of the common plan of development or sale clause in the VSMP regulations.

- 3.1.1 Definition of a 'Plan' in a Common Plan of Development: 9VAC25-870-10 (Definitions) of the VSMP regulations describes a common plan of development as "a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules." Examples of these "common plans of development" meeting this definition include site plans and subdivision plans as defined in § 15.2-2201 (Definitions) of the Planning, Subdivision of Land and Zoning chapter of the Code of Virginia, or as defined by a locality in an ordinance adopted pursuant to this chapter.
- 3.1.2 Applicability: Individual lots within existing residential, commercial or industrial site plans and subdivision plans that were platted prior to July 1, 2004 may be considered separate land-disturbing activities and require a local VSMP permit and/or a registration statement under the General Permit, except as noted in 3.1.4. July 1, 2004 is the date that provisions for common plans of development were first incorporated into the Virginia Stormwater Management Act. Previous to that date,

the term was not used or defined. Lots within such platted plans or subdivisions that disturb less than one acre do not have to obtain coverage under 2014 Construction General Permit. Lots within such platted plans or subdivisions that disturb one acre or greater would have to obtain coverage under the 2014 Construction General Permit.

- 3.1.3 Options for Compliance: If a local VSMP permit is deemed required for the land disturbance within a 'common plan of development', the applicant has two options:
- 1) transfer the original VSMP from the developer to the applicant or
  - 2) apply for new permit coverage.
- 3.1.4 Exceptions: The VSMP Authority may elect to waive permit coverage under the following situations.
- 1) Single-Family Homes: For land distributing activity less than 1 acre and within a common plan of development, where the stormwater management plan for the larger common plan of development or sale provides permanent control measures (ie. stormwater management facilities for quantity and quality controls) encompassing the single family residence in accordance with 9VAC25-880-50 , the state will authorize coverage automatically (no registration statement is needed) and the Applicant will not have to pay the Department (DEQ) portion of fee.
  - 2) When the 'common plan of development' construction documents and SWPPP accounted for stormwater management (quantity and quality) for the entire development, including grading plans and footprints of impervious surfaces for individual lots.
  - 3) If less than one acre remains of the original common plan, the individual project may be treated as part of a less than one acre development and no permit would be required.

### **3.2 TMDL Specific Requirements**

The Applicant shall comply with the requirements of the TMDLs of the City of Lynchburg.

### 3.3 Exemptions

As per the Code of Virginia § 62.1-44.15:34 ([Link to Code](#)), “...the following activities are exempt, unless otherwise required by federal law.”

- 3.3.1 Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1.
- 3.3.2 Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, 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; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163.
- 3.3.3 Single-family residences separately built and disturbing less than one acre including additions or modifications to existing single-family detached residential structures, except for those within a larger common plan of development or sale.
- 3.3.4 Land-disturbing activities that disturb less than one acre of land area except for 1) land-disturbing activity exceeding an area of 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the provisions of the Chesapeake Bay Preservation Act (§ [62.1-44.15:67](#) et seq.) or 2) activities that are part of a larger common plan of development or sale, where the land-disturbance activity within the larger common plan of development or sale (not the individual land disturbance) is one acre or greater of disturbance.
- 3.3.5 Discharges to a sanitary sewer or a combined sewer system.
- 3.3.6 Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use.
- 3.3.7 Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection.



- 3.3.8 Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VSMP Authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity.

### **3.4 Exceptions**

- 3.4.1 The Authority may grant exceptions to the provisions of Part II B or Part II C of 9VAC25-870. An exception may be granted provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act and this chapter are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created.
- 3.4.2 Economic hardship alone is not sufficient reason to grant an exception from the requirements of this chapter.
- 3.4.3 Under no circumstance shall the VSMP Authority grant an exception to the requirement that the land-disturbing activity obtain required state permits, nor approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, except where allowed under Part II C (9VAC25-870-146 et seq.) of this chapter.
- 3.4.4 Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options available through 9VAC25-870-69 have been considered and found not available.
- 3.4.5 A record of all exceptions granted shall be maintained by the VSMP Authority in accordance with 9VAC25-870-126.

