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Exempt Action Proposed Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation(s)	9 VAC25-880
Regulation title(s)	General VPDES Permit for Discharges of Stormwater from Construction Activities (VAR10)
Action title	Amend and Reissue the Construction General Permit
Date this document prepared	August 22, 2018

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Administrative Process Act (APA), the agency is still 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 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This rulemaking is proposed in order to amend and reissue the existing VPDES general permit for discharges of stormwater from construction activities, which expires on June 30, 2019. The proposed general permit regulates stormwater discharges from construction activities. The term "construction activity" is defined in 9VAC25-870-10 as "...any clearing, grading or excavation associated with large construction activity or associated with small construction activity." This general permit authorizes discharges of stormwater from regulated construction activities to surface waters within the boundaries of the Commonwealth of Virginia and includes enhanced criteria for impaired and exceptional waters. Construction activities that disturb one acre or greater or less than one acre but part of a common plan of development are required to obtain coverage under this general permit prior to commencing land disturbing activities.

In addition, a periodic review/small business impact review was conducted as part of this regulatory action. Please see the periodic review/small business impact review result section for additional information.

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.

- APA: Administrative Process Act
- BMP: Best Management Practices
- CFR: Code of Federal Regulations
- CGP: General VPDES Permit for Discharges of Stormwater from Construction Activities, or Construction General Permit
- EPA (U.S. EPA): United States Environmental Protection Agency
- ESC: Erosion and Sediment Control
- NPDES: National Pollutant Discharge Elimination System
- TAC: Technical Advisory Committee
- TMDL: Total Maximum Daily Load
- USC: United States Code
- VAC: Virginia Administrative Code
- VPDES: Virginia Pollutant Discharge Elimination System
- VSMP: Virginia Stormwater Management Program

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The basis of this regulation is §62.1-44.15:25 of the Code of Virginia which authorizes the State Water Control Board under the Virginia Stormwater Management Act to issue, deny, revoke, terminate or amend stormwater permits and adopt regulations for the control of stormwater runoff.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The proposed regulatory action protects water quality in the Commonwealth of Virginia which is essential to the health, safety and welfare of Virginia's citizens and is needed to establish appropriate and necessary permitting requirements for discharges of stormwater from construction activities to waters of the state. The general permit establishes the best management practices to reduce the potential discharge of pollutants in stormwater from construction activities as well as requirements for demonstration of compliance with TMDL wasteload allocations. The primary issue that needs to be addressed is that the existing general permit expires on June 30, 2019 and must be reissued to authorize stormwater from construction activities to discharge after that date.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

Global changes to the existing general permit include changing the permit effective dates of the general permit to July 1, 2019 through June 30, 2024 and revisions to clarify to permit requirements. Substantive changes are as follows:

- (1) Section 9VAC25-880-45 titled *Applicability of technical criteria for land disturbing activities* was added to the general permit regulation to clarify to operators of construction sites applying for permit coverage the appropriate stormwater management technical design criteria from the VSMP regulation (9VAC25-870) apply to a given project.
- (2) Added to the registration statement requirements in 9VAC25-880-50 that when nutrient credits are proposed to demonstrate compliance with water quality requirements that a letter of availability be provided with the registration statement and that prior to permit issuance an affidavit of sale be submitted by the operator.
- (3) Requirements have been added to the general permit prohibiting the discharge of stormwater from construction activities associated with the demolition of a structure greater than 10,000 square feet of floor space built or renovated prior to July 1980 to surface water identified as impaired for polychlorinated biphenyls (PCB) and for which a TMDL for PCBs has been developed prior to July 1, 2019 unless the Stormwater Pollution Prevention Plan (SWPPP) includes controls to minimize the exposure of PCB containing building materials. This revision is incorporated in Part I B 4 and Part II B 6. This requirement was added for consistency with EPA's 2017 Construction General Permit.
- (4) A requirement was added to the permit in Part II B 4 e (9) requiring that waste containers be closed during precipitation events and at the end of the business day to minimize the discharge of pollutants in stormwater coming in contact with building materials in the contains. This requirement was added for consistency with EPA's 2017 Construction General Permit.
- (5) Inspection frequency: Part II F 2 b was revised to change the SWPPP inspection frequency performed by the permittee to once every 10 days and no later than 24 hours following a storm event, rather than within 48 hours established in the 2014 permit. This inspection frequency only applies if the operator does not opt to perform a SWPPP inspection at a frequency of once every 5 business days or is required to conduct inspection more frequently because of discharging to an impaired, TMDL, or exceptional water. This change was made as a result of the discussion of the Technical Advisory Committee to ensure runoff controls are inspected soon after a storm event so that any issues can be promptly addressed.
- (6) A condition was added to the permit (Part II F 2 e) that provides if adverse weather causes concern for the safety of the operator's inspection staff, the inspection can be delayed until the

next business day on which it is safe to perform the inspection. This condition is similar to conditions in other VPDES stormwater permits that address adverse weather events.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The advantages to the public and the agency are that a VPDES general permit will continue to be available to construction site operators to enable them to discharge safely to surface waters without the increased cost and more complicated application process associated with issuing an individual permit. Clarifications to permit requirements will assist all stakeholders with understanding permit requirements. There are no disadvantages.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

