

**9 VAC 25-31-50. Prohibitions.**

A. Except in compliance with a VPDES permit, or another permit issued by the Board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

B. Any person ~~required to obtain a permit pursuant to this regulation~~ in violation of 9 VAC 25-31-50 A, who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters ~~in violation of 9 VAC 25-31-50 A~~; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of 9 VAC 25-31-50 A shall notify the Department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department, within five days of discovery of the discharge.

1. The written report shall contain:
  - a. A description of the nature and location of the discharge;
  - b. The cause of the discharge;
  - c. The date on which the discharge occurred;
  - d. The length of time that the discharge continued;
  - e. The volume of the discharge;
  - f. If the discharge is continuing, how long it is expected to continue;
  - g. If the discharge is continuing, what the expected total volume of the discharge will be; and

h. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by the permit.

2. Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.

C. No permit may be issued:

1. When the conditions of the permit do not provide for compliance with the applicable requirements of CWA or the Law, or regulations promulgated under CWA or the Law;

2. When the applicant is required to obtain a state or other appropriate certification under Section 401 of CWA and that certification has not been obtained or waived;

3. When the Regional Administrator has objected to issuance of the permit;

4. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states;

5. When, in the judgment of the Secretary of the Army, anchorage and navigation in or on any of the waters of the United States would be substantially impaired by the discharge;

6. For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste;

7. For any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of CWA;

8. For any discharge to the territorial sea, the waters of the contiguous zone, or the oceans in the following circumstances:

a. Before the promulgation of guidelines under Section 403(c) of CWA (for determining degradation of the waters of the territorial seas, the contiguous zone, and the oceans) unless the Board determines permit issuance to be in the public interest; or

b. After promulgation of guidelines under Section 403(c) of CWA, when insufficient information exists to make a reasonable judgment whether the discharge complies with them.

9. To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge into a water segment which does not meet applicable water quality standards or is not expected to meet those standards even after the application of the effluent limitations required by the Law and Sections 301(b)(1)(A) and 301(b)(1)(B) of CWA, and for which the Department has performed a pollutants load allocation for the pollutant to be discharged, must demonstrate, before the close of the public comment period, that:

- a. There are sufficient remaining pollutant load allocations to allow for the discharge; and
- b. The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The Board may waive the submission of information by the new source or new discharger required by 9 VAC 25-31-50 C 9 if the Board determines that it already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this paragraph is to be included in the fact sheet to the permit under 9 VAC 25-31-280.

**9 VAC 25-31-100. Application for a permit.**

A. Duty to apply.

Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 9 VAC 25-31-420 through 9 VAC 25-31-720 and who does not have an effective permit, except persons covered by general permits, excluded from the requirement for a permit by this regulation, or a user of a privately owned treatment works unless the Board requires otherwise, shall submit a complete application to the Department in accordance with this section.

B. Who applies.

When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

C. Time to apply.

1. Any person proposing a new discharge shall submit an application at least 180 days before the date on which the discharge is to commence, unless permission for a later date has been granted by the Board. Facilities proposing a new discharge of storm water associated with industrial activity shall submit an application 180 days before that facility commences industrial activity which may result in a discharge of storm water associated with that industrial activity. Storm water discharges from construction activities included in category 10 of the definition of storm water associated with industrial activity and storm water discharges associated with small construction activities shall submit applications at least 90 days before the date on which construction is to commence. Different submittal dates may be required under the terms of applicable general permits. Persons proposing a new discharge are encouraged to submit their applications well in advance of the 90 or 180 day requirements to avoid delay. New discharges composed entirely of storm water, other than those dischargers identified in 9 VAC 25-31-120 A 1, shall apply for and obtain a permit according to the application requirements in 9 VAC 25-31-120 F.

2. All TWTDS whose sewage sludge use or disposal practices are regulated by 9 VAC 25-31-420 through 9 VAC 25-31-720 must submit permit applications according to the applicable schedule in paragraphs C 2 a or b of this section.

a. A TWTDS with a currently effective VPDES permit must submit a permit application at the time of its next VPDES permit renewal application. Such information must be submitted in accordance with paragraph D of this section.

b. Any other TWTDS not addressed under paragraph C 2 a of this section must submit the information listed in paragraphs C 2 b (1) through (5) of this section to the Department within 1 year after publication of a standard applicable to its sewage sludge use or disposal practice(s), using a form provided by the Department. The Board will determine when such TWTDS must submit a full permit application.

- (1) The TWTDS's name, mailing address, location, and status as federal, State, private, public or other entity;
- (2) The applicant's name, address, telephone number, and ownership status;
- (3) A description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the requirements of paragraph 9 VAC 25-31-100 P 8 d of this section, the description must include the name and address of any facility where sewage sludge is sent for treatment or disposal, and the location of any land application sites;
- (4) Annual amount of sewage sludge generated, treated, used or disposed (estimated dry weight basis); and
- (5) The most recent data the TWTDS may have on the quality of the sewage sludge.

c. Notwithstanding paragraphs C 2 a or b of this section, the Board may require permit applications from any TWTDS at any time if the Board determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

d. Any TWTDS that commences operations after promulgation of an applicable standard for sewage sludge use or disposal must submit an application to the Department at least 180 days prior to the date proposed for commencing operations.

D. Duty to reapply.

All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Board. The Board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

E. Completeness.

1. The Board shall not issue a permit before receiving a complete application for a permit except for VPDES general permits. An application for a permit is complete when the Board receives an application form

and any supplemental information which are completed to its satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

2. ~~Pursuant to § 62.1-44.15:3 of the Code of Virginia, no~~ No application for a VPDES permit to discharge sewage into or adjacent to state waters from a privately owned treatment works serving, or designed to serve, fifty or more residences shall be considered complete unless the applicant has provided the Department with notification from the State Corporation Commission that the applicant is incorporated in the Commonwealth and is in compliance with all regulations and relevant orders of the State Corporation Commission.

3. No application for a new individual VPDES permit ~~to authorizing a new discharge of sewage into any water impoundment located in the state~~, industrial wastes, or other wastes shall be considered complete unless it contains notification from the ~~governing body of the~~ county, city, or town in which the discharge is to take place that the location and operation of the discharging facility are consistent with applicable ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2, Code of Virginia. The ~~governing body~~ county, city or town shall inform in writing the applicant and the Board of the discharging facility's compliance or noncompliance not more than ~~forty-five~~ thirty days from receipt by the chief administrative officer, or his agent, of a request from the applicant. Should the ~~governing body~~ county, city or town fail to provide such written notification within ~~forty-five~~ thirty days, the requirement for such notification is waived. The provisions of this subsection shall not apply to any discharge for which a valid VPDES permit had been issued prior to March 10, 2000.