### **3.5 Licensed Professional**

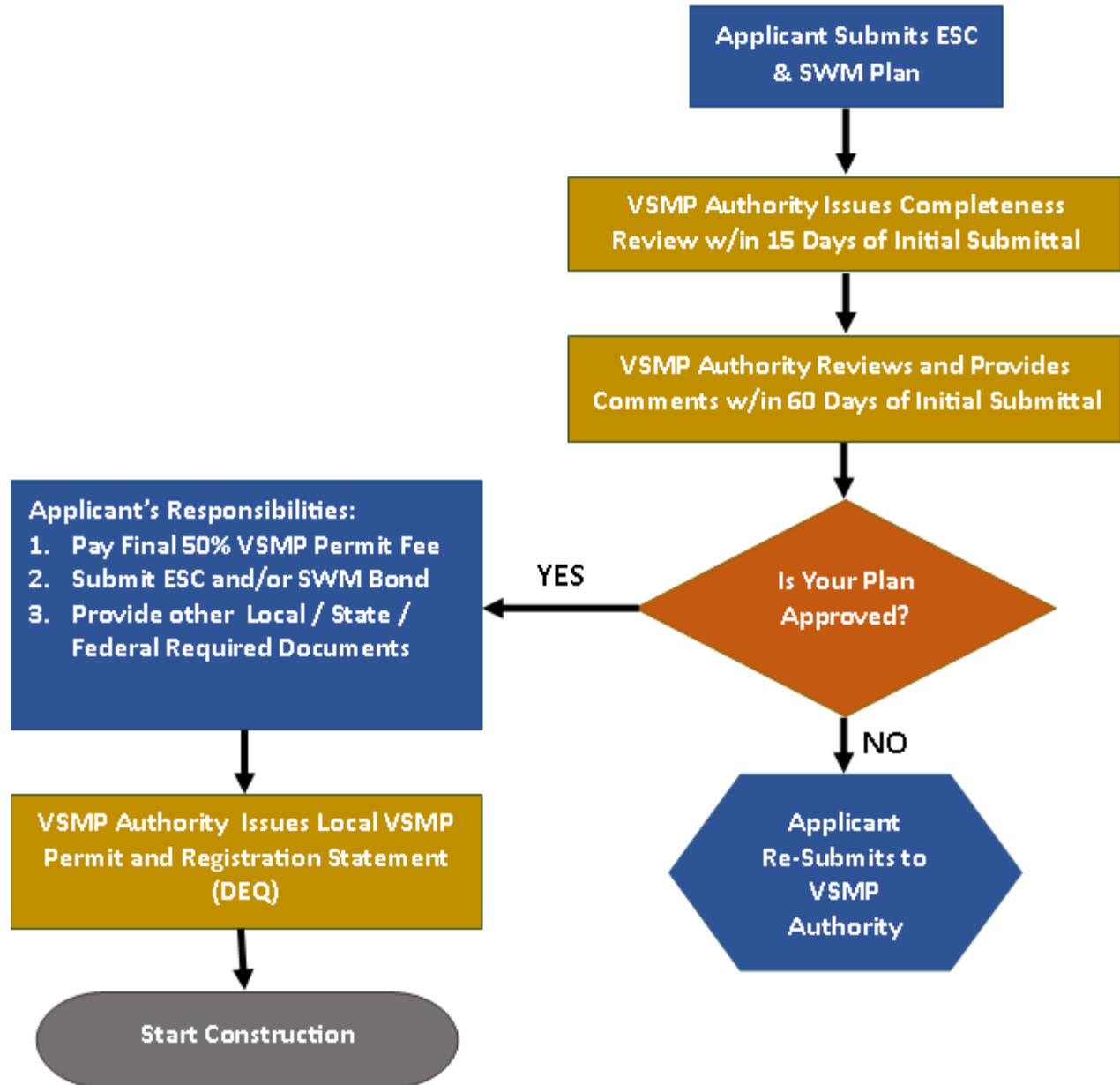
- 3.5.1 A Licensed Professional must certify the sections required by 9VAC25-870 and this document and shall be registered in the Commonwealth of Virginia pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia; this provision may be waived for an agreement-in-lieu-of plan. A Licensed Professional means one of the following: Professional engineer, land surveyor, architect, and landscape architect.

