

Mini book

TENTATIVE AGENDA  
STATE WATER CONTROL BOARD MEETING

FRIDAY, MARCH 25, 2022

IN PERSON ONLY – GALLERY, COMMUNITY COLLEGE WORKFORCE ALLIANCE,  
1651 EAST PARHAM ROAD, RICHMOND, VA 23228

Agenda updated to  
correct date  
listed for minutes  
Tab A on  
3/7/22

Meeting will be Live-Streamed. Go to: [www.deq.virginia.gov](http://www.deq.virginia.gov)  
Any Updates To Details/Final Arrangements To Be Announced On Virginia Regulatory Town Hall

(PERSONS ATTENDING THE MEETING ARE REQUIRED TO WEAR FACE MASKS)

Convene – 10:30 A.M

Agenda Item	Presenter	Tab
Minutes (December 14, 2021)	Porterfield	A
<b>Final Regulations</b> <i>Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Vehicle Wash Facilities and Laundry Facilities, 9VAC25-194 * minibook excludes fact sheet</i>	Daub	B
<b>Proposed Regulations</b> <i>Virginia Pollutant Discharge Elimination System General Permit for Potable Water Treatment Plants, 9VAC25-860 * minibook excludes fact sheet</i>	Daub	C
<i>Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests, 9VAC25-120 * minibook excludes fact sheet</i>	Thompson	D
<b>Withdrawal of Regulatory actions</b> <i>Withdrawal of regulatory actions pertaining to Confined Animal Feeding Operations - 9VAC25-32</i>	Porterfield	E
<b>Significant Noncompliance Report and Chesapeake Bay Preservation Act Program Notices of Violations</b>	Severs	F
<b>Consent Special Order</b> <i>Accomack County Nonmetallic Mineral Mine - VPDES and VWP permit programs- Consent Order with Civil Charge and Corrective Action Plan</i>	Severs	G
<b>Other Business</b> Future Meeting dates- June 22, 2022 Division Director's Report Mountain Valley Pipeline - Update Public Forum (time not to exceed 45 minutes - no public comment on Mountain Valley Pipeline)	Porterfield Schneider Davenport	

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions on the latest status of the agenda should be directed to Melissa S. Porterfield at (804) 698-4238.

**PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS:** The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may an additional comment period during which a public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

**REGULATORY ACTIONS:** Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

**CASE DECISIONS:** Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented at the public hearing or during the public comment period up to 3 minutes to exercise their rights to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a **FORMAL HEARING** is being held.

**POOLING MINUTES:** Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

**PUBLIC FORUM:** The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Melissa S. Porterfield, Policy Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4238, e-mail: [Melissa.porterfield@deq.virginia.gov](mailto:Melissa.porterfield@deq.virginia.gov) .

---

**Additional Meeting Information:**

- Attendees are not entitled to be disorderly or disrupt the meeting from proceeding in an orderly, efficient, and effective fashion. Disruptive behavior may result in a recess or removal from the meeting.
- Possession or use of any device that may disrupt the conduct of business is prohibited, including but not limited to: voice-amplification equipment; bullhorns; blow horns; sirens, or other noise-producing devices; as well as signs on sticks, poles or stakes; or helium-filled balloons.
- All attendees are asked to be respectful of all speakers.
- Rules will be enforced fairly and impartially not only to ensure the efficient and effective conduct of business, but also to ensure no interference with the business of the Community College Workforce Alliance, its employees and guests.
- All violators are subject to removal.



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Andrew R. Wheeler  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4000

February 8, 2022

**MEMORANDUM**

TO: State Water Control Board Members  
FROM: Eleanore Daub, Office of VPDES Permits  
SUBJECT: VPDES General Permit Regulation for Vehicle Wash Facilities and Laundry Facilities - 9VAC25-194

The current VPDES Vehicle Wash and Laundry General Permit will expire on October 15, 2022 and the regulation establishing this general permit is being amended to reissue another term. The staff is bringing this proposed regulation before the Board to request adoption of the amendments to the VPDES Vehicle Wash and Laundry General Permit regulation. The staff will also recommend that the Board affirm that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act.