Section 62.1-44.15:28 of the Virginia Code that requires the Board to adopt regulations that “establish minimum design criteria for measures to control nonpoint source pollution and localized flooding, and incorporate the stormwater management regulations adopted pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), as they relate to the prevention of stream channel erosion.” Water quality and quantity design criteria to control post-construction stormwater runoff are established in the VSMP regulation (9VAC25-870). This permit implements the post-construction stormwater criteria by requiring a construction operator to obtain approval of a stormwater management plans prior to general permit coverage being issued. There are currently no specific federal requirements for the control of post-construction stormwater runoff from developed or redeveloped lands.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The general permit regulation and this proposed amendment are applicable statewide to any operator of a construction activity that disturbs one acre or greater or less than one acre and part of a common plan of development. There are no localities particularly affected by this proposed amendment.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are two alternatives for compliance with federal and state requirements to permit the discharge of stormwater from construction activities to surface waters. One is to issue individual VPDES permits for each construction activity disturbing one acre or greater or less than one acre and part of a common plan of development. The other is to reissue the general VPDES permit to cover this category of discharger. A general VPDES permit is the least burdensome and costly alternative to achieve the purpose of the regulation. The application and maintenance fee costs associated with an individual permit are significantly higher than are those for coverage under the general permit. Additionally, the time needed to process an individual permit is significantly greater than issuing coverage under the general permit.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response. If there was no NOIRA comment period, delete this section.

Commenter	Comment	Agency response
Philip Abraham Vectre Corp	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Nicholas Allen Arlington County	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Joe Battiata City of Hopewell	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
John Brooks Apex Corp	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
John Burke Montgomery County	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Kristin Carter University of Virginia	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Andrew Clark Home Builders Association of Virginia	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Jimmy Edmonds Loudoun County	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Norm Goulet Northern Virginia Regional Commission	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Josh Hanson ¹ Resource Environmental Solutions	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Ann Jennings ² Chesapeake Bay Commission	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Adrienne Kotula ³ James River Association/ Chesapeake Bay Commission	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Emily Melton (No affiliation provided)	"I have concerns that 9VAC25-880-60 will allow a project to be terminated without	9VAC 25-870-55 D requires that construction record drawings for

