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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25 - 850
VAC Chapter title(s)	Erosion and Sediment Control and Stormwater Management Certification Regulations
Action title	Final Exempt CH 850 Changes in Response to 2022 Legislative Changes
Final agency action date	August 25, 2022
Date this document prepared	August 17, 2022

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 amends the Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850) to incorporate changes resulting from Chapter 356 (Senate Bill 657) of the 2022 Acts of Assembly.

SB657 limits the authority of the State Water Control Board to the issuance of regulations; transfers the Board's existing authority to issue permits and orders to the Department of Environmental Quality; and provides procedures for public comment on pending controversial permits. Changes to 9VAC25-850 included changing designations from "board" to "department" where appropriate and a change in the definition of "Board."

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."

Section 2.2-4006 A.4.a of the Code of Virginia allows the Board to adopt this regulatory amendment to conform to changes in Virginia statutory law. This regulatory action will incorporate statutory changes in Chapter 356 of the 2022 Acts of Assembly into the Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850).

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.

The State Water Control Board approved this amendment to 9VAC25-850 on August 25, 2022, as a final regulation, and affirmed that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.