



Department of Conservation & Recreation
 CONSERVING VIRGINIA'S NATURAL AND RECREATIONAL RESOURCES

LOCAL ESC PROGRAM REVIEW CHECKLIST

Local Program:

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Introduction: The review of local program effectiveness is a responsibility of the Soil and Water Conservation Board as defined in the Virginia Erosion and Sediment Control Law (VESCL), §10.1-561.E, which states that the *“Board shall periodically conduct a comprehensive review and evaluation to ensure that all erosion and sediment control programs operating under the jurisdiction of this article meet minimum standards of effectiveness in controlling soil erosion, sediment deposition and nonagricultural runoff.”*

The criteria to determine whether a local program satisfies the minimum standards of effectiveness are contained in the Virginia Erosion and Sediment Control Regulations (VESCRCR), §4VAC50-30-90A and B. This checklist addresses the criteria for each of the four program areas: administration, plan review, inspection and enforcement.

Items in bold are required components of a local ESC program under the VESCL and the VESCRCR or have been deemed essential by the Department of Conservation and Recreation (DCR) Director in accordance with 4VAC50-30-90C. Other listed items are recommendations that, when implemented, contribute to the effectiveness of a local program. Items marked with an asterisk, while not required, must be implemented in accordance with the VESCL and VESCRCR when utilized

PART I: ADMINISTRATION

Certified Personnel			
Code	Yes	No	Criteria
§10.1-561.1 4VAC50-50-40			Locality has a certified Program Administrator.
Comment:			
§10.1-561.1 4VAC50-50-40			Plans are reviewed by a certified Plan Reviewer.
Comment			
§10.1-561.1 4VAC50-50-40			Inspections are performed by a certified Inspector.
Comment			

Local ESC Ordinance

VA Code	Yes	No	Local Code if Needed	Criteria
4VAC50-30-90A				Authority section referencing state code*
Comment:				
§10.1-560				Definitions:
				Agreement in Lieu of a plan for single family residences*
				Applicant*
				Owner*
				Permittee*
				Person*
				Certified Inspector*
				Certified Plan Reviewer*
				Certified Program Administrator*
				District or Soil & Water Conservation District (SWCD)*
				Erosion Impact Area*
				Land-disturbing Activity
				Exclusions:
				Minor land-disturbing activities (landscaping, home gardening, etc.)



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VA Code	Yes	No	Local Code if Needed	Criteria
				Individual service connections
				Underground utilities on hard surface roads
				Septic systems
				Mining
				Exploration for gas and oil
				Agricultural, silvicultural, horticultural, & agricultural engineering:
				Exception for ponds required to comply with the Dam Safety Act
				Forestry exception (requirement to reforest or convert to bona fide agriculture or improved pasture use)
				Railroad repair, rebuilding, other facilities
				Less than 10,000 square feet (may be reduced)
				Fence, post, poles, signs
				Shore erosion control projects (not required for localities outside of tidal waters)
				Exception for lands outside the authority of local wetlands boards, the Marine Resources Commission or the US Army Corps of Engineers
				Emergency Work
				Land Disturbing Permit or Permit
				Conservation Plan, ESC Plan or Plan*
				Plan-Approving Authority*
				Program Authority*
				Responsible Land Disturber
				Single Family Residence/Home/Dwelling
Comment:				
4VAC-50-30-90A				Local Program
				Designate Program Authority
				Designate Plan Approving Authority
				Designate Inspection Authority
				Adopt VESCR or more stringent standards as an integral part of the program.
				Designate design standards to be used in plan review and inspection (VESCH, VSWMH, local manual, etc.)
Comment:				
				Regulated Land-disturbing Activities: Submission and Approval of Plans
§10.1-563A				No land-disturbing activity allowed without an approved plan or agreement in lieu of a plan
§10.1-564				DCR plan approval for state agency projects
§10.1-563A				Soil and Water Conservation Board (SWCB) option for plan approval of multi-jurisdictional projects
§10.1-563D				SWCB approval of linear utility and railroad project annual specifications.
§10.1-563B				45-day (maximum) plan review
§10.1-563B				Written response within 45 days
§10.1-563C				Approved plan can be changed if:



