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Exempt Action: Final Regulation Agency Background Document

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| Agency name | State Water Control Board |
| Virginia Administrative Code (VAC) Chapter citation(s) | 9 VAC 25-840 (repeal); 9 VAC 25-850 (repeal); 9 VAC 25-870 (repeal); 9VAC25-875 (new) |
| VAC Chapter title(s) | Erosion and Sediment Control Regulations (repeal); Erosion and Sediment Control and Stormwater Management Certification Regulations (repeal); Virginia Stormwater Management Program (VSMP) Regulation (repeal); Virginia Erosion and Stormwater Management Regulation (new) |
| Action title | Consolidation of Virginia Erosion Control and Stormwater Management Programs |
| Final agency action date | June 22, 2023 |
| Date this document prepared | May 15, 2023 |

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.

This regulatory action consolidates 9VAC25-840 (Erosion and Sediment Control Regulations), 9VAC25-850 (Erosion and Sediment Control and Stormwater Certification Regulations), and 9VAC25-870 (Virginia Stormwater Management Program Regulations) into a single regulatory chapter, the Virginia Erosion and Stormwater Management Regulation (9VAC25-875). Through consolidating these three chapters, the new regulation clarifies program requirements, eliminates redundancies, and corrects inconsistencies between erosion and sediment control regulations and stormwater management program regulations. No

substantive changes to existing erosion and sediment control minimum standards or to the post-construction stormwater management technical criteria are part of this regulatory action.

As a result of the creation of Chapter 875, this action also repeals Chapters 840, 850, and 870.

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.

Consolidation Bill: Chapters 758 and 68 of the 2016 Acts of Assembly (House Bill 1250, Senate Bill 673)

CGP: General VPDES Permit for Discharges of Stormwater from Construction Activities

DEQ (or Department): Department of Environmental Quality

EPA (U.S. EPA): United States Environmental Protection Agency

ESCL: Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program, Code of Virginia § 62.1-44.15:51 et seq.

NPDES: National Pollutant Discharge Elimination System

USC: United States Code

VAC: Virginia Administrative Code

VESCH: Virginia Erosion and Sediment Control Handbook

VESCP: Virginia Erosion and Sediment Control Program

VESMA: Virginia Erosion and Stormwater Management Act, Code of Virginia § 62.1-44.15:24 et seq.

VESMP: Virginia Erosion and Stormwater Management Program

VPDES: Virginia Pollutant Discharge Elimination System

VSMH: Virginia Stormwater Management Handbook

VSMP: Virginia Stormwater Management Program

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.”

Chapters 758 and 68 of the 2016 Acts of Assembly (House Bill 1250 and Senate Bill 673, the “Consolidation Bill”) amend the existing Stormwater Management Act and Virginia Erosion and Sediment Control Law to create the Virginia Erosion and Stormwater Management Act (VESMA) and Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program (ESCL). The VESMA combines erosion and sediment control program requirements and stormwater management program requirements into one program for localities that will be required or choose to administer a Virginia Erosion and Stormwater Management Program (VESMP). The ninth enactment in the Consolidation Bill directs the State Water Control Board (the Board) to adopt regulations to implement the requirements of the acts. Consistent with the Notice of Regulatory Action, the Virginia Erosion and Stormwater Management Regulation (9VAC25-875) consolidates and clarifies program requirements, eliminate redundancies, and correct inconsistencies between the Erosion and Sediment Control Regulations (9VAC25-840) and the Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870).

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 22, 2023, the State Water Control Board adopted the Virginia Erosion and Stormwater Management Regulation (9VAC25-875) as final regulations with an effective date of July 1, 2024, and repealed the current Erosion and Sediment Control Regulations (9VAC25-840); Erosion and Sediment Control and Stormwater Certification Regulations (9VAC25-850); and Virginia Stormwater Management Program Regulation (9VAC25-870) effective July 1, 2024, and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration and revision. The Board approved an errata sheet with corrections to the final regulatory language at their meeting on August 23, 2023.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

(1) The content of the stormwater regulations continues to be needed. The regulations address stormwater management requirements that are necessary to protect the health and safety of citizens of the Commonwealth. The Board initiated this regulatory action at the direction of the Virginia General Assembly to consolidate and clarify program requirements, eliminate redundancies, and correct inconsistencies between the erosion and sediment control and stormwater management program regulations.

(2) The comments received on the NOIRA for this action focused primarily on suggestions for how the consolidated regulation should be organized and considering updates to make defined terms and program requirements clearer. Additional comments were received about specific technical requirements, but those comments are outside of the scope of this action. No comments were submitted that raised concerns that this action would create additional burdens on small businesses or the regulated community.

(3) This regulation reflects the complex nature of the stormwater and erosion and sediment control laws, which create three types of oversight (VESMP, VSMP, and VESCP authorities) and combine elements of the erosion and sediment control program, which originated under the Soil Conservation Districts Law in 1973, and the stormwater management program which became law in 1989 and is based, in part, on federal requirements in the Clean Water Act. This regulatory action is a result of the Consolidation Bill and, through the promulgation of Chapter 875, and repeal of Chapters 840, 850, and 870, the department attempted to alleviate some of the complexity in the regulatory programs by organizing Chapter 875 into

separate parts that allow regulated parties to access only the parts of the regulation that apply to them. Of potential value to small businesses, Chapter 875 separates the technical criteria that apply to owners and operators into Part V of the regulation. These provisions had previously been intermixed with requirements applying to local authorities. This should make the regulation easier to use and bring greater clarity about what is required.

(4) These regulations do not overlap, duplicate, or conflict with state or federal laws or regulations. The existing regulations did cause confusion concerning requirements of the erosion and sediment control requirements and stormwater management program requirements. The consolidated regulation provides a single state regulation for the regulated community to reference to comply with erosion and sediment control and stormwater management program requirements.

(5) This regulation was last updated in 2022 to implement legislative changes. The content of this regulation is being reorganized into a single chapter to locate all requirements related to erosion and sediment control and stormwater management into a single regulation. Through consolidation of the three chapters, the new regulation clarifies program requirements, eliminates redundancies, and corrects inconsistencies between erosion and sediment control regulations and stormwater management program regulations. No substantive changes to existing erosion and sediment control minimum standards or to the post-construction stormwater management technical criteria are part of this regulatory action. As such, this regulatory action should have minimal economic impact on small businesses.

Public Comment

Summarize all comments received during the NOIRA public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

| Commenter | Comment | Agency response |
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| David Nunally, Caroline County | Focus on the WIP III 2025 target date, so that we can focus on achieving results rather than dealing with constant changes. | Chapter 875 will become effective on July 1, 2024, which is ahead of the WIP III 2025 target date. |
| | Propose regulations that facilitate water quality improvement projects to reduce pollution versus BMPs to offsite [sic] increased pollutant loads from new development. | BMP development and enhancements are out of the scope of this regulatory update; however, the department is in the process of updating the non-proprietary BMP specifications in the Virginia BMP Clearinghouse. |
| | Caroline County has drafted a consolidated ordinance-type document following basic program functions and recommends considering this organization for the final regulations: administration, plan review and approval, inspection, and enforcement. | The department considered multiple organization strategies during the regulatory process. Chapter 875 organizes the parts of the regulation around the most likely end user for each part (ex., VESMP authority, VESCP authority, regulated community, etc.). |
| | The County requests that the regulations allow for "local option or | Wherever possible, the department preserved discretion for local authorities to |

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| | <p>alternatives that would best serve each locality." Examples of "SWM-lite" and alternative ESC inspection program were provided.</p> | <p>organize and run their programs in a way that works best for them.</p> |
| | <p>The County requests clarification on "agricultural buildings, roads, and engineering practices (ESC vs SWM), buffer requirements (CBPA vs CGP stream buffers statewide), wetland permits (VWP vs USACOE), and a clear "lead" authority for erosion control on construction projects."</p> | <p>The department resolved conflicts and contradictions that existed between the erosion and sediment control and stormwater management programs, to the extent possible. However, substantive changes to the definitions, buffer requirements, and other existing regulatory requirements that are not in the VESMA or ESCL are beyond the scope of this regulatory action. The department may issue guidance, consistent with requirements in the Administrative Process Act, to provide further clarification about the issues identified in this comment.</p> |
| Chris Swanson, VDOT | <p>The RAP should clarify the requirements of projects operating under standards and specifications. Specific elements should include identifying and eliminating redundancies and or conflicting provisions for construction inspection and addressing more stringent local criteria.</p> | <p>The final regulation clarifies the standards and specifications by organizing standards and specifications program by compiling program requirements into its own regulatory part. In addition, throughout the regulation, the department sought to eliminate redundancies and conflicting provisions wherever possible.</p> |
| | <p>The RAP should clarify the definition and requirements for routine maintenance as it relates to coverage under the VPDES General Permit for discharges of stormwater from construction activities (CGP or state general permit).</p> | <p>The final regulation addresses the issue of conflicting definitions by creating one definitions section that applies to the entire Chapter 875. Where a word or term has a meaning that is unique to a specific part, it is defined in a definitions section for that part. Additional definitions and requirements are in the regulation for the CGP, 9VAC25-880.</p> |
| Richard Jacobs, Culpeper Soil and Water Conservation District | <p>There has been a tendencies [sic] to apply VESCP criteria to VSMP. For instance the 2- and 10-year channel criteria was intended for temporary drainage structures used only during the construction phase of a project. Stormwater management facilities and permanent drainage ditches should be designed on their expected life span (i.e. 10-year design storm for velocity and capacity).</p> | <p>The final regulation addresses this issue by organizing Chapter 875 into parts and articles that clearly delineate between erosion and sediment control and stormwater management requirements.</p> |
| | <p>The VESCH desperately needs to be updated. Sediment Basins and Trap designs need to be updated to include the many configurations</p> | <p>Updates to the Virginia Erosion and Sediment Control Handbook (VESCH, 1992) and Virginia Stormwater Management Handbook (VSMH, 1999) are outside of the</p> |

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| | <p>and stormwater facility conversion. Seeding specifications should be updated to include soil testing and fertilizing requirements consistent with the Nutrient Management Program. Channel Lining and slope stabilization materials and specifications needs clarification. Channel design needs to be improved.</p> | <p>scope of the regulatory action. The department is reviewing both handbooks and other manuals and guidance to produce a new Virginia Stormwater Management Handbook.</p> |
| | <p>The VSMH and the Clearinghouse Specifications needs to be finalized. Having two different sets of specifications make [sic] no sense. The newer specifications should override the older ones. I hope this NOIRA will address these guidance documents.</p> | <p>VESCH and VSMH updates are outside of the scope of the regulatory action, however, the department is reviewing these items for any needed updates and is in the process of updating the non-proprietary BMP specifications in the Virginia BMP Clearinghouse.</p> |

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

The regulator action includes the repeal of 9VAC25-840 (Erosion and Sediment Control Regulations), 9VAC25-850 (Erosion and Sediment Control and Stormwater Certification Regulations), and 9VAC25-870 (Virginia Stormwater Management Program Regulations).

