

VIRGINIA DEPARTMENT OF TRANSPORTATION

# LOCATION AND DESIGN DIVISION

## INSTRUCTIONAL AND INFORMATIONAL MEMORANDUM

GENERAL SUBJECT: VIRGINIA STORMWATER MANAGEMENT PROGRAM	NUMBER: IIM-LD-242.3
SPECIFIC SUBJECT:  GENERAL VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) CONSTRUCTION PERMIT	DATE: MARCH 19, 2010
	SUPERSEDES: IIM-LD-242.2
DIVISION ADMINISTRATOR APPROVAL:                      Mohammad Mirshahi, P.E. State Location and Design Engineer Approved March 19, 2010	

Changes are shaded.

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### CURRENT REVISION

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- Revisions have been made throughout this memorandum to clarify the VSMP construction permit requirements.
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### EFFECTIVE DATE

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- This memorandum is effective upon receipt.
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### ACRONYMS

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- DCR – Department of Conservation and Recreation
  - ESC – Erosion and Sediment Control
  - IIM – Instructional and Informational Memorandum
  - IAT – Interagency Transfer
  - L&D – Location and Design
  - PAC – Pre Advertisement Conference
  - RLD – Responsible Land Disturber
  - RLDA – Regulated Land Disturbance Activity
  - SWM – Stormwater Management
  - SWPPP – Stormwater Pollution Prevention Plan
  - VDOT – Virginia Department of Transportation
  - VSMP – Virginia Stormwater Management Program
  - VSWCB – Virginia Soil and Water Conservation Board

## BACKGROUND

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- Acts of the General Assembly have resulted in the enactment of the Stormwater Management Law (Section 10.1-603 of the Code of Virginia) and the issuance of the Virginia Stormwater Management Program Permit Regulations (4 VAC 50-60 et seq.) for discharges of stormwater from Regulated Land Disturbing Activities. The law empowered the VSWCB to regulate, permit, and control stormwater runoff in the Commonwealth and authorized the VSWCB to delegate such powers to the DCR.
  - Authorization to discharge under the VSMP Regulations and the Virginia Stormwater Management Act is permitted through the DCR's VSMP General Permit for the Discharge of Stormwater from Construction Activities VAR10 (hereafter referred to as the VSMP Construction Permit). The current permit became effective on July 1, 2009 and will expire on June 30, 2014. Coverage under the VSMP Construction Permit must be obtained prior to beginning any land disturbance on regulated activities.
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## APPLICATION

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- The VSMP Construction Permit is applicable for all RLDAs undertaken by or for the VDOT including, but not limited to, RAAP, SAPP, Minimum and No Plan, PPTA and Design Build and Capital Outlay projects and routine and non routine maintenance activities, including those performed by state forces or hired equipment.
- VDOT shall apply for and secure coverage (in accordance with the instructions contained in this document) under the VSMP Construction Permit for all applicable land disturbing activities over which it has contractual control or which are done by state forces.
- It shall be the responsibility of those conducting land disturbing activities on VDOT right of way under agreement and/or a land use permit to secure coverage under the VSMP Construction Permit (if applicable) for their activities. This would include those land disturbing activities conducted on VDOT right of way by municipalities under the First Cities program, the Locally Administered Project program or the Transportation Enhancement Program.
- Coverage under the VSMP Construction Permit is required for all land disturbing activities, except those associated with routine maintenance, that equal or exceed the following land disturbance threshold amounts:
  - In a Designated Chesapeake Bay Preservation Area – 2,500 square feet
  - In all other areas – 1 Acre
- Coverage under the VSMP Construction Permit is required for all routine maintenance activities that disturb 5 acres or greater.

