



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC25-880
<b>Regulation title</b>	General Permit for Discharges of Stormwater from Construction Activities
<b>Action title</b>	Transfer of the General Permit for Discharges of Stormwater from Construction Activities from the Virginia Soil and Water Conservation Board to the State Water Control Board
<b>Final agency action date</b>	August 26-27, 2013
<b>Document preparation date</b>	August 23, 2013

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, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

### 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.*

As of a result of actions by the 2013 General Assembly (HB2048 & SB 1279) certain water quality programs previously administered by the Department of Conservation and Recreation will now be administered by the Department of Environmental Quality. The Department of Environmental Quality and the State Water Control Board will have oversight of water quality planning and laws dealing with stormwater management, erosion and sediment control and the Chesapeake Bay Preservation Areas.

In this regulatory action Code references for the General Permit for Discharges of Stormwater from Construction Activities have been changed from Title 10.1 to 62.1 and section references have been changed from 4VAC50-60 to 9VAC25-880 to reflect the change in administration of the program from the Department of Conservation and Recreation and the Soil and Water

Conservation Board to the Department of Environmental Quality and the State Water Control Board.

**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.*

The State Water Control Board adopted the regulations at its August 26-27, 2013 Board Meeting.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

Code references for the General Permit for Discharges of Stormwater from Construction Activities have been changed from Title 10.1 to 62.1 and section references have been changed from 4VAC50-60 to 9VAC25-880 to reflect the change in administration of the program from the Department of Conservation and Recreation and the Soil and Water Conservation Board to the Department of Environmental Quality and the State Water Control Board.

Section numbers found in 4VAC50-60 have been revised (i.e., 1100 to 1; 1110 to 10; 100 to 20, etc.) to facilitate identification of requirements with the transfer of administration of the regulations. References to the Department of Conservation and Recreation and the Soil and Water Conservation Board have been revised to the Department of Environmental Quality and the State Water Control Board. Code references for terms that are defined by reference to a specific Code section have been deleted to conform to common practice. In addition references to specific dates for CFR references have been deleted to conform to common practice.

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
Part XIV	Chapter 880	Section Title	General Permit Requirements moved from 4VAC50-60 Part XIV to new Chapter 880 (9VAC25-880) to clarify administration of program.
4VAC50-60-1100	9VAC25-880-1	Definitions.	Section number change due to transfer of administration of responsibility.
4VAC50-60-1100	9VAC25-880-1	Definitions	Introduction revised to read: The words and terms used in this <del>part</del> chapter shall have the meanings defined in the <u>Virginia Stormwater Management Act</u> , and this chapter and <a href="#">9VAC25-870</a> unless the context clearly indicates otherwise, except as otherwise

			specified in this section. Terms not defined in the Act, this chapter, or <del>this section</del> <a href="#">9VAC25-870</a> shall have the meaning attributed to them in the CWA. For the purposes of this <del>part</del> <u>chapter</u> : Text revised to account for transition of general permit language and requirements into a separate regulation.
4VAC50-60-1110	9VAC25-880-10	Purpose.	Reference to "part" changed to "chapter" to reflect transition of requirements into a separate regulation.
	9VAC25-880-15		New section added: <a href="#">9VAC25-880-15</a> . <u>Applicability of incorporated references based on the dates that they became effective.</u>  <u>Except as noted, when a regulation of the United States set forth in the Code of Federal Regulations is referenced and incorporated herein that regulation shall be as it exists and has been published in the July 1, 2009, update.</u> Section added to clarify requirements and applicability of references.
4VAC50-60-1150 B 1	9VAC25-880-50 B 1	State permit application (registration statement).	Text revised to conform to common practice: "1. Name, mailing address <del>and</del> , telephone number <u>and email address</u> of the construction activity operator..."
4VAC50-60-1160 A	9VAC25-880-60 A	Termination of state permit coverage.	Text revised to read: The notice of termination must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted <u>for the conditions set forth in A 2 through A 4 of this subsection.</u> <u>Termination of authorizations to discharge for the conditions set forth in A 1 of this subsection shall be effective upon notification from the department that the provisions of A 1 of this subsection have been met or 60 days after submittal of the notice of terminations, whichever occurs first.</u> Text revised to clarify requirements related to termination of authorizations.
4VAC50-60-1160 B 1	9VAC25-880-60 B 1	Termination of state permit coverage. Notice of termination.	Text revised to conform to common practice: "1. Name, mailing address <del>and</del> , telephone number <u>and email address</u> of the construction activity operator."
4VAC50-	9VAC25-880-	General permit.	Reference to Chapter and Article number

