



Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation	9VAC25-890
Regulation title	General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems
Action title	Transfer of the General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems from the Virginia Soil and Water Conservation Board to the State Water Control Board
Final agency action date	August 26-27, 2013
Document preparation date	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 Municipal Separate Storm Sewer Systems have been changed from Title 10.1 to 62.1 and section references have been changed from 4VAC50-60 to 9VAC25-890 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 Small Municipal Separate Storm Sewer Systems have been changed from Article 1.1 to Article 2.3; Chapter 6 to Chapter 3.1 and Title 10.1 to Title 62.1 Section references have been changed from 4VAC50-60 to 9VAC25-890 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., 1200 to 1; 1210 to 10; 1220 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.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
Part XV	Chapter 890	Section Title	General Permit Requirements moved from 4VAC50-60 Part XV to new Chapter 890 (9VAC25-890) to clarify administration of program.
Title Change		General Permit for Discharges of Stormwater from Municipal Separate Storm Sewer Systems	General <u>VPDES</u> Permit for Discharges of Stormwater from Municipal Separate Storm Sewer Systems
4VAC50-60-1200	9VAC25-890-1	Definitions.	Section number change due to transfer of administration of responsibility.

4VAC50-60-1200	9VAC25-890-1	Definitions.	Introduction revised to read: "The words and terms used in this part <u>chapter</u> shall have the meanings defined in the <u>Virginia Stormwater Management Act</u> and, this chapter and <u>9VAC25-870</u> unless the context clearly indicates otherwise, except that for the purposes of this part <u>chapter</u> :" Text revised to account for the incorporation of the requirements into a separate regulation.
	9VAC25-890-15		New section added: " <u>9VAC25-890-15. 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, 2012, update.</u> " New section added to address applicability of incorporated references.
4VAC50-60-1220 C 2	9VAC25-890-20 C 2	Authorization to discharge. Nonstormwater discharges.	Added "separate" before "VPDES permit" to conform to revised definition of "State permit" in 9VAC25-870-10.
4VAC50-60-1220 C 3	9VAC25-890-20 C 3	Authorization to discharge. Nonstormwater discharges.	Revise to clarify requirements – grammatical corrections: "3. Nonstormwater <u>The nonstormwater discharges or flows are identified at 4VAC50-60-1240-9VAC25-870-400 D 2 c (3) that and</u> have not been identified by the operator, State Water Control Board ; or by the board as significant contributors of pollutants to the small MS4; or..."
4VAC50-60-1220 F and G	9VAC25-890-20 F and G	Authorization of discharge. Nonstormwater discharges.	Added "separate" before "VPDES permit" in several locations to conform to revised definition of "State permit" in 9VAC25-870-10.
4VAC50-60-1230 B 3	9VAC25-890-30 B 3	State permit application (registration statement).	Delete website address and replace with "on the department website": "3. The Hydrologic Unit Code(s) as identified in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset (available online at http://www.dcr.virginia.gov/soil_&_water/hu.shtml <u>on the department website</u>) currently receiving discharges or that have potential to receive discharges from the small MS4;"
4VAC50-60-1230 B 5	9VAC25-890-30 B 5	State permit application (registration statement).	Delete website address and replace with "on the department website": "5. A listing of any TMDL wasteloads allocated to the small MS4. This information may be found at... <u>on the department website.</u> "
4VAC50-60-1230	9VAC25-890-30 B 6	State permit application (registration statement).	Delete the word "regulated" to clarify requirements: "6. The name(s) of any regulated