The regulation took into consideration the recommendations of a technical advisory committee (TAC) formed for this regulatory action. A list of the TAC membership is attached.

The Notice of Public Comment and Hearing was approved by the Board on September 28, 2021, the comment period was November 8, 2021 to January 7, 2022 with a public hearing held on December 10, 2021. No members of the public attended the hearing. Comments were received during the Notice of Public Comment and Hearing from the City of Alexandria who requested the permit language be strengthened to not allow coverage for facilities that have the ability to discharge to the public sanitary sewer where coverage under the general permit is merely a cost-savings measure and when an alternative private vehicle washing facility that discharges to the sanitary sewer is available. Their concern is illicit discharges to the storm sewer system. The existing regulation requires an evaluation of the option to connect to the sanitary sewer. However, costs and other alternatives must be reasonable. Also, with the additional requirements for stormwater inlet protection and operations and maintenance of these measures, staff determined that no changes to the existing requirements were necessary. The complete comment and response can be found in the attached Town Hall Agency Background document.

No substantive changes were made from the proposed regulation. Changes presented during the proposed stage were:



- Section 10 – New definitions added for golf cart equipment, inlet protection measures, lawn maintenance equipment per the request of the TAC. These definitions were added to clarify various requirements in the regulation and to exclude equipment used in fertilizer, pesticide, or herbicide application. Inlet protection measures include containment berms or weighted filters or socks designed to remove metals, oil and grease, solids and debris along with best management practices. Previously, suggestions for inlet protection measures were only in guidance.
- Sections 40 and 70 - Updated the effective dates to January 1, 2023 – December 31, 2027. Since the existing permit expires October 15, 2022, this new date effectively requires the permit to be administratively continued between October 15 and December 31, 2022. This is important so that the permit does not abruptly end before the end of a full year as this causes breaks in discharge monitoring report (DMR) record population for annual and semi-annual required monitoring reports. Moving to a calendar year makes e-DMR population seamless from year to year.
- Section 60 - Registration - Registration statement deadlines changed from 30 days to 60 days prior to expiration of permit, commencement of discharge or adding a new process. Latitude/longitude and State Corporation Commission entity number now required for a complete registration statement. Added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry, registration statements shall be submitted electronically. Three months' notice shall be given by the department about this requirement.
- Section 70 Part I A 1 – Replaced the monitoring requirement with a limit of 5,000 gallons per day (GPD) for vehicle wash facilities that discharge a monthly average flow rate less than or equal to 5,000. This reflects the maximum flow rate allowed by this Part I A limits page. This was discussed in the TAC meeting as a potential addition so it can be tracked more efficiently during the term of the permit.
- Section 70 Part I B 1 Added to the special condition which requires weekly visual monitoring that in addition to recording sheens, floating solids and visible foam, they must also record whether or not there is a discharge.
- Section 70 Part I B 6 – Added to the special condition that requires a solids management plan that this includes solids removed from oil/water separators and cleaning schedule must be in the operation and maintenance manual (O&M). It also now includes trash and other debris handling, storage and disposal.
- Section 70 Part I B 13 - Added to the special condition that requires an O&M manual, the O&M of inlet protection measures. Previously, the O&M manual only addressed the treatment works. Also added that the sludge management plan will include the schedule for settling basin or oil water separator cleaning and solids handling as required by Part I B 6 (solids management plan).
- Section 70 Part II A – Conditions Applicable to All Permits - Added under reporting, that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry and 3 months' notice is given, discharge monitoring reports shall be submitted electronically.

The Office of the Attorney General will be sent the regulation for certification of authority to adopt the amendments.