60-1170	70		deleted. The Virginia Stormwater Management Act is already defined and referenced – deletion of duplicative language.
4VAC50-60-1170	9VAC25-880-70	General permit.	Regulation title corrected: "Any operator...and the Virginia Stormwater Management Program (VSMP) Permit Regulations ( <del>4VAC50-60-9VAC25-870</del> )..."
4VAC50-60-1170 B 4 Section I	9VAC25-880-70 B 4 Section I	Limitation on coverage – TMDL limitation.	Text revised to read: "4. TMDL limitation. Discharges to waters for which a wasteload allocation (WLA) for a pollutant has been established in <del>a-an</del> approved "total maximum daily load" (TMDL) <del>approved by the State Water Control Board</del> that would apply..." Text revised to clarify requirements.
4VAC50-60-1170 H Section I	9VAC25-880-70 H Section I	Water quality protection – written responses.	Text revised to read: "All written responses required under this <del>part</del> chapter must include a signed certification consistent with Section III K." Text revised to account for transition of general permit requirements into a separate regulation.
4VAC50-60-1170 B 2 – Section II	9VAC25-880-70 B 2 – Section II	Section II – Stormwater pollution prevention plan contents – Signature, SWPPP review and making SWPPPs available.	Text revised to correct terminology: "2. The SWPPP shall be retained, along with a copy of this state permit, registration statement, and <del>acknowledgement state permit coverage</del> letter from the department..."
4VAC50-60-1170 D 2 c (1) – Section II	9VAC25-880-70 D 2 c (1) – Section II	Section II – Stormwater pollution prevention plan contents – Controls to minimize pollutants – stormwater management.	Revised to correct reference: "(1) The operator shall ensure compliance with the requirements of <del>4VAC50-60-1180-9VAC25-880-80</del> through <del>4VAC50-60-1190-9VAC25-880-90</del> of the <del>Virginia Stormwater Management Regulations-General Permit for Discharges of Stormwater from Construction Activities</del> regulations, including..."
4VAC50-60-1170 D 2 c (2) – Section II	9VAC25-880-70 D 2 c (2) – Section II	Section II – Stormwater pollution prevention plan contents – Controls to minimize pollutants – stormwater management.	Revised to correct section references; to provide a Code reference to clarify the requirements and to correct clearing house reference: "(2) Control measures contained in Part II of the Virginia Stormwater Management Regulations, <del>4VAC50-60-1184-9VAC25-880-84</del> , or on the Virginia BMP Clearing House Website may be utilized...in accordance with the requirements of <del>4VAC50-60-1180-9VAC25-880-80</del> through <del>4VAC25-880-1190-9VAC25-880-90</del> and are not restricted by the locality in accordance with § 62.1-44.15:33 of the Code of Virginia."
4VAC50-60-1170 D 6 – Section II	9VAC25-880-70 D 6 – Section II	Section II – Stormwater pollution prevention plan contents – Total maximum daily loads.	Text revised to read: "6. Total maximum daily loads. <del>A-An</del> approved total maximum daily load (TMDL) <del>approved by the State Water Control Board</del> may include..." Text revised to clarify requirements.
4VAC50-	9VAC25-880-	Section III – Conditions	Insert addition reference to clarify