A new regulation Chapter 875 has been created to consolidate and clarify program requirements, eliminate redundancies, and correct inconsistencies between the erosion and sediment control and stormwater management program regulations.

| <p>New chapter-section number, if applicable</p> | <p>Previous chapter-section number(s)</p> | <p>Current requirements in VAC</p> | <p>Change, intent, rationale, and likely impact of updated requirements</p> |
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| <p>9VAC25-875-10</p> | <p>None</p> | <p>None</p> | <p>New section. This section provides clarity about which words and terms apply to which Parts of the regulation. The likely impact is improve navigation of the definition sections in Chapter 875.</p> |

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| <p>9VAC25-875-20</p> | <p>9VAC25-840-10; 9VAC25-850-10; 9VAC25-870-10; and §§ 62.1-44.15:24 & 51 of the Code of Virginia</p> | <p>Definitions.</p> | <p>This section combines definitions from Chapter 840, Chapter 870, Chapter 850, and §§ 62.1-44.3, 62.1-44.15:24, and 62.1-44.15:51 of the Code of Virginia that are applicable in all parts of Chapter 875.</p> <p>The following terms have been added or revised to be consistent with the law:</p> <ul style="list-style-type: none"> • “Agreement in lieu of a plan” • “Applicant” • “Erosion impact area” • “Land disturbance” or “land-disturbing activity” • “Land-disturbance approval” • “Municipal separate storm sewer system” • “Natural channel design concepts” • “Owner” • “Permit” • “Permittee” • “Soil erosion” • “Soil Erosion Control and Stormwater Management plan” or “plan” • “Virginia Erosion and Sediment Control Program” or “VЕСP” • “Virginia Erosion and Sediment Control Program authority” or “VЕСP authority” • “Virginia Erosion and Stormwater Management Program” or “VЕСMP” • “Virginia Erosion and Stormwater Management Program authority” or “VЕСMP authority” • “Virginia Stormwater Management Program” or “VSMР” • “Virginia Stormwater Management Program authority” or “VSMР authority” • “Water quality technical criteria” |
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| | | | <ul style="list-style-type: none"> • “Water quantity technical criteria” <p>The following terms have been removed because they are no longer part of the statute:</p> <ul style="list-style-type: none"> • “Chesapeake Bay Preservation Act land-disturbing activity” • “State permit” <p>The following terms have been added or revised to define terms in the body of the regulation that are new or changed with the statute:</p> <ul style="list-style-type: none"> • “Adequate channel”- Definition from 9VAC25-840-10 has been replaced with the definition from 9VAC25-870-93. This was done to create consistency and eliminate confusion with the use of “watercourse,” which is an undefined term. • “Certified inspector for ESC”- Name of this term altered to create distinction between ESC and SWM. • “Certified inspector for SWM”- Name of this term altered to create distinction between ESC and SWM. • “Certified plan review for ESC”- Name of this term altered to create distinction between ESC and SWM. • “Certified plan review for SWM”- Name of this term altered to create distinction between ESC and SWM. • “Certified program administrator for ESC”- Name of this term altered to create distinction between ESC and SWM. • “Certified program administrator for SWM”- Name of this term altered to create distinction between ESC and SWM. • “Combined administrator for ESC”- altered to account for |
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| | | | <p>the ESC component of a VESMP authority.</p> <ul style="list-style-type: none"> • “Combined administrator for SWM”- altered to account for the SWM component of a VESMP authority. • “Dual combined administrator for ESC and SWM”- new definition to account for a single person performing combined duties for a VESMP authority. • “Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Plan” or “ESCL”- Renames “Erosion and Sediment Control Law” and “ESC act” to reflect changes in statute. • “Inspector”- added to provide clarity. • “Soil Erosion Control and Stormwater Management Plan” or “ESM plan”- added language to clarify that an ESM plan may consist of aspects of an ESC and SWM plan. • “Stormwater management plan”- removed unnecessary reference to agreement in lieu of a plan, as that term is defined elsewhere. • “Virginia Erosion and Stormwater Management Act” or “VESMA”- added to account for the new consolidated statute, which replaces the “Stormwater Management Act.” <p>All other definitions in this section remain unchanged or have minor changes to reflect new citations and references created by the naming and numbering scheme of Chapter 875 and the State Water Control Law.</p> |
| 9VAC25-875-30 | 9VAC25-870-15 | Applicability of incorporated references based on the dates that they became effective. | Updates date of incorporation of federal regulations. |

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| 9VAC25-875-40 | 9VAC25-870-10 | Definitions. | <p>This section contains definitions that apply only to Part II of Chapter 875, which lays out the requirements for Virginia Erosion and Stormwater Management Programs.</p> <p>Definitions in this section remain unchanged or have minor changes to reflect new citations and references created by the naming and numbering scheme of Chapter 875 and the State Water Control Law.</p> |
| 9VAC25-875-50 | 9VAC25-870-20; and 9VAC25-840-20 | Purpose. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect naming and numbering schemes in statute and this chapter.</p> |
| 9VAC25-875-60 | 9VAC25-870-30; and 9VAC25-840-30 | Applicability. | <p>Changes to this section simplify the applicability requirements of 9VAC25-870-30.</p> <p>The intent of these changes is to provide a simple guide to users of this regulation about which entities Part II of this chapter applies to.</p> |
| 9VAC25-875-70 | § 62.1-44.15:34 E of the Code of Virginia | Regulated land-disturbing activities. | <p>This is a new section that incorporates the requirements of § 62.1-44.15:34 E of the Code of Virginia, which contains new statutory requirements that apply to land-disturbing activities in Virginia.</p> <p>At the request of TAC members, additional language specifying the circumstances under which an agreement in lieu of a plan may be used for single family detached residential structures was added. The intent of this addition is to add clarity to where agreements in lieu of a plan may be used as a substitute for an erosion and sediment control plan.</p> |
| 9VAC25-875-80 | 9AVC25-870-103 | Requirements for Chesapeake Bay Preservation Act land-disturbing activities. | Change to location and citation of this section due to the consolidation |

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| | | | <p>of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Regulatory citations have been updated to reflect the creation of Chapter 875.</p> <p>Change of the phrase “Chesapeake Bay Preservation Act land-disturbing activity” to “land-disturbing activity in a Chesapeake Bay Preservation Area.” This change as made to reflect the removal of “Chesapeake Bay Preservation Act land-disturbing activity” as a defined term in the VESMA. This update is not anticipated to have an impact on regulated entities.</p> |
| 9VAC25-875-90 | §§ 62.1-44.15:34 F and G of the Code of Virginia | Activities not required to comply with the VESMA. | New regulatory section created to incorporate new statutory language created by Chapters 758 and 68 of the 2016 Acts of Assembly. The impact of this update is to detail activities that are not required to comply with VESMA unless otherwise required by federal law. |
| 9VAC25-875-100 | <p>9VAC25-870-104;</p> <p>9AVC25-870-106;</p> <p>§ 62.1-44.15:26.1 of the Code of Virginia; and</p> <p>§ 62.1-44.15:27 H of the Code of Virginia</p> | <p>Criteria for programs operated by a VSMP authority; and</p> <p>Additional requirements for VSMP authorities.</p> | <p>Changes were made to this section to combine the requirements of 9VAC25-870-104, 9VAC25-870-106, and §§ 62.1-44.15:26.1 and 62.1-44.15:27 H of the Code of Virginia into a single regulatory section.</p> <p>This new section provides a comprehensive list of the criteria required for erosion and stormwater management programs operated by a VESMP authority.</p> |
| 9AVC25-875-110 | <p>9VAC25-870-108;</p> <p>§ 62.1-44.15:34 of the Code of Virginia;</p> <p>§ 62.1-44.15:35 D of</p> | Stormwater management plan review. | This section in Chapter 875 replaces 9VAC25-870-108 with statutory language from §§ 62.1-44.15:34, 62.1-44.15:35 D, and 62.1-44.15:50 of the Code of Virginia. This makes the new plan review requirements section compliant with new statutory language and provides a more comprehensive breakdown of |

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| | <p>the Code of Virginia; and</p> <p>§ 62.1-44.15:50 of the Code of Virginia;</p> | | <p>requirements than existed in Chapter 870.</p> |
| 9VAC25-875-120 | <p>§ 62.1-44.15:27 B 2 of the Code of Virginia; and</p> <p>§ 62.1-44.15:34 A 2 of the Code of Virginia</p> | <p>Plan review coordination with the department.</p> | <p>New regulatory section created to incorporate new statutory language created by Chapters 758 and 68 of the 2016 Acts of Assembly. The impact of this update is to allow VESMP authorities to coordinate the plan review component of their programs with the department.</p> |
| 9VAC25-875-130 | 9VAC25-870-112 | <p>Long-term maintenance of permanent stormwater management facilities.</p> | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Subsections B and C have been copied from 9VAC25-870-112. The old subsection C from 9VAC25-870-112 has been removed.</p> <p>Subsection A of this new section is new language that was developed in coordination with DPOR to reflect requirements applicable with professional licensing.</p> |
| 9VAC25-875-140 | <p>9VAC25-870-114; and</p> <p>9VAC25-840-60</p> | <p>Inspections; and</p> <p>Maintenance and inspections.</p> | <p>Combines the maintenance and inspection sections from 9VAC25-840 and 9VAC25-870 into a single inspections section for VESMP authorities. The intent of this change is to capture the maintenance and inspection requirements from both erosion and sediment control programs and stormwater management programs under a combined erosion and stormwater management program.</p> <p>Regulatory citations are updated to reflect the creation of Chapter 875.</p> <p>References to VESCP authority and VSMP authority are updated to reflect the creation of VESMP authority.</p> |

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| | | | No changes have been made to the requirements in this section. |
| 9VAC25-875-150 | 9VAC25-870-116; § 62.1-44.15:48 of the Code of Virginia; and § 62.1-44.15:49 of the Code of Virginia | Enforcement. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. References to VESCP authority and VSMP authority are updated to reflect the creation of VESMP authority. Removes a subsection detailing maximum penalties and listing types of violations and replaces this language with a citation directly to the Code of Virginia. This change cites to new statutory language that changes the minimum and maximum penalties for violations. |
| 9VAC25-875-160 | 9VAC25-870-118 | Hearings. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. Updates citations to the Code of Virginia to reflect changes made by Chapters 758 and 68 of the 2016 Acts of Assembly. Changes references to the Stormwater Management Act to the VESMA to reflect the new name for Article 2.3 of the State Water Control Law. |
| 9VAC25-875-170 | 9VAC25-870-122; and 9VAC25-840-50 | Exceptions; and Variances. | Combines the variances section from 9VAC25-840 and exceptions section from 9VAC25-870 into a single variances and exceptions section for VESMP authorities. The intent of this change is to capture the variances and exceptions requirements from both erosion and sediment control programs and stormwater management programs under a combined erosion and stormwater management program. Regulatory citations are updated to reflect the creation of Chapter 875. |

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| | | | <p>References to VESCP authority and VSMP authority are updated to reflect the creation of VESMP authority.</p> <p>No changes have been made to the requirements in this section.</p> |
| 9VAC25-875-180 | <p>9VAC25-870-126; and</p> <p>9VAC25-840-65</p> | <p>Reports and recordkeeping; and</p> <p>Reporting.</p> | <p>Combines the reporting section from 9VAC25-840 and the reports and recordkeeping section from 9VAC25-870 into a single variances and exceptions section for VESMP authorities. The intent of this change is to capture the reporting and recordkeeping requirements from both erosion and sediment control programs and stormwater management programs under a combined erosion and stormwater management program.</p> <p>Regulatory citations are updated to reflect the creation of Chapter 875.</p> <p>References to VESCP authority and VSMP authority are updated to reflect the creation of VESMP authority.</p> <p>No changes have been made to the requirements in this section.</p> |
| 9VAC25-875-190 | <p>9VAC25-870-144; and</p> <p>9VAC25-840-90</p> | <p>Virginia stormwater management program review; and</p> <p>Review and evaluation of VESCPs: minimum program standards.</p> | <p>Change to location and citation of these sections due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations to the Code of Virginia to reflect changes made by Chapters 758 and 68 of the 2016 Acts of Assembly.</p> <p>References to VESCP authority and VSMP authority are updated to reflect the creation of VESMP authority.</p> <p>No changes have been made to the requirements in this section.</p> |
| 9VAC25-875-200 | § 62.1-44.15:27.1 of | Criteria for a VSMP. | Incorporates new statutory requirements for the department to administer a VSMP on behalf of |

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| | the Code of Virginia | | <p>localities that opt to not adopt a VESMP.</p> <p>New language in this section details the requirements under which the department will administer a VSMP and the schedule for stormwater management plan review and approval.</p> |
| 9VAC25-875-210 | 9VAC25-840-10 | Definitions. | <p>This section contains definitions that apply only to Part III of Chapter 875, which lays out the requirements for Virginia Erosion and Sediment Control Programs.</p> <p>“Agreement-in-lieu of a plan” definition has been updated to incorporate legislative changes from the 2023 General Assembly Session.</p> <p>All other definitions in this section remain unchanged or have minor changes to reflect new citations and references created by the naming and numbering scheme of Chapter 875 and the State Water Control Law.</p> |
| 9VAC25-875-220 | 9VAC25-870-20; and 9VAC25-840-20 | Purpose. | <p>Changes adopt the structure and language of 9VAC25-870-20 while ensuring that the content of 9VAC25-840-20 is maintained and the references are updated to reflect VESCP localities.</p> <p>The intent of these changes are to create consistency in the structure of sections between the VESMP and VESCP parts of the chapter.</p> <p>Language referencing standards and specifications was removed from this section as it is no longer relevant to VESCPs.</p> |
| 9VAC25-875-230 | 9VAC25-870-30; and 9VAC25-840-30 | Applicability. | <p>Changes to this section simplify the applicability requirements of 9VAC25-840-30.</p> <p>The intent of these changes is to provide a simple guide to users of this regulation about which entities Part III of this chapter applies to.</p> |