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VA Code	Yes	No	Local Code if Needed	Criteria
				Inspection reveals inadequacy (agreement not required)
				Controls are unnecessary due to changed circumstances, request for variance, etc. (plan-approving authority must approve)
4VAC50-30-50				Variances must be requested and approved in writing*
§10.1-563F				Owner is responsible for preparation, submission and approval of plan
Comment:				
				Approved plan required for issuance of permit, securities
§10.1-565				No permits which authorize land-disturbing activity issued without approved erosion and sediment control plan
§10.1-565				Certification that the approved plan will be followed prior to permit issuance
§10.1-563.B				RLD to be designated prior to land disturbing activity
				Option to require RLD for an Agreement in Lieu of Plan:
				Will require
				Will waive requirement
§10.1-565				Provision to require security or performance guarantee*
				Refund of security within 60 days of adequate stabilization*
Comment:				
§10.1-566				Monitoring, Inspections
4VAC50-30-60B				Locality must provide for specified inspection frequency
§10.1-566A				Notice of inspection given to responsible party
§10.1-566A				Procedures for issuing Notice to Comply (or equivalent action)
§10.1-566A				Provisions for issuing stop work order (or equivalent action)
§10.1-569				Provisions for revoking permit
Comment:				
§10.1-568				Appeals
				Right to Appeal Local Program Decisions within 30 days
				Right to Appeal SWCD Decisions within 30 days*
Comment:				
				Penalties and Other Legal Actions
§10.1-569				Class I Misdemeanor and / or the schedule of civil penalties
§10.1-562J				Civil fines/Civil Charges/Administrative Fines*
Comment:				



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General Program Administration

Code	Yes	No	Criteria
§10.1-562.1			Locality charges plan review/ land disturbance permit fees.
			Plan review/land disturbance permit fees are enough to enable local ESC program to be fully self-sufficient.
			Locality issues land-disturbing permit only at pre-construction conference.
			Locality has developed an ESC plan/permit application package that includes a standard application form and user-friendly instructions for conducting land-disturbing activities
			Locality attaches a standard tracking/summary sheet to the project folder to list dates of:
			ESC plan submittal and approval
			Project start and finish
			Any other information the County finds pertinent such as performance guarantee amount and approval date.
			Locality organizes ESC documents by project rather than date.
<p>Comment:</p>			



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PART II: PLAN REVIEW: See attached Plan Review MS Checklists.

Code	Yes	No	Criteria
§10.1-563A			An approved plan or agreement-in-lieu-of-plan is required prior to commencement of land disturbing activity
§10.1-563B			Where there is an approved plan, designation of a Responsible Land Disturber is required prior to commencement of land disturbing activity
§10.1-563B			Plans are reviewed within 45 days of receipt
§10.1-563B			Plan reviewer states in writing the reason(s) for disapproval and specifies the modifications, terms, and conditions necessary for plan approval
§10.1-563B 4VAC50-30-50			Approved plans comply with state Minimum Standards and the locally adopted design criteria or an appropriate variance is granted.
			All reviewed plans meet the applicable Minimum Standards
			70% of reviewed plans meet the applicable Minimum Standards
			50% of reviewed plans meet the applicable Minimum Standards
			Less than 50% of reviewed plans meet the applicable Minimum Standards
4VAC50-30-60			A statement describing the maintenance responsibilities for ESC measures is included in the approved plan.
4VAC50-30-40			Land disturbing activity occurring at a separate location is included in the approved plan or has a separate approved plan.
§10.1-563B			Content of approved plans meets the guidelines outlined in the VESCH or more stringent local requirements (i.e. complete narrative, adequate calculations, adjacent areas addressed etc)
			All reviewed plans meet the guidelines
			70% of reviewed plans meet the guidelines
			50% of reviewed plans meet the guidelines
			Less then 50% of reviewed plans meet the guidelines
4VAC50-30-50			Variances must be requested and approved in writing.*
4VAC50-30-50			Approved variances requested at the time of plan submission must be documented in the plan.*
4VAC50-30-90.A.3			Locality maintains a copy of approved plan or agreement in lieu of plan & all associated documentation until final stabilization is achieved.
4VAC50-30-40.19f			Maintenance agreements for permanent facilities are required for plan approval.
VESCH			Plan preparers and plan reviewers use the minimum standard and plan review checklists and the checklists are maintained in the project file.
VESCH			Opportunity for inspector review and recommendation is incorporated into the plan review process.
VESCH			When plan review is provided by a SWCD or other outside source, the plan reviewer meets with the inspector(s) prior to commencement of land disturbing activity
			Lot by lot grading plans are required for plan approval of subdivision projects.
			All plans are stamped and dated upon approval.
Comment:			



