

DEQ Certification Class Presentations

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July 2024



Module 3

Erosion Law for Inspectors

Online course – *Administering an Erosion Program*

Module 3a.

Regulating LDAs

Program Comparisons

<p>Administer VESCP:</p> <ul style="list-style-type: none">• § 62.1-44.15:51 - 66 Erosion and Sediment Control Law (ESCL)• 9VAC25-875 Virginia Erosion and Stormwater Management Regulation (VESMR)	<p>Administer VESMP:</p> <ul style="list-style-type: none">• § 62.1-44.15:24 - 50 Virginia Erosion and Stormwater Management Act (VESMA)• 9VAC25-875 Virginia Erosion and Stormwater Management Regulation (VESMR)
<p>Part III VESMR:</p>	<p>Part II VESMR:</p>

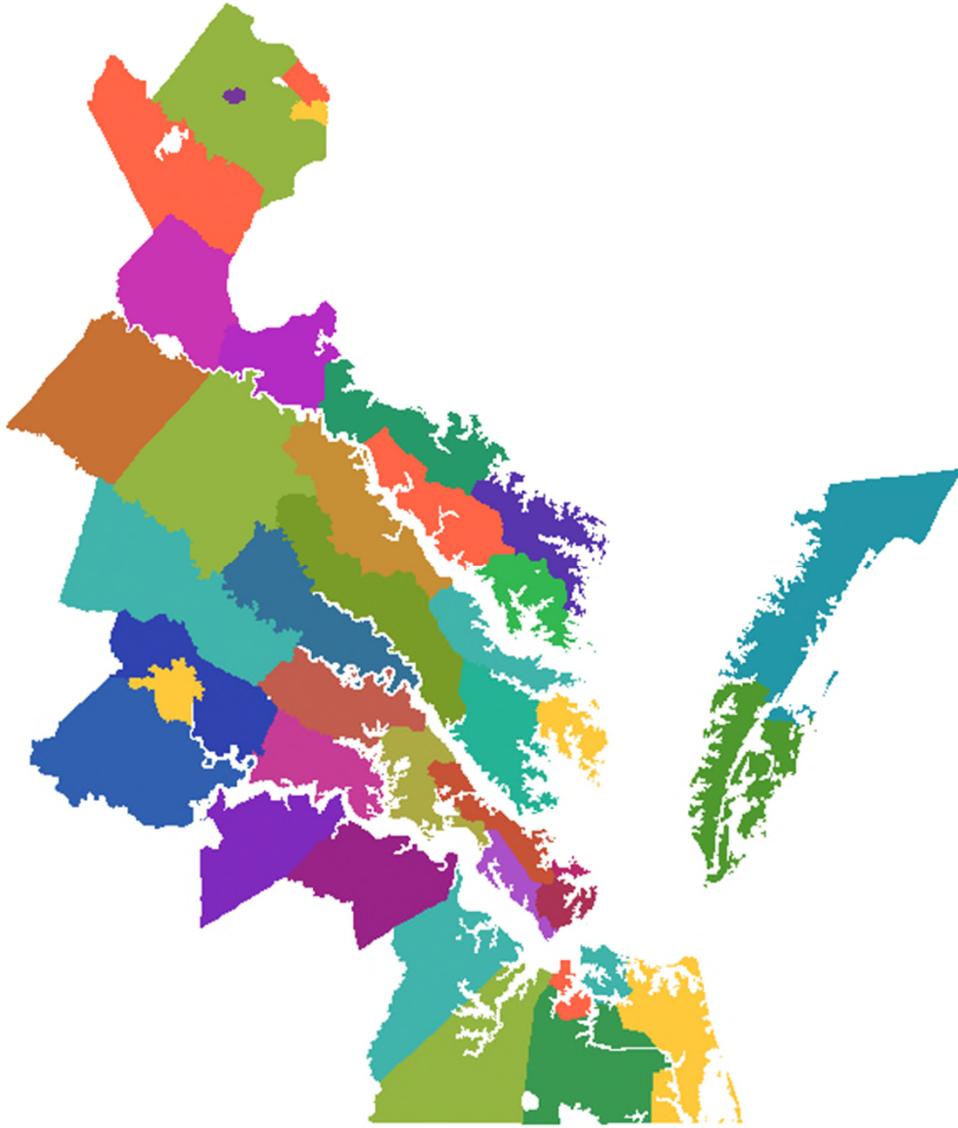
Program Comparisons

- Exemptions: VESMPs have additional exemptions
- Plan Review: Timelines differ slightly
- Inspections: VESMPs have additional inspection requirements around P-BMPs and SWPPPs
- Enforcement: VESMPs issuing SWOs differ (Immediate SWO only with immediate danger to human or environment)
- Variances: Exceptions allowed and detailed in the VESM Reg for a VESMP authority

Module 3b.

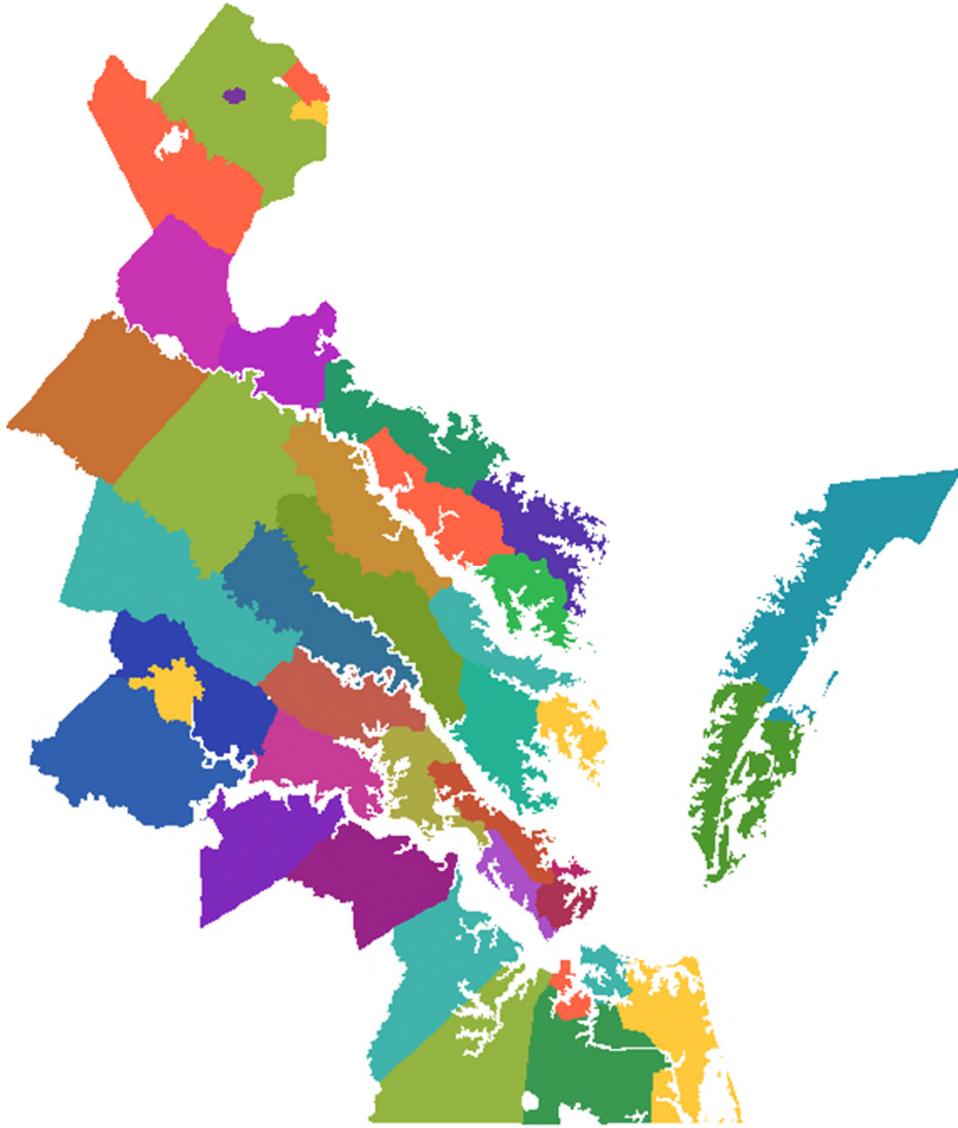
Local Ordinances for Chesapeake Bay Preservation Act LDAs