1. Routine maintenance is defined as those activities performed to maintain the original line and grade, hydraulic capacity, or original construction of the facility. Such activities include, but are not limited to, ditch cleaning operations, shoulder grading operations and pipe replacement or rehabilitation operations provided the original line and grade, hydraulic capacity and original construction of the project are maintained.
  2. Changes affecting hydraulic capacity or original construction of a ditch could include, but are not limited to, changes to depth, width, side slopes, grade and lining. Likewise, changes affecting the hydraulic capacity or original construction of a drainage structure include, but are not limited to, changes in type, size, slope and material.
  3. Where there is any question as to the application of the routine maintenance definition to a land disturbing activity, the appropriate District Hydraulics Engineer should be consulted.
- Routine maintenance activities that disturb less than five acres of land are exempt from the VSMP Construction Permit requirements.
    1. This exemption is only for those maintenance activities considered routine (e.g., ditch cleaning operations, shoulder grading operations, pipe replacements, etc.) and only applies to the VSMP Regulations and Construction Permit Program. It does not apply to the ESC Program or to the SWPPP requirements. An ESC Plan (including MS-19 channel adequacy analysis, as appropriate) and a SWPPP is required for any land disturbing activity that equals or exceeds 10,000 square feet (2,500 square feet in the area defined as Tidewater, Virginia in the Chesapeake Bay Preservation Act) (See latest version of IIM-LD-11) regardless of any exemption under the VSMP Regulations and Construction Permit Program.
    2. For any maintenance activity being authorized under this exemption, the activity files shall be thoroughly documented as to the original and proposed line, grade, hydraulic capacity of the drainage features and purpose of the facility.
    3. Where there is any question as to the application of this exemption, the appropriate District Hydraulics Engineer should be consulted.
  - The normal operational procedures for maintaining the travel surface of unpaved/gravel roadways (i.e., dragging, blading, grading, etc.) have been granted an exemption from the VSMP Construction Permit requirements by DCR. This exemption only applies to maintaining the travel surface and does not include normal ditch cleaning operations to restore hydraulic capacity or pipe replacements. When normal ditch cleaning operations to restore hydraulic capacity or pipe replacements are a part of the maintenance operations for the unpaved/gravel travel surface, the VSMP Construction Permit requirements will be applicable if the maintenance operation disturbs 5 acres or more (including the dragging/blading/grading of the unpaved/gravel travel surface). Additionally, the normal operational procedures for maintaining the travel surface of the gravel roadway (i.e., dragging, blading, grading, etc.) will be subject to the requirements of the Erosion and Sediment Control Regulations if the operation disturbs 10,000 square feet or greater (2,500 square feet or greater in the

area defined as Tidewater, Virginia in the Chesapeake Bay Preservation Act). (See the latest version of IIM-LD-11).

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## LAND DEVELOPMENT AREA AND LAND DISTURBANCE AREA

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- The application for coverage under the VSMP Construction Permit requires the reporting of both the area of land development and the area of land disturbance.
  - The area of land development is the total area of the RLDA site including, but not limited to, the area of the right of way, temporary and permanent easements and offsite supporting areas.
  - The area of land disturbance is the total area within the land development area that will be disturbed by the proposed activities. Land disturbance, for the purposes of applicability of the VSMP Regulations and the VSMP Construction Permit, is defined as any manmade change to the land surface that potentially changes its runoff characteristics **including** any clearing, grading or excavation associated with the proposed activity. This includes any grading/dragging/blading associated with the maintenance of unpaved/gravel roadways or shoulders.
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## SUPPORT FACILITIES (ONSITE AND OFFSITE)

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- Support facilities (both those onsite and offsite) associated with the RLDA, such as staging areas, equipment and material storage areas, excavated material disposal areas, borrow areas, etc., and which are to be covered under the VSMP Construction permit for the RLDA, are to be identified in the SWPPP, the ESC Plan and, where applicable, the post construction SWM Plan for the RLDA. The total area and the amount of land disturbance for any such support facilities **shall** be included in the total calculated values for the land development area and the land disturbance area for the RLDA.

In many instances, the identification of the locations of the support facilities is the responsibility of the contractor or other such person performing the land disturbing activity and the exact location and size of such areas are not known until after the award of the contract for the RLDA and/or after the VSMP Construction Permit registration process has been completed. The estimated area of land development and the area to be disturbed that is reported on the VSMP Construction Permit Registration Information form (LD-445) is to include an estimated quantity for any potential support facilities that will be identified after the award of the contract, or after the VSMP Construction Permit registration process has been completed, and which will be covered by the VSMP Construction Permit for the proposed land disturbance activity. The approved ESC Plan, post construction SWM Plan (if applicable) and SWPPP for the RLDA will require modification for the inclusion of these areas once they are identified (see the latest version of IIM-LD-11 and IIM-LD-246 for additional information for modifying the approved ESC Plan, post construction

SWM Plan and SWPPP). If the inclusion of the land disturbance area for later identified support facilities results in the land disturbance threshold for the permit fee initially paid being exceeded, then the original VSMP Construction Permit Registration assembly must be revised and resubmitted, along with any additional permit fees required as a result of any increase in the land disturbance area, following the same procedures as for the initial permit registration outlined in this document. In the instance where the inclusion of the later identified offsite areas results in the total land development area exceeding that reported in the initial permit registration application, then a **new** permit registration application must be submitted including a **new** permit fee for the total land disturbance area.