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PART III: INSPECTION: See attached Site Visit MS and Inspection/Enforcement Documentation Checklists

Code	Yes	No	Criteria
4VAC50-30-60B			Inspections are conducted during or immediately following initial installation of erosion and sediment controls
4VAC50-30-60B			Inspection frequency satisfies the requirement
			Inspection frequency averages at least once in every two week period
			Inspection frequency averages at least once in every three week period
			Inspection frequency averages at least once in every four week period
			The locality has implemented a Board approved Alternative Inspection Program
4VAC50-30-60B			Inspections are conducted at the completion of the project prior to release of any performance bonds.
§10.1-566A			Inspection documentation includes project name, date, violations, and changes or maintenance that are required.
			Inspection documentation includes deadlines for correcting violations and notes on verbal or written communications with responsible party.
4VAC50-30-60A			ESC measures are repaired and maintained
4VAC50-30-40			Sites visited during the program review process are consistent with the applicable VESCR Minimum Standards
			Visited sites meet all the applicable Minimum Standards
			Visited sites meet all but one of the applicable Minimum Standards
			Visited sites meet all but two of the applicable Minimum Standards
			Visited sites do not meet three or more of the applicable Minimum Standards
§10.1-563C			Procedure in place to coordinate plan changes resulting from inspection activities with the plan approval authority
			When variances are requested, they are responded to in writing*
§10.1-566A(ii)			The responsible party is required to submit monitoring reports to the plan-approving or permit-issuing authority.
			A pre-construction meeting is held on all sites requiring a plan.
			Locality has developed a standard inspection report form.
			Duplicate copies of inspection reports are left on-site with the responsible party.
			As-built documentation is required for all permanent SWM facilities installed to meet Minimum Standard 19.
Comment:			



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PART IV: ENFORCEMENT: See attached Inspection/Enforcement Documentation Checklists

Code	Yes	No	Criteria
4VAC50-30-40			Sites visited during the program review process confirm need for increasing levels of enforcement.
§10.1-566 §10.1-569.1			Documentation of enforcement actions pursued is in accordance with Virginia Erosion and Sediment Control law.
§10.1-566A			When violations noted on written inspection reports remain during subsequent inspection, a Notice to Comply (or equivalent action) is issued.
§10.1-566A			Notices to Comply (or equivalent action) contain specific measures or corrections that need to be made and specify deadlines for completion.
§10.1-566A			Where the plan approving authority serves notice, a copy of the notice is sent to the issuer of the permit.
§10.1-566C			Stop Work Orders (or equivalent action) are issued when:
			Subsequent inspection to a Notice to Comply (or other equivalent action) reveals continuing violation(s)
			Land disturbing activities commenced without an approved plan
			Violations are causing or are in imminent danger of causing harmful erosion
§10.1-562J §10.1-569			Locality has adopted the schedule of civil penalties and fines and uses such as another means of enforcement*.
			Locality has developed an enforcement policy utilizing other mechanisms to secure compliance, such as revocation of permit and revocation of performance bonds.
			Locality has developed standard enforcement documents.
			Locality has disseminated an enforcement policy to the development community.
			Locality has developed a schedule of civil charges/administrative fines.
<p>Comment:</p>			