



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-31 9VAC25-115 9VAC25-151 9VAC25-210 9VAC25-830 9VAC25-890 9VCA25-900
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Seafood Processing Facilities Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity Virginia Water Protection Permit Regulation Chesapeake Bay Preservation Area Designation and Management Regulations Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s) Certification of Nonpoint Source Nutrient Credits
Action title	Citation updates in response to consolidation of Stormwater regulations and revisions to the Code of Virginia
Final agency action date	June 25, 2024
Date this document prepared	April 30, 2024

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.

These amendments are necessary to update citations to reference the Virginia Erosion and Stormwater Management Regulation 9VAC25-875 that becomes effective July 1, 2024. Changes are also being made to State Water Board regulations to reflect changes to the Code of Virginia that become effective July 1, 2024.

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.”

Effective July 1, 2024, the current 9VAC25-840 Erosion and Sediment Control Regulations, 9VAC25-850 Erosion and Sediment Control and Stormwater Management Certification Requirements, and 9VAC25-870 Virginia Stormwater Management Program (VSMP) Regulation will be repealed and replaced with the consolidated stormwater regulations, the Virginia Erosion and Stormwater Management Regulation 9VAC25-875.

These amendments are necessary to update citations in State Water Control Board regulations to reference the Virginia Erosion and Stormwater Management Regulation 9VAC25-875 that becomes effective July 1, 2024, and are exempt from the state administrative procedures for adoption of regulations because they consist only of changes in style or form or corrections of technical errors (§ 2.2-4006 A 3 of the Code of Virginia).

Changes to the Code of Virginia relating to the stormwater and erosion and sediment control program also become effective July 1, 2024. (Chapters 68 and 758 of the 2016 Acts of Assembly.) Amendments are being made to State Water Board regulations to reflect changes to the Code of Virginia that become effective July 1, 2024. Section 2.2-4006 A 4 a of the Code of Virginia exempts changes to regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved.

Amendments to the regulations include the following:

- Updating citations referencing 9VAC25-840 with the applicable citation to 9VAC25-875;
- Updating citations referencing 9VAC25-870 with the applicable citation to 9VAC25-875;
- Updating the name of 9VAC25-875;
- Correcting the website address for the Virginia Stormwater BMP Clearinghouse;
- Correcting the name of Article 2.3 of Chapter 3.1 of the Code of Virginia to the Virginia Erosion and Stormwater Management Act;
- Correcting the name of Article 2.4 of Chapter 3.1 of the Code of Virginia to the Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program; and
- Revising terminology to comply with state law requirements.

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) the name of the agency taking the action; and 3) the title of the regulation.

On June 25, 2024, the State Water Control Board approved final amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31); Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Seafood Processing Facilities (9VAC25-115); Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity (9VAC25-151); Virginia Water Protection Permit Regulation (9VAC25-210); Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830); VPDES General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s) (9VAC25-890); and Certification of Nonpoint Source Nutrient Credits (9VCA25-900) and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.