4. A permit application shall not be considered complete if the Board has waived application requirements under paragraphs J or P of this section and EPA has disapproved the waiver application. If a waiver request has been submitted to EPA more than 210 days prior to permit expiration and EPA has not disapproved the waiver application 181 days prior to permit expiration, the permit application lacking the information subject to the waiver application shall be considered complete.

F. Information requirements.

All applicants for VPDES permits, other than POTWs and other TWTDS, shall provide the following information to the Department, using the application form provided by the Department (additional information required of applicants is set forth in paragraphs G through K of this section).

1. The activities conducted by the applicant which require it to obtain a VPDES permit.
2. Name, mailing address, and location of the facility for which the application is submitted.
3. Up to four SIC codes which best reflect the principal products or services provided by the facility.
4. The operator's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity.
5. Whether the facility is located on Indian lands.
6. A listing of all permits or construction approvals received or applied for under any of the following programs:
  - a. Hazardous Waste Management program under RCRA;
  - b. UIC program under SDWA;
  - c. VPDES program under CWA and the Law;
  - d. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
  - e. Nonattainment program under the Clean Air Act;
  - f. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;
  - g. Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;
  - h. Dredge or fill permits under Section 404 of CWA; and
  - i. Other relevant environmental permits, including state permits.
7. A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.
8. A brief description of the nature of the business.

G. Application requirements for existing manufacturing, commercial, mining, and silvicultural dischargers.

Existing manufacturing, commercial mining, and silvicultural dischargers applying for VPDES permits, except for those facilities subject to the requirements of 9 VAC 25-31-100 H, shall provide the following information to the Department, using application forms provided by the Department.

1. The latitude and longitude of each outfall to the nearest 15 seconds and the name of the receiving water.

2. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under paragraph G 3 of this section. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example, for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.

3. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and storm water runoff; the average flow which each process contributes; and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations, or production areas may be described in general terms (for example, dye-making reactor, distillation tower). For a privately owned treatment works, this information shall include the identity of each user of the treatment works. The average flow of point sources composed of storm water may be estimated. The basis for the rainfall event and the method of estimation must be indicated.

4. If any of the discharges described in paragraph G 3 of this section are intermittent or seasonal, a description of the frequency, duration and flow rate of each discharge occurrence (except for storm water runoff, spillage or leaks).

5. If an effluent guideline promulgated under Section 304 of CWA applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure must reflect the actual production of the facility.

6. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.

7. a. Information on the discharge of pollutants specified in this paragraph (except information on storm water discharges which is to be provided as specified in 9 VAC 25-31-120.) When quantitative data for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (1999). When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the Board may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfalls. The requirements in paragraphs G 7 e and f of this section that an applicant must provide quantitative data for certain pollutants known or believed to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus. For all other pollutants, 24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, for discharges other than storm water discharges, the Board may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four (4) grab samples will be a representative sample of the effluent being discharged.

b. For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the

event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes (applicants submitting permit applications for storm water discharges under 9 VAC 25-31-120 D may collect flow weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the Board). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in 9 VAC 25-31-120 C 1. For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in 9 VAC 25-31-120 except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The Board may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR Part 136 (1999), and additional time for submitting data on a case-by-case basis. An applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

- c. Every applicant must report quantitative data for every outfall for the following pollutants:

Biochemical Oxygen Demand (BOD 5 )

Chemical Oxygen Demand

Total Organic Carbon

Total Suspended Solids

Ammonia (as N)

Temperature (both winter and summer)

pH

d. The Board may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in paragraph G 7 c of this section if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

e. Each applicant with processes in one or more primary industry category (see 40 CFR Part 122 Appendix A (1999)) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

(1) The organic toxic pollutants in the fractions designated in Table I of 40 CFR Part 122 Appendix D (1999) for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph G 8 of this section. Table II of 40 CFR Part 122 Appendix D (1999) lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes; and

(2) The pollutants listed in Table III of 40 CFR Part 122 Appendix D (1999) (the toxic metals, cyanide, and total phenols).

f. (1) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Table IV of 40 CFR Part 122 Appendix D (1995) (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged which is not so limited in an effluent

limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

(2) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in Table II or Table III of 40 CFR Part 122 Appendix D (1999) (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under paragraph G 7 e of this section, is discharged from each outfall. For every pollutant expected to be discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under paragraph G 8 of this section is not required to analyze for pollutants listed in Table II of 40 CFR Part 122 Appendix D (1999) (the organic toxic pollutants).

g. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Table V of 40 CFR Part 122 Appendix D (1999) (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

h. Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

(1) Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T);  
2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl,  
2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel);  
2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

(2) Knows or has reason to believe that TCDD is or may be present in an effluent.

8. An applicant which qualifies as a small business under one of the following criteria is exempt from the requirements in paragraph G 7 e (1) or G 7 f (1) of this section to submit quantitative data for the pollutants listed in Table II of 40 CFR Part 122 Appendix D (1999) (the organic toxic pollutants):

- a. For coal mines, a probable total annual production of less than 100,000 tons per year; or
- b. For all other applicants, gross total annual sales averaging less than \$100,000 per year (in second quarter 1980 dollars).

9. A listing of any toxic pollutant which the applicant currently uses or manufactures as an intermediate or final product or byproduct. The Board may waive or modify this requirement for any applicant if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the Board has adequate information to issue the permit.

10. [Reserved]

11. An identification of any biological toxicity tests which the applicant knows or has reason to believe have been made within the last 3 years on any of the applicant's discharges or on a receiving water in relation to a discharge.

12. If a contract laboratory or consulting firm performed any of the analyses required by paragraph G 7 of this section, the identity of each laboratory or firm and the analyses performed.

13. In addition to the information reported on the application form, applicants shall provide to the Board, at its request, such other information, including pertinent plans, specifications, maps and such other relevant information as may be required, in scope and details satisfactory to the Board, as the Board may reasonably require to assess the discharges of the facility and to determine whether to issue a VPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.

H. Application requirements for manufacturing, commercial, mining and silvicultural facilities which discharge only non-process wastewater.

Except for storm water discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for VPDES permits which discharge only non-process wastewater not regulated by an effluent

limitations guideline or new source performance standard shall provide the following information to the Department using application forms provided by the Department:

1. Outfall number, latitude and longitude to the nearest 15 seconds, and the name of the receiving water;

2. Date of expected commencement of discharge;

3. An identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or noncontact cooling water. An identification of cooling water additives (if any) that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available;

4. a. Quantitative data for the pollutants or parameters listed below, unless testing is waived by the Board. The quantitative data may be data collected over the past 365 days, if they remain representative of current operations, and must include maximum daily value, average daily value, and number of measurements taken. The applicant must collect and analyze samples in accordance with 40 CFR Part 136 (1999). Grab samples must be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. New dischargers must include estimates for the pollutants or parameters listed below instead of actual sampling data, along with the source of each estimate. All levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature.

