



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC25-840
<b>Regulation title</b>	Erosion and Sediment Control Regulations
<b>Action title</b>	Transfer of the Erosion and Sediment Control Regulations from the Soil and Water Conservation Board to the State Water Control Board
<b>Final agency action date</b>	August 26-27, 2013
<b>Document preparation date</b>	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 Erosion and Sediment Control Regulations have been changed from Title 10.1 to 62.1 and section references have been changed from 4VAC50-30 to 9VAC25-840 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 Erosion and Sediment Control Regulations have been changed from Title 10.1 to 62.1 and section references have been changed from 4VAC50-30 to 9VAC25-840 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 follow those found in 4VAC50-30 where possible to facilitate 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.

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
4VAC50-30	9VAC25-840	Chapter Number	Chapter Number revised from "Chapter 30" to Chapter <u>840</u> ". Title of chapter inserted: " <u>Erosion and Sediment Control Regulations</u> " Changes made to account for transfer of administration of program.
4VAC50-30-40 14	9VAC25-840-40 14	Minimum standards.	Correct terminology due to change in administration of program: "14. All applicable federal, state and local <del>chapters</del> <u>requirements</u> pertaining to working in or crossing live watercourses shall be met."
4VAC50-30-40 16 f	9VAC25-840-40 16 f	Minimum standards.	Correct terminology due to change in administration of program: "f. Applicable safety <del>chapters</del> <u>requirements</u> shall be complied with."
4VAC50-30-40 19 (1)	9VAC25-840-40 19 c (1)	Minimum standards.	Grammatical correction – insert missing word: "(1) Improve the channels to a condition where a ten-year storm will not overtop the banks and a two-year storm will not cause erosion to <u>the channel</u> , the bed or

			banks; or..."
4VAC50-30-40 19 n	9VAC25-840-40 19 n	Minimum standards.	Correct reference title: "n. Compliance with the water quality minimum standards set forth in <del>4VAC50-60-66</del> 9VAC25-87-66 of the Virginia Stormwater Management Program (VSMP) <del>Permit</del> Regulations shall be deemed to satisfy the requirements of Minimum Standard 19."
4VAC50-30-50	9VAC25-840-50	Variances.	Correct terminology due to change in administration of program: "The VESCP authority may waive or modify any of the <del>chapters requirements</del> that are deemed inappropriate or too restrictive for site conditions..."
4VAC50-30-80 A	9VAC25-840-80 A	Criteria for determining status of land-disturbing activity.	Grammatical change – correct term used: "A. The program administrator shall determine the validity of a claim of exempt status by a property owner who disturbs 10,000 square feet or more or 2,500 square feet or more in all <del>area areas</del> of jurisdictions designated..."
4VAC50-30-90 A 2	9VAC25-840-90 A 2	Review and evaluation of VESCPs: minimum program standards.	Correct terminology due to change in administration of program: "2. The document or documents...must include the <del>chapters requirements</del> and design standards to be used..."
4VAC50-30-90 B	9VAC25-840-90 B	Review and evaluation of VESCPs: minimum program standards.	Revise to clarify requirements and to conform to common practice: "B. The department shall periodically conduct a comprehensive review and evaluation of local programs. <u>The department will coordinate the review with its other program reviews for the same entity to avoid redundancy.</u> The review and evaluation of a local program shall consist of the following: (i) <del>persona interview between the department staff and consultation with the</del> local program administrator..."
4VAC50-30-90 D	9VAC25-840-90 D	Review and evaluation of VESCPs: minimum program standards.	Grammatical correction: "D. If deficiencies noted in the review will cause the erosion and sediment control program to be inconsistent with the state program and <del>chapters this chapter</del> , the board shall provide..." Text revised to clarify requirements and to conform to common practice: "...the board shall provide the VESCP authority with a copy of its decision that specifies the deficiencies, action needed to be taken, and <del>the an approved compliance corrective action plan and</del> schedule required to attain the minimum standard of effectiveness. If the VESCP authority has not implemented the necessary compliance actions identified by the board with <del>30 days following receipt of the corrective action agreement schedule</del> , or such additional period...The Administrative Process

			Act...shall govern the <u>review</u> activities and proceedings of the board..."
	9VAC25-840-120		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" - Erosion and Sediment Control Law
- "VESCP" - Virginia Erosion and Sediment Control Program
- "VSMP" - Virginia Stormwater Management Program