	<p>the submittal of a Construction Record Drawing (commonly referred to as an As-Built Plan). The VPDES Regulations require a Construction Record Drawing to satisfy the conditions of the permit, but the termination criteria does not specify that one is required prior to termination of coverage. Please revise accordingly.</p> <p>In general, the VSMP Construction General Permit is necessary for the protection of public welfare as it prevents water damage to adjacent properties that may occur as a direct result of development. However, on large tracts of land where a farmer may expand their operations to include barns or driveways, the impact to adjacent properties is often minimal if it exists at all. However, the new regulations enacted in July 2014 require developing farms to reduce their runoff from pre-existing conditions. Previously, farms could show that their barns and roads would not change the runoff over the whole property due to their small footprint.</p> <p>Furthermore, farms may now need to reserve tracts of their property as conservation areas to meet the water quality criteria. Previously, farms could show that less than 16% of their property was impervious after construction. As the majority of farmland is kept in pasture, ground cover, or crops—and is often not used year round for crops or pasture due to rotation—reserving areas that farmers cannot use for crops or pasture on their properties may not be the most effective method to ensure water quality is not compromised. Instead, Resource Management Plans where a Soil and Water Conservation District or private consultant assists a farmer to determine how to preserve natural resources is a much more effective method to ensure water quality concerns are addressed and a farmer is able to utilize a majority of their property and increase their earnings simultaneously.</p> <p>The RAND Corporation reported in a study in 2006 that “small firms may have been overlooked in previous analyses of the impact of environmental regulations</p>	<p>permanent stormwater management facilities be submitted to the VSMP authority. A condition to require the submittal of Construction Record Drawings prior to permit termination will be proposed for consideration by the TAC.</p> <p>The stormwater quality and quantity criteria are established in Article 2.3 of the Virginia Stormwater Management Act and promulgated under the Virginia Stormwater Management Program (VSMP) regulation (9VAC25-870). Revisions to the Stormwater Management act and the VSMP regulation is outside of the scope of this regulatory action.</p>
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	<p>on business.”(1)The 2012 Census of Agriculture reported that farm average income within Fauquier County had a net loss exceeding \$15,000 in that fiscal year.(2)Engineered plans almost always exceed \$10,000 in design costs. There has almost always been a bond associated with the construction that typically exceeds \$100,000. Typically farmers are only planning for construction costs—meaning the design, permitting, and bonding fees far exceed the farmers’ original budget.</p> <p>Current farming practices have long been known to have chronic detrimental impacts to natural resources due to erosion, over-fertilization, and excessive pesticide application. The current regulations address some of the erosion concerns to improve water quality and mitigate flooding on downstream properties. However, a Resource Management Plan may be a more effective water quality tool for farms.</p> <p>1. I would propose that properties that exceed 25 acres be permitted to use the original MS-19 water quantity criteria. Meaning the 2-year flows and the 10-year flows be reduced to pre-developed flowrates after development. This edit would apply to 9VAC25-870-66.</p> <p>2. I propose that the water quantity sheet flow caveat stay as it is for the benefit of farmlands. This caveat is found at 9VAC25-870-66.D.</p> <p>3. I proposed that a Resource Management Plan be assigned a pollutant removal efficiency and added to 9VAC25-870-65 and the Virginia Stormwater BMP Clearinghouse as an appropriate water quality BMP. The 25 acre threshold for analysis is based on my observations that impervious added to large properties have a much smaller hydrologic impact than impervious added on properties with less than 25 acres in their drainage areas.”</p>	
<p>Bryce Miller Wetland Studies and Solutions, Inc. <i>Mike Willis and Mike Rolband (alternates)</i></p>	<p>Requested to be on the Technical Advisory Committee (TAC).</p>	<p>Appointed to the TAC.</p>
<p>David Moore Smith, Grambell, & Russell, LLP</p>	<p>The following comments were submitted on behalf of Norfolk Southern Railway Company:</p>	<p>Section § 62.1-44.15:34. Of the Virginia Stormwater Management Act states: “A person shall not conduct any land-disturbing activity</p>

	<p>Federal regulations governing the Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq. (“CWA”) National Pollutant Discharge Elimination System (“NPDES”) program recognize that a state may include provisions greater in scope than the CWA, but that those provisions do not become part of the CWA program. See 40 C.F.R. 123.1(i) (“If an approved State program has greater scope of coverage than required by Federal law the additional coverage is not part of the Federally approved program.”) EPA’s authorized NPDES program included CWA construction provisions in the Virginia Erosion and Sediment Control Law, Va. Code § 62.1-44.15: 51-66 (“VESCL”). The proposed VAR10 incorporates provisions of the Virginia Stormwater Management Act Va. Code § 62.1-44.15: 24 – 15.50 (“VSMA”), specifically the requirement to include a stormwater management plan in the construction stormwater pollution prevention plan or SWPPP. The VSMA is largely a post-construction stormwater program, addressing activities following the cessation of land disturbing activities as defined under the CWA NPDES program. See 40 C.F.R. Part 450. The current language in VAR10 properly distinguishes between the VESCL NPDES construction stormwater requirements and the VSWM post-construction requirements, as well as federal and state requirements. The existing language is consistent with Federal law and should be retained.</p> <p>VAR10 requirements for a stormwater management plan in the SWPPP should be conditioned to make clear that a stormwater management plan is not required where not applicable. See VAR10, Part II.A.3. issue. A small proposed language change will address this issue.</p> <p>Specifically, the Board should adopt Part II.A.3 with the addition of the underlined words below: <i>New construction activities. A stormwater management plan approved by the VSMP authority as authorized under the Virginia Stormwater Management Program (VSMP)</i></p>	<p>until he has submitted a permit application to the VSMP authority that includes a state VSMP permit registration statement, if such statement is required, and, after July 1, 2014, a stormwater management plan or an executed agreement in lieu of a stormwater management plan, and has obtained VSMP authority approval to begin land disturbance.”</p> <p>DEQ staff acknowledges that occasionally there are times in which a stormwater management plan is not required for a land disturbing activity that requires submittal of an application or a registration statement. In those rare instances, DEQ staff provides review and guidance to the applicant on a case-by-case basis. There are no changes in the proposed Construction General Permit to address this comment.</p>
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	<p><i>Regulation (9VAC25870), or an agreement in lieu of a stormwater management plan" as defined in 9VAC25-870-10 from the VSMP authority, or a stormwater management plan prepared in accordance with annual standards and specifications approved by the department, as applicable. Any operator proposing a new stormwater discharge from construction activities that is not required to obtain stormwater management plan approval from a VSMP authority or does not adopt department-approved annual standards and specifications shall submit the stormwater management plan to the department for review and approval, as applicable.</i></p> <p>The stormwater management plan addresses post-construction construction activities and is not applicable to many facilities, including rail construction and operation. Interstate Commerce Commission Termination Act of 1995 ("ICCTA"), 49 U.S.C. § 10501, and Federal Railway Safety Act of 1970 ("FRSA"), 49 U.S.C. § 20101.</p> <p>This language is important as the Registration Statement forms required by VAR10 require certification that a completed SWPPP has been prepared including the stormwater management plan. NSRC projects have experienced significant delay in receiving notices of commencement due to the confusion regarding the stormwater management plan requirement for the SWPPP.</p>	
<p>Peggy Sanner Chesapeake Bay Foundation</p>	<p>Requested to be on the Technical Advisory Committee (TAC).</p>	<p>Appointed to the TAC.</p>
<p>Ashley Hall Stantec <i>Toni Small (alternate)</i></p>	<p>Requested to be on the Technical Advisory Committee (TAC).</p>	<p>Appointed to the TAC.</p>
<p>Jerry Stonefield Fairfax County</p>	<p>Requested to be on the Technical Advisory Committee (TAC).</p>	<p>Appointed to the TAC.</p>
<p>Jill Sunderland Hampton Roads Planning District Commission <i>Whitney Katchmark (alternate)</i></p>	<p>Requested to be on the Technical Advisory Committee (TAC).</p>	<p>Appointed to the TAC.</p>
<p>Chris Swanson Virginia Department of Transportation</p>	<p>Proposed two possible amendments for consideration by TAC:</p> <p>1) The discharge reporting requirements in Part III of the Construction Permit are more applicable to sewage and industrial</p>	<p>Both items were considered and discussed during the meetings of the TAC.</p>