Draft amendments showing changes to the current regulation, the Agency Final Town Hall background document and the Fact Sheet are attached.

Attachments: TAC Membership, General Permit Regulation Amendments, Town Hall Agency Background Document (including response to comments), Fact Sheet

**TAC COMMITTEE MEMBERSHIP**  
**VPDES Vehicle Wash and Laundry Facilities General Permit Regulation**  
**9VAC25-194**

<p><b>Mike Ashley</b>          President, Mid-Atlantic Carwash Association          Owner - Virginia Carwash Industries Inc. and          Shenandoah Valley Coin Laundries Inc.          PO Box 2          Toms Brook VA 22660          Phone: 540-335-5654          Mobile: 540-975-3354  <a href="mailto:mhashley@gmail.com">mhashley@gmail.com</a></p>	<p><b>Diana Handy</b>          Stormwater Specialist          Arlington County Department of Environmental          Services          Office of Sustainability and Environmental          Management          2100 Clarendon Blvd, Suite 705          Arlington, VA 22201          703.228.0772  <a href="mailto:dhandy@arlingtonva.us">dhandy@arlingtonva.us</a></p>
<p><b>Casey Magruder</b>          Environmental Program Administrator          Department of Public Works - Storm Water          2233 McKann Avenue          Norfolk, VA 23509          Email: <a href="mailto:casey.magruder@norfolk.gov">casey.magruder@norfolk.gov</a>          Office: 757-823-4019   Cell: 757-613-0841  <a href="http://www.norfolk.gov">www.norfolk.gov</a></p>	<p><b>Karl Mertig, CPWD</b>          Kimley-Horn   4500 Main Street, Suite 500          Virginia Beach, VA 23455          Direct: 757 355 6671   Mobile: 757 715 5729  <a href="mailto:karl.mertig@kimley-horn.com">karl.mertig@kimley-horn.com</a></p>
<p><b>DEQ Staff:</b>  <b>Elleanore Daub</b> - CO VPDES  <b>Allan Brockenbrough</b> - CO VPDES</p>	<p><b>DEQ Staff Technical Liaisons:</b>          Peter Sherman (CO, VPDES Permits)          Troy Nipper (CO, Water Compliance)          Kevin Harlow (BRRO, VPDES Permits)          Anna Tuthill (NRO, MS4 Coordinator/Inspector)          Rebecca Johnson (NRO, Water Compliance)          Amy Dooley (NRO, Water Compliance)          Mark Evans (NRO, Water Compliance)          Azra Bilalagic (PRO, VPDES Permits)          Nicholas Sturgill (SWRO, Water Compliance).</p>

1 **State Water Control Board**  
2 Project 6442  
3 VPDES Vehicle Wash Facility and Laundry Facility General Permit Regulation  
4 Final Adoption

5 **Amend and Reissue the Existing General Permit Regulation**

6 **9VAC25-194-10. Definitions.**

7 The words and terms used in this chapter shall have the meanings defined in the State Water  
8 Control Law and 9VAC25-31 (VPDES Permit Regulation) unless the context clearly indicates  
9 otherwise, except that for the purposes of this chapter:

10 "Construction equipment" means trenchers, backhoes, boring equipment, bulldozers, loaders,  
11 dump trucks, and any other piece of earth moving equipment.

12 ~~"Department" or "DEQ" means the Department of Environmental Quality.~~

13 "Golf course equipment" means carts, utility vehicles, bunker rakes, groomers, seeders, and  
14 other turf equipment but does not mean equipment used in fertilizer, pesticide, or herbicide  
15 application.

16 "Inlet protection measures" means equipment and best management practices to minimize  
17 pollution to state waters via the storm drain. Equipment includes containment berms, barriers, or  
18 seals designed to prevent water from entering the inlet, weighted filters, or socks designed to  
19 remove metals, oil and grease, solids, and debris combined with other measures, including  
20 vacuuming of wastewater, shut off hose nozzles, washing, or directing wastewater to grassy  
21 areas.

