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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-900
VAC Chapter title(s)	Certification of Nonpoint Source Nutrient Credits
Action title	Revisions to CH 900 in response to SB 187 (2022 GA session)
Final agency action date	June 22, 2022
Date this document prepared	May 17, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulation is required to conform the existing regulation to changes directed by Chapter 526 of the 2022 Acts of Assembly (SB 187).

Senate Bill 187 allows the Department of Environmental Quality to accelerate the release of nutrient credits generated by a stream restoration project based on (i) a determination that the level of risk is low, (ii) the provision of additional financial assurance, and (iii) the experience of the applicant. Senate Bill 187 (Chapter 526 of the 2022 Acts of Assembly) includes an enactment clause that delays the effective date of the act until 30 days after the Department of Environmental Quality issues guidance regarding the implementation of the act. The effective date of the regulation will be delayed until this requirement has been met.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

SB 187 was passed during the 2022 Session of the General Assembly.

This regulatory action is required to conform the existing regulation to changes in Code.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Water Control Board adopted these amendments to 9VAC25-900 on June 22, 2022 as a final regulation and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.