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| 9VAC25-875-240 | 9VAC25-840-80 | Criteria for determining status of land-disturbing activity. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect naming and numbering schemes in statute and this chapter.</p> |
| 9VAC25-875-250 | § 62.1-44.15:34 E of the Code of Virginia | Regulated land-disturbing activities. | <p>Incorporates new statutory requirements from § 62.1-44.15:34 E of the Code of Virginia.</p> <p>New language in this section details the requirements that apply to land-disturbing activities.</p> |
| 9VAC25-857-260 | 9VAC25-870-103 | Requirements for Chesapeake Bay Preservation Act land-disturbing activities. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect naming and numbering schemes in statute and this chapter.</p> <p>Removes language relating to the General VPDES Permit for Discharges of Stormwater from Construction Activities because these permits are not relevant to VESCPs.</p> |
| 9VAC25-875-270 | 9VAC25-840-100 | State agency projects. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect naming and numbering schemes in statute and this chapter.</p> <p>No changes have been made to the requirements in this section.</p> |
| 9VAC25-875-280 | § 62.1-44.15:55 F of the Code of Virginia | Activities not required to comply with the ESCL. | <p>Incorporates new statutory requirements from § 62.1-44.15:55 F of the Code of Virginia.</p> <p>New language in this section details the types of activities that are not required to comply with the requirements VESCP authorities.</p> |

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| 9VAC25-875-290 | § 62.1-44.15:54 of the Code of Virginia | Criteria for programs operated by a VESCP authority. | <p>Incorporates new statutory requirements from § 62.1-44.15:54 of the Code of Virginia.</p> <p>New language in this section details the required criteria for programs operated by a VESCP authority.</p> <p>At the request of TAC members, additional language specifying the circumstances under which an agreement in lieu of a plan may be used for single family detached residential structures was added. The intent of this addition is to add clarity to where agreements in lieu of a plan may be used as a substitute for an erosion and sediment control plan.</p> <p>In response to public comment, subsection G has been moved from the technical criteria Part to this section because it is more applicable to VESCPs.</p> |
| 9AVC25-875-300 | § 62.1-44.15:55 of the Code of Virginia | Plan review requirements. | This is a new section incorporating the new statutory language of § 62.1-44.15:55 of the Code of Virginia. |
| 9VAC25-875-310 | 9VAC25-840-45 | Department review of erosion and sediment control plans for solar projects. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes have been made to the requirements in this section.</p> |
| 9VAC25-875-320 | 9VAC25-870-58 | Responsibility for long-term maintenance of permanent stormwater management facilities. | This section was included in Part III of Chapter 875 to explain the reporting, enforcement, and compliance structure for entities having responsibility for long-term maintenance of stormwater management facilities in localities that operate as a VESCP authority. |
| 9VAC25-875-330 | 9VAC25-840-60 | Maintenance and inspections. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes have been made to the requirements in this section.</p> |

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| 9VAC25-875-340 | 9VAC25-870-116 | Enforcement. | <p>This is a new section for VESCPs that has been added to incorporate enforcement provisions from the ESCL. The structure of this section is based on the existing VSMP enforcement section from 9VAC25-870-116.</p> <p>Changes are made to the language to remove provisions that are not relevant to VESCPs and the statutory citations have been updated to cite the appropriate provisions from ESCL.</p> |
| 9VAC25-875-350 | 9VAC25-840-50 | Variances. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes have been made to the requirements in this section.</p> |
| 9VAC25-875-360 | 9VAC25-840-65 | Reporting. | <p>Change to location and citation of this section due to the consolidation Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect naming and numbering schemes in statute and this chapter.</p> <p>No changes have been made to the requirements in this section.</p> |
| 9VAC25-875-370 | 9VAC25-840-90 | Review and evaluation of VESCPs: minimum program standards. | <p>Change to location and citation of this section due to the consolidation Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>Minor language changes were made to improve clarity and readability, but no requirements were changed, added, or removed from this section.</p> |
| 9VAC25-875-380 | 9VAC25-850-20 | Purpose. | <p>Change to location and citation of this section due to the consolidation</p> |

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| | | | <p>of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes have been made to the language in this section.</p> |
| 9VAC25-875-390 | 9VAC25-850-30 | Applicability. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Local authority references were updated to make clear that staff of a VESCP authority, VSMP authority, or VESMP authority must be certified.</p> <p>Subsection 3 was added to make clear that personnel implementing approved standards and specifications are required to obtain certifications comparable to those of VESMP personnel. This is a current requirement in statute but was not previously a part of the regulations.</p> |
| 9VAC25-875-400 | 9VAC25-850-40 | Certificates. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Additional certifications were added to allow for the certification of personnel that carry out duties in the areas of both erosion and sediment control and stormwater management in VESMP localities.</p> <p>Additional language was added to each certification subsection to clarify which personnel are required to obtain which certifications in a VESCP, VSMP, or VESMP authority.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> |
| 9VAC25-875-410 | 9VAC25-850-50 | Eligibility requirements. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> |

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| | | | <p>Language was added to account for the additional certifications that may exist in a VESMP authority.</p> <p>Subsection 2 has been shortened and new language has been inserted to clarify that a passing examination score must be obtained within one year of completing a training program.</p> <p>Subsection D was added detail that a responsible land disturber certificate can be obtained and renewed through a department-approved training program.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> |
| 9VAC25-875-420 | 9VAC25-850-55 | Classification acknowledgment for the purposes of program compliance reviews. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-430 | 9VAC25-850-60 | Fees. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Responsible land disturber certificates were added to the list of certificates requiring a fee to be collected.</p> <p>Language was inserted providing the department discretion to authorize a fee refund.</p> |
| 9VAC25-875-440 | 9VAC25-850-70 | Examination. | <p>This section was changed to reflect that DEQ administers exams through a third party rather than developing and administering exams in house. These changes</p> |

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| | | | resulted in removing some of the language from this section. |
| 9VAC25-875-460 | 9VAC25-850-90 | Discipline of certified personnel. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>Minor modifications were made in the way the regulation references the individual holding a certification or certificate.</p> <p>No changes to the requirements of the section were made.</p> |
| 9VAC25-875-470 | 9VAC25-870-53 | Applicability. | <p>This section has been expanded to provide greater clarity on the types of land disturbing activities that Article 1 of Part V of Chapter 875 is applicable to.</p> <p>The section was reorganized into subsections A and B to make it easier to read and understand.</p> |
| 9VAC25-875-480 | 9VAC25-870-47 | Applicability of other laws and regulations; time limits on applicability of approved design criteria. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-490 | 9VAC25-870-48 | Grandfathering. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> |

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| | | | No changes were made to the requirements of this section. |
| 9VAC25-875-500 | 9VAC25-870-54 | Stormwater pollution prevention plan requirements. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-510 | 9VAC25-870-55 | Stormwater management plans. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>Subsection D of 9VAC25-870-55 has been relocated in the new regulations to the section on long-term maintenance of stormwater management facilities.</p> |
| 9VAC25-875-520 | 9VAC25-870-56 | Pollution prevention plans. | <p>Change to location and citation of this section due to the consolidation Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-530 | 9VAC25-870-59; and § 62.1-44.15:34 A of the Code of Virginia | Applying for state permit coverage. | <p>This section copies the language of 9VAC25-870-59 into a new section in Chapter 875.</p> <p>Statutory requirements from § 62.1-44.15:34 A of the Code of Virginia were added to further clarify what must be submitted when applying to permit coverage. This captures changes in statutory language created by Chapters 758 and 68 of the 2016 Acts of Assembly.</p> <p>At the request of TAC members, additional language specifying the</p> |

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| | | | <p>circumstances under which an agreement in lieu of a plan may be used for single family detached residential structures was added. The intent of this addition is to add clarity to where agreements in lieu of a plan may be used as a substitute for an erosion and sediment control plan.</p> |
| 9VAC25-875-535 | 9VAC25-870-112 | Long-term maintenance of permanent stormwater management facilities. | <p>This section has been copied from 9VAC25-875-130. It contains the same requirements as that section. This was added to Part V of Chapter 875 to help ensure operators understand what must be submitted to a VESMP authority.</p> |
| 9VAC25-875-540 | 9VAC25-840-30 | Scope and applicability. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>In response to public comment, 9VAC25-875-540 A was revised to remove references to specific local authorities. This greatly simplifies the section and makes clear that the minimum standards that operators must meet are applicable in all localities regardless of whether they are a VESMP or VESCP locality.</p> |
| 9VAC25-875-550 | 9VAC25-840-70; and § 62.1-44.15:55 B of the Code of Virginia. | Developments. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>Subsection A was revised to add language on the contents of an erosion and sediment control plan. This language comes from the definition of erosion and sediment control plan and was added here to</p> |

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| | | | <p>eliminate the need to refer back to the Definitions section.</p> <p>Subsection B was added to incorporate new statutory language of § 62.1-44.15:55 B of the Code of Virginia.</p> |
| 9VAC25-875-560 | 9VAC25-840-40 | Minimum standards. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-570 | 9VAC25-870-62 | Applicability. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>Language that was previously added to account for changes in the board's authority has been removed as it is no longer relevant.</p> |
| 9VAC25-875-580 | 9VAC25-870-63 | Water quality design criteria requirements. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>The requirement in 9VAC25-870-63 C that the department review water quality design criteria after completion of the 2017 Chesapeake Bay Phase III Watershed Implementation Plan was removed. This requirement is no longer relevant since the deadline has passed.</p> |

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| 9VAC25-875-590 | 9VAC25-870-65 | Water quality compliance. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-600 | 9VAC25-870-66 | Water quantity. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-610 | 9VAC25-870-69; and § 62.1-44.15:35 of the Code of Virginia | Offsite compliance options. | <p>This change replaces the offsite compliance options section of Chapter 870 with new statutory language detailing the use of offsite compliance options.</p> <p>This language was added to the regulation to make it easier for operators to find the necessary information.</p> |
| 9AVC25-875-620 | 9VAC25-870-72 | Design storms and hydrologic methods. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9AVC25-875-630 | 9VAC25-870-74 | Stormwater harvesting. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> |

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| | | | No changes were made to the requirements of this section. |
| 9AVC25-875-640 | 9VAC25-870-76 | Linear development projects. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. No changes were made to the requirements of this section. |
| 9AVC25-875-650 | 9VAC25-870-85 | Stormwater management impoundment structures or facilities. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter. No changes were made to the requirements of this section. |
| 9AVC25-875-660 | 9VAC25-870-92 | Comprehensive stormwater management plans. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter. No changes were made to the requirements of this section. |
| 9VAC25-875-670 | 9VAC25-870-93 | Definitions. | This section contains definitions that apply only to Article IV of Part II of Chapter 875, which lays out the requirements for water quantity and water quality technical criteria for grandfathered projects and time limits of applicability projects. Definitions in this section remain unchanged or have minor changes to reflect new citations and references created by the naming and numbering scheme of Chapter 875 and the State Water Control Law. |

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| <p>9AVC25-875-680</p> | <p>9VAC25-870-94</p> | <p>Applicability.</p> | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| <p>9AVC25-875-690</p> | <p>9VAC25-870-95</p> | <p>General.</p> | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| <p>9AVC25-875-700</p> | <p>9VAC25-870-96</p> | <p>Water quality.</p> | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>Subsection E was added to this section to capture the newly created section 9VAC25-875-610, which outlines the use of offsite nutrient credits.</p> |
| <p>9AVC25-875-710</p> | <p>9VAC25-870-97</p> | <p>Stream channel erosion.</p> | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |

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| 9AVC25-875-720 | 9VAC25-870-98 | Flooding. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9AVC25-875-730 | 9VAC25-870-99 | Regional (watershed-wide) stormwater management plans. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-740 | 9VAC25-870-51 | Chesapeake Bay Preservation Act land-disturbing activity. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-750 | 9VAC25-870-52; and § 62.1-44.15:27.2 of the Code of Virginia | Chesapeake Bay Preservation Act land-disturbing activities in rural Tidewater localities. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>Adds statutory language from and cites to § 62.1-44.15:27.2 of the Code of Virginia, which provides the requirements for a locality that elects to use tiered water quantity control standards.</p> |

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| 9VAC25-875-760 | § 62.1-44.15:34 of the Code of Virginia | Soil erosion control and stormwater management for land-disturbing activities. | <p>This is a newly created section that incorporates the statutory language of § 62.1-44.15:34 A 3 of the Code of Virginia. This stipulates the requirements for state agencies and federal entities to submit soil erosion control and stormwater management plans.</p> <p>The language of this section is taken directly from code.</p> |
| 9VAC25-875-770 | 9VAC25-840-100 | State agency projects. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-780 | 9VAC25-870-180 | Administrative procedures: stormwater management permit applications. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>Subsection A from 9VAC25-870-180 has been removed from this section in Chapter 875. This subsection was removed because it is no longer applicable in Part V of Chapter 875.</p> |
| 9VAC25-875-790 | 9VAC25-870-200 | Administrative procedures: maintenance and inspections. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-800 | 9VAC25-870-210 | Reporting on stormwater management. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> |