22 "Laundry" means any self-service facility where the washing of clothes is conducted as  
23 designated by NAICS Code 812310 and SIC 7215. It does not include facilities that engage in dry  
24 cleaning.

25 ~~"Maintenance equipment" means street sweepers and catch basin cleaner trucks.~~

26 "Lawn maintenance equipment" means motorized or hand operated lawn care equipment,  
27 including mowers, hedgers, aerators, augers, blowers, brush clearers, brush cutters, dethatchers,  
28 edgers, pole saws, power rakes, and tillers, but does not mean equipment used in fertilizer,  
29 pesticide, or herbicide application.

30 "NAICS" means North American Industry Classification System from the U.S. Office of  
31 Management and Budget, 2017 edition.

32 "SIC" means the Standard Industrial Classification from the U.S. Office of Management and  
33 Budget Standard Industrial Classification Manual, 1987 edition.

34 "Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a  
35 pollutant that a waterbody can receive and still meet water quality standards and an allocation of  
36 that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point  
37 source discharges, and load allocations (LAs) for nonpoint sources or natural background or both,  
38 and must include a margin of safety (MOS) and account for seasonal variations.

39 "Vehicle maintenance" means vehicle and equipment rehabilitation, mechanical repairs,  
40 painting, fueling, and lubrication.

41 "Vehicle wash" means any fixed or mobile facility where the manual, automatic, or self-service  
42 exterior washing of vehicles is conducted and includes the following:

- 43 1. ~~Vehicles that convey passengers or goods on streets or highways as designated by~~  
44 ~~Standard Industrial Classification (SIC) Code 7542, such as automobiles, trucks, motor~~  
45 ~~homes, buses, motorcycles, ambulances, fire trucks, and tractor trailers. This industry~~  
46 ~~primarily comprises establishments [ primarily ] engaged in cleaning, washing, or waxing~~

47 automotive vehicles, such as passenger cars, trucks, and vans, and trailers as designated  
48 by NAICS Code 811192 and Standard Industrial Classification (SIC) Code 7542;

49 2. Incidental floor cleaning wash waters associated with facilities that wash vehicles where  
50 the floor wash water also passes through the vehicle wash treatment system;

51 3. Golf course equipment and lawn maintenance equipment;

52 4. Maintenance and construction equipment; and

53 5. Street sweepers and catch basin cleaner trucks; and

54 6. Recreational boats less than 8.6' beam and 25' in length towed by a vehicle.

55 "Vehicle wash" does not mean engine cleaning or degreasing; the cleaning of floors in vehicle  
56 maintenance areas, cleaning of the interior of tanks or trailers carrying bulk or raw material,  
57 cleaning of equipment used in the paving industry, cleaning of chemical, fertilizer, or pesticide  
58 spreading equipment, or cleaning of tanker trucks, garbage trucks, livestock trailers, trains, boats  
59 larger than 8.6' beam and 25' in length, or aircraft; or the use of acid caustic metal brighteners or  
60 steam heated water.

61 **9VAC25-194-15. Applicability of incorporated references based on the dates that they**  
62 **became effective.**

63 Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set  
64 forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and  
65 incorporated by reference, that regulation shall be as it exists and has been published as of July  
66 1, ~~2017~~ 2021.

67 **9VAC25-194-40. Effective date of the permit.**

68 This general permit will become effective on ~~October 16, 2017~~ January 1, 2023. This general  
69 permit will expire on ~~October 15, 2022~~ December 31, 2027. This general permit is effective for  
70 any covered owner upon compliance with all the provisions of 9VAC25-194-50.

