



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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### **MEMORANDUM**

TO: Members of the State Water Control Board

FROM: Drew Hammond, Office of VPDES Permits

DATE: December 4, 2013

SUBJECT: Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870)

The State Water Control Board (Board) adopted regulations to implement Chapters 756 and 793 of the 2013 Acts of Assembly at the August 26-27, 2013 meeting. The primary purpose of the Board's action was to renumber the regulations, change statutory and regulatory citations, and change references to the Virginia Soil and Water Conservation Board/Department of Conservation and Recreation (DCR) to State Water Control Board/Department of Environmental Quality (DEQ). Also, at that meeting the Board authorized the regulatory action to reissue and amend, as necessary, the General Permit for Stormwater Discharges from Construction Activities (General Permit), 9VAC25-880. Amendments to the General Permit were previously proposed by the Virginia Soil and Water Conservation Board with a public comment period from April 8, 2013 through June 7, 2013, and three public hearings.

Staff is bringing these final regulation amendments before the Board to request adoption of the regulation. These amendments are a result of further review of the regulation and review of the proposed General Permit and the public comments received by the Virginia Soil and Water Conservation Board on the proposed General Permit. In addition, a public comment period on the proposed amendments ran from October 18, 2013 through November 20, 2013. Written comments were received from 470+ individuals. Changes have been made to the proposed amendments to address the public comments. The amended regulation and the list of comments received, along with the staff response are attached to this memorandum.

## Changes Since The Public Comment Period

*9VAC25-870-47. Applicability of other laws and regulations; time limits on applicability of approved design criteria.*

- Updated the proposed language in subsections B and C of this section for clarity purposes.

*9VAC25-870-48. Grandfathering.*

- Updated the proposed language in subsection A of this section for clarity purposes and in response to public comments received. Added a new provision to this subsection for clarity purposes; land disturbance cannot commence prior to July 1, 2014 in order for a project to be considered grandfathered.
- Added two new provisions to subsection B of this section for clarity purposes. A state permit has not been issued prior to July 1, 2014 and land disturbance cannot commence prior to July 1, 2014 in order for a local, state or federal project to be considered grandfathered.
- Updated the language in subsection C of this section for clarity purposes.

*9VAC25-870-54. Stormwater pollution prevention plan requirements.*

- The department has chosen not to move forward with the proposed amendment to subsection C of this section. The proposed exception has been incorporated into the proposed General Permit, 9VAC25-880.

*9VAC25-870-55. Stormwater management plans.*

- Updated the proposed language in subsection A.1 of this section for clarity purposes and in response to public comments received.

*9VAC25-870-95. General.*

- The department has chosen not to move forward with the proposed amendment to subsection H of this section in response to public comments received.

*9VAC25-870-98. Flooding.*

- The department has chosen not to move forward with the proposed amendment to subsection B of this section in response to public comments received.

*9VAC25-870-760. Method of payment.*

- No additional amendments have been proposed to this section.

*9VAC25-870-820. Fees for an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities.*

- No additional amendments have been proposed to this section.

*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.*

- No additional amendments have been proposed to this section.

*DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-870)*

- The department has chosen not to move forward with the proposed amendment to this section in response to public comments received.

EPA Review

The amended regulation has been submitted to the U.S. Environmental Protection Agency for review.

Attorney General Certification

The Office of Attorney General (OAG) has reviewed the amended regulation for certification of statutory authority. Minor revisions were made to address OAG comments.

Attachments

Amended VSMP Regulation, 9VAC25-870  
List of Comments with Staff Response

Cc: Melanie Davenport  
Fred Cunningham  
Cindy Berndt  
Allan Brockenbrough