## 4.0 General SWM Plan Review Guidance

### 4.1 Process Description

The [VSMP Project Process Plan](#) provided in Appendix D is provided as a quick reference guide responsibilities and requirements of the Applicant (and Owner) and the Authority regarding plan approval, construction inspection, and post-construction inspections for a project, except as noted in section 2.1.

The following is a flow chart summarizing the VSMP Project Process Plan.



#### **4.2 Application for Coverage under the General Permit for Discharges of Stormwater from Construction Activities**

Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#). The Department portion of the General Permit fee is provided in the City of Lynchburg Stormwater Management Ordinance and shall be payable to the City of Lynchburg. A copy of the General Permit and Registration Statement can be found in Appendix E and F, respectively.

#### **4.3 Local VSMP Permit Fees**

Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#). A summary of the local VSMP permit stormwater fees is provided in the City of Lynchburg Stormwater Management Ordinance.

In addition to the local VSMP fees, the Authority may elect to impose an additional fee to complete reviews beyond the initial, first, and second (a total of three (3)) submittals of a project. In accordance with §62.1-44.15.36, this fee will be assessed as per the hourly rate of the reviewing agency to a maximum of \$1,000.

#### **4.4 Erosion and Sediment Control and Stormwater Management Plan Application Form & Checklist**

Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#). The Erosion and Sediment Control and Stormwater Management Plan Application Form & Checklist can be found in Appendix G.

#### **4.5 Completeness Review Form**

Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#). The [Completeness Review Form](#) can be found in Appendix H.

## 5.0 Stormwater Pollution Prevention Plan

The Applicant must provide a Stormwater Pollution Prevention Plan (SWPPP) in accordance with 9VAC25-870-54, including but not limited to, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan. For the convenience of the Applicant and the Authority reviewing the plan a [Comprehensive SWPPP](#) template is provided in Appendix I for the narrative portions of the SWPPP. The Applicant is encouraged to use this format to complete the required sections of the SWPPP.

NOTE: Sections 1 -Site Information, 2-Erosion and Sediment Control, 3-Pollution Prevention, and 4-Stormwater Management of the Comprehensive SWPPP are required for the plan review submittal, as noted below. **Sections 5 – Construction Inspections and Maintenance, 6-Training, and 7-Final Stabilization of the Comprehensive SWPPP are not required to be completed at time of plan review submittal. However, these sections must be completed by the Applicant and/or the Contractor prior to construction.** The Comprehensive SWPPP must be available at the construction site at all times during construction.

### 5.1 Erosion and Sediment Control Plan

The Applicant must provide the Authority a complete report, including narrative and calculations, as required, and plans meeting the requirements and provisions of the City of Lynchburg Stormwater Management Ordinance and Section 1 of the [Erosion and Sediment Control and Stormwater Management Plan Application Form & Checklist](#) (Appendix G).

[Erosion control notes](#) are required to be included on the plans. These notes are provided in Appendix J.

#### 5.1.1 Review Guidance

**5.1.1.1 Report:** If the Applicant uses the 'Comprehensive SWPPP' template, the Authority should confirm sections 1 and 2 are completed as noted below. If the Applicant submits the report in a different format, the Authority shall confirm the information in Section 1 of the Erosion and Sediment Control and Stormwater Management Plan Checklist and the items listed below are provided.

