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Fast-Track Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-830
VAC Chapter title(s)	Chesapeake Bay Preservation Area Designation and Management Regulations
Action title	Fast-track amendment to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) to conform the regulations to current law
Date this document prepared	August 5, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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 intent of this fast-track regulatory action is to amend the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) to update statutory citations, civil penalties, and related regulatory text to align with the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq. of the Code of Virginia) and § 62.1-44.15 of the Code of Virginia.

The substantive changes, associated with the penalty amount and possible penalty alternative, are based on a change in the law, making the regulation consistent with the law, as amended effective July 1, 2024, so none of the changes are expected to be controversial.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

Act: The Chesapeake Bay Preservation Act
Board: State Water Control Board
Department: Department of Environmental Quality

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 September 21, 2026, the State Water Control Board (Board):

1. Authorized the Department to promulgate the amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The Board's authorization constitutes its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the amendments, and
2. Authorized the Department to set an effective date no earlier than 15 days after the close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the amendments.

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, 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."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

Chapters 68 and 758 of the 2016 Acts of Assembly amended numerous sections of the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) to create a combined erosion and sediment control and stormwater management program in Virginia. The ninth enactment clause of Chapters 68 and 758 provides that the provisions of the act shall become effective after the adoption by the Board of the regulations required to implement the act. Subsequently, Chapters 665 and 666 of the 2023 Acts of

Assembly amended the ninth enactment clause and provided that the provisions of the act shall become effective concurrently with the associated regulations, as adopted by the Board, on July 1, 2024.

Among the changes that resulted from Chapters 68 and 758, § 62.1-44.15:71 of the Code of Virginia, which previously contained the Chesapeake Bay Preservation Act enforcement provisions for local government compliance reviews, was repealed. These provisions are now contained in subdivision (19) of § 62.1-44.15 of the Code of Virginia, which consolidates the Board's authority to conduct compliance reviews and issue orders for the payment of civil penalties and charges for multiple local government programs. Section 62.1-44:15 (19), as amended, also changed the civil penalty amount from \$5,000 per day and \$20,000 per violation to \$5,000 per violation and \$50,000 per order.

These amendments are necessary to update citations in the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) which was last amended on September 25, 2024.

This rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because the amendments improve clarity and certainty for the regulated community and the Department by making requirements in the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) conform to current laws.

The limited scope of this rulemaking benefits the regulated community, the Department, and other stakeholders by updating the regulation and improving clarity in a timely manner.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Promulgating Entity

The promulgating entity for this regulation is the State Water Control Board.

State Requirements

Section 62.1-44.15 (10) of the Code of Virginia provides that the Board shall have the authority to adopt such regulations as it deems necessary to enforce the general soil erosion control and stormwater management program and water quality management program of the Board in all or part of the Commonwealth.

Section 62.1-44.15:69 of the Code of Virginia provides that the Board is responsible for carrying out the purposes of the Chesapeake Bay Preservation Act (Act, Article 2.5 of the State Water Control Law, § 62.1-44.15:67 et seq.), and is authorized to promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), ensure that local government comprehensive plans, subdivision ordinances and zoning ordinances are in accordance with the provisions of the Act, and take administrative and legal actions pursuant to subdivision (19) of § 62.1-44.15 to ensure compliance by counties, cities, and towns with the provisions of the Act, including proper enforcement and implementation of, and continued compliance with the Act.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

SB673 (2016) and HB1250 (2016) – Chapters 68 and 758 of the 2016 Acts of Assembly repealed § 62.1-44.15:71 of the Code of Virginia, and recodified the requirements for local government program compliance that were in § 62.1-44.15:71 into § 62.1-44.15 (19) (effective July 1, 2024).

Section 62.1-44.15 (19), as amended, also changed the civil penalty amount from \$5,000 per day and \$20,000 per violation to \$5,000 per violation and \$50,000 per order.

The goal of this regulatory action is to amend the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) to improve clarity and certainty by conforming the regulation to current laws, as amended by Chapters 68 and 758 of the 2016 Acts of Assembly,

Substance

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.

Amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) include the following:

- Deleting reference to § 62.1-44.15:71 in 9VAC25-830-260 and 9VAC25-830-270
- Adding a reference to §62.1-44.15 (19) in 9VAC25-830-260 and 9VAC25-830-270
- Revising the civil penalty from “not to exceed \$5,000 per day” to “per violation” in 9VAC25-830-260 1 b
- Revising the maximum penalty amount from “\$20,000 per day per violation” to “\$50,000 per order” in 9VAC25-830-260 1 b.
- Updating the title of the “Virginia Stormwater Management Fund” to read “Stormwater Local Assistance Fund” in 9VAC25-830-260 1 b.

Collectively, these amendments will provide clarity and improve understanding of the regulation by revising the regulation to be consistent with state law.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

1. Public: There are no direct impacts on the public as the amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) update existing regulatory requirements, so they reflect current requirements in the State Water Control Law, which help to clarify requirements, improve understanding of the regulation, and contribute to the efficient and effective functioning of government. There are no disadvantages to the public.