(1) Biochemical Oxygen Demand (BOD 5).

(2) Total Suspended Solids (TSS).

(3) Fecal Coliform (if believed present or if sanitary waste is or will be discharged).

(4) Total Residual Chlorine (if chlorine is used).

(5) Oil and Grease.

(6) Chemical Oxygen Demand (COD) (if non-contact cooling water is or will be discharged).

(7) Total Organic Carbon (TOC) (if non-contact cooling water is or will be discharged).

(8) Ammonia (as N).

(9) Discharge Flow.

(11) Temperature (Winter and Summer).

b. The Board may waive the testing and reporting requirements for any of the pollutants or flow listed in paragraph H 4 a of this section if the applicant submits a request for such a waiver before or with his application which demonstrates that information adequate to support issuance of a permit can be obtained through less stringent requirements.

c. If the applicant is a new discharger, he must submit the information required in paragraph H 4 a by providing quantitative data in accordance with that section no later than two years after commencement of discharge. However, the applicant need not submit testing results which he has already performed and reported under the discharge monitoring requirements of his VPDES permit.

d. The requirements of paragraphs H 4 a and H 4 c of this section that an applicant must provide quantitative data or estimates of certain pollutants do not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant must report such pollutants as present. Net credit may be provided for the presence of pollutants in intake water if the requirements of 9 VAC 25-31-230 G are met;

5. A description of the frequency of flow and duration of any seasonal or intermittent discharge (except for storm water runoff, leaks, or spills);

6. A brief description of any treatment system used or to be used;

7. Any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining net credits pursuant to 9 VAC 25-31-230 G;

8. Signature of certifying official under 9 VAC 25-31-110; and

9. Pertinent plans, specifications, maps and such other relevant information as may be required, in scope and details satisfactory to the Board.

I. Application requirements for new and existing concentrated animal feeding operations and aquatic animal production facilities.

New and existing concentrated animal feeding operations and concentrated aquatic animal production facilities shall provide the following information to the Department, using the application form provided by the Department:

1. For concentrated animal feeding operations:

- a. The type and number of animals in open confinement and housed under roof;
- b. The number of acres used for confinement feeding; and
- c. The design basis for the runoff diversion and control system, if one exists, including the

number of acres of contributing drainage, the storage capacity, and the design safety factor; and

2. For concentrated aquatic animal production facilities:

- a. The maximum daily and average monthly flow from each outfall;
- b. The number of ponds, raceways, and similar structures;
- c. The name of the receiving water and the source of intake water;
- d. For each species of aquatic animals, the total yearly and maximum harvestable weight;
- e. The calendar month of maximum feeding and the total mass of food fed during that month;

and

- f. Pertinent plans, specifications, maps and such other relevant information as may be required,

in scope and details satisfactory to the Board.

J. Application requirements for new and existing POTWs and treatment works treating domestic sewage.

Unless otherwise indicated, all POTWs and other dischargers designated by the Board must provide, at a minimum, the information in this paragraph to the Department, using an application form provided by the Department. Permit applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the Department. The Board may waive any requirement of this paragraph if it has access to substantially identical information. The Board may also waive any requirement of this paragraph that is not of material concern for a specific permit, if approved by the Regional Administrator. The waiver request to the Regional Administrator must include the Board's justification for the waiver. A Regional Administrator's disapproval of the Board's proposed waiver does not constitute final Agency action, but does provide notice to the Board and permit applicant(s) that EPA may object to any Board-issued permit issued in the absence of the required information.

1. All applicants must provide the following information:

a. Name, mailing address, and location of the facility for which the application is submitted;

b. Name, mailing address, and telephone number of the applicant, and indication as to whether the applicant is the facility's owner, operator, or both;

c. Identification of all environmental permits or construction approvals received or applied for (including dates) under any of the following programs:

(1) Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA), Subpart C;

(2) Underground Injection Control program under the Safe Drinking Water Act (SDWA);

(3) NPDES program under Clean Water Act (CWA);

(4) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

(5) Nonattainment program under the Clean Air Act;

(6) National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(7) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

(8) Dredge or fill permits under section 404 of the CWA; and

(9) Other relevant environmental permits, including State permits;

d. The name and population of each municipal entity served by the facility, including unincorporated connector districts. Indicate whether each municipal entity owns or maintains the collection system and whether the collection system is separate sanitary or combined storm and sanitary, if known;

e. Information concerning whether the facility is located in Indian country and whether the facility discharges to a receiving stream that flows through Indian country;

- f. The facility's design flow rate (the wastewater flow rate the plant was built to handle), annual average daily flow rate, and maximum daily flow rate for each of the previous 3 years;
- g. Identification of type(s) of collection system(s) used by the treatment works (i.e., separate sanitary sewers or combined storm and sanitary sewers) and an estimate of the percent of sewer line that each type comprises; and
- h. The following information for outfalls to surface waters and other discharge or disposal methods:
- (1) For effluent discharges to surface waters, the total number and types of outfalls (e.g., treated effluent, combined sewer overflows, bypasses, constructed emergency overflows);
  - (2) For wastewater discharged to surface impoundments:
    - (a) The location of each surface impoundment;
    - (b) The average daily volume discharged to each surface impoundment; and
    - (c) Whether the discharge is continuous or intermittent;
  - (3) For wastewater applied to the land:
    - (a) The location of each land application site;
    - (b) The size of each land application site, in acres;
    - (c) The average daily volume applied to each land application site, in gallons per day; and
    - (d) Whether land application is continuous or intermittent;
  - (4) For effluent sent to another facility for treatment prior to discharge:
    - (a) The means by which the effluent is transported;
    - (b) The name, mailing address, contact person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant;
    - (c) The name, mailing address, contact person, phone number, and VPDES permit number (if any) of the receiving facility; and

(d) The average daily flow rate from this facility into the receiving facility, in millions of gallons per day; and

(5) For wastewater disposed of in a manner not included in paragraphs J 1 h (1) through (4) of this section (e.g., underground percolation, underground injection):

(a) A description of the disposal method, including the location and size of each disposal site, if applicable;

(b) The annual average daily volume disposed of by this method, in gallons per day; and

(c) Whether disposal through this method is continuous or intermittent;

2. All applicants with a design flow greater than or equal to 0.1 mgd must provide the following information:

a. The current average daily volume of inflow and infiltration, in gallons per day, and steps the facility is taking to minimize inflow and infiltration;

b. A topographic map (or other map if a topographic map is unavailable) extending at least one mile beyond property boundaries of the treatment plant, including all unit processes, and showing:

(1) Treatment plant area and unit processes;

(2) The major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Include outfalls from bypass piping, if applicable;

(3) Each well where fluids from the treatment plant are injected underground;

(4) Wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within 1/4 mile of the treatment works' property boundaries;

(5) Sewage sludge management facilities (including on-site treatment, storage, and disposal sites); and

(6) Location at which waste classified as hazardous under RCRA enters the treatment plant by truck, rail, or dedicated pipe;

c. Process flow diagram or schematic.