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| | | | <p>Updates citations and references to reflect new statutory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-810 | <p>9VAC25-870-160; and</p> <p>§ 62.1-44.15:34 A 3 b of the Code of Virginia</p> | Technical criteria and requirements for state projects. | The language in this section has been changed to comply with new statutory language in § 62.1-44.15:34 A 3 of the Code of Virginia. |
| 9VAC25-875-820 | None | Applicability. | This is a new section created by the department to clarify the entities to which Part VI of Chapter 875 applies. |
| 9VAC25-875-830 | § 62.1-44.15:31 of the Code of Virginia | Standards and specifications for state agencies, federal entities, and other specified entities. | This is a new section that was created to incorporate new statutory language from § 62.1-44.15:31 of the Code of Virginia. The language of this section is taken directly from statute. |
| 9VAC25-875-850 | 9VAC25-870-10 | Definitions. | <p>This section contains definitions that apply on to Part VII of Chapter 875, which lays out the requirements for Virginia Pollutant Discharge Elimination System (VPDES) Permits.</p> <p>Definitions in this section remain unchanged or have minor changes to reflect new citations and references created by the naming and numbering scheme of Chapter 875 and the State Water Control Law.</p> |
| 9AVC25-875-860 | 9VAC25-870-300 | Exclusions. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the language or requirements of this section.</p> |
| 9AVC25-875-870 | 9VAC25-870-310 | Prohibitions. | Change to location and citation of this section due to the consolidation |

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| | | | <p>of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates citations and references to reflect new regulatory citations and the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9AVC25-875-880 | 9VAC25-870-320 | Effect of a state permit. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9AVC25-875-890 | 9VAC25-870-330 | Continuation of expiring state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9AVC25-875-900 | 9VAC25-870-340 | Confidentiality of information. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9AVC25-875-910 | 9VAC25-870-350 | Guidance documents. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9AVC25-875-920 | 9VAC25-870-360 | Application for a state permit. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> |

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| | | | No changes were made to the requirements of this section. |
| 9AVC25-875-930 | 9VAC25-870-365 | Permit rationale. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. No changes were made to the requirements of this section. |
| 9AVC25-875-940 | 9VAC25-870-370 | Signatories to state permit applications and reports. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. No changes were made to the requirements of this section. |
| 9AVC25-875-950 | 9VAC25-870-380 | Stormwater discharges. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. No changes were made to the requirements of this section. |
| 9AVC25-875-960 | 9VAC25-870-390 | Effluent sampling procedures. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter. No changes were made to the requirements of this section. |
| 9AVC25-875-970 | 9VAC25-870-400 | Small municipal separate storm sewer systems. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter. No changes were made to the requirements of this section. |

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| 9AVC25-875-980 | 9VAC25-870-410 | General permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9AVC25-875-990 | 9VAC25-870-420 | New sources and new discharges. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1000 | 9VAC25-870-430 | Conditions applicable to all state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1010 | 9VAC25-870-440 | Additional conditions applicable to municipal separate storm sewer state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1020 | 9VAC25-870-450 | Establishing state permits. | <p>Change to location and citation of this section due to the consolidation</p> |

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| | | | <p>of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1030 | 9VAC25-870-460 | Establishing limitations, standards, and other state permit conditions. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1040 | 9VAC25-870-470 | Calculating state permit conditions. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1050 | 9VAC25-870-480 | Duration of state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1060 | 9VAC25-870-490 | Schedules of compliance. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> |

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| | | | <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1070 | 9VAC25-870-500 | Draft state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1080 | 9VAC25-870-510 | Statement of basis. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1090 | 9VAC25-870-520 | Fact sheet. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1100 | 9VAC25-870-530 | Public notice of draft state permit actions and public comment period. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and</p> |

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| | | | <p>numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1110 | 9VAC25-870-540 | Public comments and requests for public hearings. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1120 | 9VAC25-870-550 | Public hearings. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1130 | 9VAC25-870-555 | Criteria for requesting and granting a public hearing in a permit action. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1140 | 9VAC25-870-556 | Controversial permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1150 | 9VAC25-870-557 | Controversial permits reporting. | <p>Change to location and citation of this section due to the consolidation</p> |

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| | | | <p>of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1160 | 9VAC25-870-560 | Response to comments. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1170 | 9VAC25-870-570 | Conditions requested by the Corps of Engineers and other government agencies. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1180 | 9VAC25-870-580 | Decision on variances. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1190 | 9VAC25-870-590 | Appeals of variances. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1200 | 9VAC25-870-600 | Computation of time. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |

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| 9VAC25-875-1210 | 9VAC25-870-610 | Modification, revocation and reissuance, or termination of state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1220 | 9VAC25-870-620 | Transfer of state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1230 | 9VAC25-870-630 | Modification or revocation and reissuance of state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1240 | 9VAC25-870-640 | Minor modifications of individual state permits. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1250 | 9VAC25-870-650 | Termination of state permits. | <p>Change to location and citation of this section due to the consolidation</p> |

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| | | | <p>of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1260 | 9VAC25-870-660 | Enforcement. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1270 | 9VAC25-870-680 | Transition. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1280 | 9VAC25-31-950 et seq. | Electronic reporting. | <p>This new section was added to Chapter 875 and cites to the corresponding electronic reporting section in Chapter 31. This was done to improve clarity and consistency between regulatory chapters that govern VPDES permits.</p> |
| 9VAC25-875-1290 | 9VAC25-870-700 | Purpose. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> |

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| | | | No changes were made to the requirements of this section. |
| 9VAC25-875-1300 | 9VAC25-870-720 | Authority. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. No changes were made to the requirements of this section. |
| 9VAC25-875-1310 | 9VAC25-870-730 | Applicability. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter. No changes were made to the requirements of this section. |
| 9VAC25-875-1320 | 9VAC25-870-740 | Exemptions. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter. No changes were made to the requirements of this section. |
| 9VAC25-875-1330 | 9VAC25-870-750 | Due dates for state permits. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter. No changes were made to the requirements of this section. |
| 9VAC25-875-1340 | 9VAC25-870-760 | Method of payment. | Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter. |

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| | | | <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1350 | 9VAC25-870-770 | Incomplete and late payments. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1360 | 9VAC25-870-780 | Deposit and use of fees. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1370 | 9VAC25-870-790 | General. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Subsection B was removed because it is no longer relevant after July 1, 2014.</p> |
| 9VAC25-875-1380 | 9VAC25-870-800 | Fee schedules for municipal separate storm sewer system new state permit issuance. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1390 | 9VAC25-870-810 | Fee schedules for major modification of MS4 individual | <p>Change to location and citation of this section due to the consolidation</p> |

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| | | permits requested by the operator. | <p>of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1400 | 9VAC25-870-820 | Fees for an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>References to “Chesapeake Bay Preservation Act land-disturbing activities” were changed to “land-disturbing activities in a Chesapeake Bay Preservation Area.” This was done to reflect the General Assembly’s removal of “Chesapeake Bay Preservation Act land-disturbing activity” as a defined term.</p> <p>The paragraph and fee schedule referencing fees that are applicable until June 30, 2014, was removed because these fees are no longer relevant. Other language in this section reference the July 1, 2014, date was also removed.</p> |
| 9VAC25-875-1410 | 9VAC25-870-825 | Fees for the modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and numbering schemes in statute and this chapter.</p> <p>No changes were made to the requirements of this section.</p> |
| 9VAC25-875-1420 | 9VAC25-870-830 | State permit maintenance fees. | <p>Change to location and citation of this section due to the consolidation of Chapters 840, 850, and 870 into a new single regulatory chapter.</p> <p>Updates references and citations to reflect the new naming and</p> |

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| | | | <p>numbering schemes in statute and this chapter.</p> <p>References to “Chesapeake Bay Preservation Act land-disturbing activities” were changed to “land-disturbing activities in a Chesapeake Bay Preservation Area.” This was done to reflect the General Assembly’s removal of “Chesapeake Bay Preservation Act land-disturbing activity” as a defined term.</p> <p>Language stating that no maintenance fee shall be required for a General Permit for Discharge of Stormwater from Construction Activities until approved programs exist was removed.</p> |
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Public Comment on Draft regulation

DEQ accepted public comment on the draft Virginia Erosion and Stormwater Management Regulation for 60 days prior to presenting them to the Board for final adoption. Comments were accepted February 8, 2023 through April 10, 2023. Comments received and responses to comments are listed below.

| Commenter | Comment | Agency response |
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| Charlie Armstrong | <p>Bond Reduction/Release Provisions:</p> <p>Lines 1315-1317: "9VAC25-875-100 G. A VESMP authority may require, excluding state and federal entities, the submission of a reasonable performance bond or other financial surety and provide for the release of such sureties in accordance with the criteria set forth in § 62.1- 44.15:34 of the Code of Virginia." This section references release of surety bonds per criteria in § 62.1-44.15:34 , but § 62.1-44.15:34 does not have sufficient criteria to define release requirements or procedures. A good model for this procedure can be found in § 15.2-2245 and should be mirrored here.</p> | <p>Thank you for your comment. The suggested changes to be beyond the scope of this regulatory action.</p> |
| Alan J Stein | <p>I think we should maintain the RGGI to prevent damage from the change in climate. Also, when I go camping during the warm months, I see where livestock are wading in the streams. Where this can be prevented I think it would be beneficial to the quality of the water for fish and recreational use. I not sure what can be done to prevent this and farmers may have an issue with this. I propose they receive assistance to</p> | <p>Thank you for your comment. The suggested changes are beyond the scope of this regulatory action.</p> |

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| | <p>maintain buffers to prevent this and runoff of feces from livestock. This could also reduce health problems and save money in the long run.</p> | |
| <p>Kelsey Ryan, PE; Gordon</p> | <p>Numbering within 9VAC25-875-560:</p> <p>Thank you for the opportunity to comment on this draft regulation. Our comments are as follows:</p> <ol style="list-style-type: none"> 1. On line 2966, it appears this line numbering should be changed from a (g.) to a (17) to align with current E&S minimum standard 17. 2. On line 2975, it appears this line numbering should be changed from a (h.) to an (18) to align with current E&S minimum standard 18. 3. On line 2981, it appears this line numbering should be changed from an (i.) to a (19) and all subsequent line numbering should be updated accordingly to align with current E&S minimum standard 19. | <p>Thank you for your comment, the numbering issues in 9VAC25-875-560 have been corrected.</p> |
| <p>Beatriz Patino, City of Newport News</p> | <p>Water quantity compliance for disturbance greater than 10,000 square feet:</p> <p>The code of Virginia Section 62.1-44.15:34.E.2.a, indicates "Soil erosion control requirements and water quantity technical criteria adopted pursuant to this article shall apply to any activity that disturbs 10,000 square feet or more, although the locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A. This subdivision shall also apply to additions or modifications to existing single-family detached residential structures."</p> <p>If we are interpreting this section correctly, any land disturbance activity greater than 10,000 square feet would require compliance with water quantity criteria (channel and flood protection).</p> <p>The current draft of the regulation "Part V. Criteria and requirements for Regulated Land-Disturbing Activities" line 2464 in particular does not refer to 9VAC25-875-600 but only to 9VAC25-875-560 which might create confusion when interpreting the land disturbance area threshold for water quantity requirements.</p> | <p>Thank you for your comment. The department has addressed each of your comments as follows:</p> <p>Water quantity compliance for disturbance greater than 10,000 square feet:</p> <p>Subsection 1 in 9VAC25-875-70, 9VAC25-875-250, and 9VAC25-470 specifies applicable requirements in Article 2 and Article 3 of Part V of Chapter 875 rather than citing an individual section. This more inclusive reference should clarify that compliance with erosion and sediment control minimum standards and water quality and water quantity requirements is required.</p> <p>Definitions:</p> <p>The department deleted the duplicate definition of "Ten-year storm," clarified the definition of "municipal separate storm sewer system," corrected the definition</p> |

