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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-151
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity
Action title	Amendments in response to Chapter 1080 of the 2026 Acts of Assembly (HB952)
Final agency action date	June 23, 2026
Date this document prepared	May 7, 2026

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

The VPDES General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity (9VAC25-151, Industrial Stormwater General Permit) governs all stormwater discharges associated with industrial activity from facilities in industrial sectors specified in the general permit. This includes stormwater discharges, through a point source to surface waters, or through a municipal or nonmunicipal separate storm sewer system to surface waters. Pursuant to 9VAC25-151-70, the authorized discharge shall be in accordance with the effluent limitations, monitoring requirements and special conditions in Part I of the general permit, the conditions applicable to all VPDES Permits in Part II, the Stormwater Pollution Prevention Plan requirements in Part III, the sector-specific requirements in Part IV, and, specific to this

regulatory action, the Chesapeake Bay Total Maximum Daily Load (TMDL) Compliance requirements in Part V (9VAC25-151-400). Permittees that are required to demonstrate compliance with the Chesapeake Bay TMDLs may do so through reductions provided by one or more of the BMPs found in the Virginia Stormwater BMP Clearinghouse, implementation of site-specific BMPs, or acquisition of nonpoint source credits.

Chapter 1080 of the 2026 Acts of Assembly (HB952, effective July 1, 2026) expands the Chesapeake Bay TMDL compliance options by allowing permittees covered under the Industrial Stormwater General Permit to use nutrient credits generated by point sources for the purpose of nutrient reduction compliance for calendar years 2025 and 2026, subject to conditions specified in the legislation. These conditions include:

- (1) Credits being generated and applied for purposes of compliance for the same calendar year;
- (2) Credits being acquired no later than September 1, 2026, for calendar year 2025 or June 1, 2027, for calendar year 2026;
- (3) Credits being generated in the same locality or tributary, except that permittees in the Eastern Coastal Basin may also acquire credits from the Potomac and Rappahannock tributaries;
- (4) Credits being either point source nitrogen or point source phosphorus credits generated by point sources covered by the general permit issued pursuant to § 62.1-44.19:14 of the Code of Virginia; and
- (5) The permittee reporting evidence of having obtained such credits to the Department of Environmental Quality within 30 days of the deadlines specified in clause (2).

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). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “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.”

Chapter 1080 of the 2026 Acts of Assembly (HB952) allows permittees covered under the Industrial Stormwater General Permit to use nutrient credits generated by point sources for the purpose of compliance with nutrient reduction requirements for calendar years 2025 and 2026 if certain criteria are met. This regulatory action amends the Industrial Stormwater General Permit so that it is consistent with the change to Virginia law.

This regulatory amendment is exempt from the state administrative procedures for adoptions of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 of the Code of Virginia because it is necessary to conform to changes in Virginia statutory law where no agency discretion is involved. These amendments must be submitted to the Virginia Registrar for publication within 90 days of the effective date of the Act.

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) that the agency has “adopted final amendments” to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, “On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)].”

On June 23, 2026, the State Water Control Board adopted final amendments to amend the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity (9VAC25-151).

In adopting these amendments, the State Water Control Board affirmed that it will receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.