2. The Department: The amendments update existing regulatory requirements and will allow the Department and local governments under the Chesapeake Bay Preservation Act to utilize regulations that reflect current requirements in the State Water Control Law, and improve the understanding of the Chesapeake Bay Preservation Area Designation and Management Regulations, which in turn contributes to the efficient and effective functioning of government. This is an advantage. There are no disadvantages to the department or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal requirements and therefore no requirements that exceed federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

There is no state agency which will bear any identified disproportionate material impact due to the proposal which would not be experienced by other state agencies.

Localities Particularly Affected

There are 84 localities that are subject to the Chesapeake Bay Preservation Act and accompanying regulations and are required to directly implement the statute and regulations. These localities are not impacted by this amendment as this amendment only aligns the regulations with the statutory provisions which are in effect already. Localities will benefit from the alignment of the regulations with current statutory requirements.

The 84 localities includes the counties of and towns contained within Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico, Isle of Wight, James City, King

and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York, and the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and Williamsburg.

Other Entities Particularly Affected

There is no entity which will bear any identified disproportionate material impact due to the proposal which would not be experienced by other entities.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail. b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	The regulatory change will not result in any economic impact (cost or benefit) to the Department.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	The regulatory change will not result in any economic impact (cost or benefit) to any state agency.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The direct benefit to state agencies of updating the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) is to be consistent with recent changes in the Chesapeake Bay Preservation Act to improve clarity and consistency of regulatory requirements, which will result in increased certainty and compliance.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	This regulatory change will not result in any costs, savings, fees or revenues for local governments that are in compliance with the regulatory requirements. These regulatory amendments change the penalty from \$5,000 per day and \$20,000 per day per violation to \$5,000 per violation and \$50,000 per order.
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	The Department has the authority to issue a special order to any local government imposing a civil penalty not to exceed \$5,000 per violation with the maximum amount not to exceed \$50,000 per order for noncompliance.
Benefits the regulatory change is designed to produce.	The direct benefit to local governments of creating consistency between the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) and the Chesapeake Bay Preservation Act is increased clarity, consistency, and certainty in the regulatory process and a program that is efficiently and effectively administered.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	It is not anticipated that any other entities will be affected.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	N/A
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	N/A
Benefits the regulatory change is designed to produce.	The direct benefit to other entities of creating consistency between the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) and the Chesapeake Bay Preservation Act is increased clarity, consistency, and certainty in the regulatory process and a program that is efficiently and effectively administered.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the

regulatory change. 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 regulatory change.

There are no practical alternatives. Failing to update the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) will likely cause misunderstanding, confusion, and inconsistent application of regulatory requirements for the Department and local governments under the Chesapeake Bay Preservation Act.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

There are no alternatives to this regulatory action other than continuing to operate with the existing language with no updates.

This regulatory change is very limited in scope to update statutory citations, civil penalties, and related regulatory text for consistency with state law, as amended by Chapters 68 and 758 of the 2016 Acts of Assembly (effective July 1, 2024) and to provide increased clarity and certainty in the regulatory process.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Department is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the

potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Justin Williams, Virginia Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia 23218, or justin.williams@deq.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-830-260		Administrative proceedings.	Updating references and terminology to provide clarity for the Department and localities subject to the Chesapeake Bay Preservation Act: § 62.1-44.15:71 of the Code of Virginia was repealed effective July 1, 2024, and the citation has been removed. Addition of language from § 62.1-44.15:69 10 to reference § 62.1-44.15 (19) of the Code of Virginia, the Board's general authority to take administrative and legal actions to ensure compliance with the Chesapeake Bay Preservation Act.

9VAC25-830-260 1		Administrative proceedings – the Administrative Process Act	Addition of reference to subdivision (19) of § 62.1-44.15 of the Code of Virginia. § 62.1-44.15:71 of the Code of Virginia was repealed effective July 1, 2024, and the citation has been removed. Updating references and terminology provides clarity for the Department and localities subject to the Chesapeake Bay Preservation Act.
9VAC25-830-260 1 b		Administrative proceedings – civil penalties	Updated the provision for a civil penalty not to exceed \$5,000 per day to per violation to be consistent with language originally from § 62.1-44.15:71 of the Code of Virginia. Updated provision for the maximum civil penalty amount not to exceed \$20,000 per day per violation to not to exceed \$50,000 per order to conform to language in § 62.1-44.15 (19). Updated language and reference from “deposited into the Virginia Stormwater Management Fund established by § 62.1-44.15:29 of the Code of Virginia” to “deposited into the Stormwater Local Assistance Fund established by § 62.1-44.15:29.1 of the Code of Virginia” to conform to language in § 62.1-44.15 (19) of the Code of Virginia. Added language to provide an option for the issuance of an “order against a locality” for payment of civil charges for violations in lieu of civil penalties” as specified in subdivision (19) of § 62.1-44.15 of the Code of Virginia. These amendments provide clarity for the Department and localities subject to the Chesapeake Bay Preservation Act.
9VAC25-830-270		Legal proceedings.	Update to references to provide clarity for the Department and localities subject to the Chesapeake Bay Preservation Act: Added reference to subdivision (19) of § 62.1-44.15 of the Code of Virginia.

			§ 62.1-44.15:71 of the Code of Virginia was repealed effective July 1, 2024, and the citation has been removed.
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Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed 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.

The proposed regulatory action will not have an impact on families.