- In some instances, where the proposed land disturbance activity does not require coverage under the VSMP Construction Permit (due to the land disturbance area being less than the threshold amounts requiring permit coverage), the additional disturbed area associated with the support activities identified after the award of the contract and/or after the beginning of the proposed land disturbance activity, when combined with the total disturbed area for the initially proposed activity, may necessitate the need for coverage under the VSMP Construction Permit. Once this is determined, any ongoing land disturbance activity shall be halted immediately and shall not begin again until coverage under the VSMP Construction Permit is secured. An ESC Plan, post construction SWM Plan (if applicable) and a SWPPP will need to be prepared for the total area of the RLDA and the VSMP Construction Permit Registration application will need to be processed in accordance with the procedures outlined in this document. Information and instructions for the development and incorporation of erosion and sediment control and post construction stormwater management details into plan assemblies are contained in the latest versions of IIM-LD-11, IIM-LD-195 and Hydraulic Design Advisory 07-01. Information and instructions for the development and incorporation of a SWPPP into plan assemblies is contained in the latest version of IIM-LD-246.
- Having to delay/cease land disturbance activities on an ongoing project to await coverage under the VSMP Construction Permit is not a desirable situation. It is, therefore, imperative that proper attention be given to the estimation of the land development area and land disturbance area for any potential support areas and that such estimates be included with the land development area and land disturbance area for the project when determining the applicability of and the application for the VSMP Construction Permit coverage.

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## RESPONSIBLE PARTIES

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- **Project Authority**  
Responsible for initiating the VSMP Construction Permit Registration application process. Completes, or coordinates the completion of, all of the information on the VSMP Construction Permit Registration Information form (LD-445) and the VSMP Construction Permit Fee Registration form (LD-445B), attaches the completed ESC & SWM Plan Certification form (LD-445C) and sends the completed assembly for each RLDA to the applicable District VSMP Construction Permit Coordinator.

For the purposes of this IIM, the Project Authority is defined as that person with responsibility for oversight of the preliminary engineering aspects of the RLDA such as the Project Manager, the Residency Contract Administrator, or other such person that manages/oversees the pre-construction activities of the proposed land disturbing activity.

- ESC Plan Designer/Hydraulic Engineer
  1. Responsible for preparing the ESC and SWM Plan for the RLDA in accordance with VDOT's Approved ESC and SWM Standards and Specifications. Develops and ensures that all applicable information is included on the SWPPP General Information Sheets (see the latest version of IIM-LD-246). Assists the Project Authority in completing the VSMP Construction Permit Registration Information form (LD-445). Submits the completed Erosion and Sediment Control and Stormwater Management Plan Certification form (LD-445C) to the Project Authority.
  
- District VSMP Construction Permit Coordinator
  1. Responsible for coordinating the VSMP Construction Permit Registration application process for the District. Collects all of the completed VSMP Construction Permit Registration application assemblies (forms LD-445, LD-445B and LD445C) and submits them to the Central Office VSMP Construction Permit Coordinator. Collects and submits the completed Stormwater Pollution Prevention Plan Certification forms (LD-445E) and the VSMP Construction Permit Termination Notice forms (LD-445D) to the Central Office VSMP Construction Permit Coordinator. Attaches a copy of the VSMP Construction Permit Registration Information form LD-445 to the applicable VSMP Construction Permit coverage letter received from the Central Office VSMP Construction Permit Coordinator and forwards both to the RLD for each specific RLDA. Inputs Permanent BMP data submitted with the VSMP Construction Permit Termination Notice forms (LD-445D) into the L&D Stormwater Database.
  2. The District VSMP Construction Permit Coordinator is the District Drainage Engineer or his/her designee.
  
- Responsible Land Disturber (RLD)

Responsible for insuring the implementation of the SWPPP (including the ESC and Post Construction SWM Plan) for the RLDA. Completes, signs, and forwards, to the appropriate District VSMP Construction Permit Coordinator, the SWPPP Certification form (LD-445E), certifying that all contractor supplied information noted on the SWPPP General Information Sheets contained in the construction plan set (or other such documents) will be received and approved and included with the other SWPPP documents for the proposed activity prior to any land disturbance occurring in those areas identified by such information, and the VSMP Construction Permit Termination Notice form (LD-445D), including permanent BMP information, certifying that final stabilization has been achieved on all portions of the RLDA site, that all post construction SWM facilities have been constructed in accordance with their design details and that the post construction SWM facilities are currently operational.

