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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-830 et seq.
VAC Chapter title(s)	Chesapeake Bay Preservation Area Designation and Management Regulations
Action title	Final Exempt CH 830 Changes in Response to SB657, HB769, and HB771
Final agency action date	June 22, 2022
Date this document prepared	May 2, 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 regulatory action changes the existing language of the regulation (9VAC25-830 et seq.) to incorporate changes resulting from the approval and passage of Senate Bill 657 (SB657), House Bill 769 (HB769), and House Bill 771 (HB771), during the 2022 General Assembly Session (Virginia Acts of Assembly, Chapters 356, 486, and 207).

Necessary revisions to the regulations include: limiting the authority of the State Water Control Board to issuance of regulations (SB657); adding requirements effective July 1, 2023, directly related to compliance with onsite sewage system pump-outs to be managed and enforced by the Department of Health in Accomack, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland Counties, and the incorporated towns within those counties (H769); and requiring localities in Tidewater Virginia (which is defined in the statute)

to publish criteria and elements adopted by the locality to implement its local plan as required by the Chesapeake Bay Preservation Act on its website (HB771).

§2.2-4006(A)(4)(a) of the Administrative Process Act allows the Board to adopt regulatory amendments that are necessary to conform to changes in Virginia statutory law. This regulatory action is required to conform the existing regulation to changes in Code.

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."

SB657, HB769, and HB771 were passed during the 2022 Session of the Virginia General Assembly. SB657 made changes to the Code of Virginia that: limits the authority of the State Water Control Board to the issuance of regulations and transfers the Board's existing authority to issue orders to the Department of Environmental Quality. Changes to the regulations include changing designations from "board" to "department" where appropriate; and a change in the definition of "Board". The Governor signed this bill into law on April 11, 2022 (SB657 – Chapter 356 of the Virginia Acts of Assembly – 2022 Session).

HB769 made changes to the Code of Virginia, adding a requirement directly related to compliance with onsite sewage system pump-outs to be managed and enforced by the Department of Health in Accomack, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland Counties, and the incorporated towns within those counties. The Governor signed this bill into law on April 11, 2022 (HB769- Chapter 486 of the Virginia Acts of Assembly-2022 Session).

HB 771 made changes to the Code of Virginia, adding a requirement directing localities in Tidewater Virginia (which are defined in the statute) to publish criteria and elements on its website adopted by the locality to implement its local plan as required by the Chesapeake Bay Preservation Act. The Governor signed this bill into law on April 8, 2022 (HB771- Chapter 207 of the Virginia Acts of Assembly-2022 Session).

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 regulatory amendments to 9VAC25-830 et seq. 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.