Local Ordinances for CBPA LDAs



- Chesapeake Bay Preservation Areas (CBPA) are delineated by local gov't within Tidewater VA
- Regulated LDA requirements similar to VESMP
- CBPAs includes Resource Protection Areas (RPAs) and Resource Management Areas (RMAs)

Local Ordinances for CBPA LDAs



- CBPA LDAs are defined as $\geq 2,500 \text{ ft.}^2$ and < 1 acre in these areas
- Localities must regulate single-family residences $\geq 2,500 \text{ ft.}^2$ and < 1 acre in CBPAs
- But may require water quality compliance with VESMA

Q&A



3a. Regulating LDAs



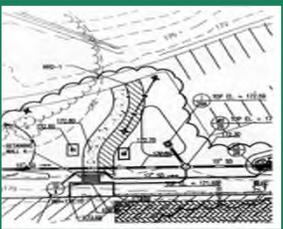
3d. Standards and Specifications



3b. CBPA – *PG Review*



3e. Inspections



3c. Erosion Plans



3f. Enforcement



3g. DEQ Compliance Review

LAW & ORDER

Erosion Law for Inspectors
Module 3

ESC

Law & Order: ESC

In Virginia's erosion programs, the public and the environment are protected by three equally important groups: the inspectors, the plan reviewers, and the program administrators. Each has a unique and essential role. This is one of their stories.

Law & Order: ESC

That you will assist in determining the
outcome of...

Law & Order: ESC

**First, your role in this episode is the inspector.
So, take notes: names, addresses, dates, and
observations.**

What information is important to retain?

Law & Order: ESC

Second, as the episode unfolds, evaluate the action you, the inspector, could take based on the information in your ESC Inspector Participant Guide, Module 3 – Erosion Law for Inspectors.

Law & Order: ESC

Finally, be prepared to discuss what you think is the best course of action and support your decision with content from Module 3.

Law & Order: ESC

Monday, June 17th

Law & Order: ESC

**WELCOME TO GREENDALE
COUNTY, VA!
Come Grow in Greendale!**



- Greendale County (pop. 56,946)
- Next door to the City of New London (pop. 102,502)
- US Interstate, rail, and air accessible
- Largest employer – STUFFCO Corp. Offices & Dist. Center
- Ongoing boom for residential and commercial development!

Law & Order: ESC QuickPoll 1



Law & Order: ESC - Quickpoll 1



Given that:

- The City of New London is an MS4 locality and operates a VESMP.
- Greendale County operates an erosion only program – VESCP.

Which of the following four statements are correct?

Law & Order: ESC - Quickpoll 1.1



1. The City of New London-VESMP must administer both erosion and stormwater programs.

Is this statement correct?

Given that:

- The City of New London is an MS4 locality and operates under a VESMP.
- Greendale County operates an erosion only program – VESCP.

Law & Order: ESC - Quickpoll 1.1



CORRECT!

1. New London VESMP must administer both erosion and stormwater programs.

Mod. 3, Section 3a. – MS4 localities MUST administer a VESMP.

Law & Order: ESC - Quickpoll 1.2



2. Greendale County is not an MS4 locality; therefore, the County must administer a stormwater program.

Is this statement correct?

Given that:

- The City of New London is an MS4 locality and operates under a VESMP.
- Greendale County operates an erosion only program – VESCP.

Law & Order: ESC - Quickpoll 1.2



Incorrect!

