



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Soil and Water Conservation Board
Virginia Administrative Code (VAC) citation	4 VAC 50-85 (prior to action 4 VAC 5-15)
Regulation title	Nutrient Management Training and Certification Regulations
Action title	Renumbering through an exempt action the Department of Conservation and Recreation's Nutrient Management Training and Certification Regulations (4 VAC 5-15) and transferring this set of regulations to a new Chapter under the Virginia Soil and Water Conservation Board (4 VAC 50-85) in accordance with Chapters 593 and 658 of the 2013 Virginia Acts of Assembly.
Final agency action date	December 11, 2013
Document preparation date	December 29, 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, 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.

House Bill 2209 and Senate Bill 1309 (Chapters 593 and 658 of the 2013 Virginia Acts of Assembly respectively) transferred the authority for the promulgation of the Nutrient Management Training and Certification Regulations from the Department of Conservation and Recreation to the Virginia Soil and Water Conservation Board effective July 1, 2013. This exempt action re-numbers the regulations to accomplish this transfer (4VAC5-15-10 et seq. to 4VAC50-85-10 et seq.)

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.

On December 11, 2013, the Virginia Soil and Water Conservation Board approved, authorized, and directed the filing of these amendments to the Nutrient Management Training and Certification Regulations [4 VAC 50-85 (formerly 4 VAC 5-15)] as an exempt action. The Board noted that their authorization extends to, but is not limited to, the drafting of the documents and documentation as well as the coordination necessary to gain approvals from the Virginia Registrar of Regulations for the publication of this final regulatory action.

The action is exempt from the Administrative Process Act pursuant to Enactment Clause 3 of Chapters 593 and 658 of the 2013 Virginia Acts of Assembly (See legislation excerpts below).

Relevant excerpts from Chapters 593 and 658 of the 2013 Virginia Acts of Assembly include the following:

§ 10.1-104.2. Voluntary nutrient management training and certification program.

D. ~~The Department~~ Virginia Soil and Water Conservation Board shall, with the approval of the Virginia Soil and Water Conservation Board, adopt regulations:

1. Specifying qualifications and standards for individuals to be deemed competent in nutrient management plan preparation, and providing for the issuance of documentation of certification to such individuals;
2. Specifying conditions under which a certificate issued to an individual may be suspended or revoked;
3. Providing for criteria relating to the development of nutrient management plans for various agricultural and urban agronomic practices, including protocols for use by laboratories in determining soil fertility, animal manure nutrient content, or plant tissue nutrient uptake for the purpose of nutrient management;
4. Establishing fees to be paid by individuals enrolling in the training and certification programs;
5. Providing for the performance of other duties and the exercise of other powers by the Director as may be necessary to provide for the training and certification of individuals preparing nutrient management plans; and
6. Giving due consideration to relevant existing agricultural certification programs.

§ 10.1-505. Duties of Board.

In addition to other duties and powers conferred upon the Board, it shall have the following duties and powers:

10. To adopt regulations (i) for the operation of the voluntary nutrient management training and certification program as required by § 10.1-104.1 and (ii) that amend the application rates in the Virginia Nutrient Management Standards and Criteria as required by § 10.1-104.2:1.

Enactment Clauses

2. That the regulations adopted by the Department of Conservation and Recreation and directed for transfer from the Department of Conservation and Recreation to the Virginia Soil and Water Conservation Board in accordance with this act shall remain in full force and effect until transferred to the Virginia Soil and Water Conservation Board.

3. That the initial actions of the Virginia Soil and Water Conservation Board to adopt, with necessary amendments, the nutrient management training and certification regulations transferred by this act from the Department of Conservation and Recreation to the Board shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia. Such regulations shall remain in full force and effect until altered, amended, or rescinded by the Virginia Soil and Water Conservation Board.

4. That after the transfer of the nutrient management training and certification program, if the Virginia Soil and Water Conservation Board determines that additional amendments to the regulations are necessary solely to enable implementation of the program in accordance with this act, the regulatory actions necessary shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia except that the Board shall provide an opportunity for public comment on the regulatory actions.

5. That guidance of the Department of Conservation and Recreation relating to the regulations to be transferred by this act shall remain in effect until amended or repealed.

6. That any regulatory action initiated prior to the effective date of this act by the Department of Conservation and Recreation to amend the regulations being transferred by this act shall be continued by the Virginia Soil and Water Conservation Board at the time of the transfer of the regulations. Any regulatory action to amend the regulations being transferred that is initiated by the Department of Conservation and Recreation on and after the effective date of this act may be continued by the Virginia Soil and Water Conservation Board.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

It is not anticipated that this regulatory action will have a direct impact on the institution of the family or family stability.