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| | <p>Definitions:</p> <p>"Ten-year storm" definition is duplicated at lines 949 and 971.</p> <p>Line 525: "municipal separate storm sewer" definition appears to be missing the word "System."</p> <p>Line 130: The definition of "certified Plan reviewer for SWM" refers to a "program administrator". Shouldn't this refer to "Plan Reviewer"?</p> | <p>of "certified plan reviewer for SWM."</p> |
| <p>MacKenzie Bauman, PE, Gordon</p> | <p>9VAC25-875-110:</p> <p>Thank you for the opportunity to comment on the draft regulation. In section 9AVC25-875-110.C.1, the sentence is either missing "VESMP authority" after "by the" or "by the" should be removed.</p> <p><u>C. A VESMP authority shall approve or disapprove an ESM plan according to the following:</u></p> <p><u>1. A VESMP authority shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the to be complete.</u></p> | <p>Thank you for your comment. The department corrected the drafting error.</p> |
| <p>Mike Short, Alex Deuson, Michael Hare; Tetra Tech</p> | <p>ESC and SWM Clarifications:</p> <p>Line 62: Recommend clarifying "watercourse" within the "Adequate channel" definition or create a new definition. The word "watercourse" can be implied as a natural channel in its context of the "Adequate channel" definition; however, the word "adequate" (line 3041) is implied as a man-made channel. Suggest "watercourse" be defined or clarified as a natural channel, man-made channel, or restored channel. The whole document should be reviewed for consistency in definition and context of channels and watercourses to avoid confusion.</p> <p>Lines 2609-2610: Consider specifying a reasonable time period (i.e., 21 days) within which completion of stabilization activities is required. Deferring responsibility for determining when complete stabilization is required to the</p> | <p>Thank you for your comments, the department has addressed each comment as follows:</p> <p><i>"Adequate channel" definition:</i> The department has replaced the 9VAC25-875-20 with the definition originally from 9VAC25-875-670. Doing this replaces the word "watercourse" with the word "channel." "Channel" is a defined term in Chapter 875, which should address any confusion.</p> <p><i>Specify reasonable time period:</i> By imposing a specific timeline on local programs that does not currently exist, this suggested change would be outside of the scope of this regulatory action.</p> |

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| | <p>VESMP Authority produces wide-ranging and arbitrary timeframes, which are often too lenient (lengthy) to adequately protect Commonwealth resources or too strict (short) to enable practicable compliance. Specifying a timeframe for completion of stabilization would both better protect the resources of the Commonwealth and enable the development community to plan and implement required compliance measures.</p> <p>Line 2615: Consider expounding on what makes use of a skimmer device infeasible, i.e., “unless documented as technically infeasible or unreasonably cost prohibitive”.</p> <p>Line 2881: Consider specifying the time period within which completion of stabilization is required.</p> <p>Line 2948: Item 16 should be qualified to state its criteria do NOT apply to underground utility lines installed within the limits of a permitted land disturbance activity otherwise controlled by Department-approved methods. Item 16 contains several requirements which are unreasonable for, and should not apply to, construction sites where the chief land disturbing activity is not the installation of underground utility lines.</p> <p>Lines 2966-3082: Part 25-875-560 contains the erosion and sediment control minimum standards, commonly referred to as MS-19, except that the numbering ceases at Item 16. Beginning on line 2966, Items 17, 18, and 19(a-n) are erroneously listed as a continued subset of Item 16 (specifically, sub-items g-i).</p> <p>Line 3321: Consider modifying item E. to expand the specification of “good hydrologic condition” to include allowable predevelopment cover types. For example, Pennsylvania regulations’ allowable predevelopment cover types are ONLY forested, meadow, and impervious. Doing so would preclude arbitrary assignment of predevelopment cover types by permittees and better align with water quality objectives in the VRRM, which only considers FOS/COS, Turf, and Impervious.</p> <p>Line 3415: Please reconsider the use of the Modified Rational Method for drainage areas of 200 acres or less. Acreage is more limited in other requirements (PWC DCSM – 20 acres), and the method is simplified and less accurate</p> | <p>The department has not made the suggested change.</p> <p><i>Skimmer device:</i> Suggested change is outside the scope of this regulatory action. The department has not made the suggested change.</p> <p><i>Time period for stabilization:</i> Suggested change is outside the scope of this regulatory action. The department has not made the suggested change.</p> <p><i>Minimum standard 16:</i> The suggested change is an update to technical criteria, which is beyond the scope of this regulatory action. The department has not made the suggested change.</p> <p><i>9VAC25-875-560 numbering:</i> The department has corrected the numbering errors in this section.</p> <p><i>Expand “good hydrologic condition”:</i> The suggested change is an update to technical criteria, which is beyond the scope of this regulatory action. The department has not made the suggested change.</p> <p><i>Use of Modified Rational Method:</i> The suggested change is an update to technical criteria, which is beyond the scope of this regulatory action. The department has not made the suggested change.</p> <p><i>Proprietary BMPs for post-construction stormwater management:</i> The suggested change is an update to technical criteria, which is beyond the scope of this regulatory action. The department has not made the suggested change.</p> |
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| | <p>when determining detention volumes during hydraulic basin routing (Iowa Design Manual 2B-1 limits hydraulic routing to 5 acres).</p> <p>Proprietary BMPs for post-construction stormwater management are discussed; however, they are not discussed for during-construction erosion and sediment control. Recommend a section discussing the use of the expansive (since the 1992 Virginia ESC Handbook was written) industry and research of proprietary erosion and sediment control measures.</p> | |
| <p>John Friedman, County of Fairfax</p> | <p>Please consider the following comments on the Draft Virginia Erosion and Stormwater Management Regulation, 9VAC25-875. Also note that these are staff comments and do not represent an adopted position of the Fairfax County Board of Supervisors:</p> <p>1) Lines 115-118. In addition to employees and agents of VESCPs, the definition of “Certified inspector for ESC” should include a reference to employees and agents of VESMP authorities because staff of VESMPs perform E&S inspections.</p> <p>2) Lines 124-128. In addition to employees and agents of VESCPs, the definition of “Certified plan reviewer for ESC” should include a reference to employees and agents of VESMP authorities because staff of VESMPs perform E&S plan review.</p> <p>3) Lines 130-133. The definition of “Certified plan reviewer for SWM” should reference VESMP authorities not VESCP authorities and plan review not program administration.</p> <p>4) Lines 170-171. The definition of “Combined administrator” should also reference VESMP authorities.</p> <p>5) Lines 620-621. Consider not defining “permit” to mean a VPDES permit and continue spelling out VPDES permit throughout the regulations. Just using “permit” to mean VPDES permit will be confusing because of the many other locally issued types of permits.</p> <p>6) Lines 714-715. The last sentence in the definition of “Responsible land disturber” refers to “ESC plan or permit.” Permit is previously</p> | <p>Thank you for your comments, the department has addressed each comment as follows:</p> <p>1) The department revised the definition of “Certified inspector for ESC” as recommended.</p> <p>2) The department revised the definition of “Certified plan reviewer for ESC” as recommended.</p> <p>3) The department revised the definition of “Certified plan reviewer for SWM” as recommended.</p> <p>4) The department revised the definition of “Combined administrator” as recommended.</p> <p>5) The department did not revise the definition for “Permit.” The definition in Chapter 875 is the definition that is used in statute.</p> <p>6) The department revised the definition of “Responsible land disturber” to clarify that “permit” as used in this definition has the meaning as it is defined in Chapter 875.</p> <p>7) The department revised the definition of “Stormwater management plan” as recommended.</p> <p>8) The department revised the definition of “Agreement in lieu of</p> |

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| | <p>defined as a VPDES permit, Is that what is meant here?</p> <p>7) Lines 898-899. The definition “Stormwater management plan” refers to the “requirements of a VSMP.” It should be “VSMP or VESMP.”</p> <p>8) Lines 1088-1096. The definition of “Agreement in lieu of a plan” does not match the definition in VA Code § 62.1-44.15:24. Also, farm buildings should be added to the list per HB1848.</p> <p>9) Lines 1102-1106. The definition of “Development” should be revised to match 9VAC25- 840-10. The proposed definition is originally from 9VAC25-870-10 with the addition of “Stormwater Management.” “Stormwater management” is not “development;” it is a concept.</p> <p>10) Lines 1145-1147. This should be made consistent with VA Code § 62.1-44.15:34.E.2.a by adding “although the locality may reduce this regulatory threshold to a smaller area of disturbed land.”</p> <p>11) Lines 1149-1153. This should be made consistent with VA Code § 62.1-44.15:34.E.3.b. Water quality compliance is a local option for single-family detached residential structures not a requirement.</p> <p>12) Lines 1436-1442. Delete cross-reference to 9VAC25-875-110. 9VAC25-875-110 doesn’t mention construction record drawings.</p> <p>13) Line 1458. This says “At the discretion of the authority.” It should be more specific and say “VESMP authority.”</p> <p>14) Lines 1472-1487. Is this section intended for E&S inspection only? If so, it should clearly state that.</p> <p>15) Line 1572. Should this be Part V not Part II. The technical criteria are in Part V.</p> <p>16) Lines 1716-1722. For an agreement in lieu of a plan, farm buildings need to be added for consistency with HB 1848.</p> <p>17) Line 1744. The acronym in parentheses should be VESCP not ESCL.</p> | <p>a plan” to be consistent with legislative changes from the 2023 General Assembly Session.</p> <p>9) The department revised the definition of “Development” as recommended.</p> <p>10) The department made this suggested revision.</p> <p>11) The department made this suggested revision.</p> <p>12) The department removed the cross reference to 9VAC25-875-110 as suggested.</p> <p>13) The department added “VESMP authority” as suggested to improve clarity.</p> <p>14) The department did not change this section. Subsections B 1 and B 2 make clear that the inspection requirements 9VAC25-875-140 B apply to erosion and sediment control only.</p> <p>15) The department made this suggested revision.</p> <p>16) The department revised the definition of “Agreement in lieu of a plan” to be consistent with legislative changes from the 2023 General Assembly Session.</p> <p>17) The department did not make this suggested revision. The acronym used correctly references the Erosion and Sediment Control Law.</p> <p>18) The department did not make this suggested revision. With new statutory language repealing 62.1-44.15:56, the department no longer has oversight of approved standards and specifications under the ESCL. That authority now exists in the VESMA under 62.1-44.15:31.</p> |
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| | <p>18) Line 1751. The department in its administration of entities submitting statewide standards and specifications should be added to this provision.</p> <p>19) Line 1793. Because this is for VESCPs only, the correct reference is § 62.1-44.15:55.</p> <p>20) Lines 1795-1797. This should be made consistent with VA Code § 62.1-44.15:55.F.1 by adding “However, the governing body of the program authority may reduce this regulatory threshold to a smaller area of disturbed land.”</p> <p>21) Lines 1799-1814. Paragraphs 2-4 should be deleted. Part III is for VESCPs and these paragraphs are for quality and quantity criteria.</p> <p>22) Line 1815. The correct reference should be 9VAC25-875-260 not 857.</p> <p>23) Line 1815. Why are requirements related to VPDES permits included in Part III for localities only administering VESCPs.</p> <p>24) Line 2232. Are dual certificates required for plan reviewers and inspectors for VESMP authorities?</p> <p>25) Lines 2332-2338. If an ESC and SWM plan reviewer is certified for ESC review by virtue of holding a PE license and doesn't have an ESC certificate, how would they go about obtaining a dual certificate?</p> <p>26) Lines 2363-2387. Are references to fees necessary in this section when fees are covered in 9VAC25-875-430.</p> <p>27) Lines 2366-2367. This is new. How is it different from #4 (lines 2384-2385) and vice versa.</p> <p>28) Line 2387. Why is there no fee for this?</p> <p>29) Line 2459. 9VAC25-875-470 duplicates 9VAC25-875-70. Why is it needed? Also, see prior comments on 9VAC25-875-70.</p> <p>30) Line 2488. Should this refer to “this part” rather than “this chapter.”</p> <p>31) Line 2564. This should be “VESCP or VESMP or the department ...”</p> | <p>19) The department has corrected this reference to 62.1-44.15:65. The commentor's suggested reference to 62.1-44.15:55 seems to be a typo.</p> <p>20) The department made this suggested addition.</p> <p>21) The department agreed that paragraphs 3 and 4 should be removed because they do not apply to VESCPs. These subsections were removed.</p> <p>22) The department corrected this typo.</p> <p>23) The department agreed with this comment and removed the language in this subsection that references VPDES permits to prevent confusion.</p> <p>24) Whether dual certificates are required for plan reviewers and inspectors for VESMP authorities will depend on how the locality chooses to organize their authority. It is possible that a locality could have staff that only does one or the other and therefore does not require a dual certificate.</p> <p>25) The department's training division has a process for addressing this comment, but that process has never been spelled out in regulation.</p> <p>26) The department is leaving the reference to fees in this section. Leaving this reference provides useful information that recertification also requires fees.</p> <p>27) These subsections address different requirements. One is for continuing education contact hours and the other is for completing department-approved training programs.</p> |
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| | <p>32) Lines 2569-2570. This should be “VSMP or VESMP or the department.”</p> <p>33) Line 2761. This should include VESMPs adopted under VA Code § 62.1-44.15:27 if the technical criteria are for both programs.</p> <p>34) Lines 2790-2797. Should this be in Article 3 of Part III?</p> <p>35) Lines 2812-2870. The requirements for preparation of a complete E&S plan are new and appear to be outside the scope of the consolidation.</p> <p>36) Lines 2966-2973. This should be #17 not “g” under #16.</p> <p>37) Lines 2975-2979. This should be #18 not “h” under #16.</p> <p>38) Lines 2981-3082. This should be #19 then “a” through “n.”</p> <p>39) Lines 3088-3093. There are no VESMPs prior to July 1, 2022, so this date makes no sense.</p> <p>40) Lines 3146-3160. The listed BMPs reference the March 1, 2011. Will localities be able to use the draft 2013 standards?</p> <p>41) Line 3342. Only the department can act as a VSMP authority so why not make that clear?</p> <p>42) Line 3453. The citation is 9VAC25-875 not 9VAC25-TEC.</p> <p>43) Line 7631. Why include a date that has already passed?</p> | <p>28) The department uses a third party to administer exams. Any fees are set by and paid to that third party rather than the department.</p> <p>29) The department made the revisions suggested to 9VAC25-875-70. This section is repeated here because Part V is meant to be read by owners and operators while Parts II and III apply to VESMP and VESCP authorities. Repeating this section is intended to prevent an owner or operator from having to find that information elsewhere.</p> <p>30) Chapter is the better reference here. 9VAC25-875-480 A states that the regulations should not be read as contradicting federal or state laws, which makes the broader reference to the entirety of Chapter 875 appropriate.</p> <p>31) The department added VESMP authority as suggested.</p> <p>32) This section was revised to add “or the department.” It is not necessary to also add “VSMP” because the department is now the only VSMP.</p> <p>33) In response to this and other comments, the department revised 9VAC25-875-540 A to remove references to specific local authorities. This greatly simplifies the section and makes clear that the minimum standards that operators must meet are applicable in all localities regardless of whether they are a VESMP or VESCP locality.</p> <p>34) The department agrees with this comment and moved this section to create 9VAC25-875-290 G.</p> <p>35) After consideration, the department agrees that adding</p> |
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| | | <p>new requirements in 9VAC25-875-550 D is outside the scope of this regulatory action. This subsection has been removed. In its place, Subsection A was revised to add language on the contents of an erosion and sediment control plan. This language comes from the definition of erosion and sediment control plan and was added here to eliminate the need to refer back to the Definitions section.</p> <p>36-38) This numbering error has been corrected.</p> <p>39) The department agrees with this comment. Some of the language in this section was carried over from existing regulations and is no longer relevant. This language has been removed.</p> <p>40) Updating these dates is something that may be addressed in the future but is beyond the scope of this regulatory action.</p> <p>41) This has been revised to reference “the department” rather than “a VSMP authority” address this comment.</p> <p>42) This reference has been revised to say Part V of this chapter.</p> <p>43) The reference to June 30, 2014, as well as the corresponding fee table have been removed as they are no longer relevant.</p> |
| <p>Jason Williams, Dominion Energy Services, Inc.</p> | <p><i>Comments on the Draft Virginia Erosion and Stormwater Management Regulation</i></p> <p>Under 9VAC25-875-30. <i>Definitions</i>, Dominion Energy appreciates the consolidation of the terms “land disturbance” and “land disturbing activity” into one consolidated definition.</p> | <p>Thank you for your comments, the department has addressed each comment as follows:</p> <p><i>9VAC25-875-30. Definitions:</i> The definitions in the regulations are based on definitions in 62.1-</p> |