2. Greendale County is not an MS4 locality; therefore, the County must administer a stormwater program.

Mod. 3, Section 3a. – Counties MAY administer a VESMP, but are not required to.

Law & Order: ESC - Quickpoll 1.3



3. If Greendale Co. does not administer its own SWM program, DEQ will do so for the VESCP.

Is this statement correct?

Given that:

- The City of New London is an MS4 locality and operates under a VESMP.
- Greendale County operates an erosion only program – VESCP.

Law & Order: ESC - Quickpoll 1.3



Correct!

3. If Greendale Co. does not administer its own SWM program, DEQ will do so for the VESCP.

Mod. 3, Section 3a. – Stormwater Management for VESCPs will be performed by DEQ, as the VSMP.

Law & Order: ESC - Quickpoll 1.4



4. Greendale Co. must employ county staff for VESCP inspections.

Is the statement correct?

Given that:

- The City of New London is an MS4 locality and operates under a VESMP.
- Greendale County operates an erosion only program – VESCP.

Law & Order: ESC - Quickpoll 1.4



Incorrect!

4. Greendale Co. must employ county staff for VESCP inspections.

Mod. 3, Section 3a. – VESCP inspections may be conducted by soil and water conservation districts, adjacent localities, or other public or private entities...

Law & Order: ESC

Six weeks ago, you began work as the new ESC inspector. You report to the *Gayle Roberts*, Greendale Co. Public Works Director and ESC Combined Administrator. ESC plan review is conducted by County Engineer *Amid Masood*, P.E.



Law & Order: ESC

You arrive at work a few minutes early after stopping at your favorite coffee shop. It rained heavily last night, so it's going to be a busy day of inspections.

At your desk you see your phone's voicemail light is blinking.

The day is about to get interesting.



Law & Order: ESC

Voicemail - 8:05 AM, June 17th



This is *Mrs. Virginia North*. I live at 318 Summer Ridge Rd. There is something going on at the property next to mine, and it needs to stop. All the trees are being cut and the stream behind my house is full of mud. I understand you have the authority to stop work on a site when severe environmental damage is being done. WELL, IT IS HERE! Somebody needs to stop this IMMEDIATELY and fix my yard!

Law & Order: ESC QuickPoll 2



Law & Order: ESC - Quickpoll 2



You know of no projects in that area. Which of the following might you choose to do? (Select all that apply)

- A. Ignore it - Maybe it will go away
- B. It rained heavily last night – Do other inspections
- C. Check with Amid – Record of this project?
- D. Inform Gayle and discuss a course of action
- E. Immediately contact DEQ due to stream impact

Law & Order: ESC

After talking with *Amid* and *Gayle*, you decided to conduct a site visit ASAP to determine how much damage has been done and why there is no record of the project on file. *Gayle* says complaints take priority in Greendale Co.

It's called the NORTH RULE.



Law & Order: ESC

318 Summer Ridge Rd. at 10:00 am - Page 1/2

Met with *Mrs. Virginia North* who allowed access to her backyard. Small stream at the back of the residence does show signs of light sedimentation in the water, but no accumulation of sediment in the streambed.



Law & Order: ESC

318 Summer Ridge Rd. at 10:00 am - Page 2/2

The reason for the complaint is apparent – The forested lot to the north side of Mrs. North's property is being clear-cut. The logging crew is working today.



Law & Order: ESC



320 Summer Ridge Rd. at 10:30 am - Page 1/2

Met by *Omar Bakir*, owner, Bakir Timber. *Mr. Bakir* explained he is operating under a Dept. of Forestry plan. BMPs designed to address runoff were observed. He says the parcel is 0.95 acres, and he expects to be done in 4-5 days, including site stabilization in accordance with DOF regs.

Law & Order: ESC

320 Summer Ridge Rd. at 10:30 am - Page 2/2

He has just begun a small family owned and operated logging operation. The rain last night slowed them down. Only logging equipment was observed at the site. *Mr. Bakir* provided his contact information & business card. All information is up to date.