1. The RLD is the VDOT person so identified on form LD-445 and the SWPPP General Information Sheets and satisfies the requirements of DCR's RLD Certification Program. See the latest version of IIM-LD-11 for additional information on DCR's RLD Certification Program.
- Central Office VSMP Construction Permit Coordinator
    1. Responsible for compiling all VSMP Construction Permit Registration assemblies statewide and applying to the DCR for coverage under the VSMP General Construction Permit for the impending RLDA's. Submits the VSMP Construction Permit Registration information, registration fees (in the form of an IAT), the VSMP Construction Permit Termination Notice forms (LD-445D) and the SWPPP Certification forms (LD-445E) to DCR. Forwards the VSMP Construction Permit coverage letters (including permit number) received from the DCR to the District VSMP Construction Permit Coordinator. Maintains an online database documenting pertinent information on the RLDA's submitted for VSMP Construction Permit coverage.
    2. The Central Office VSMP Construction Permit Coordinator is a designated person in the Central Office Hydraulics Section.
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## VSMP CONSTRUCTION PERMIT REGISTRATION PROCEDURE

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- Coverage under the VSMP Construction Permit must be obtained prior to any land disturbance occurring on any proposed activities that exceed the land disturbance threshold amounts. The land disturbance activity is considered covered by the VSMP Construction Permit 15 business days following the submission of a complete and accurate registration statement (including applicable permit fee) to the DCR unless notification of such coverage is issued earlier by DCR. The registration statement will be considered submitted once it and the appropriate permit fee (in the form of the IAT documentation) have been sent to the DCR by the Central Office VSMP Construction Permit Coordinator.
- On or before the initiation of the PAC process for a RLDA (or other appropriate stage for those activities that do not go through a formal PAC process), the Project Authority shall complete, or have the appropriate person complete, the applicable sections of the VSMP Construction Permit Registration Information form (LD-445) and the VSMP Construction Permit Fee Registration form (LD-445B), attach the ESC and SWM Plan Certification form (LD-445C) and send this assembly to the appropriate District VSMP Construction Permit Coordinator prior to the 21<sup>st</sup> day of each month (for information regarding the process for completing the LD-445C form see the latest version of IIM-LD-11).
- The District VSMP Construction Permit Coordinator shall review all permit registration assemblies for completeness and forward the completed assemblies to the Central Office VSMP Construction Permit Coordinator on or before the last day of each month. The District VSMP Construction Permit Coordinator will return all incomplete assemblies to the Project Authority for completion and resubmission.

- For Capital Outlay projects, the project authority shall submit the completed permit registration assembly directly to the Central Office VSMP Construction Permit Coordinator in the Central Office Hydraulics Section.
- For PPTA and Design Build projects, the project authority shall submit the completed permit registration assembly to either the District VSMP Construction Permit Coordinator (where the project is being managed in the District) or the Central Office VSMP Construction Permit Coordinator (where the project is being managed in the Central Office).
- The Central Office VSMP Construction Permit Coordinator shall compile all VSMP Construction Permit registration form assemblies received and determine the total fee to be paid to DCR for registering the RLDA's.
- The Central Office VSMP Construction Permit Coordinator shall, by the 7<sup>th</sup> day of each month, submit the VSMP Construction Permit Registration Application information for all proposed activities to DCR including the IAT documentation for the combined permit registration fees. At the request of DCR, these transactions will only occur on a once a month basis. However, if necessitated by an emergency or other similar situation, permit coverage can be obtained from DCR at other times. An emergency or other similar situation is defined as one which requires immediate attention due to liability or safety concerns.
- Once DCR receives the registration application information and appropriate IAT documentation for the permit fees, they will issue a registration statement to the Central Office VSMP Construction Permit Coordinator with a project specific permit number for each RLDA. The Central Office VSMP Construction Permit Coordinator will forward the RLDA registration statements to the appropriate District VSMP Construction Permit Coordinator or Capital Outlay/PPTA/Design Build Project Authority
- The District VSMP Construction Permit Coordinator or Capital Outlay/PPTA/Design Build Project Authority shall attach a copy of the VSMP Construction Permit Registration Information form LD-445 to each applicable RLDA registration statement received and distribute both to the appropriate RLD.
- The Central Office VSMP Construction Permit Coordinator shall submit copies of the LD-445B forms to the Central Office Location and Design Administrative Section in order to debit the appropriate permit registration fees from each specific RLDA.
- The Central Office VSMP Construction Permit Coordinator shall maintain an online database documenting the registered RLDA's and shall retain, on file, copies of the VSMP Construction Permit Registration Application information for a period of not less than 3 years after the completion of the RLDA and the termination of the VSMP Construction Permit coverage.
- The VSMP Construction Permit Registration Application for any RLDA missing any of the submission cutoff dates (i.e., to District or Central Office VSMP Construction Permit Coordinator) will be carried over to the next month's submission to DCR.