60-1170 Section III – G	70 D – Section III – G	applicable to all state permits – records – reports of unauthorized discharges.	requirements: "G. Reports of unauthorized discharges...established under either 40 CFR Part 110 ( <del>2002</del> ), 40 CFR Part 117 ( <del>2002</del> ), or 40 CFR Part 302 ( <del>2002</del> ) or § 62.1-44.15:19 that occurs during..."
4VAC50-60-1170 Section III – I 3	9VAC25-880-70 D – Section III – I 3	Section III – Conditions applicable to all state permits – records – reports of noncompliance.	Revise Note to clarify the requirements and to conform to transfer of program and to conform to common practice: "NOTE: The reports required in Section III G, H and I shall be made to the <del>department's Stormwater Management Division, appropriate Department of Environmental Quality's Regional Office Pollution Response Program,</del> department and the VSMP authority. Reports may be made by telephone, <u>email</u> or by fax..."
4VAC50-60-1170 Section III – K 1 a	9VAC25-880-70 D – Section III –K 1 a	Section III – Conditions applicable to all state permits – records – signatory requirements – registration statement.	Revise to correct terminology: "a. For a corporation: by a responsible corporate officer. For the purpose of this <del>part chapter</del> , a responsible corporate officer means..."
4VAC50-60-1170 Section III – K 1 c	9VAC25-880-70 D – Section III –K 1 c	Section III – Conditions applicable to all state permits – records – signatory requirements – registration statement.	Revise to correct terminology: "c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purpose of this <del>part chapter</del> , a principal executive officer or..."
4VAC50-60-1182 L	9VAC25-880-82 L	General – land disturbing activities.	Text revised to delete reference to section of Code: "L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment Control Law ( <del>§ 10.1-560 §62.1-44.15:51 et seq. of the Code of Virginia</del> ) and attendant regulations." Text revised since the Virginia Erosion and Sediment Control Law is already defined in the Stormwater Management Regulations.
4VAC50-60-1182 M	9VAC25-880-82 M	General – flood control and stormwater management facilities.	Text revised to read: "...approved by the board, the Chesapeake Bay Local Assistance Board <u>prior to its abolishment on July 1, 2012</u> , or the Board of Conservation and Recreation." Text revised to reflect abolishment of the Chesapeake Bay Local Assistance Board.
	9VAC25-880-100		New section for "Delegation of authority". New requirement added: " <u>The director, or his designee, may perform any act of the board provided under this chapter, except as limited by §62.1-44.14 of the Code of Virginia.</u> "
	FORMS (9VAC25-880)	FORMS list	Insert forms related to the General Permit: "General Permit Notice of Termination –

			<p><u>Construction Activity Stormwater Discharges (VAC10) – Form DEQ 199-147 (rev. 06/13)</u>"; <u>"Construction Activity Operator Permit Fee Form – Form DEQ 199-213 (rev. 06/13)"</u>"; <u>"General Permit for Discharges of Stormwater from Construction Activities (VAR10) – Registration Statement – Form DEQ 199-146 (rev. 06/13)"</u>"; <u>"General Permit for Discharges of Stormwater from Construction Activities (VAR10) – Transfer Agreement – Form DEQ 199-191 (rev. 06/13)"</u>"; <u>"General Permit for Discharges of Stormwater from Construction Activities – Registration Statement Checklist (rev. 06/13)"</u>.</p>
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Enter any other statement here

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

It is not anticipated that this regulatory action will have any impacts on the family and family stability.

**Acronyms and Definitions**

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.*

- "Act" - Virginia Stormwater Management Act
- "BMP" - Best management practice
- "CFR" – Code of Federal Regulations
- "CWA" - Clean Water Act
- "DMR" - Discharge monitoring report
- "ESC" - Erosion and Sediment Control
- "FEMA" - Federal Emergency Management Agency
- "HUC" - Hydrologic Unit Code
- "MS4" - Municipal Separate Storm Sewer System
- "NRCS" - National Resources Conservation Service
- "SPCC" - Spill prevention control and countermeasure plan
- "SWPPP" - Stormwater Pollution Prevention Plan
- "TMDL" - total maximum daily load

"USGS" - United States Geologic Survey  
"VESCP" - Virginia Erosion and Sediment Control Program  
"VPDES" - Virginia Pollutant Discharge Elimination System  
"VSMP" - Virginia Stormwater Management Program  
"WLA" - wasteload allocation