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| | <p>Previously the terms were divergent. Ensuring that the definition is the same between both ESC and SWM regulations will provide greater consistency for project regulation.</p> <p>Under 9VAC25-875-100. <i>Criteria for programs operated by a VESMP authority</i>, subsection 9VAC25-875- 100. I.3. Dominion Energy recommends defining ‘reasonable time’ in regard to notifying operators of the incompleteness of notice of termination (NOT) applications. It is common to receive no feedback from DEQ regarding missing items from NOT packages, and so defining the number of days that constitute a ‘reasonable time’ will provide certainty for the regulated community regarding permit closeout dates.</p> <p>Subsection 9VAC25-875-110.C.4. <i>Plan review requirements</i>, appears to include an additional 15-day completeness review timeframe for all resubmissions. Please provide clarification that this does not add on to the 45-day timeline for resubmission reviews. Dominion Energy recommends the following edit:</p> <p>The VESMP authority also shall determine whether any resubmittal of a previously disapproved application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt including determination of completeness within the first 15 days.</p> <p>Section 9VAC25-875-130. <i>Long-term maintenance of stormwater management facilities</i> addresses the requirement for operators to submit construction record drawings for permanent stormwater management facilities to the VESMP authority. The proposed language at 9VAC25-875-130.A. diverges from the current practice in requiring that the drawing “shall contain a statement signed by a professional registered in the Commonwealth of Virginia...stating that to the best of their knowledge, the construction record drawing shows all adjustments and revisions to the stormwater management plan made during construction...”. As drafted the proposed language creates a potentially burdensome threshold, that all adjustments and revisions made during construction, must be reflected in the construction record drawing. Such a threshold regarding the extent of documentation that must be produced to certify may lead to</p> | <p>44.15:24 and 62.1-44.14:51, which are similar but not the same. For the regulations, the definition in the VESMA will be used except in Part II, where the definition from the ESCL will be applicable.</p> <p><i>9VAC25-875-100. Criteria for programs operated by a VESMP authority:</i> The department did not make the suggested change. The language as it is stated preserves flexibility for local authorities in operating their programs.</p> <p><i>9VAC25-875-110 C 4. Plan review requirements:</i> The department made the suggested revision to make this subsection clearer.</p> <p><i>9VAC25-875-130. Long-term maintenance of stormwater management facilities:</i> The department did not make the suggested revisions. This language was developed in coordination with the Department of Professional and Occupational Regulation to be more consistent with their requirements for professional licensing.</p> <p><i>9VAC25-875-250. Regulated land-disturbing activities:</i> The department agrees that common plan of development is not relevant to erosion and sediment control and has removed that reference as suggested.</p> <p><i>9VAC25-875-280 E. Activities not required to comply with the VESCP:</i> This exemption is introduced in 62.1-44.15:55 F 11 as it will be effective on July 1, 2024. The department incorporated this new statutory language verbatim.</p> <p><i>9VAC25-875-300. Plan review requirements:</i></p> |
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| | <p>increased project costs for production of post construction, surveyed, as-built drawings, which have not been common practice to date. We would also expect DEQ’s workload would increase due to additional modifications to process. Dominion suggests that this language remain consistent with language currently found in 9VAC25-870-55 which requires the engineer to certify that “stormwater management facilities have been constructed in accordance with the approved plan.”</p> <p>In 9VAC25-875-250. <i>Regulated land-disturbing activities</i>, Part III of the proposed regulation includes requirements for the Virginia ESC Program (currently outlined in 9VAC25-840). As drafted, this section incorporates the concept of Common Plan of Development or Sale (CPOD) into the ESC program, which is applicable where land disturbing activity (LDA) reaches 10,000 square feet. Provisions related to CPOD were incorporated into federal construction stormwater permitting requirements in 2004 where the total LDA is greater than one acre. The definition of CPOD and associated requirements have since been incorporated into the Virginia SWM Program Regulations found in 9VAC25-870, which also apply where LDA is greater than one acre. To avoid lowering the applicability threshold and adding unintended regulatory requirements, we recommend that requirements and considerations related to CPOD be removed from sections of the proposed regulation that address the ESC Program and remain in those sections for project subject to SWM Program requirements.</p> <p>Subsection 9VAC25-875-280.E.11. <i>Activities not required to comply with the VESCP</i>, appears to be modified from the current regulation by removing an existing exemption. As drafted the proposed language does not exempt land disturbing activities discharging to sanitary sewers or combined sewers. Dominion Energy requests that DEQ clarify whether it is DEQ’s intent to remove this exemption.</p> <p>Section 9VAC25-875-300. <i>Plan review requirements</i>, discusses ESC Plan review requirements, item D states, “For sites requiring coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities, the VESCP authority shall obtain evidence of such coverage prior to approving the erosion and sediment control plan.” This</p> | <p>This requirement is taken directly from 62.1-44.15:55 A and cannot be changed through this action. The department recognizes the issue Dominion identified and will consider ways to address this through future actions.</p> <p><i>9VAC25-875-320. Long-term maintenance of stormwater management facilities:</i> As DEQ is the VSMP authority for localities that opt-out under 62.1-44.15:27 B 3, the VESCP authority is the appropriate entity to receive a copy of the recorded instrument that establishes long-term maintenance in localities that are VESCP authorities.</p> <p><i>9VAC25-875-540 A 3. Applicability:</i> The department revised this section as suggested and removed the “annual” timeframe from standards and specifications.</p> <p><i>9VAC25-875-350. Variances:</i> The department removed references to VESMPs and VSMPs in this section as suggested.</p> <p><i>9VAC25-875-500. Stormwater pollution prevention plan requirements:</i> The department did not make the suggested revision. The language of this section comes directly from 9VAC25-870-54, which does not include a reference to standards and specifications. The department sought to maintain that separation and included the requirements for standards and specifications in Part VI of Chapter 875.</p> <p><i>9VAC25-875-590 B. Water quality compliance:</i> The suggested revision is beyond the scope of this regulatory</p> |
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| | <p>proposed language requires an applicant to hold evidence of VAR10 Construction General Permit coverage prior to approval of the ESC plan. Under the current regulations and standard practice, particularly in cases where DEQ is the VSMP authority, ESC plan approval is obtained and provided directly to DEQ before DEQ will issue coverage under the VAR10 Construction General Permit. Dominion Energy recommends avoiding this significant process change as it is likely to cause additional confusion for the regulated community, local ESC program authorities, and DEQ and result in overall delays in permit issuance. Dominion Energy suggests that the proposed language be removed from the proposed regulations.</p> <p>As drafted, 9VAC25-875-320. <i>Long-term maintenance of stormwater management facilities</i>, states that recorded instruments related to long term maintenance of stormwater management facilities must be submitted to the VESCP authority. The current process requires the long-term maintenance instruments to be submitted to the appropriate VSMP authority for approval and then recorded in the local land records. Dominion recommends that this requirement be removed as it is sufficiently covered in the VSMP language.</p> <p>Subsection 9VAC25-875-540.A.3 pertaining to <i>Applicability</i> uses the “annual” timeframe when referring to “standards and specifications” holders. Dominion Energy suggests that the reference to “annual” in the context of standards and specifications be removed to be consistent with the current terminology in Part VI Standards and specifications program.</p> <p>Section 9VAC25-875-350. <i>Variances</i>, states that a VSMP Authority in addition to VESMP and VESCP Authorities, may grant a variance to the ESC requirements. It is Dominion Energy’s understanding that ‘variances’ are deviations to the ESC Minimum Standards or regulations and may only be approved by VESCP or VESMP Authorities. Dominion Energy recommends removing the option for VSMP Authorities to grant exceptions for ESC variances.</p> <p>Section 9VAC25-875-500. <i>Stormwater pollution prevention plan requirements</i>, should be updated to account for approval of ESC and SWM plans by standards and specifications holders.</p> | <p>action. The department did not make the suggested revision.</p> <p><i>9VAC25-875-610 B 2. Offsite compliance options:</i> The department did not make the suggested revisions. Subsection B 2 is taken directly from 62.1-44.15:35 C 2 and is consistent with the statutory requirements as they will be effective on July 1, 2024. The department will determine if additional guidance is necessary in the future to interpret the regulatory requirement.</p> <p><i>9VAC25-875-610 E 1. Offsite compliance options:</i> The department did not make the suggested revisions. Subsection B 2 is taken directly from 62.1-44.15:35 H 1 and is consistent with the statutory requirements as they will be effective on July 1, 2024. The department will determine if additional guidance is necessary in the future to interpret the regulatory requirement.</p> <p><i>9VAC25-875-760. Soil erosion control and stormwater management of land-disturbing activities:</i> The language of this section specifically limits applicability to state agencies and federal entities that have not submitted standards and specifications. The requirements for standards and specifications holders are in Part VI of Chapter 875.</p> |
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| | <p>In 9VAC25-875-590.B pertaining to <i>Water quality compliance</i>, lists best management practices (BMPs) approved for use as necessary to effectively reduce phosphorus load and runoff volume. Dominion Energy recommends that this list be removed from the regulation as BMP specifications evolve quickly resulting in an outdated list in the regulation. In current design situations, more recent BMPs, either finalized or draft, are typically used in lieu of the BMPs listed in the draft regulation.</p> <p>Subsection 9VAC25-875-610.B.2 pertaining to <i>Offsite compliance options</i>, was updated to change 'offsite options' to "nutrient credits" under certain subsections, thus removing informative guidance on how to utilize other offsite options besides nutrient credits. Please provide guidance for use of other offsite compliance options besides nutrient credits (e.g. adjacent properties).</p> <p>In subsection 9VAC25-875-610.E.1 pertaining to the <i>documentation of the acquisition of nutrient credits</i>, please provide clarity on DEQ's expectations for when operators are expected to supply nutrient credit documentation to the VESMP or VSMP Authority. If utilized to meet water quality reductions, letters of availability are acquired during SWM plan review and approval. Affidavits of sale are obtained prior to the commencement of land disturbance and are maintained within the Stormwater Pollution Prevention Plan during construction and provided to DEQ alongside the Notice of Termination.</p> <p>Section 9VAC25-875-760 for <i>Soil erosion control and stormwater management of land disturbing activities</i>, begins with the statement that the department shall act as a VESMP authority where state agencies and federal entities have not submitted standards and specifications to the department for approval. This implies that standards and specifications holders are VESMP authorities. Dominion Energy recommends clarifying that DEQ is the VESMP for all entities that hold department approved standards and specifications.</p> | |
| <p>AquaLaw</p> | <p>We would like to thank DEQ for allowing VAMSA to participate on the Regulatory Advisory Panel (RAP), alongside individual VAMSA Members and other stakeholders. Obviously, DEQ's work</p> | <p>Thank you for your comments, the department has addressed each comment as follows:</p> |