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## CONDITIONS OF COVERAGE UNDER THE VSMP CONSTRUCTION PERMIT

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- The SWPPP (see the latest version of IIM-LD-246), along with a copy of the VSMP General Construction Permit, the VSMP Construction Permit Registration Information form LD-445 and the VSMP Construction Permit registration statement showing the permit number, must be retained on the site of the RLDA from the commencement of any land disturbance activity to the date of final stabilization and permit coverage termination. Where no facilities are available at the activity site to maintain these documents, they are to be kept by or with the designated RLD at a location convenient to the activity site where they would be readily available for review upon request during normal business working hours. Where the SWPPP documents are not stored on-site, a copy of such documents, except for the ESC and SWM engineering calculations and documentation, shall be in the possession of those with day to day operational control over the implementation of the SWPPP (e.g. the RLD, ESC Inspector, etc.) whenever they are on site. A copy of the VSMP General Construction Permit may be obtained from the DCR website at [http://www.dcr.virginia.gov/soil\\_and\\_water/documents/vsmpgenpermvar10.pdf](http://www.dcr.virginia.gov/soil_and_water/documents/vsmpgenpermvar10.pdf)
- The VSMP General Construction Permit requires that the SWPPP be made available for review upon the request of the DCR, the EPA, local government officials or the operator of a municipal separate storm sewer system (MS4) receiving discharge from the construction site.
- The VSMP General Construction Permit requires that a copy of the General Permit coverage letter (registration statement) and the name and contact information for the VDOT person responsible for the land disturbing activity and the SWPPP be posted at a publicly accessible location at the construction site. The LD-445A form is to be used to identify the name and contact information for VDOT responsible person (typically the designated RLD for the activity). The General Permit coverage letter (registration statement) and the LD-445A form are to be posted outside the project's construction office along with other Federal and State mandated information. Where there is no construction office (e.g., a maintenance activity), the permit coverage letter (registration statement) and LD-445A form are to be maintained with the other SWPPP documents for the land disturbing activity.
- For those land disturbing activities requiring coverage under the VSMP General Construction Permit on or after July 1, 2009, and which have not been previously covered by a VSMP General Construction Permit, the VSMP Construction Permit requires that the SWPPP be made available for review by the public upon request. Such reviews shall be at a time and publicly accessible location convenient to the VDOT and shall be scheduled during normal business hours and no less than once a month.
- Any modifications to the approved SWPPP (including the ESC and post construction SWM Plan) must be implemented in accordance with Section 107.16(e) of the 2007 VDOT Road and Bridge Specifications, the VDOT's Approved ESC and SWM Standards and Specifications, and the procedures outlined in the latest version of IIM-LD-11 and IIM-LD-246.

## PROCEDURE FOR TERMINATING COVERAGE UNDER THE VSMP CONSTRUCTION PERMIT

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- Upon completion of the RLDA (i.e., all areas are stabilized and all post construction stormwater management facilities are operational), the RLD shall add the "In Service Date" for each BMP on the Permanent BMP table in Section VI of the SWPPP General Information Sheets for the land disturbing activity and complete and sign the VSMP Construction Permit Termination Notice form (LD-445D). The LD-445D form along with a copy of the Permanent BMP table (with In Service Date shown) is to be submitted to the appropriate District VSMP Construction Permit Coordinator prior to the 21<sup>st</sup> day of the month.
- The District VSMP Construction Permit Coordinator shall enter the permanent BMP information into the L&D Stormwater Data Base and then sign and forward all original LD-445D forms and copies of the Permanent BMP information to the Central Office VSMP Construction Permit Coordinator on or before the last day of each month. The District Maintenance Engineer and the Central Office Maintenance Division Administrator shall be copied on all such information.
- The Central Office VSMP Construction Permit Coordinator shall compile all LD-445D forms received and forward the VSMP Construction Permit termination information and Permanent BMP information to DCR by the 7<sup>th</sup> day of each month.
- The Central Office VSMP Construction Permit Coordinator will retain a copy of the permit termination information on file for a period of not less than 3 years after the completion of the RLDA and record the effective termination date in the online database.

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## FORMS

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- LD-445 VSMP Construction Permit Registration Information
- LD-445A VSMP Construction Permit Contact Information
- LD-445B VSMP Construction Permit Fee Registration
- LD-445C ESC and SWM Plan Certification
- LD-445D VSMP Construction Permit Termination Notice
- LD-445E Stormwater Pollution Prevention Plan (SWPPP) Certification

L&D forms are available through the VDOT website and can be downloaded at the following link: <http://vdotforms.vdot.virginia.gov/>