	<p>discharges. The TAC should consider more defined procedures for sediment and/or chemicals that could be released for construction activities.</p> <p>2) The effort should establish criteria for allowing grandfathered projects “under construction” to continue to use the Part II C technical criteria.</p> <p>Requested to be on the Technical Advisory Committee (TAC).</p>	Appointed to the TAC.
Mike Vellines Virginia Tech	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.
Keith White Henrico County	Requested to be on the Technical Advisory Committee (TAC).	Appointed to the TAC.

Footnotes:

- 1 Mr. Hanson left Resource Environmental Solutions for employment out of state was not able to serve on the TAC.
- 2 Ms. Jennings left the Chesapeake Bay Commission in February 2018 when appointed as Deputy Secretary of Natural Resources for the Chesapeake Bay by Governor Northam and stepped down from her role on the TAC.
- 3 Adrienne Kotula left the James River Association in March 2018 when accepting the position of Virginia Director of the Chesapeake Bay Commission. She continued to serve on the TAC representing the Chesapeake Bay Commission when Ms. Jennings left. James Brunkow as added to the TAC to represent the James River Association when Ms. Kotula changed roles.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal, the impacts of the regulated community and the impacts of the regulation on farm or forest land preservation.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Ms. Jaime Robb, P.O. Box 1105, Richmond, Virginia 23218, 804-698-4416, 804-698-4032 and Jaime.Robb@deq.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.



Family impact

Please 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.

This regulation is not expected to have a direct impact on the institution of the family or family stability.

Periodic review/small business impact review announcement

If you wish to use this exempt proposed stage to announce a periodic review (§ 2.2-4017 & EO-17 (2014)) and a small business impact review (§ 2.2-4007.1) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete this section.

In addition, pursuant to Executive Order 17 (2014) and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Periodic review/small business impact review report of findings

There were no comments received following the publication of the Notice of Periodic Review in the Notice of Intent Comment Period. However, since a proposal is now available, DEQ is electing to announce again the periodic review/small business impact statement.

Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please list separately: (1) all differences between the **pre-emergency regulation** and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.*

Global changes in this permit include:

- Revised, reworded, and updated language for clarity or in accordance with appropriate regulatory terminology.
- Proposed revisions in to the general permit regulation to ensure consistency with other agency general permits and regulations as well as EPA’s 2017 Construction General Permit.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
9VAC25-880-1	--	Definition of “impaired waters”	Revised to reflect most current document.
9VAC25-880-15	--	Applicability of incorporated references based on the dates that they became effective.	Revised to reflect the most current document.
9VAC25-880-20	--	Effective date of general permit.	Revised to update new effective and expiration dates.
9VAC25-880-30 A 1 and 2	--	Authorization to discharge.	Several revisions to language to clarify and clean up.
9VAC25-880-30 A 4 a		Authorization to discharge.	Remove last sentence because it is not necessary. The definition of VESCP authority in 9VAC25-840 includes the department.
9VAC25-880-30 A 4 b		Authorization to discharge.	Remove last sentence because it is not necessary. The definition of VSMP authority in 9VAC25-870 includes the department.
9VAC25-880-30 H		Continuation of general permit coverage.	Revised for consistency with other general VPDES permit regulations.
--	9VAC25-880-45	Applicability of technical criteria for land disturbing activities	Added new section to clearly explain which stormwater management technical design criteria from 9VAC25-870 apply to the permitted construction activity.
9VAC25-880-50 A 2	--	General permit application (registration statement)	Revised for consistency with other general VPDES permit regulations.
9VAC25-880-50 A 3	--	General permit application (registration statement)	Added language to allow the VSMP authority to request additional documentation for processing of permit coverage transfers of ownership.
--	9VAC25-880-50 A 5	General permit application (registration statement)	Added for consistency with other general VPDES permit regulations.
9VAC25-880-50 B		General permit application (registration statement)	Revised several registration statement requirements for clarity and added new requirements to ensure the department and VSMP authority receives the necessary information to review and process general permit coverage request. Added requirement for when nutrient credits are used that a letter of availability be provided with the registration statement and that prior to permit issuance an affidavit of sale be submitted by the operator.
9VAC25-880-60	--	Termination of general permit coverage	Several revisions to clarify notice of termination requirements and reorganize existing language for clarity. Included requirement that construction record drawings required in 9VAC25-870-55 be submitted with the notice of termination

			requests. Added a requirement that when notice of termination for an individual residential lot is submitted, that permittee inform the new owner of final stabilization requirements to ensure stabilization of site is achieved.
9VAC25-880-70	--	Effective and Expiration Dates	Updated to reflect new permit term.
9VAC25-880-70 Part I B 4		Limitations on Coverage	Added language regarding discharges to receiving waters impaired for PCBs for consistency with EPA's 2017 Construction General Permit. Deleted SWPPP inspection requirements for discharges to impaired and exceptional receiving waters and moved to Part II F 2.
9VAC25-880-70 Part I F		Termination of general permit coverage	Several revisions to clarify notice of termination requirements and reorganize existing language for clarity. Included requirement that construction record drawings required in 9VAC25-870-55 be submitted with the notice of termination requests. Added a requirement that when notice of termination for an individual residential lot is submitted that permittee inform the new owner of final stabilization requirements to ensure stabilization of site is achieved.
9VAC25-880-70 Part II		Stormwater Pollution Prevention Plan	Updated date from 2009 to 2014 to explain expectations that existing 2014 permittees revise SWPPP within 60 days in accordance with any new or revised requirements.
9VAC25-880-70 Part II A 3		Stormwater Management Plan	Updated language to clarify SWPPP requirements for new permittees, existing permittees that held 2009 and 2014 permit coverage, and existing permittees that held 2014 permit coverage.
9VAC25-880-70 Part II A 4 e (9)		Pollution Prevention Plan	Added language requiring the covering of waste receptacles for consistency with EPA's 2017 Construction General Permit.
9VAC25-880-70		SWPPP requirements for discharges to impaired waters, surface waters with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit, and exceptional waters	Updated language to incorporate requirements for discharges to receiving water impaired for PCBs for consistency with EPA's 2017 Construction General Permit.
9VAC25-880-70 Part II F 2		SWPPP Inspections	Added language for inspection requirements for discharges to impaired or exceptional receiving waters previously located in Part I B 4. Also added language to provide instruction in case of inclement or adverse weather.
9VAC25-880-70 Part II F 3		Inspection Requirements	Revised language to clarify or add inspection requirements to ensure construction stormwater is being properly maintained on site to minimize the discharge of pollutants.
9VAC25-880-70 Part II F 4		Inspection Report	Added language to clarify when reports need to be added to SWPPP.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The reissuance of the general VPDES permit accomplishes the objectives of applicable law and minimizes the costs to construction site operators and simplifies the application process. Without the general permit, operators would be required to obtain an individual permit which would increase the complexity of a permit application and permit costs.