(1) A diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system. This includes a water balance showing all treatment units, including disinfection, and showing daily average flow rates at influent and discharge points, and approximate daily flow rates between treatment units; and

(2) A narrative description of the diagram; and

d. The following information regarding scheduled improvements:

(1) The outfall number of each outfall affected;

(2) A narrative description of each required improvement;

(3) Scheduled or actual dates of completion for the following:

(a) Commencement of construction;

(b) Completion of construction;

(c) Commencement of discharge; and

(d) Attainment of operational level;

(4) A description of permits and clearances concerning other Federal and/or State requirements;

3 Each applicant must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable:

a. The following information about each outfall:

(1) Outfall number;

(2) State, county, and city or town in which outfall is located;

(3) Latitude and longitude, to the nearest second;

(4) Distance from shore and depth below surface;

(5) Average daily flow rate, in million gallons per day;

(6) The following information for each outfall with a seasonal or periodic discharge:

- (a) Number of times per year the discharge occurs;
- (b) Duration of each discharge;
- (c) Flow of each discharge; and
- (d) Months in which discharge occurs; and

(7) Whether the outfall is equipped with a diffuser and the type (e.g., high-rate) of diffuser used;

b. The following information (if known) for each outfall through which effluent is discharged to surface waters:

- (1) Name of receiving water;
- (2) Name of watershed/river/stream system and United States Soil

Conservation Service 14-digit watershed code;

(3) Name of State Management/River Basin and United States Geological Survey 8-digit hydrologic cataloging unit code; and

(4) Critical flow of receiving stream and total hardness of receiving stream at critical low flow (if applicable);

c. The following information describing the treatment provided for discharges from each outfall to surface waters:

(1) The highest level of treatment (e.g., primary, equivalent to secondary, secondary, advanced, other) that is provided for the discharge for each outfall and:

- (a) Design biochemical oxygen demand (BOD5 or CBOD5) removal (percent);
- (b) Design suspended solids (SS) removal (percent); and, where applicable,
- (c) Design phosphorus (P) removal (percent);
- (d) Design nitrogen (N) removal (percent); and

(e) Any other removals that an advanced treatment system is designed to achieve.

(2) A description of the type of disinfection used, and whether the treatment plant dechlorinates (if disinfection is accomplished through chlorination);

4. Effluent monitoring for specific parameters.

a. As provided in paragraphs J 4 b through j of this section, all applicants must submit to the Department effluent monitoring information for samples taken from each outfall through which effluent is discharged to surface waters, except for CSOs. The Board may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The Board may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone;

b. All applicants must sample and analyze for the following pollutants:

- (1) Biochemical oxygen demand (BOD-5 or CBOD-5);
- (2) Fecal coliform;
- (3) Design Flow Rate;
- (4) pH;
- (5) Temperature; and
- (6) Total suspended solids

c. All applicants with a design flow greater than or equal to 0.1 mgd must sample and analyze for the following pollutants:

- (1) Ammonia (as N)
- (2) Chlorine (total residual, TRC)
- (3) Dissolved oxygen
- (4) Nitrate/Nitrite
- (5) Kjeldahl nitrogen
- (6) Oil and grease
- (7) Phosphorus

Facilities that do not use chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no reasonable potential to discharge chlorine in their effluent may delete chlorine;

d. All POTWs with a design flow rate equal to or greater than one million gallons per day, all POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program, and other POTWs, as required by the Board must sample and analyze for the pollutants listed in Table 2 of 40 CFR Part 122 Appendix J (1999), and for any other pollutants for which the Board or EPA have established water quality standards applicable to the receiving waters.

e. The Board may require sampling for additional pollutants, as appropriate, on a case-by-case basis;

f. Applicants must provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the seasonal variation in the discharge from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application. The Board may require additional samples, as appropriate, on a case-by-case basis.

g. All existing data for pollutants specified in paragraphs J 4 b through e of this section that is collected within four and one-half years of the application must be included in the pollutant data summary submitted by the applicant. If, however, the applicant samples for a specific pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to summarize all data collected within one year of the application.

h. Applicants must collect samples of effluent and analyze such samples for pollutants in accordance with analytical methods approved under 40 CFR part 136 (1999) unless an alternative is specified in the existing VPDES permit. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. For a composite sample, only one analysis of the composite of aliquots is required.

i. The effluent monitoring data provided must include at least the following information for each parameter:

- (1) Maximum daily discharge, expressed as concentration or mass, based upon actual sample values;
  - (2) Average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value;
  - (3) The analytical method used; and
  - (4) The threshold level (i.e., method detection limit, minimum level, or other designated method endpoints) for the analytical method used.
- j. Unless otherwise required by the Board, metals must be reported as total recoverable.
5. Effluent monitoring for whole effluent toxicity.
- a. All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharges or on any receiving water near the discharge.
  - b. As provided in paragraphs J 5 c through i of this section, the following applicants must submit to the Department the results of valid whole effluent toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters, except for combined sewer overflows:
    - (1) All POTWs with design flow rates greater than or equal to one million gallons per day;
    - (2) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program;
    - (3) Other POTWs, as required by the Board, based on consideration of the following factors:
      - (a) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment plant, and types of industrial contributors);
      - (b) The ratio of effluent flow to receiving stream flow;

(c) Existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW;

(d) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water, or a water designated as an outstanding natural resource water; or

(e) Other considerations (including, but not limited to, the history of toxic impacts and compliance problems at the POTW) that the Board determines could cause or contribute to adverse water quality impacts.

c. Where the POTW has two or more outfalls with substantially identical effluent discharging to the same receiving stream segment, the Board may allow applicants to submit whole effluent toxicity data for only one outfall on a case-by-case basis. The Board may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

d. Each applicant required to perform whole effluent toxicity testing pursuant to paragraph J 5 b of this section must provide:

(1) Results of a minimum of four quarterly tests for a year, from the year preceding the permit application; or

(2) Results from four tests performed at least annually in the four and one half year period prior to the application, provided the results show no appreciable toxicity using a safety factor determined by the Board.

e. Applicants must conduct tests with multiple species (no less than two species; e.g., fish, invertebrate, plant), and test for acute and chronic toxicity, depending on the range of receiving water dilution. All applicants must conduct acute testing and applicants must conduct chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

f. Each applicant required to perform whole effluent toxicity testing pursuant to paragraph J 5 b of this section must provide the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance.

g. Applicants must provide the results using the form provided by the Department, or test summaries if available and comprehensive, for each whole effluent toxicity test conducted pursuant to paragraph J 5 b of this section for which such information has not been reported previously to the Department.

h. Whole effluent toxicity testing conducted pursuant to paragraph J 5 b of this section must be conducted using methods approved under 40 CFR part 136 (1999), as directed by the Board.

i. For whole effluent toxicity data submitted to the Department within four and one-half years prior to the date of the application, applicants must provide the dates on which the data were submitted and a summary of the results.

j. Each POTW required to perform whole effluent toxicity testing pursuant to paragraph J 5 b of this section must provide any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity test conducted within the past four and one-half years revealed toxicity.