- a. Refer to text within [ ] in Comprehensive SWPPP template for additional information and guidance.
- b. Comprehensive SWPPP Template

**SECTION 1: SITE INFORMATION** - All sub-sections of Section 1 of the SWPPP template are to be completed by Applicant with the initial plan submittal, except Section 1.2 items 1-Operator(s), 2-Site Supervisor(s), 3-

Stormwater Manager and SWPPP Contact(s), 5-Subcontractor(s), 6-Responsible Land Disturber, and 7-Emergency 24 Hour Contact.

**\*\*However, Section 1.2 items 1, 2, 3, 5, 6, and 7 must be provided prior to construction.\*\***

SECTION 2: EROSION AND SEDIMENT CONTROL - All sections are to be completed by Applicant with the initial plan submittal.

- a. For Section 2.8 Structural Practices and Section 2.9 Vegetative Practices, the Applicant may either note 'not applicable' or delete those practices not required for the project.
- b. Confirm calculations are provided in the Appendix or elsewhere in the report for the following practices.
  1. Diversion (3.12)
  2. Temporary sediment trap(s) (3.13)
  3. Temporary sediment basin(s) (3.14)
  4. Paved Flume (3.16)
  5. Stormwater conveyance channel(s) (3.17)
  6. Outlet Protection (3.18)
  7. Level Spreader (3.21)
  8. Temporary Vehicular Stream Crossing (3.24)
  9. Subsurface Drain (3.28)
- c. Spot check the calculations for accuracy.
- d. Confirm Section 2.11 Phased Construction Activities is completed.
- e. Confirm the Section 2 Required Certification is signed and sealed by a Licensed Professional registered in the Commonwealth of Virginia pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

5.1.1.2 Plans: The Authority shall confirm the appropriate erosion and sediment control practices are proposed and, if so, designed in accordance with the Virginia Erosion and Sediment Control Handbook, Latest Edition (Handbook); refer to the standards and specifications found in the Handbook.

- a. Confirm details for each proposed practice is provided.
- b. Confirm general erosion and sediment control notes are provided.
- c. Confirm compliance with Section 1 of the Stormwater Management Plan Checklist.
- d. Confirm plans are signed and sealed by a Licensed Professional.

5.1.1.3 Resources

- a. Virginia Erosion and Sediment Control Handbook:  
<http://www.deq.state.va.us/Programs/Water/StormwaterManagement/Publications/ESCHandbook.aspx>

## 5.2 Stormwater Management Plan

The Applicant must provide the Authority a complete report, including narrative and calculations, as required, and plans meeting the requirements and provisions of the City of Lynchburg Stormwater Management Ordinance and the [Erosion and Sediment Control and Stormwater Management Plan Application Form & Checklist](#).

### 5.2.1 Review Guidance

**5.2.1.1 Report:** If the Applicant uses the 'Comprehensive SWPPP' template, the Authority should confirm Sections 1 -Site Information, 2-Erosion and Sediment Control, 3-Pollution Prevention, and 4-Stormwater Management are completed. If the Applicant submits the report in a different format, the Authority shall confirm the information in Section 4 of the Comprehensive SWPPP, Section 2 of the Erosion and Sediment Control and Stormwater Management Plan Checklist, and the items listed below are provided.

- a. Refer to text within [ ] in Comprehensive SWPPP template for additional information and guidance.
- b. Confirm the required calculations are provided in the Appendix or elsewhere in the report.
- c. Spot check the calculations for accuracy.
- d. Confirm the Report is certified and is signed and sealed by a Licensed Professional registered in the Commonwealth of Virginia pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

**5.2.1.2 Plans:** The Authority shall confirm the appropriate stormwater practices are proposed and, if so, designed in accordance with the Virginia Stormwater BMP Clearinghouse. <http://vwrrc.vt.edu/swc/>

- a. Confirm details for each proposed practice are provided.
- b. Confirm required notes are provided.
- c. Confirm compliance with Section 2 of the Erosion and Sediment Control and Stormwater Management Plan Checklist.

