



Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation	9VAC25-840-65
Regulation title	Erosion and Sediment Control Regulations
Action title	<i>Incorporation of statutory changes related to reporting requirements under the Erosion and Sediment Control Regulations</i>
Final agency action date	June 26, 2014
Document preparation date	June 26, 2014

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, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

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.

The purpose of this regulatory action is to incorporate statutory changes made to § 62.1-44.15:34 A by HB 1173 and SB 423 during the 2014 General Assembly session related to the schedule for reporting of approvals pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:52 et seq.) to begin land disturbance of one acre or greater to the Department at least monthly.

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 Board at its meeting on June 26, 2014 adopted the amendments to 9VAC25-840.

Public comment

Please summarize all comments received during the public comment period and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Paul Shirey, P.E., Director, Code Development and Compliance Division, Fairfax County .	9VAC25-840-65 Reporting. The reporting requirement in the proposed regulation goes beyond the statutory requirement in §62.1-44.15:34 of the act passed by the General Assembly (Chapters 303 and 598 of the 2014 Acts of Assembly). Under the statute, reporting is not required for VESCP authorities that are also VSMP authorities and reporting is required only for land-disturbing activities equal to or greater than one (1) acre. It would be redundant to require reporting from VSMP authorities which cannot approve land-disturbing activity without evidence of state permit coverage. The proposed regulation should be revised to match the requirements of the act.	The proposed change to the Erosion and Sediment Control Regulation (9VAC25-840-65) reflects the statutory change in the Virginia Stormwater Management Program (VSMP) Regulation (§62.1-44.15:34) while retaining the reporting requirements for all VESCP authorities set forth in the Erosion and Sediment Control Law (§62.1-44.15:59).

Enter any other statement here

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.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC25-840-65		Reporting.	Each VESCP authority shall report to the department, <u>at least monthly</u> , in a method such as an online reporting system and on a time schedule established by the department, a listing of each land-disturbing activity for which a plan has been approved by the VESCP authority under the Act and this chapter.

Enter any other statement here

Regulatory flexibility analysis

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.

This action is being taken as a result of a statutory change and will conform the regulation to the Code of Virginia.

Family impact

Please assess the 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.

It is not anticipated that this regulatory action will have any impact on the institution of 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;
HB – House Bill;
SB – Senate Bill; &
VESCP – Virginia Erosion and Sediment Control Program