6. Applicants must submit the following information about industrial discharges to the POTW:

a. Number of significant industrial users (SIUs) and categorical industrial users (CIUs) discharging to the POTW; and

b. POTWs with one or more SIUs shall provide the following information for each SIU, as defined at 9 VAC 25-31-10, that discharges to the POTW:

(1) Name and mailing address;

(2) Description of all industrial processes that affect or contribute to the SIU's discharge;

(3) Principal products and raw materials of the SIU that affect or contribute to the SIU's discharge;

(4) Average daily volume of wastewater discharged, indicating the amount attributable to process flow and non-process flow;

(5) Whether the SIU is subject to local limits;

(6) Whether the SIU is subject to categorical standards, and if so, under which category and subcategory; and

(7) Whether any problems at the POTW (e.g., upsets, pass through, interference) have been attributed to the SIU in the past four and one-half years.

c. The information required in paragraphs J 6 a and b of this section may be waived by the Board for POTWs with pretreatment programs if the applicant has submitted either of the following that contain information substantially identical to that required in paragraphs J 6 and b of this section.

(1) An annual report submitted within one year of the application; or

(2) A pretreatment program;

7. Discharges from hazardous waste generators and from waste cleanup or remediation sites. POTWs receiving Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or RCRA Corrective Action wastes or wastes generated at another type of cleanup or remediation site must provide the following information:

a. If the POTW receives, or has been notified that it will receive, by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant to 40 CFR Part 261 (1999), the applicant must report the following:

(1) The method by which the waste is received (i.e., whether by truck, rail, or dedicated pipe); and

(2) The hazardous waste number and amount received annually of each hazardous waste;

b. If the POTW receives, or has been notified that it will receive, wastewaters that originate from remedial activities, including those undertaken pursuant to CERCLA and sections 3004(u) or 3008(h) of RCRA, the applicant must report the following:

(1) The identity and description of the site or facility at which the wastewater originates;

(2) The identities of the wastewater's hazardous constituents, as listed in Appendix VIII of 40 CFR Part 261 (1999); if known; and

(3) The extent of treatment, if any, the wastewater receives or will receive before entering the POTW;

c. Applicants are exempt from the requirements of paragraph J 7 b of this section if they receive no more than fifteen kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR Parts 261.30(d) and 261.33(e) (1999).

8. Each applicant with combined sewer systems must provide the following information:

a. The following information regarding the combined sewer system:

(1) A map indicating the location of the following:

(a) All CSO discharge points;

(b) Sensitive use areas potentially affected by CSOs (e.g., beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding national resource waters); and

(c) Waters supporting threatened and endangered species

potentially affected by CSOs; and

(2) A diagram of the combined sewer collection system that includes the

following information:

(a) The location of major sewer trunk lines, both combined and

separate sanitary;

(b) The locations of points where separate sanitary sewers feed

into the combined sewer system;

(c) In-line and off-line storage structures;

(d) The locations of flow-regulating devices; and

(e) The locations of pump stations;

b. The following information for each CSO discharge point covered by the permit application:

(1) The following information on each outfall:

(a) Outfall number;

- (b) State, county, and city or town in which outfall is located;
  - (c) Latitude and longitude, to the nearest second;
  - (d) Distance from shore and depth below surface;
  - (e) Whether the applicant monitored any of the following in the past year for this CSO: (i) Rainfall; (ii) CSO flow volume; (iii) CSO pollutant concentrations; (iv) Receiving water quality; (v) CSO frequency; and
  - (f) The number of storm events monitored in the past year;
- (2) The following information about CSO overflows from each outfall:
- (a) The number of events in the past year;
  - (b) The average duration per event, if available;
  - (c) The average volume per CSO event, if available; and
  - (d) The minimum rainfall that caused a CSO event, if available, in the last year;
- (3) The following information about receiving waters:
- (a) Name of receiving water;
  - (b) Name of watershed/stream system and the United States Soil Conservation Service watershed (14-digit) code (if known); and
  - (c) Name of State Management/River Basin and the United States Geological Survey hydrologic cataloging unit (8- digit) code (if known); and
- (4) A description of any known water quality impacts on the receiving water caused by the CSO (e.g., permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or exceedance of any applicable State water quality standard);

9. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility;

10. All applications must be signed by a certifying official in compliance with 9 VAC 25-31-110; and

11. Pertinent plans, specifications, maps and such other relevant information as may be required, in scope and details satisfactory to the Board.

K. Application requirements for new sources and new discharges.

New manufacturing, commercial, mining and silvicultural dischargers applying for VPDES permits (except for new discharges of facilities subject to the requirements of paragraph H of this section or new discharges of storm water associated with industrial activity which are subject to the requirements of 9 VAC 25-31-120 C 1 and this section (except as provided by 9 VAC 25-31-120 C 1 b) shall provide the following information to the Department, using the application forms provided by the Department:

1. The expected outfall location in latitude and longitude to the nearest 15 seconds and the name of the receiving water;
2. The expected date of commencement of discharge;
3.
  - a. Description of the treatment that the wastewater will receive, along with all operations contributing wastewater to the effluent, average flow contributed by each operation, and the ultimate disposal of any solid or liquid wastes not discharged;
  - b. A line drawing of the water flow through the facility with a water balance as described in paragraph G 2;
  - c. If any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of each discharge occurrence (except for storm water runoff, spillage, or leaks); and
4. If a new source performance standard promulgated under Section 306 of CWA or an effluent limitation guideline applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard for each of the first three years. Alternative estimates may also be submitted if production is likely to vary;
5. The requirements in paragraphs H 4 a, b, and c of this section that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge solely as a

result of their presence in intake water; however, an applicant must report such pollutants as present. Net credits may be provided for the presence of pollutants in intake water if the requirements of 9 VAC 25-31-230 G are met. All levels (except for discharge flow, temperature, and pH) must be estimated as concentration and as total mass.

a. Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants or parameters. The Board may waive the reporting requirements for any of these pollutants and parameters if the applicant submits a request for such a waiver before or with his application which demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements.