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| <p>Michelle Ashworth, VAMSA</p> | <p>to consolidate three sets of regulations and amend both the General Permit for Discharges of Stormwater from Construction Activities (CGP) and the General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Small MS4 GP), while also considering the diverse viewpoints of the RAP Members, was a significant undertaking. DEQ staff were extraordinarily professional during this process and should be congratulated for bringing the Proposed Consolidated Regulations to the finish line.</p> <p>VAMSA also appreciates the changes DEQ made to the Proposed Consolidation Regulations. In addition to the “Agreement-in-Lieu” changes discussed below, DEQ agreed to delete earlier proposed language that required a draft ordinance, a funding and staffing plan, and policies and procedures as a part of a local package for VESMP approval. Current VSMP authorities have already submitted extensive information to support their programs. We appreciate DEQ’s flexibility on this point. Similarly, DEQ revised the text regarding requiring inspections and reports from state or federal entities from discretionary (“the department may”) to mandatory (“the department shall”) (l. 4048- 4050) and deleted the use of the term “VESMP Lite” (l. 1406).</p> <p>With that said, work now shifts to localities. Once the Consolidated Regulations are finalized, localities will have until July 1, 2024 (less than 15 months from today) to adopt and implement local ordinances that include the new regulatory requirements. This will be the most extensive local code change associated with stormwater that localities have undertaken since the 2014 adoption of VSMP programs. We urge DEQ to circulate a model ordinance as soon as feasible for local use. VAMSA Members appreciate DEQ’s assistance and patience as we work diligently to move forward with local ordinance adoption.</p> <p>Lastly, VAMSA requests that DEQ and the State Water Control Board consider individual comments filed by VAMSA Members. VAMSA Members are on the front lines of implementation, and their real-world experience is invaluable as the State moves forward with these regulations.</p> | <p>A. VAMSA supports revisions to the “agreement-in-lieu” definition: Upon further discussion, the department believes that adding the qualifying language to the definition of “agreement-in-lieu of a plan” is beyond the scope of this action because it alters a statutory definition. The department also recognizes the value in adding clarification on when these plans may be used. To address this, the department has inserted the clarifying language in appropriate sections in the body of the regulation. The department feels this approach provides the desired clarity without altering a statutory definition.</p> <p><i>9VAC25-875-210:</i> The department has revised the “agreement-in-lieu” definition to be consistent with 62.1-44.15:55 A. This removes the inconsistency between definitions.</p> <p>B. Additional requested changes:</p> <p><i>1. E&S minimum standards numbering:</i> The department corrected this numbering error.</p> <p><i>2 Variance text in Article 3-9VAC25-875-350. Variances:</i> The department removed references to VESMPs and VSMPs in this section as suggested.</p> <p><i>3. VESMP Inspection Program-9VAC25-875-140. Inspections:</i> The department corrected this cross reference. It now correctly references subsections D and E.</p> |
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| | <p>II. COMMENTS</p> <p>A. VAMSA Supports Revisions to the “Agreement-in-Lieu” Definition</p> <p>In the Proposed Consolidated Regulations, DEQ has included a revised definition of “Agreement in lieu of a plan” (9VAC25-875-30, Definitions, l. 1088-1096; 9VAC25-875- 210, Definitions, l. 1716-1722) that states that an Agreement in lieu of a plan (AIL) can only be used for a single family detached residential structure with less than one acre of land disturbance if it is either: (1) located in a common plan of development or sale with an approved stormwater pollution prevention plan (SWPPP) consistent with 9VAC25- 875-500 and a permit, if required or (2) it is located outside of a common plan of development or sale.</p> <p>VAMSA supports this definition because, as RAP Members shared during recent meetings, some developers attempt to use an AIL for each individual residential home in a development even though there is no overarching SWPPP in place for the larger development. DEQ’s proposed language closes this potential loophole and requires that developments have a soil erosion control and stormwater management plan (9VAC25- 875-30) or a formal site plan (9VAC25-875-210).</p> <p>On a minor point, 9VAC25-875-210 states that an AIL may be executed by the VESCP authority in lieu of a “formal site plan...” Article 2.4 (Erosion and Sediment Control Law) actually states that no person may engage in land-disturbing activity until it submits an “erosion and sediment control plan.” VA Code §62.1-44.15:55(A). VAMSA questions whether the term “formal site plan” should be “erosion and sediment control plan.”</p> <p>B. VAMSA Requests Additional Text Changes</p> <p>VAMSA shares the following questions and concerns regarding specific parts of the Proposed Consolidated Regulations:</p> <p>1. E&S Minimum Standards Numbering – 9VAC25-875-560 (Erosion and sediment control criteria, techniques, and methods: minimum standards) includes MS-17, MS-18, and MS-19, however, they are incorrectly provided as</p> | |
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| | <p>subcategories of MS-16. VAMSA believes I. 2966-2973 is MS-17, I. 2975-2979 is MS-18, and I. 2981- 3082 is MS-19.</p> <p>2. Variance Text in Article 3 – 9VAC25-875-350 (Variances) at I. 2115-2117 states that a variance to waive or modify requirements may be requested from the VESMP, VSMP, or VESCP authority under certain conditions. VAMSA is unclear why VSMP is included. If DEQ is acting as a VSMP, we assume there will be a VESCP authority in place pursuant to VA Code §62.1-44.15:27(B)(3) to conduct erosion and sediment control plans reviews under VA Code §62.1-44.15:55(B).</p> <p>3. VESMP Inspection Program – 9VAC25-875-140 (Inspections) at I. 1494-1497 states that a VESMP authority must ensure that each stormwater management facility is inspected by the authority or its designee at least once every five years “except as provided in subsections C and D of this section.” VAMSA recommends deleting the reference to C; there does not appear to be an exception to inspections provided in subsection C.</p> | |
| <p>Jill Sunderland, Hampton Roads Planning District Commission</p> | <p>I. Timeline for Model Ordinances</p> <p>Local stormwater ordinances are required to be updated by July 1, 2024. To make the appropriate changes and have assurance that our ordinances comply with the Consolidated Regulation, we need model ordinances. DEQ representatives have indicated that they will be provided; however, no timeline has been mentioned. Please commit to a deadline of when the model ordinances will be available so that localities can plan accordingly and inform local leadership.</p> <p>II. Future Permit Fee Increases</p> <p>DEQ convened a Fees RAP in 2022 to discuss increases to the Construction General Permit and annual MS4 permit maintenance fee schedules. While no permit fee increases were proposed in the draft Consolidated Regulation, it is our understanding based on discussions during the Fees RAP, that DEQ will need to increase these fees in the near future. Should DEQ decide to move forward with permit fee increases, please provide the localities as much notice as possible so that they can work it into their budget planning processes, which are</p> | <p>Thank you for your comments, the department has addressed each comment as follows:</p> <p>I. Timeline for model ordinances: Thank you for sharing your concerns about local ordinances. The department will develop and provide a model ordinance as soon as possible after the State Water Control Board approves the regulation.</p> <p>II. Future permit fee increases: Action to amend the fees for the stormwater program has been put on hold indefinitely. The department expects to reconvene the RAP to develop a proposed regulation, so localities will have a input in the timing and setting of any changes to the fees.</p> <p>III. Definition of land disturbance: The definition of “land disturbance” or “land-disturbing</p> |

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| | <p>completed years in advance. For reference, some of our localities are currently working on budgets for FY2026.</p> <p>III. Definition of Land Disturbance</p> <p>For clarification, we request the following addition to the definition of land disturbance or land-disturbing activity, which is found on line 1108 of the draft Consolidated Regulation.</p> <p>“Land disturbance” or “land-disturbing activity” means a temporary or permanent man-made change to the land surface that may result in soil erosion or has potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land”.</p> <p>We appreciate the opportunity to work with DEQ on regulatory updates and thank you for considering these comments.</p> | <p>activity” comes from the Virginia Erosion and Stormwater Management Act, Va. Code § 62.1-44.14:24. The department appreciates the comment but will keep the definition from the statute as is.</p> |
| <p>Alex Foraste, Virginia Department of Transportation</p> | <p>COMMENT #1: The proposed draft of 9 VAC 25-875-840, “Technical criteria and requirements for state projects” (Part VI, Standards and Specifications Program), extends regulatory reach beyond the clear legislative purpose of § 62.1-44.15:31, the pertinent statute establishing the Standards and Specifications program.</p> <p>Proposed Draft 9 VAC 25-875-840, Technical criteria and requirements for state projects (Lines 4165 4171) (emphasis added):</p> <p>A. Erosion and sediment control and stormwater management plans prepared for state projects shall comply with the technical criteria outlined in Part V of this chapter and any locality's VESCP or VESMP authority's technical requirements adopted pursuant to §§ 62.1-44.15:28 and 62.1- 44.15:52 of the Code of Virginia.</p> <p>B. The department may establish criteria for selecting either the site or a planning area on which to apply the water quality criteria.</p> <p>As provided in § 62.1-44.15:31 (A), the Standards and Specifications Program is “an alternative to submitting soil erosion control and stormwater management plans for ... land-disturbing activities.” The General Assembly has determined that the Virginia Department of Transportation (VDOT) shall, and any other</p> | <p>Thank you for your comments, the department has addressed each comment as follows:</p> <p>Comment #1: <i>9VAC25-875-840. Technical criteria and requirements for state projects:</i> The department agrees with VDOT’s assessment of this issue. This section should not have been included in Part VI (Standards and specifications program) because it states requirements for state projects that do not have standards and specifications. The department has addressed the issue raised by removing 9VAC25-875-840. This language now only appears in its appropriate location in 9VAC25-875-810.</p> <p>Comment #2: <i>9VAC25-875-130. Long-term maintenance of stormwater management facilities:</i> The department did not make the suggested revisions. This language was developed in coordination with the Department of Professional and Occupational Regulation to be more consistent</p> |