Law & Order: ESC



Let's Discuss



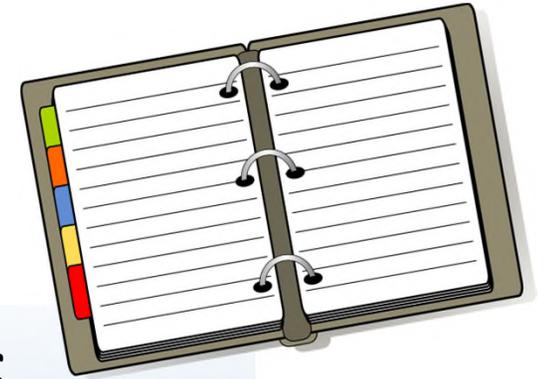
Law & Order: ESC



Was the information captured in the inspector's notes complete?

What might you have added?

Law & Order: ESC



PG 3e, p. 22 - Inspections

Inspection documentation is a critical component of any compliance program. Documentation, such as an inspection report, can prove or support an inspector's claims of alleged violations.

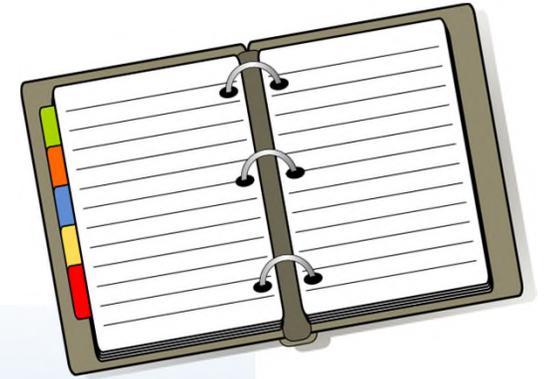
Law & Order: ESC



Is the work exempt from ESC Regulations?

Possibly – PG 3a, p. 6-8 -
Exemptions - Agricultural

Law & Order: ESC



Tilling, planting, or harvesting of agricultural, horticultural, or forest crops...

However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or ... or is converted to bona fide agricultural or improved pasture use...

Law & Order: ESC



Who will make that final determination?

PG 3a, p. 8 - Exemptions

As an inspector...

It is important to note that the program administrator shall determine the validity of a claim of exempt status by a property owner (9VAC25-875-240).

Law & Order: ESC



What are potential next steps?

1. Document and inform Mrs. North of what you found.
2. Discuss Exemption with Gayle.
3. Follow local procedures for documenting complaints and follow up.

Law & Order: ESC

Tuesday, July 16th
Morning

Law & Order: ESC



From: Mrs. Virginia North

To: You, Gayle Roberts, County Administrator, and DEQ
VWP

TO ALL CONCERNED, My initial complaint was largely ignored and passed off as the result of forestry work. Now my stream is filled with dirt. During yesterday's storm, my backyard was flooded. This morning, I have 2-3 inches of mud left behind. Contractors are entering and leaving the site daily, and our street is caked in mud! THIS IS UNACCEPTABLE!

Law & Order: ESC



Site visit 318 Summer Ridge Rd. 9:30 am - Page 1/2

Upon arrival at residence, I met with *Mrs. North*. Her complaint was confirmed. The backyard has a covering of sediment extending from the stream toward the back of the residence, varying from 10-20 feet wide and up to 4 inches deep. The sediment covers roughly 2/3 of the backyard – photos taken.

Law & Order: ESC



Site visit 318 Summer Ridge Rd. 9:30 am - Page 2/2

The small stream observed during the previous inspection is completely filled with sediment (photos taken).

A bulldozer and an excavator are working at the adjacent site. No ESC measures are observed on the site. Photos were taken from Mrs. North's backyard. The excavator appeared to be digging footers.