- (1) Biochemical Oxygen Demand (BOD).
- (2) Chemical Oxygen Demand (COD).
- (3) Total Organic Carbon (TOC).
- (4) Total Suspended Solids (TSS).
- (5) Flow.
- (6) Ammonia (as N).
- (7) Temperature (winter and summer).
- (8) pH.

b. Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants, if the applicant knows or has reason to believe they will be present or if they are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant: all pollutants in Table IV of 40 CFR Part 122 Appendix D (1999) (certain conventional and nonconventional pollutants).

c. Each applicant must report estimated daily maximum, daily average and source of information for the following pollutants if he knows or has reason to believe that they will be present in the discharges from any outfall:

- (1) The pollutants listed in Table III of 40 CFR Part 122 Appendix D (1999) (the toxic metals, in the discharge from any outfall, Total cyanide, and total phenols);

(2) The organic toxic pollutants in Table II of 40 CFR Part 122 Appendix D (1999) (except bis (chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane). This requirement is waived for applicants with expected gross sales of less than \$100,000 per year for the next three years, and for coal mines with expected average production of less than 100,000 tons of coal per year.

d. The applicant is required to report that 2,3,7,8 Tetrachlorodibenzo-P-Dioxin (TCDD) may be discharged if he uses or manufactures one of the following compounds, or if he knows or has reason to believe that TCDD will or may be present in an effluent:

- (1) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS ±93 - 76 - 5);
- (2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS ±93 - 72 - 1);
- (3) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS ±136 - 25 - 4);
- (4) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnell) (CAS ±299 - 84 - 3);
- (5) 2,4,5-trichlorophenol (TCP) (CAS ±95 - 95 - 4); or
- (6) Hexachlorophene (HCP) (CAS ±70 - 30 - 4);

e. Each applicant must report any pollutants listed in Table V of 40 CFR Part 122 Appendix D (1999) (certain hazardous substances) if he believes they will be present in any outfall (no quantitative estimates are required unless they are already available).

f. No later than two years after the commencement of discharge from the proposed facility, the applicant is required to submit the information required in paragraph G of this section. However, the applicant need not complete those portions of paragraph G requiring tests which he has already performed and reported under the discharge monitoring requirements of his VPDES permit;

6. Each applicant must report the existence of any technical evaluation concerning his wastewater treatment, along with the name and location of similar plants of which he has knowledge;

7. Any optional information the permittee wishes to have considered;

8. Signature of certifying official under 9 VAC 25-31-110; and

9. Pertinent plans, specifications, maps and such other relevant information as may be required, in scope and details satisfactory to the Board.

L. Variance requests by non-POTWs.

A discharger which is not a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under any of the following statutory or regulatory provisions within the times specified in this paragraph:

1. Fundamentally different factors.

a. A request for a variance based on the presence of fundamentally different factors from those on which the effluent limitations guideline was based shall be filed as follows:

(1) For a request from best practicable control technology currently available (BPT), by the close of the public comment period for the draft permit; or

(2) For a request from best available technology economically achievable (BAT) and/or best conventional pollutant control technology (BCT), by no later than:

(a) July 3, 1989, for a request based on an effluent limitation guideline promulgated before February 4, 1987, to the extent July 3, 1989 is not later than that provided under previously promulgated regulations; or

(b) 180 days after the date on which an effluent limitation guideline is published in the Federal Register for a request based on an effluent limitation guideline promulgated on or after February 4, 1987.

b. The request shall explain how the requirements of the applicable regulatory and/or statutory criteria have been met.

2. A request for a variance from the BAT requirements for CWA Section 301(b)(2)(F) pollutants (commonly called non-conventional pollutants) pursuant to Section 301(c) of CWA because of the economic capability of the owner or operator, or pursuant to Section 301(g) of the CWA (provided however that a 301(g) variance may only be requested for ammonia; chlorine; color; iron; total phenols (when determined by the Administrator to be a pollutant covered by Section 301(b)(2)(F)) and any other pollutant which the Administrator lists under Section 301(g)(4) of the CWA) must be made as follows:

a. For those requests for a variance from an effluent limitation based upon an effluent limitation guideline by:

(1) Submitting an initial request to the Regional Administrator, as well as to the Department, stating the name of the discharger, the permit number, the outfall number(s), the applicable effluent guideline, and whether the discharger is requesting a Section 301(c) or Section 301(g) modification or both. This request must have been filed not later than 270 days after promulgation of an applicable effluent limitation guideline; and

(2) Submitting a completed request no later than the close of the public comment period for the draft permit demonstrating that: (i) all reasonable ascertainable issues have been raised and all reasonably available arguments and materials supporting their position have been submitted; and (ii) that the applicable requirements of 40 CFR Part 125 (1999) have been met. Notwithstanding this provision, the complete application for a request under Section 301(g) shall be filed 180 days before EPA must make a decision (unless the Regional Division Director establishes a shorter or longer period); or

b. For those requests for a variance from effluent limitations not based on effluent limitation guidelines, the request need only comply with paragraph L 2 a (2) of this section and need not be preceded by an initial request under paragraph L 2 a (1) of this section.

3. A modification under CWA Section 302(b)(2) of requirements under CWA Section 302(a) for achieving water quality related effluent limitations may be requested no later than the close of the public comment period for the draft permit on the permit from which the modification is sought.

4. A variance for alternate effluent limitations for the thermal component of any discharge must be filed with a timely application for a permit under this section, except that if thermal effluent limitations are established on a case-by-case basis or are based on water quality standards the request for a variance may be filed by the close of the public comment period for the draft permit. A copy of the request shall be sent simultaneously to the Department.

M. Variance requests by POTWs.

A discharger which is a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under any of the following statutory provisions as specified in this paragraph:

1. A request for a modification under CWA Section 301(h) of requirements of CWA Section 301(b)(1)(B) for discharges into marine waters must be filed in accordance with the requirements of 40 CFR Part 125, Subpart G (1999).

2. A modification under CWA Section 302(b)(2) of the requirements under Section 302(a) for achieving water quality based effluent limitations shall be requested no later than the close of the public comment period for the draft permit on the permit from which the modification is sought.

N. Expedited variance procedures and time extensions.

1. Notwithstanding the time requirements in paragraphs L and M of this section, the Board may notify a permit applicant before a draft permit is issued that the draft permit will likely contain limitations which are eligible for variances. In the notice the Board may require the applicant as a condition of consideration of any potential variance request to submit a request explaining how the requirements of 40 CFR Part 125 (1999) applicable to the variance have been met and may require its submission within a specified reasonable time after receipt of the notice. The notice may be sent before the permit application has been submitted. The draft or final permit may contain the alternative limitations which may become effective upon final grant of the variance.

2. A discharger who cannot file a timely complete request required under paragraph L 2 a (2) or L 2 b of this section may request an extension. The extension may be granted or denied at the discretion of the Board. Extensions shall be no more than 6 months in duration.