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| | <p>state agency or federal entity may, submit standards and specifications for its conduct of landdisturbing activities, instead of submitting individual soil erosion control and stormwater management plans to the Board. The Standards and Specifications Program is also available for other specified entities engaged in the construction, installation, and maintenance of linear utilities.</p> <p>While § 62.1-44.15:31 (D) provides that the “[a]pproval of standards and specifications by the Department does not relieve the owner or operator of the duty to comply with any other applicable local ordinances or regulations[,]” (emphasis added) the General Assembly clearly did not intend that land-disturbing activities occurring pursuant to an approved Standards and Specifications Program comply with any locality’s VESCP or VESMP authority’s technical requirements, as set forth above in proposed draft 9 VAC 25-875-840 (A). Such an interpretation would necessarily eviscerate the legislative purpose of the Standards & Specifications program as an efficient and transparent alternative approach for multijurisdictional, statewide land-disturbing activities conducted by state and federal government.</p> <p>Had the General Assembly intended to require that activities taken pursuant to an approved Standards and Specification Program adhere to more stringent VESCP and VESMP local program requirements, as set forth above in proposed draft 9 VAC 25-875-840 (A), it surely would have done so. For example, the General Assembly clearly and expressly stated such intent in subdivision A(3)(b) of § 62.1-44.15:34, which applies to those land disturbing activities taken by state and federal entities not covered by a Standards and Specifications Program:</p> <p>b. The Board shall not approve a soil erosion control and stormwater management plan submitted by a state agency or federal entity for a project involving a land-disturbing activity <i>in one locality with a local program with more stringent ordinances than those of the state program, unless the plan is consistent with the requirements of the local program.</i> (Emphasis added)</p> <p>In conclusion, by creating the Standards and Specifications Program, the General Assembly</p> | <p>with their requirements for professional licensing.</p> |
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| | <p>provided a programmatic alternative to adherence with varying ordinances and local requirements and submission of individual project plans to the Board. To require otherwise, by regulation, that entities operating pursuant to the Standards and Specifications Program must adhere to such varying ordinances and local requirements as would be required of non-Standards and Specifications entities, is clearly in conflict with a harmonious interpretation of the relevant provisions included in both § 62.1-44.15:31 and § 62.1-44.15:34 of the Stormwater Management Act.</p> <p>SPECIFIC REDLINE ASSOCIATED WITH COMMENT #1:</p> <p>Since draft 9 VAC 25-875-830 (D) (lines 4126-4130) already provides that “all standards and specifications submitted to the Department...shall be consistent with the requirements of the VESMA” and that the “[a]pproval of standards and specifications by the Department does not relieve the owner or operator of the duty to comply with any other applicable local ordinances or regulations” which is verbatim from the VESMA, VDOT proposes to strike the following language in order to bring the draft regulation into conformance with the governing statute establishing the Standards and Specifications program.</p> <p>Proposed Draft 9 VAC 25-870-840 (A) (lines 4165-4168):</p> <p><i>Erosion and sediment control and stormwater management plans prepared for state projects shall comply with the technical criteria outlined in Part V of this chapter and any locality's VESCP or VESMP authority's technical requirements adopted pursuant to §§ 62.1-44.15:28 and 62.1-44.15:52 of the Code of Virginia.</i></p> <p>COMMENT #2:</p> <p>It is unclear as to whether the regulatory requirement for proposed draft 9 VAC 25-875-130 (A) below is intended (i) to ensure that the construction record drawing accurately documents what was constructed or (ii) to document “all adjustments and revisions” on the construction plan. The submission of a construction plan provides a template from</p> | |
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| | <p>which future long-term inspections will be conducted and therefore must be accurate.</p> <p>Proposed Draft 9 VAC 25-875-130 (A) (lines 1436-1442):</p> <p><i>The operator shall submit a construction record drawing for permanent stormwater management facilities to the VESMP authority in accordance with 9VAC25-875-110. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 of Title 54.1 of the Code of Virginia, stating that to the best of their knowledge, the construction record drawing shows all adjustments and revisions to the stormwater management plan made during construction and serve as a permanent record of the actual location of all constructed elements.</i></p> <p>SPECIFIC REDLINE ASSOCIATED WITH COMMENT #2:</p> <p>As an alternative to the above, the proposed new language at the end of subsection A should be stricken and replaced with one of the following options:</p> <p><i>The operator shall submit a construction record drawing for permanent stormwater management facilities to the VESMP authority in accordance with 9VAC25-875-110. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 of Title 54.1 of the Code of Virginia, stating that to the best of their knowledge, the construction record drawing shows all adjustments and revisions to the stormwater management plan made during construction and serve as a permanent record of the actual location of all constructed elements.</i></p> <p>Option A: <u><i>“the stormwater management facilities have been constructed in accordance with the approved plan”</i></u></p> <p>Option B: <u><i>“the construction record drawing accurately demonstrates the stormwater management facility as it was built and is consistent with the final approved plans”</i></u></p> | |
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| <p>Richard Jacobs; Culpeper Soil and Water Conservation District</p> | <p>Line 62. Adequate Channel definition. Does this include manmade stormwater conveyances? A storm sewer, culvert or ditch can be an adequate channel. Watercourse is not defined. Adequate Outlet or outfall or stable outlet/outfall should be defined. Maybe this could be addressed when the technical criteria is updated.</p> <p>Line 1093 and line 1119. Agreement in Lieu of plan. I thought SFHs were legally allowed to have agreement in lieu if less than 5 acres for both E&S and SWM. Why does this and other sections reference a 1 acre limit for agreement in lieu? This is not consistent with current practice on large residential lots that may have a driveway, drain field and house that disturbs more than 1 acre. See line 1968 where no limitations on the size of SFH is mentioned.</p> <p>Line 1102. Development. Is stormwater management development? Not sure why a stand alone “stormwater management” would be development. Land disturbance is the trigger for development.</p> <p>Line 1147, 1151, 1157, 1162. Clarify that “...E&S criteria defined in part V article 2 (9VAC25-875-540 et seq.)”, SWM criteria of Part V article 3 (9VAC25-875-570 et seq.) unless...”</p> <p>Line 1361 and 1371. The timeline for review in an VESMP, VESCP and VSMP should be identical. I do not see the value of a 15-day completeness determination. Any lacking information is part of the rejection letter. See line 1983-1993. There are conflicting timelines. Written approval within 60 days but written disapproval within 45 days.</p> <p>Line 1436-1437. Does the record drawing get reviewed and accepted? Section 9VAC25-875-110 does not define the criteria for record drawings. It might be better to include language and reference to 9VAC25-875-100 (i).</p> <p>Line 1572. Exceptions to provisions of Part II is not correct. Exceptions are for technical criteria in Part V article 3 and 4.</p> <p>Line 1583. Add “...of the erosion and sediment control requirements of article 2 part V...”</p> <p>Line 2013. Should this be titled “...for solar projects”</p> | <p>Thank you for your comments, the department has addressed each comment as follows:</p> <p>9VAC25-875-20. Definitions: <i>Line 62 “Adequate Channel.”</i> The department has replaced the definition originally from 9VAC25-875-670. Doing this replaces the word “watercourse” with the word “channel.” “Channel” is a defined term in Chapter 875, which should address any confusion.</p> <p><i>Line 1093 and line 1119 “Agreement-in-lieu of a plan.”</i> The department revised the definition of “Agreement in lieu of a plan” to be consistent with legislative changes from the 2023 General Assembly Session.</p> <p><i>Line 1102 “Development.”</i> The department corrected this definition. The reference to stormwater management was a drafting error.</p> <p>9VAC25-875-70. Regulated land-disturbing activities. <i>Lines 1147, 1151, 1157, and 1162.</i> The department added the clarifying references as suggested.</p> <p>9VAC25-875-110 C 4. Plan review requirements <i>Lines 1361 and 1371.</i> The department has revised this section to address confusion about the timelines. The 15-day completeness determination was included in this section to incorporate statutory language from 62.1-44.15:34 A 1 as it will be effective on July 1, 2024.</p> <p>9VAC25-875-130 A. Long-term maintenance of stormwater management facilities. <i>Lines 1436-1437.</i> The department accepts an engineer’s signature as</p> |
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| | <p>Line 2016. Is the July 1, 2020 date still applicable?</p> <p>Line 2041. This line should be subsection A. Line 2042 should be subsection B. Does the department enforce SWMF maintenance agreements when development is less than 1 acre? May need another subsection C to cover VESCP responsibility for ensuring compliance with maintenance agreements on developments less than 1 acre.</p> <p>Line 2115. Reference the E&S requirements of Part V article 2 for variances.</p> <p>Line 2239. Should the section of the regulations be cited? For example, ESC administrator administers program pursuant to part III of 9VAC25-875-210 et seq. Do this for all certificates. Reference Part II 9VAC25-875-30et seq.</p> <p>Line 2324-2330. Licensed professional engineers employed by VESMP, VSMP, or VESCP should still carry relevant certification per the program authority requirements. This conflicts with the line 2369 that exempts P.E. from continuing education. P.E. do not always know the stormwater regulations. At the very least they should go through the certification program and exam. The continuing education programs offer by DEQ is useful for P.E. for their license renewals.</p> <p>Line 2441. Should “informal fact finding” be “formal fact finding”.</p> <p>Line 2459. Does 9VAC25-875-470 duplicates 9VAC25-875-70? I thought administrative criteria should be in the administrative sections of the relevant programs.</p> <p>Line 2494-2507. Is time limits of applicability still relevant? It has already been two permit cycles (2014 and 2019) by the time this regulation will be adopted in July 1, 2024.</p> <p>Line 2562. “Regulations” cite article 2 of Part V (9VAC25-875-540 et seq.)</p> <p>Line 2568. “Regulations” cite article 3 part V (9VAC25-875-570 et seq.)</p> <p>Line 2727. Should this be reference in Part II?</p> | <p>confirmation of the accuracy of the submitted drawing.</p> <p>9VAC25-875-170. Variances and exceptions. <i>Line 1572.</i> The department changed the reference in this section to Part V as suggested.</p> <p><i>Line 1583.</i> The department made the suggested addition.</p> <p>9VAC25-875-310. Plan review coordination with the department for solar projects. <i>Line 2013.</i> The department has updated the section title as suggested.</p> <p><i>Line 2016.</i> The department left the July 1, 2020 date because that is the date the exists in statute.</p> <p>9VAC25-875-320. Long-term maintenance of stormwater management facilities. <i>Line 2041.</i> The department has broken this paragraph into subsections A and B as suggested.</p> <p>9VAC25-875-350. Variances. <i>Line 2115.</i> The department added the reference to Article 2 of Part V as suggested.</p> <p>9VAC25-875-400. Certificates and certifications. <i>Line 2239.</i> The department did not make the suggested revisions. This section is meant only to spell out certifications that are required, and we feel that it accomplishes that is written.</p> <p><i>Lines 2324-2330.</i> DPOR sets licensing and renewal requirements for professional engineers. This section does not exempt professional engineers from those licensing requirements.</p> |
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| | <p>Line 3091 and line 3168. Does the date reference need updating?</p> <p>Line 3140. Consider removing the list from the regulations. Reference the clearinghouse or stormwater handbook for the list.</p> <p>Line 3260, line 3296, Line 3321-3332. Consider moving limits of analysis verbiage and subsection E and F to Design Storms and Hydrologic Methods (9VAC25-875-620). They need their own section.</p> <p><u>Technical Criteria Comment:</u> Attached to this public comment are draft language revisions for Minimum Standard 19 (line 2981) for the consideration for updating the technical criteria in the future.</p> <p>It should be clear that for water quantity there is the MS-19 standards under E&S for <u>Adequate Stormwater Conveyance</u> (Channel, Ditch, Storm Sewer or Pipe) to an <u>Adequate Stormwater Outfall</u> (An Adequate Stormwater Conveyance at the property line or dissipation and dispersion of concentrated as sheet flow); and there is the post construction quantity controls for <u>Channel Protection</u> (1-year) and <u>Flood Protection</u> (10-year) which should apply regardless of the condition of downstream stormwater conveyances. With a four-tier approach we can minimize erosion from the source of runoff and ensure that downstream properties are protected from increases in runoff.</p> | <p>9VAC25-875-460. Discipline of certified personnel or certificate holders. <i>Line 2441.</i> The department did not make the suggested revision. The department feels that an informal fact finding is an appropriate proceeding to make a case decision.</p> <p>9VAC25-875-470. Applicability. <i>Line 2459.</i> This section is repeated here because Part V is meant to be read by owners and operators while Parts II and III apply to VESMP and VESCP authorities. Repeating this section is intended to prevent an owner or operator from having to find that information elsewhere.</p> <p>9VAC25-875-480. Applicability of other laws and regulations; time limits on applicability of approved design criteria. <i>Lines 2495-2507.</i> The department acknowledges this comment, but feels it is best to leave this section in the regulation at this time.</p> <p>9VAC25-875-500. Stormwater pollution prevention plan requirements. <i>Lines 2562 and 2568.</i> The department made the suggested revisions.</p> <p>9VAC25-875-530. Applying for permit coverage. <i>Line 2727.</i> The department did not make the suggested reference. References in Part II are intended to reference to the technical criteria required for certain thresholds of land disturbance. This section is an administrative requirement for an operator to apply for a permit.</p> <p>9VAC25-875-570. Applicability. <i>Line 3091.</i> The department agrees with this comment and has removed this date because it is no longer relevant.</p> |
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| | | <p>9VAC25-875-590. Water quality compliance. <i>Line 3140.</i> The suggested revision is beyond the scope of this regulatory action. The department did not make the suggested revision.</p> <p>9VAC25-875-600. Water quantity. <i>Lines 3260.</i> This revision is outside of the scope of this action. The department did not make the suggested revision.</p> <p><i>Line 3296.</i> This revision is outside of the scope of this action. The department did not make the suggested revision.</p> <p><i>Lines 3321-3332.</i> This revision is outside of the scope of this action. The department did not make the suggested revision.</p> <p>Technical criteria comment:</p> <p>The department received the suggested revisions to technical criteria. These revisions are outside the scope of this regulatory action.</p> |
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