Law & Order: ESC



Photo 3 of 9

2024:07:16 09:47 am



Photo 5 of 9

2024:07:16 09:50 am

Law & Order: ESC



320 Summer Ridge Rd. 10:00 am – Page 1/3

NO TRESSPASSING signs were in place at a crude site entrance – no stone, only soil. No other information was posted. No silt fencing was observed. The inspector entered the site, parked on the pavement and proceeded by foot over a small bank that blocked the view of the equipment from the road.

Law & Order: ESC



320 Summer Ridge Rd. 10:00 am – Page 2/3

The dozer operator drove over to meet me. I attempted to introduce myself but was immediately told this is private property and to leave. (This was not *Mr. Bakir* I met on my previous site visit.) I immediately complied with the request to leave the property.

Law & Order: ESC



320 Summer Ridge Rd. 10:00 am Page 3/3

From Summer Ridge Rd, I took photos of the site's crude entry and build up of mud on the street. I phoned PA *Gayle Roberts* and left a voice mail briefly detailing that I was denied site access. I also emailed photos from my work phone to her work email.

Law & Order: ESC



Let's Discuss



Law & Order: ESC



Were improvements made from the previous site visit notes?

If so, what were they?

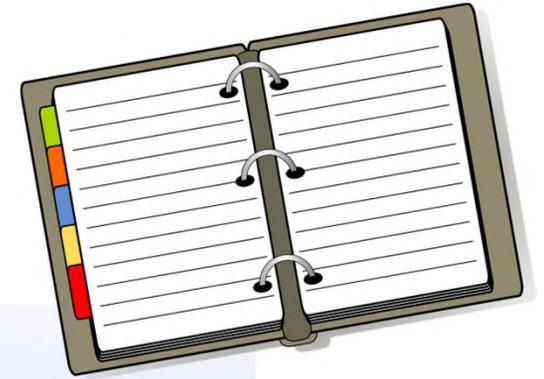
Law & Order: ESC



If onsite personnel refuse access, what is the safest course of action?

Leave the site without protest and immediately contact your manager. Follow your local programs protocols.

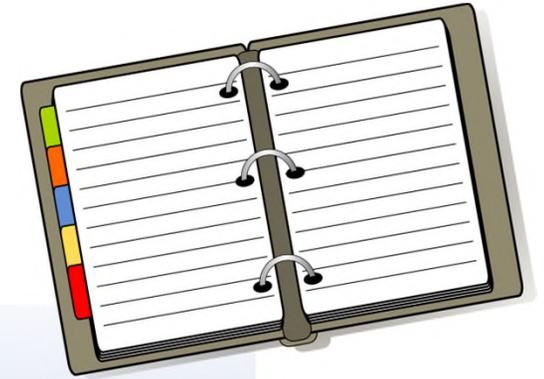
Law & Order: ESC



What two conditions normally apply to site access?

PG 3e, p. 23 - Right of Entry –
Reasonable time and reasonable
circumstances

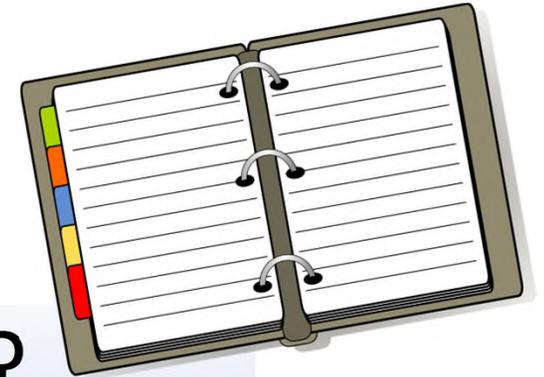
Law & Order: ESC



Is this site conducting land-disturbing activity (LDA)?

Yes – PG 3a, p. 6 – Land-Disturbing Activity

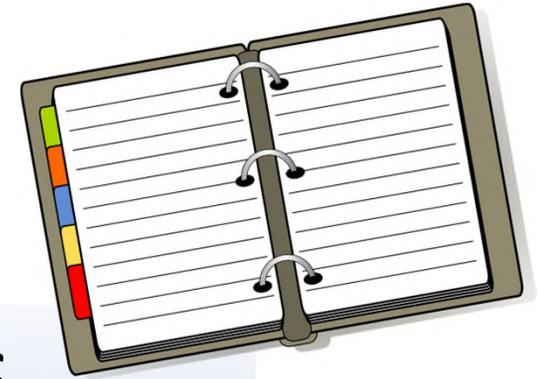
Law & Order: ESC



Is this activity a regulated LDA?