O. Recordkeeping.

Except for information required by paragraph C 2 of this section, which shall be retained for a period of at least five years from the date the application is signed (or longer as required by Part VI of this regulation), applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this section for a period of at least 3 years from the date the application is signed.

P. Sewage Sludge Management.

All TWTDS subject to 9 VAC 25-31-100 C 2 a must provide the information in this paragraph to the Department, using an application form approved by the Department. New applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the Department. The Board may waive any requirement of this paragraph if it has access to substantially identical information. The Board may also waive any requirement of this paragraph that is not of material concern for a specific permit, if approved by the Regional Administrator. The waiver request to the Regional Administrator must include the Board's justification for the waiver. A Regional Administrator's disapproval of the Board's proposed waiver does not constitute final Agency action, but does provide notice to the Board and the permit applicant that EPA may object to any Board-issued permit issued in the absence of the required information.

1. All applicants must submit the following information:

- a. The name, mailing address, and location of the TWTDS for which the application is submitted;
- b. Whether the facility is a Class I Sludge Management Facility;
- c. The design flow rate (in million gallons per day);
- d. The total population served;
- e. The TWTDS's status as Federal, State, private, public, or other entity;
- f. The name, mailing address, and telephone number of the applicant; and
- g. Indication whether the applicant is the owner, operator, or both;

2. All applicants must submit the facility's VPDES permit number, if applicable, and a listing of all other Federal, State, and local permits or construction approvals received or applied for under any of the following programs:

- a. Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA);
- b. UIC program under the Safe Drinking Water Act (SDWA);
- c. NPDES program under the Clean Water Act (CWA);
- d. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
- e. Nonattainment program under the Clean Air Act;

- f. National Emission Standards for Hazardous Air Pollutants (NESHAPS)

preconstruction approval under the Clean Air Act;

- g. Dredge or fill permits under section 404 of CWA;
- h. Other relevant environmental permits, including State or local permits;

3. All applicants must identify any generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country;

4. All applicants must submit a topographic map (or other map if a topographic map is unavailable) extending one mile beyond property boundaries of the facility and showing the following information:

- a. All sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and

- b. Wells, springs, and other surface water bodies that are within 1/4 mile of the property boundaries and listed in public records or otherwise known to the applicant;

5. All applicants must submit a line drawing and/or a narrative description that identifies all sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each such unit, and all processes used for pathogen reduction and vector attraction reduction;

6. The applicant must submit sewage sludge monitoring data for the pollutants for which limits in sewage sludge have been established in 9 VAC 25-31-420 et seq. for the applicant's use or disposal practices on the date of permit application.

- a. Board may require sampling for additional pollutants, as appropriate, on a case-by-case basis;

- b. Applicants must provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the sewage sludge and should be taken at least one month apart. Existing data may be used in lieu of sampling done solely for the purpose of this application;

c. Applicants must collect and analyze samples in accordance with analytical methods specified in 9 VAC 25-31-490 unless an alternative has been specified in an existing sewage sludge permit;

d. The monitoring data provided must include at least the following information for each parameter:

- (1) Average monthly concentration for all samples (mg/kg dry weight), based upon actual sample values;
- (2) The analytical method used; and
- (3) The method detection level.

7. If the applicant is a person who prepares sewage sludge, as defined at 9 VAC 25-31-500, the applicant must provide the following information:

a. If the applicant's facility generates sewage sludge, the total dry metric tons per 365-day period generated at the facility;

b. If the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received:

- (1) The name, mailing address, and location of the other facility;
- (2) The total dry metric tons per 365-day period received from the other facility; and
- (3) A description of any treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics;

c. If the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information:

- (1) Whether the Class A pathogen reduction requirements in 9 VAC 25-31-710 A or the Class B pathogen reduction requirements in 9 VAC 25-31-710 B are met, and a description of any treatment processes used to reduce pathogens in sewage sludge;

(2) Whether any of the vector attraction reduction options of 9 VAC 25-31-720 B 1 through 8 are met, and a description of any treatment processes used to reduce vector attraction properties in sewage sludge; and

(3) A description of any other blending, treatment, or other activities that change the quality of sewage sludge;

d. If sewage sludge from the applicant's facility meets the ceiling concentrations in 9 VAC 25-31-540 B 1, the pollutant concentrations in 9 VAC 25-3-540 B 3, the Class A pathogen requirements in 9 VAC 25-31-710 A, and one of the vector attraction reduction requirements in 9 VAC 25-31-720 B 1 through 8, and if the sewage sludge is applied to the land, the applicant must provide the total dry metric tons per 365-day period of sewage sludge subject to this paragraph that is applied to the land;

e. If sewage sludge from the applicant's facility is sold or given away in a bag or other container for application to the land, and the sewage sludge is not subject to paragraph P 7 d of this section, the applicant must provide the following information:

(1) The total dry metric tons per 365-day period of sewage sludge subject to this paragraph that is sold or given away in a bag or other container for application to the land; and

(2) A copy of all labels or notices that accompany the sewage sludge being sold or given away;

f. If sewage sludge from the applicant's facility is provided to another person who prepares sewage sludge, as defined at 9 VAC 25-31-500, and the sewage sludge is not subject to paragraph 9 VAC 25-31-100 P 7 d, the applicant must provide the following information for each facility receiving the sewage sludge:

(1) The name and mailing address of the receiving facility;

(2) The total dry metric tons per 365-day period of sewage sludge subject to this paragraph that the applicant provides to the receiving facility;

(3) A description of any treatment processes occurring at the receiving facility, including blending activities and treatment to reduce pathogens or vector attraction characteristic;

(4) A copy of the notice and necessary information that the applicant is required to provide the receiving facility under 9 VAC 25-31-530 G; and

(5) If the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge;

8. If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to paragraphs 9 VAC 25-31-100 P 7 d, e or f, the applicant must provide the following information:

a. The total dry metric tons per 365-day period of sewage sludge subject to this paragraph that is applied to the land;

b. If any land application sites are located in States other than the State where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the State(s) where the land application sites are located;

c. The following information for each land application site that has been identified at the time of permit application:

(1) The name (if any), and location for the land application site;

(2) The site's latitude and longitude to the nearest second, and method of determination;

(3) A topographic map (or other map if a topographic map is unavailable) that shows the site's location;

(4) The name, mailing address, and telephone number of the site owner, if different from the applicant;

(5) The name, mailing address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant;

(6) Whether the site is agricultural land, forest, a public contact site, or a reclamation site, as such site types are defined under 9 VAC 25-31-500;

(7) The type of vegetation grown on the site, if known, and the nitrogen requirement for this vegetation;

(8) Whether either of the vector attraction reduction options of 9 VAC 25-31-720 B 9 or 10 is met at the site, and a description of any procedures employed at the time of use to reduce vector attraction properties in sewage sludge; and

