

Chesapeake Bay Preservation Act Land Disturbing Activity and Septic Pump-Out Requirements that need to be Incorporated into Local Ordinances

Statutory/Regulatory Citations	Explanation of Change	Changes to Local Ordinances
<p>§ 62.1-44.15:27 - Stormwater Management Act; 9VAC25-870-51 and 9VAC25-870-103 (Chesapeake Bay Land Disturbing Activities)</p>	<p>Revisions to the Stormwater Management Act require localities subject to the Chesapeake Bay Preservation Act to “adopt requirements set forth in this article and attendant regulations to regulate Chesapeake Bay Preservation Act land-disturbing activities.” The VSMP regulations pertaining to CBPA land disturbing activities were revised to comport with the changes to the Stormwater Management Act.</p>	<ol style="list-style-type: none"> 1. 9VAC25-870-51 B 1: An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during land disturbing activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations. <i>Comment: E & S plan requirements contained in existing local E & S ordinances will suffice in meeting this requirement.</i> 2. 9VAC25-870-51 B 2: Stormwater Management Plan developed and submitted in accordance with 9VAC25-870-55 of the VSMP regulations. Prior to land disturbance, this plan must be approved by the VSMP authority or a non-VSMP locality subject to the Chesapeake Bay Preservation Act. DEQ will not be reviewing stormwater management plans for Chesapeake Bay Land Disturbing activities. <i>Comment: Existing requirement for the submittal of a stormwater management plan may be amended as necessary to meet the administrative requirements of 9VAC25-870-55.</i> 3. 9VAC25-870-51 B 3: Provisions for exceptions to the technical criteria (Parts II B & IIC). <i>Comment: These provisions may be incorporated into the existing exception language in the local Bay Act ordinance.</i> 4. 9VAC25-870-51 B 4: Long term maintenance of SWM facilities shall be provided for as outlined under 9VAC25-870-112. <i>Comment: These provisions may be added to existing BMP maintenance requirements contained in the local Bay Act ordinance, but must meet all the criteria contained in 870-112.</i> 5. 9VAC25-870-51 B 5 – 9: Bay Act localities must require compliance with the following Part II B technical criteria in the VSMP regulations:

- a. 9VAC25-870-63 – Water quality design criteria requirements
- b. 9VAC25-870-65 – Water quality compliance
- c. 9VAC25-870-66 – Water quantity
- d. 9VAC25-870-69 – Offsite compliance options
- e. 9VAC25-870-72 – Design storms and hydrologic methods
- f. 9VAC25-870-76 – Linear development projects
- g. 9VAC25-870-85 – Stormwater management impoundment structures or facilities

Comment: A Bay Act locality may add the Part II B technical criteria to the existing Bay Act water quality criteria contained in the local Bay Act ordinance. The existing Bay Act water quality provisions, which are equivalent to the Part II C water quality technical criteria, will apply to land disturbing activities that are deemed by the locality to be grandfathered pursuant to 9VAC25-870-48 and those projects that obtained coverage under the 2009 Construction General Permit.

6. [9VAC25-870-103](#) A 2: A local permit, where applicable, shall be issued permitting the land-disturbing activity.

Comment: A locality's existing land disturbance permit will meet this requirement.

- [9VAC25-870-103](#) A 3 b: Local plan review in accordance with 9VAC25-870-108A-C and E – Stormwater plan review requirements

Existing requirement for the submittal of a stormwater management plan may be amended as necessary to meet the administrative requirements of 9VAC25-870-108.

7. [9VAC25-870-103](#) A 3 c: Requirement for the long term stormwater management facility requirements of 9VAC25-870-112 – requires recorded instruments for maintenance of SWM facilities

8. [9VAC25-870-103](#) A 3 d: Locality shall adhere to the inspection requirements of 9VAC25-870-114 (except for subsections A 3 and A 4)– requires inspection program be approved, that the locality ensure that each stormwater management facility is inspected once every 5 years and that such inspections be documented.

9. [9VAC25-870-103](#) A 3 e: Locality must incorporate enforcement components of 9VAC25-870-116

10. [9VAC25-870-103](#) A 3 f: Locality must require the hearing requirements of 9VAC25-870-118

11. [9VAC25-870-103](#) A 3 g: Locality must address the exception conditions of 9VAC25-

		870-122 A-B and D-E 12. 9VAC25-870-103 A 3 h: Local program must address the reporting and recordkeeping requirements of 9VAC25-870-126, except for subsection B 3
§ 62.1-44.15:72 - Chesapeake Bay Preservation Act; 9VAC25-830-130 - General performance criteria.	§ 62.1-44.15:72 of the Chesapeake Bay Preservation Act was amended to remove “a sewage handler permitted by the Virginia Department of Health” and replace it with “an operator or on-site soil evaluator licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, maintain, or design on-site sewage systems” as the party who can certify that the septic system has been inspected, is functioning, and does not need to be pumped out.	9VAC25-830-130 : Language to be added and/or amended in local ordinances: Remove reference to “a sewage handler permitted by the Virginia Department of Health” and insert “ <u>an operator or on-site soil evaluator licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, maintain or design on-site sewage systems.</u> ” before “that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.”