71 **9VAC25-194-50. Authorization to discharge.**

72 A. Any owner governed by this general permit is hereby authorized to discharge wastewater  
73 as described in 9VAC25-194-20 to surface waters of the Commonwealth of Virginia provided that:

74 1. The owner files a registration statement in accordance with 9VAC25-194-60, and that  
75 registration statement is accepted by the board;

76 2. The owner submits the required permit fee;

77 3. The owner complies with the applicable effluent limitations and other requirements of  
78 9VAC25-194-70; and

79 4. The owner has not been notified by the board that the discharge is not eligible for  
80 coverage under this permit in accordance with subsection B of this section.

81 B. The board will notify an owner that the discharge is not eligible for coverage under this  
82 general permit in the event of any of the following:

83 1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170  
84 B 3 of the VPDES Permit Regulation;

85 2. The owner is proposing to discharge to state waters specifically named in other board  
86 regulations that prohibit such discharges;

87 3. The discharge would violate the antidegradation policy in the Water Quality Standards  
88 at 9VAC25-260-30;

89 4. The discharge is not consistent with the assumptions and requirements of an approved  
90 TMDL; or

91 5. The discharge is to surface waters where there are central wastewater treatment  
92 facilities reasonably available, as determined by the board.

93 C. Mobile vehicle wash owners shall operate such that there is no discharge to surface waters  
94 and storm sewers unless they have coverage under this permit.

95 D. Compliance with this general permit constitutes compliance, for purposes of enforcement,  
96 with §§ 301, 302, 306, 307, 318, 403, and 405(a) through (b) of the federal Clean Water Act and  
97 the State Water Control Law with the exceptions stated in 9VAC25-31-60 of the VPDES Permit  
98 Regulation. Approval for coverage under this general permit does not relieve any owner of the  
99 responsibility to comply with any other applicable federal, state, or local statute, ordinance, or  
100 regulation.

101 E. Continuation of permit coverage.

102 1. ~~Any owner that was authorized to discharge under the car wash facilities general permit~~  
103 ~~issued in 2012, and that submits a complete registration statement on or before October~~  
104 ~~16, 2017, is authorized to continue to discharge under the terms of the 2012 general permit~~  
105 Permit coverage shall expire at the end of the applicable permit term. However, expiring  
106 permit coverages are automatically continued if the owner has submitted a complete  
107 registration statement at least 60 days prior to the expiration date of the permit or a later  
108 submittal date established by the board, which cannot extend beyond the expiration date  
109 of the permit. The permittee is authorized to continue to discharge until such time as the  
110 board either:

111 a. Issues coverage to the owner under this general permit; or

112 b. Notifies the owner that the discharge is not eligible for coverage under this permit.

113 2. When the owner that was covered under the expiring or expired general permit has  
114 violated or is violating the conditions of that permit, the board may choose to do any or all  
115 of the following:

116 a. Initiate enforcement action based upon the 2012 general permit coverage that has  
117 been continued;

118 b. Issue a notice of intent to deny coverage under the ~~reissued~~ amended general  
119 permit. If the general permit coverage is denied, the owner would then be required to  
120 cease the discharges authorized by ~~coverage under the 2012~~ the continued general  
121 permit coverage or be subject to enforcement action for discharging without a permit;

122 c. Issue an individual permit with appropriate conditions; or

123 d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

124 **9VAC25-194-60. Registration statement.**

125 A. Deadlines for submitting registration statements. Any owner seeking coverage under this  
126 general permit shall submit a complete VPDES general permit registration statement in  
127 accordance with this ~~section~~ chapter, which shall serve as a notice of intent for coverage under  
128 the general VPDES general permit regulation for vehicle wash facilities and laundry facilities.

129 1. New facilities. Any owner proposing a new discharge shall submit a complete  
130 registration statement at least ~~30~~ 60 days prior to the date planned for commencement of  
131 the discharge or a later submittal established by the board.

132 2. Existing facilities.

133 a. Any owner covered by an individual VPDES permit that is proposing to be covered  
134 by this general permit shall submit a complete registration statement at least 240 days  
135 prior to the expiration date of the individual VPDES permit or a later submittal  
136 established by the board.