(9) Other information that describes how the site will be managed, as specified by the Board.

d. The following information for each land application site that has been identified at the time of permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 9 VAC 25-31-540 B 2 to the site:

(1) Whether the applicant has contacted the permitting authority in the State where the bulk sewage sludge subject to 9 VAC 25-31-540 B 2 will be applied, to ascertain whether bulk sewage sludge subject to 9 VAC 25-31-540 B 2 has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name and phone number of a contact person at the permitting authority;

(2) Identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in 9 VAC 25-31-540 B 2 to the site since July 20, 1993, if, based on the inquiry in paragraph 9 VAC 25-31-100 P 8 d (1), bulk sewage sludge subject to cumulative pollutant loading rates in 9 VAC 25-31-540 B 2 has been applied to the site since July 20, 1993;

e. If not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum:

- (1) Describes the geographical area covered by the plan;
- (2) Identifies the site selection criteria;
- (3) Describes how the site(s) will be managed;
- (4) Provides for advance notice to the Board of specific land application sites and reasonable time for the Board to object prior to land application of the sewage sludge; and

(5) Provides for advance public notice of land application sites in a newspaper of general circulation in the area of the land application site and notice to landowners and occupants adjoining the proposed land application site.

9. If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must provide the following information:

a. The total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per 365-day period;

b. The following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does not own or operate:

(1) The site name or number, contact person, mailing address, and telephone number for the surface disposal site; and

(2) The total dry metric tons from the applicant's facility per 365-day period placed on the surface disposal site;

c. The following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates:

(1) The name or number and the location of the active sewage sludge unit;

(2) The unit's latitude and longitude to the nearest second, and method of determination;

(3) If not already provided, a topographic map (or other map if a topographic map is unavailable) that shows the unit's location;

(4) The total dry metric tons placed on the active sewage sludge unit per 365-day period;

(5) The total dry metric tons placed on the active sewage sludge unit over the life of the unit;

(6) A description of any liner for the active sewage sludge unit, including whether it has a maximum permeability of  $1 \times 10^{-7}$  cm/sec;

(7) A description of any leachate collection system for the active sewage sludge unit, including the method used for leachate disposal, and any Federal, State, and local permit number(s) for leachate disposal;

(8) If the active sewage sludge unit is less than 150 meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line;

(9) The remaining capacity (dry metric tons) for the active sewage sludge unit;

(10) The date on which the active sewage sludge unit is expected to close, if such a date has been identified;

(11) The following information for any other facility that sends sewage sludge to the active sewage sludge unit:

(a) The name, contact person, and mailing address of the facility;  
and

(b) Available information regarding the quality of the sewage sludge received from the facility, including any treatment at the facility to reduce pathogens or vector attraction characteristics;

(12) Whether any of the vector attraction reduction options of 9 VAC 25-31-720 B 9 through 11 is met at the active sewage sludge unit, and a description of any procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge;

(13) The following information, as applicable to any ground-water monitoring occurring at the active sewage sludge unit:

(a) A description of any ground-water monitoring occurring at the active sewage sludge unit;

(b) Any available ground-water monitoring data, with a description of the well locations and approximate depth to ground water;

(c) A copy of any ground-water monitoring plan that has been prepared for the active sewage sludge unit;

(d) A copy of any certification that has been obtained from a qualified ground-water scientist that the aquifer has not been contaminated; and

(14) If site-specific pollutant limits are being sought for the sewage sludge placed on this active sewage sludge unit, information to support such a request;

10. If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide the following information:

a. The total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per 365-day period;

b. The following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does not own or operate:

(1) The name and/or number, contact person, mailing address, and telephone number of the sewage sludge incinerator; and

(2) The total dry metric tons from the applicant's facility per 365-day period fired in the sewage sludge incinerator;

11. If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant must provide the following information for each MSWLF to which sewage sludge is sent:

a. The name, contact person, mailing address, location, and all applicable permit numbers of the MSWLF;

b. The total dry metric tons per 365-day period sent from this facility to the MSWLF;

c. A determination of whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a MSWLF, including the results of the paint filter liquids test and any additional requirements that apply on a site-specific basis; and

d. Information, if known, indicating whether the MSWLF complies with criteria set forth in the Virginia Solid Waste Management Regulation, 9 VAC 20-80-10 et seq.;

12. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal;

13. At the request of the Board, the applicant must provide any other information necessary to determine the appropriate standards for permitting under 9 VAC 25-31-420 et seq., and must provide any other information necessary to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements; and pertinent plans, specifications, maps and such other relevant information as may be required, in scope and details satisfactory to the Board; and

14. All applications must be signed by a certifying official in compliance with 9 VAC 25-31-110.

[Note 1: Until further notice paragraph G 7 e (1) and the corresponding portions of the VPDES application Form 2C are suspended as they apply to coal mines.]

[Note 2: Until further notice paragraph G 7 e (1) and the corresponding portions of Item V - C of the VPDES application Form 2c are suspended as they apply to:

a. Testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (subpart C-Low water use processing of 40 CFR Part 410 (1999)), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.

b. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (subpart B of 40 CFR Part 440 (1999)), and testing and reporting for all four fractions in all other subcategories of this industrial category.

c. Testing and reporting for all four GC/MS fractions in the Porcelain Enameling industry.]

[Note 3: Until further notice paragraph G 7 e (1) and the corresponding portions of Item V - C of the VPDES application Form 2c are suspended as they apply to:

a. Testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory (subpart D) and Rosin-Based Derivatives Subcategory (subpart F) of the Gum and Wood Chemicals industry (40 CFR Part 454

(1999)), and testing and reporting for the pesticide and base-neutral fractions in all other subcategories of this industrial category.

b. Testing and reporting for the pesticide fraction in the Leather Tanning and Finishing, Paint and Ink Formulation, and Photographic Supplies industrial categories.

c. Testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining industrial category.

d. Testing and reporting for the pesticide fraction in the Papergrade Sulfite subcategories (subparts J and U) of the Pulp and Paper industry (40 CFR Part 430 (1999)); testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink (subpart Q), Dissolving Kraft (subpart F), and Paperboard from Waste Paper (subpart E); testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: BCT Bleached Kraft (subpart H), Semi-Chemical (subparts B and C), and Nonintegrated-Fine Papers (subpart R); and testing and reporting for the acid, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft (subpart I), Dissolving Sulfite Pulp (subpart K), Groundwood-Fine Papers (subpart O), Market Bleached Kraft (subpart G), Tissue from Wastepaper (subpart T), and Nonintegrated-Tissue Papers (subpart S).

e. Testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category.]

CERTIFIED TRUE AND ACCURATE: \_\_\_\_\_

Robert G. Burnley, Director, DEQ

DATE: \_\_\_\_\_