



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Soil and Water Conservation Board
Virginia Administrative Code (VAC) citation	4VAC50-90
Regulation title	Chesapeake Bay Preservation Area Designation and Management Regulations
Action title	Renumbering the existing Chesapeake Bay Preservation Area Designation and Management Regulations (formerly 9VAC10-20) and moving this set of regulations to a new Chapter under the Virginia Soil and Water Conservation Board (4VAC50-90). This action also involves conforming 4VAC50-90 through exempt action amendments, to Virginia statutory law changes (Chapters 785 and 819 of the 2012 Virginia Acts of Assembly) in order to better integrate Board water quality programs so that those regulatory programs can be implemented in a consolidated and consistent manner, resulting in greater efficiencies (one-stop shopping) for those being regulated.
Final agency action date	September 28, 2012
Document preparation date	October 2, 2012

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This exempt action is being taken in accordance with Administrative Process Act exemptions, specifically § 2.2-4006 (3) and (4)(a) of the Code of Virginia. The majority of the amendments are being made to conform the Chesapeake Bay Preservation Area Designation and Management Regulations (4VAC50-90) to changes in Virginia statutory law in response to the Erosion and Sediment Control, Stormwater Management, and Chesapeake Bay Preservation Acts, integration of programs bill [Chapters 785 and 819 of the 2012 Virginia Acts of Assembly; (HB1065 - Delegate Sherwood and SB407 - Senator Hanger)]. The legislation integrated elements of the Erosion and Sediment Control Act, the Stormwater Management Act, and the Chesapeake Bay Preservation Act (where appropriate; no Bay Act program expansion) so that those regulatory programs could be implemented in a consolidated and consistent manner, resulting in greater efficiencies (one-stop shopping) for those being regulated. The bill also abolished the Chesapeake Bay Local Assistance Board and transferred its powers and responsibilities to the Virginia Soil and Water Conservation Board. Accordingly, this consolidation legislation has resulted in necessary amendments to each of the referenced Act's attendant regulations.

Accordingly, in accordance with Chapters 785 and 819 of the 2012 Virginia Acts of Assembly and the abolishment of the Chesapeake Bay Local Assistance Board, this action also renumbers the existing Chesapeake Bay Preservation Area Designation and Management Regulations (formerly 9VAC10-20) and moves this set of regulations to a new Chapter under the Virginia Soil and Water Conservation Board (4VAC50-90).

Amendments were also made to address style, form, or corrections of technical errors.

The substantive elements of this action include:

- 1) Renumbering the body of the regulations and updating regulatory citations throughout the regulation to accommodate the transfer of the regulations from the Chesapeake Bay Local Assistance Board to the Virginia Soil and Water Conservation Board and commensurate change from Title 9 of the Virginia Administrative Code (VAC) to 4VAC.
- 2) Definitional changes made (aside from those that just had citation changes) including updating definitions for "Board", "Department", and "Director". [Section 40]
- 3) Modifying the general performance criteria [Section 130] to:
 - Remove requirements for best management practice maintenance to be ensured by the local government through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent objective. This requirement is duplicative of requirements already embodied under the Stormwater Management Act (§ 10.1-603.2 et seq.) and attendant regulations.
 - Stipulate that enforcement for noncompliance with the erosion and sediment control requirements referenced in 4VAC50-90-130 (5) shall be conducted under the provisions of the Erosion and Sediment Control Act (§ 10.1-560 et seq.) and attendant regulations.
 - Remove requirements associated with stormwater management criteria. These requirements are duplicative of requirements already embodied under the Stormwater Management Act (§ 10.1-603.2 et seq.) and attendant regulations.

- 4) Clarifying that any stormwater management facilities constructed in a Resource Protection Area shall be constructed in accordance with the Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia) and its attendant regulations and clarifying that the facility must be consistent with a comprehensive stormwater management plan developed and approved in accordance with 4VAC50-60-92 of the Virginia Stormwater Management Program (VSMP) Permit regulations. [Section 140]
- 5) Stipulating the details of a compliance review process to be conducted under these regulations including the use of corrective action agreements. [Section 260]

Statement of final agency action

Please 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.

On September 28, 2012, the Virginia Soil and Water Conservation Board approved, authorized, and directed the filing of amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (4VAC50-90) as an exempt action. That authorization was related to those changes that are exempt from the Administrative Process Act pursuant to § 2.2-4006 (3) and (4)(a) of the Code of Virginia. They noted that this authorization extends to, but is not limited to, the drafting of the documents and documentation as well as the coordination necessary to gain approvals from the Virginia Registrar of Regulations for the publication of this final regulatory action.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

It is not anticipated that this regulation will have a direct impact on the institution of the family or family stability. However, the improvement of water quality, through the implementation of management programs and best management practices to achieve it, does have positive public health and safety benefits that have an indirect impact on families.