Yes – PG 3a, p. 6 - Regulated LDA
10,000 sq. feet or more

Law & Order: ESC



May localities have ordinances defining an area less than 10,000 sqft. as a regulated LDA?

Yes – PG 3a. p. 9 - More Stringent Regs. or Ord. - Also, 3b. CBPA 2,500 sqft.



Law & Order: ESC QuickPoll 3



Law & Order: ESC - Quickpoll 3



What course of action should you now pursue?
(Select all that apply)

- A. Leave the site alone - They got this
- B. Establish who owns the site
- C. Contact DEQ
- D. Notify law enforcement
- E. Issue a Stop Work Order

Law & Order: ESC

Tuesday, July 16th
Afternoon

Law & Order: ESC

Who is responsible for a site under the ESC program?

PG 3c. p. 16 – Erosion and Sediment Control Plans - The responsibility for plan preparation, submission, and obtaining approval belongs to the owner of the project.



Law & Order: ESC

Where can you look to find an owner?



- Geographic Information System (GIS)
- Records at city/county/town offices
- State Corporation Commission (SCC)
- Internet search or Local Phone book

Law & Order: ESC

The county's GIS system identifies the owner as Hall Development, *Robert Hall*, President, along with business address. GIS confirms the lot size as 0.95 acres. Mr. Hall has submitted no plans for the site for review.

The SCC site lists Hall Development owned by *Robert Hall*. The business address matches the GIS contact information.



Law & Order: ESC

After confirming ownership of the site, *Gayle* directs you to draft a **Stop Work Order** with a brief summary of your observations and supporting photos attached.



Law & Order: ESC QuickPoll 4



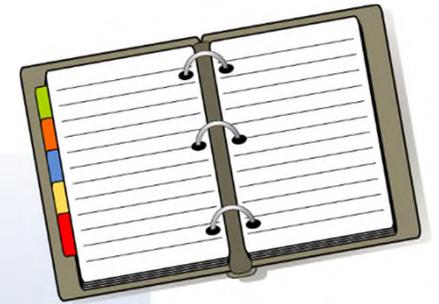
Law & Order: ESC - Quickpoll 4



In this situation which Stop Work Order from Module 3 would you utilize? (Select one)

- A. Scenario 1 – Issue a NTC, then issue SWO
- B. Scenario 2 – Immediate SWO on entire site
- C. Scenario 3 – Emergency SWO for 7 days
- D. Any Scenario – All are appropriate

Law & Order: ESC - Quickpoll 4



B. Scenario 2 – Immediate SWO on the entire site

PG 3f. p. 26 - Enforcement – Stop Work Order - Scenario 2 – A SWO order for a site without an approved plan or permit may be issued immediately for all work at the site. Work may not resume until all plans and permits are approved.

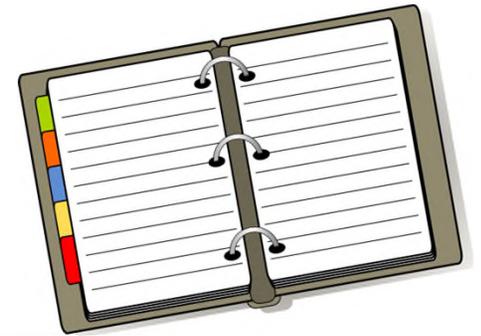
Law & Order: ESC



Robert Hall responds to the SWO and agrees to come in for an Enforcement Meeting to get the project in compliance. He plans to build a single-family residence on the parcel.

Must Mr. Hall submit a full ESC plan or is an **agreement in lieu of a plan** sufficient?