B 6			physically interconnected MS4s to which the small MS4 discharges;"
4VAC50-60-1240	9VAC25-890-40	General permit.	Added "VPDES" to general permit title.
4VAC50-60-1240	9VAC25-890-40	General permit.	Revise language to conform to revised title of regulations: "Any operator...subject to all applicable requirements of the Virginia Stormwater Management Act (Article 1.1 (§ 10.1-603.1 et seq.))(Article 2.3 (§ 62.1-44.15:24 et seq.)) of Chapter 6-3.1 of Title 40-62.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60)(9VAC25-870)."
4VAC50-60-1240 B 1 a - Section I	9VAC25-890-40 B 1 a - Section I	General permit. Discharge Authorization and Special Conditions	Grammatical correction – delete phrase "in this section" to clarify requirements: "a. In accordance with Table 1 in this section , the operator shall..."
4VAC50-60-1240 B 1 b - Section I	9VAC25-890-40 B 1 b - Section I	General permit. Discharge Authorization and Special Conditions	Grammatical correction – delete phrase "in this section" to clarify requirements: "b. In accordance with Table 1 in this section , the operator shall..."
4VAC50-60-1240 C 2 a - Section I	9VAC25-890-40 C 2 a - Section I	General permit. Discharge Authorization and Special Conditions – Chesapeake Bay TMDL Planning	Grammatical correction – delete phrase "in this section" to clarify requirements: "a. In accordance with Table 1 in this section , the operator shall..."
4VAC50-60-1240 C 4 a - Section I	9VAC25-890-40 C 4 a - Section I	General permit. Discharge Authorization and Special Conditions – Annual Reporting Requirements	Grammatical correction – delete phrase "in this section" to clarify requirements: "a. In accordance with Table 1 in this section , the operator shall..."
4VAC50-60-1240 Section II B 1 f	9VAC25-890-40 Section II B 1 f	General permit. Municipal Separate Storm Sewer System Management Program – Minimum control measures – Public education and outreach on stormwater impacts.	Grammatical correction – delete phrase "in this section" to clarify requirements: "f. The MS4 Program Plan shall describe how the conditions of this permit shall be updated in accordance with Table 1 in this section ."
4VAC50-60-1240 Section II B 3 a	9VAC25-890-40 Section II B 3 a	General permit. Municipal Separate Storm Sewer System Management Program – Minimum control measures – Illicit discharge detection and elimination.	Grammatical correction – delete phrase "in this section" to clarify requirements: "a. The operator shall maintain an accurate storm sewer system map and information table and shall update it in accordance with the schedule set out in Table 1 of this section ."
4VAC50-60-1240 Section II B 3 e	9VAC25-890-40 Section II B 3 e	General permit. Municipal Separate Storm Sewer System Management Program – Minimum control measures – Illicit discharge detection and elimination.	Grammatical correction – delete phrase "in this section" to clarify requirements: "e. The MS4 Program plan shall include all procedures developed by the operator to detect, identify, and address nonstormwater discharges to the MS4 in accordance with the schedule in Table 1 of this section ..."

4VAC50-60-1240 Section II B 4 a (2)	9VAC25-890-40 Section II B 4 a (2)	General permit. Municipal Separate Storm Sewer System Management Program – Construction site stormwater runoff control – land-disturbing activities	Correct terminology to conform to common practice: "(2) Land-disturbing activities in Tidewater jurisdictions in Tidewater Virginia, as defined in § 40.1-2101-62.1-44.15:68 of the Code..."
4VAC50-60-1240 Section II B 5 d	9VAC25-890-40 Section II B 5 d	General permit. Municipal Separate Storm Sewer System Management Program – Post-construction stormwater management – MS4 Program Plan requirements.	Grammatical correction – delete phrase "in this section" to clarify requirements: "d. MS4 Program Plan requirements. The operator's MS4 Program Plan shall be updated in accordance with Table 1 in this section to include..."
4VAC50-60-1240 Section II B 6 a	9VAC25-890-40 Section II B 6 a	General permit. Municipal Separate Storm Sewer System Management Program – Pollution prevention/good housekeeping for municipal operations.	Grammatical correction – delete phrase "in this section" to clarify requirements: "a. Operations and maintenance activities. The MS4 Program Plan submitted...In accordance with Table 1 in this section , the operator shall develop and implement written procedures..."
4VAC50-60-1240 Section III Y 1	9VAC25-890-40 Section III Y 1	General Permit – Conditions Applicable to All State Permits – Transfer of state permits.	Delete the word "owner" to conform to common practice and to clarify the requirements:" Y. Transfer of state permits. 1. State permits are not transferable to any person except after notice to the department. Except as provided in Section III Y 2, a state permit may be transferred by the operator to a new owner or operator only if the state permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act."
	9VAC25-890-50		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> "

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
"CWA" - Clean Water Act
"DMR" - Discharge Monitoring Report
"DOD" - Department of Defense
"EOS" - Edge of stream
"EPA" - Environmental Protection Agency
"HUC" - Hydrologic Unit Code
"IDA" - Intensely Developed Areas
"MOU" - Memorandum of understanding
"MS4" - Municipal separate storm sewer system
"NMP" - Nutrient Management Plan
"POC" - Pollutants of concern
"RMA" - Resource Management Area
"RPA" - Resource Protection Area
"SWPPP" - Stormwater Pollution Prevention Plan
"TMDL" - total maximum daily load
"VESCP" - Virginia Erosion and Sediment Control Program
"VPDES" - Virginia Pollutant Discharge Elimination System
"VSMP" - Virginia Stormwater Management Program
"WIP" - Watershed Implementation Plan
"WLA" - wasteload allocation