- d. Confirm plans are signed and sealed by a Licensed Professional registered in the Commonwealth of Virginia pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- e. **Only the BMPs included in the Virginia Stormwater BMP Clearinghouse are permitted; localities shall not approve the use of BMPs not included in the Clearinghouse.**

## 5.2.2 Technical Requirements

**NOTE: If the project is deemed ‘Grandfathered’ as per the Regulations, Part II C technical criteria found in 9VAC25-870 shall apply.**

### 5.2.2.1 General Stormwater Management and BMP Design Guidance

- a. DRAFT Virginia Stormwater Management Handbook (2nd Edition, 2013)

### 5.2.2.2 Runoff Reduction Method

- a. Runoff Reduction Method Compliance Spreadsheets: Refer to Appendix K.
- b. Examples and Guidance: Chapter 12 of the DRAFT Virginia Stormwater Management Handbook (2nd Edition, 2013)

### 5.2.2.3 Energy Balance Equation

- a. Chapter 11.6 – Water Quantity Control of the DRAFT Virginia Stormwater Management Handbook (2nd Edition, 2013)

### 5.2.2.4 Karst Guidance

- a. Stormwater Design Guidelines for Karst Terrain in Virginia, Appendix 6-B, of the DRAFT Virginia Stormwater Management Handbook (2nd Edition, 2013)

## 5.2.3 Allowable Calculation Methodologies

### 5.2.3.1 Hydrologic

- a. For sites with watersheds exceeding 200 acres, the Soil Conservation Service (SCS) based methodology (TR-55 or TR-20) should be used for the design of stormwater management/BMP facilities.
- b. If a site is less than 200 acres, SCS based methodology is preferred; however, modified rational method or rational method may be use at the discretion of the VSMP Authority.
- c. The modified runoff curve number as provided by the runoff reduction spreadsheet for each drainage area should be used for water quantity calculations.

#### 5.2.3.2 Hydraulic

- a. Appendix 11-D – Stormwater Computer Models of the DRAFT Virginia Stormwater Management Handbook (2nd Edition, 2013)

#### 5.2.4 Other Resources

1. BMP Clearinghouse: <http://vwrrc.vt.edu/SWC/>
2. Hydrologic Unit Code: [http://www.deq.virginia.gov/mapper\\_ext/default.aspx?service=public/wimby](http://www.deq.virginia.gov/mapper_ext/default.aspx?service=public/wimby)
3. Soils Maps: <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>
4. Rainfall Values: [http://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html?bkmrk=va](http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=va)



### 5.3 Pollution Prevention Plan

A Pollution Prevention Plan must be completed prior to construction by either the Applicant or Contractor and must be included in the SWPPP located at the project site during construction. Refer to the [Comprehensive SWPPP](#) template also found in Appendix I.

The Authority is not required to review the Pollution Prevention Plan for plan approval.

#### 5.3.1 Review Guidance

5.3.1.1 Refer to text within [ ] in Comprehensive SWPPP template for additional information and guidance.

5.3.1.2 Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
4. The pollution prevention plan shall include effective best management practices to prohibit the following discharges:
5. Wastewater from washout of concrete, unless managed by an appropriate control;
6. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
7. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
8. Soaps or solvents used in vehicle and equipment washing.
9. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

## 6.0 Other VSMP Permit Requirements

### 6.1 Long-Term Stormwater Facility Maintenance Agreement

A [Long-Term Stormwater Facility Maintenance Agreement](#) (Appendix L) must be submitted by the Applicant and approved by the Authority prior to review and approval prior to the approval of the stormwater management plan. Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#).