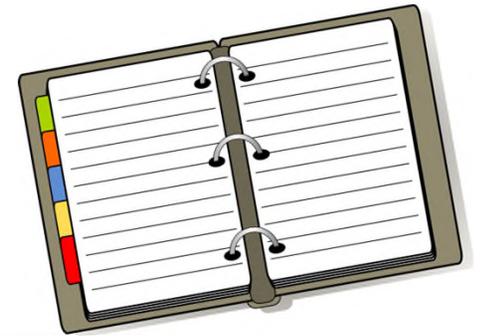
Law & Order: ESC



Must Mr. Hall submit a full ESC plan or is an **agreement in lieu of a plan** sufficient?

PG 3c. p.15 – Erosion Plans - An agreement in lieu of a plan is allowed for construction of single-family residence.

Law & Order: ESC



Does the *agreement in lieu of a plan* remove Mr. Hall's responsibility for the violations at the site?

Absolutely not!

Law & Order: ESC QuickPoll 5



Law & Order: ESC - Quickpoll 5

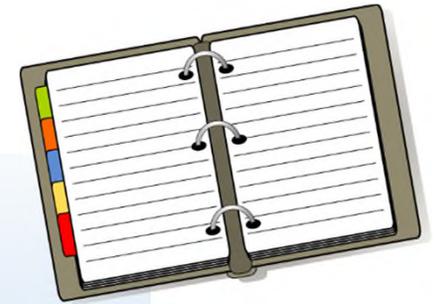


Once LDA proceeds, which inspection would you typically conduct first? (Select one)

- A. Initial installation of ESC controls
- B. Inspection within 48 hours of rainfall
- C. Onsite inspections by qualified person
- D. Inspection to release bond

Law & Order: ESC - Quickpoll 5

A. Initial installation of ESC controls



PG 3e. p. 22 - Inspections - Inspection of initial ESC measures installed in compliance with MS-4.

Law & Order: ESC

Monday, October 21st

Law & Order: ESC

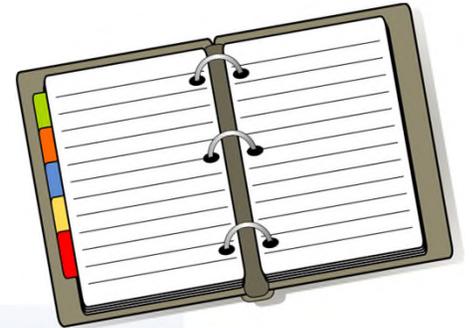


DEQ's OSWM notified *Gayle* that they are coming for a compliance review next week.

- Is the Hall project subject to review?
- Which of your files may DEQ review?



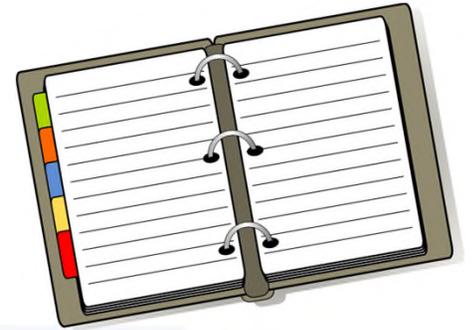
Law & Order: ESC



Is the Hall project subject to review?

PG 3g. p. 29 Blue Box - The VESCP authority must maintain a copy of the approved plan, a record of inspections, and a record of enforcement actions for each active land-disturbing activity.

Law & Order: ESC



Which of your files may DEQ review?

PG 3g. p. 29 – Review of inspections of regulated activities

Review of enforcement actions by the VESCP authority



Law & Order: ESC

Tuesday, December 3rd

Law & Order: ESC



Email to you, Gayle Roberts, & County Administrator

Thank you for following up on the ESC issues. Mr. Hall has repaired the damage. As the former County Administrator, I am proud to see this level of professionalism continues after my retirement.

Sincerely, Mrs. Virginia North

LAW &

ORDER

Erosion Law for Inspectors
Module 3 - Questions?

ESC