

FREQUENTLY ASKED QUESTIONS (FAQ) ON THE RESPONSIBLE LAND DISTURBER PROGRAM AND REVISIONS TO THE VIRGINIA EROSION & SEDIMENT CONTROL LAW

NOTE: THIS DOCUMENT HAS BEEN MODIFIED FROM THE ORIGINAL DOCUMENT PREPARED BY THE DEPARTMENT OF CONSERVATION AND RECREATION AND CONTAINS INFORMATION FOR HOMEOWNERS AND CONTRACTORS UNFAMILIAR WITH THE RESPONSIBLE LAND DISTURBER PROGRAM.

Must erosion and sediment control plan, agreement in lieu of plan, and land-disturbing permit applicants name a Responsible Land Disturber?

Yes, as of July 1, 2003 the applicant must provide the name of an individual holding a valid Responsible Land Disturber Certificate who will be responsible for the land disturbing activity prior to engaging in the land disturbing activity. As of July 1, 2003, the applicant no longer must provide to the Plan-Approving Authority the name of an individual holding a valid Responsible Land Disturber Certificate who will be responsible for the land disturbing activity as a prerequisite for approval for all erosion and sediment control plans, agreements in lieu of a plans, or land disturbing permits. The name of the Responsible Land Disturber must still be provided. Please Note: Only the date at which it must be provided has been changed to prior to engaging in land disturbing activity.

Does a local plan approving authority have the option to waive the Responsible Land Disturber requirement for an agreement in lieu of plan for construction of a single-family residence?

Yes, provided that no erosion and sediment control violation occurs during the land disturbing activity. If a violation occurs then the applicant must correct the violation and provide the name of a Responsible Land Disturber who will be in charge of and responsible for the land disturbing activity. Please note, the option to waive the Responsible Land Disturber requirement is permitted only for an agreement in lieu of plan for construction of a single family residence and only if no violations occur.

Who is the Responsible Land Disturber and what does he/she do?

The Responsible Land Disturber can be anyone from the project team or development team holding a valid Responsible Land Disturber Certificate who will be in charge of and responsible for carrying out the land disturbing activity for the project.

When do the new requirements for Responsible Land Disturber Certification become effective?

The latest revisions become effective July 1, 2003.

What if I submit my plan, agreement in lieu of a plan, or land-disturbing permit before July 1, 2003?

Date of submission will not be a consideration. All regulated land-disturbing activities occurring on or after July 1, 2003 will require the applicant to provide the name of an individual holding a valid Responsible Land Disturber Certificate prior to engaging in the land disturbing activity.

What if I already provided the name of a Responsible Land Disturber to the Program Authority on my approved erosion and sediment control plan, permit or agreement in lieu of plan?

If you have already provided the name of your Responsible Land Disturber and you have not changed your Responsible Land Disturber, you do not have to resubmit the name of your Responsible Land Disturber. If the Responsible Land Disturber changes, then you will have to resubmit the name of the current Responsible Land Disturber.

Who is ultimately responsible for the land disturbing activity?

The landowner is still ultimately responsible for all land disturbing activities on a project.

Who ensures that the plan, agreement in lieu of plan, or land-disturbing permit applicant provides the name of a Responsible Land Disturber?

The Program Authority (local government) shall ensure that the name of a Responsible Land Disturber is provided as a prerequisite to engaging in land disturbing activity.

How can I obtain a Responsible Land Disturber Certificate?

DCR has developed a certification program that provides learning materials and an examination to obtain a Responsible Land Disturber Certificate. This program is available via our website at www.dcr.state.va.us/sw/es_rld.htm

Can I be considered a Responsible Land Disturber if I've already obtained a different certification from DCR?

Yes, over 7,000 individuals hold valid Combined Administrator, Program Administrator, Plan Reviewer, Inspector, and Contractor certificates issued by the Virginia Department of Conservation and Recreation. The Contractor certificates expired in early 2005 and were

replaced with the Responsible Land Disturber certificates. These individuals will be considered Responsible Land Disturbers without further training, certification, or fees.

*Please note that the Responsible Land Disturber shall be a member of the project team or development team not an employee of the Plan-Approving Authority or local government.

Can I be considered a Responsible Land Disturber if I have Virginia Professional Engineer, Land Surveyor, Landscape Architect, or Architect License?

Yes, an individual holding a valid Virginia Professional Engineer, Land Surveyor, Landscape Architect, or Architect License will be considered a Responsible Land Disturber without further training, certification, or fees.

What happens to land disturbing projects with approved erosion and sediment control plans, agreement in lieu of plans, or land-disturbing permits that don't provide a valid Responsible Land Disturber's name prior to engaging in land disturbance?

As of July 1, 2003, projects that have not provided the name of a Responsible Land Disturber prior to engaging in land disturbance would be deemed in violation and a notice to comply would be issued to the owner, by the program authority, requiring a Responsible Land Disturber be named by a specific date. Approval of the erosion and sediment control plan may also be revoked as a result of this violation.