### 6.2 Erosion and Sediment Control and Stormwater Management Bonds / Letters of Credit

An Erosion and Sediment Control and Stormwater Management Bonds / Letters of Credit must be submitted by the Applicant and approved by the Authority prior to issuance of the VSMP permit for construction. The Applicant shall use the [Erosion and Sediment Control and Stormwater Management Bond calculator](#) also provided in Appendix M to determine the amount required for the bond or letter of credit. Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#).

#### Notes:

1. Bonds are not required for single family homeowners if the total land disturbance is less than five (5) acres.
2. The bond shall be provided for both erosion and sediment control and stormwater management; separate bonds will not be accepted.

## 7.0 Construction Inspections

Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#). A [VSMP Permit & SWPPP Construction Inspection Report](#) form is provided in Appendix N.

### 7.1 Resources

#### 7.1.1 Virginia Erosion and Sediment Control Handbook:

<http://www.deq.state.va.us/Programs/Water/StormwaterManagement/Publications/ESCHandbook.aspx>

#### 7.1.2 Stormwater management facilities construction guidance - BMP Clearinghouse:

<http://vwrrc.vt.edu/SWC/>

## **8.0 Construction Closeout Documentation**

### **8.1 Stormwater Management Facility Construction Record Report Requirements**

Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#) and the [Construction Record Drawing Checklist for Permanent Stormwater Management Facilities](#) (Appendix O).

### **8.2 Project Completion Form**

Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#) and the [VSMP Project Completion Form](#) (Appendix P).

### **8.3 Release of Erosion and Sediment Control and Stormwater Management Bonds / Letters of Credit**

Refer to responsibilities and notes provided in the [VSMP Project Process Plan](#).

## 9.0 Post-Construction Inspections

As per the recorded Long-Term Stormwater Management Facility Maintenance Agreement and the City of Lynchburg Stormwater Management Ordinance, the City of Lynchburg shall enforce compliance of the post-construction inspections via use of a tracking program (TBD). The [Post-Construction Inspection Checklist](#) (Appendix Q) for the relevant BMP(s) shall be used to document post-construction inspections.

### 9.1 Inspection Frequency

Table 9.1 – Stormwater Management BMP Inspection Frequencies

BMP Classification	BMP Type	Minimum Inspection Schedule	Notes
1	Rooftop Disconnection	Every 5 Years	Owner shall inspect and provide documentation as per the requirements found on the Virginia Stormwater BMP Clearinghouse Website and the Administrative Guidance Manual for BMPs, except for BMP Classification 1 facilities, where the City of Lynchburg will be responsible for inspection. The City of Lynchburg will inspect all BMPs every 5 years.
1	Sheetflow to Vegetated Filter or Conserved Open Space	Every 5 Years	
1	Grass Channel	Every 5 Years	
1	Soil Amendments	Every 5 Years	
2	Permeable Pavement	Annually	
2	Infiltration	Annually	
2	Bioretention	Annually	
2	Dry Swale	Annually	
2	Wet Swale	Annually	
2	Filtering Practice	Annually	
2	Constructed Wetland	Annually	
2	Wet Pond	Annually	
2	Extended Detention Pond	Annually	
3	Vegetated Roof	Twice per year (Spring/Fall)	
3	Rainwater Harvesting	Twice per year (Spring/Fall)	
4	Manufactured/ Other BMP	Yearly or per manufacturer recommendations, whichever is more frequent.	

## 9.2 Review Guidance

The Virginia Stormwater BMP clearinghouse (<http://vwrrc.vt.edu/swc/>) contains updated specifications including maintenance and inspection guidelines for accepted practices within the Commonwealth of Virginia.

## **10.0 Reporting and Recordkeeping Guidance**

### **10.1 Annual Reporting**

On a fiscal year basis (July 1 to June 30), the City of Lynchburg shall report to the Department by October 1 of each year, in a format provided by the Department, the following information.

1. Information on each permanent stormwater management facility completed during the fiscal year to include type of stormwater management facility, geographic coordinates, acres treated, and the surface waters or karst features into which the stormwater management facility will discharge;
2. Number and type of enforcement actions during the fiscal year; and
3. Number of exceptions granted during the fiscal year.

### **10.2 Recordkeeping**

The City of Lynchburg shall keep records in accordance with the following:

1. Project records, including approved stormwater management plans, shall be kept for three (3) years after state permit termination or project completion.
2. Stormwater management facility inspection records shall be documented and retained for at least five (5) years from the date of inspection.
3. Construction record drawings shall be maintained in perpetuity or until a stormwater management facility is removed.
4. All registration statements submitted in accordance with 9VAC25-870-59 shall be documented and retained for at least three (3) years from the date of project completion or state permit termination.

## **11.0 Enforcement Guidance**

Portions of the following are an adaptation of the Stormwater Management Enforcement Manual prepared by the Virginia Soil and Water Conservation Board and the Virginia Department of Conservation and Recreation (DCR) dated February 2006.

<http://www.deq.state.va.us/Portals/0/DEQ/Water/Guidance/ChesBayPreservAct/StormwaterEnforcementManual.pdf>

### **11.1 Introduction**

The City of Lynchburg recognizes that its goal of effective enforcement may be accomplished in most cases through informal means by offering compliance assistance to the regulated community and ensuring that any noncompliance is corrected quickly. Nonetheless, the City of Lynchburg will use the full range of its enforcement authority as needed to deter violations and ensure that its mission to conserve and protect the environment and the health and well-being of the Commonwealth's citizens is fulfilled.

### **11.2 Authority**

the City of Lynchburg is authorized by the Code of Virginia § 62.1-44.15:27 to establish and enforce the Virginia Stormwater Management Program (VSMP).

### **11.3 Violations**

the City of Lynchburg may consider violations to include, but are not limited to:

1. No state permit registration;
2. No SWPPP;
3. Incomplete SWPPP;
4. SWPPP not available for review;
5. No approved erosion and sediment control plan;
6. Failure to install stormwater BMPs or erosion and sediment controls;
7. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
8. Operational deficiencies;
9. Failure to conduct required inspections; and/or
10. Incomplete, improper, or missed inspections.

### **11.4 Process**

If a violation(s) is noted by the inspector, the City of Lynchburg may follow the subsequent general steps to enforce compliance of the regulations by issuing:

1. Verbal warning and inspection report;
2. Notice of Corrective Action;
3. Stop work order;
4. Emergency special orders;
5. An injunction; and

6. Civil penalty(ies).

### **11.5 Verbal Warning/Inspection Report**

Under circumstances where an inspection reveals routine noncompliance that can be corrected within a reasonably short time, the City of Lynchburg's Administrator may choose to issue a verbal warning accompanied by an inspection report that describes the specific problems and includes a schedule for correcting the noncompliance. A copy of the [VSMP Permit & SWPPP Construction Inspection Report](#) is found in Appendix N.

The purpose of the verbal warning is to give the regulated party responsible for the alleged noncompliance an opportunity to comply voluntarily and thus avoid sanctions that might be imposed by an escalated enforcement response.

### **11.6 Notice of Corrective Action**

In accordance with § 62.1-44.15:37 of the Code of Virginia, when the City of Lynchburg Administrator's initial attempts to secure a voluntary return to compliance are unsuccessful, the Administrator or Department may issue a Notice of Corrective Action (NOCA). Examples of situations where issuance of a NOCA is appropriate include the following:

1. When the regulated party has failed to correct the noncompliance at the site pursuant to a prior Verbal Warning;
2. Where inspections of a construction site indicate a continuing pattern of various routine noncompliance after the City of Lynchburg has issued one or more Verbal Warnings for specific noncompliance; and/or
3. Noncompliance at a construction site is causing an adverse impact to human health or the environment such as a discharge of sediment to a stream or wetland. This situation does not necessarily require prior issuance of a Verbal Warning.

The purpose of a NOCA is to inform the regulated party responsible for the alleged noncompliance of the facts surrounding the allegations, the applicable law, and the potential consequences for failing to address the situation, should the allegations prove true. The NOCA also gives the regulated party an opportunity to refute the allegations or to address the discrepancies described in the NOCA within a specified time.

It is important that field staff gathers sufficient evidence throughout the informal enforcement process to support escalating the enforcement response, should the need arise. For this reason, field staff should carefully document all of the steps of the informal process in inspection reports, photographs, telephones logs, and field notes.

#### NOCA Process

1. Except for special circumstances (e.g., ongoing adverse impacts to human health or the environment), past noncompliance should be documented in one or more



Verbal Warning and VSMP Permit & SWPPP Construction Inspection Report issued pursuant to the guidelines in this Manual.

2. Explain to the responsible party in easily understood terms (i) any noncompliance identified during the site inspection or investigation and (ii) describe specific measures needed to achieve compliance. Also explain any (i) documented history of noncompliance at the site, (ii) your decision to issue NOCA, (iii) the reasons for that decision, and (iv) the potential consequences, should the responsible party fail to complete the measures specified in the NOCA within the allotted time (i.e., may result in escalation to formal enforcement, such as a Stop Work Order and potentially a civil charge).
3. Complete the VSMP Permit & SWPPP Construction Inspection Report.
4. Draft the NOCA; refer to Appendix R - [Example Notice of Corrective Action](#) letter.
5. Deliver the approved NOCA by hand or send it by certified mail.
6. Conduct a follow-up inspection to ensure compliance.
7. Under circumstances where the responsible party has not corrected the problem or where significant new noncompliance is identified and if the responsible party has good reason for needing a short extension to complete the agreed upon measures or if the new noncompliance is minor and can be corrected immediately, issue a second NOCA.
8. If professional judgment dictates that issuing a second NOCA is not appropriate, initiate a Stop Work Order by discussing the facts of case with the Administrator.

### **11.7 Stop Work Order**

In accordance with § 62.1-44.15:37 of the Code of Virginia, if a Permittee fails to comply with the verbal warnings, inspection reports recommended corrective actions, and/or NOCA, the City of Lynchburg or Department may issue an order requiring the owner, Permittee, person responsible for carrying out an approved plan, or person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

The stop work order shall become effective upon service on the person by mailing, with confirmation of delivery, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the VSMP Authority or Department.

### **11.8 Emergency Special Orders**

In accordance with § 62.1-44.15:25 and § 62.1-44.15:37 of the Code of Virginia, if the City of Lynchburg or the Department finds that any such violation is grossly affecting or presents an imminent and substantial danger to (i) the public health, safety, or welfare or the health of animals, fish, or aquatic life; (ii) a public water supply; or (iii) recreational, commercial, industrial, agricultural, or other reasonable uses, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall 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.

#### **11.9 Injunction**

In accordance with § 62.1-44.15:37 and § 62.1-44.15:42 of the Code of Virginia, if a person who has been issued an order is not complying with the terms thereof, the City of Lynchburg, Department, and/or the Board may institute a proceeding in the Lynchburg General District Court.

#### **11.10 Civil Penalties**

In accordance with § 62.1-44.15:42 and § 62.1-44.15:48 of the Code of Virginia, any person who violates any provision of the Code of Virginia or of any regulation, ordinance, or standard and specification adopted or approved hereunder or who fails, neglects, or refuses to comply with any order of the City of Lynchburg, the Department, the Board, or a court, issued as herein provided, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

#### **11.11 Payment of Civil Penalties**

Pursuant to § 62.1-44.15:48 A of the Code of Virginia, civil penalties recovered by a locality's VSMP Authority shall be paid into the City of Lynchburg's Treasury in which the violation occurred and are to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.