137 b. Any owner that was authorized to discharge under the ~~general~~ an expiring or expired  
138 VPDES general permit for vehicle wash facilities (9VAC25-194) that became effective  
139 on October 16, 2012, and laundry facilities, and that intends to continue coverage

140 under this general permit shall submit a complete registration statement to the board  
141 prior to September 15, 2017 at least 60 days prior to the expiration date of the existing  
142 permit or a later submittal established by the board.

143 c. Any owner of a vehicle wash facility covered under this permit that had a monthly  
144 average flow rate of less than 5,000 gallons per day, and the flow rate increases above  
145 a monthly average flow rate of 5,000 gallons per day, shall submit an amended  
146 registration statement within ~~30~~ 60 days of the increased flow or a later submittal  
147 established by the board.

148 B. Late registration statements. Registration statements for existing facilities covered under  
149 subdivision A 2 b of this section will be accepted after ~~October 15, 2017~~ the expiration date of the  
150 permit, but authorization to discharge will not be retroactive. ~~Owners described in subdivision A 2~~  
151 ~~b of this section that submit registration statements after September 15, 2017, are authorized to~~  
152 ~~discharge under the provisions of 9VAC25-194-50 E if a complete registration statement is~~  
153 ~~submitted before October 16, 2017.~~

154 C. The required registration statement shall contain the following information:

- 155 1. Facility name and mailing address, owner name and mailing address, telephone  
156 number, and email address (if available);
- 157 2. Facility street address (if different from mailing address);
- 158 3. Facility operator (local contact) name, address, telephone number, and email address  
159 (if available) if different than owner;
- 160 4. ~~Does~~ Whether the facility ~~discharge~~ discharges to surface waters? If "yes," name of  
161 receiving stream; if "no," describe the discharge;
- 162 5. ~~Does~~ Whether the facility ~~discharge~~ discharges to a municipal separate storm sewer  
163 system (MS4)? If "yes," the facility owner must provide the name of the MS4 and notify  
164 the owner of the municipal separate storm sewer system of the existence of the discharge  
165 at the time of registration under this permit and include that notification with the registration  
166 statement. The notice shall include the following information: the name of the facility, a  
167 contact person ~~and~~, phone number, email, the location of the discharge, the nature of the  
168 discharge, and the facility's VPDES general permit number;
- 169 6. ~~Does~~ Whether the facility ~~have~~ has a current VPDES ~~Permit?~~ permit. If "yes," provide  
170 permit number;
- 171 7. ~~Does your~~ Whether the locality ~~require~~ requires connection to central wastewater  
172 treatment facilities?;
- 173 8. ~~Are~~ Whether central wastewater treatment facilities are available to serve the site? If  
174 "yes," the option of discharging to the central wastewater facility must be evaluated and  
175 the result of that evaluation reported here;
- 176 9. A USGS 7.5 minute topographic map or equivalent computer generated map showing  
177 the facility ~~discharge location(s)~~ locations, latitude and longitude, and receiving stream;
- 178 10. Provide a brief description of the type of washing activity. Include (as applicable) the  
179 type of vehicles washed, number of vehicle washing bays, and the number of laundry  
180 machines;
- 181 11. Highest average monthly flow rate for each washing activity or combined washing  
182 activity, reported as gallons per day;
- 183 12. Facility line (water balance) drawing;
- 184 13. Description of wastewater treatment or stormwater inlet protection measures;
- 185 14. Information on use of chemicals at the facility. Include detergents, soaps, waxes, and  
186 other chemicals;

187 15. ~~Will~~ Whether detergent used for washing vehicles ~~contain~~ contains more than 0.5%  
188 phosphorus by weight; and

189 16. State Corporation Commission entity identification number if the facility is required to  
190 obtain an entity identification number by law; and

191 17. The following certification:

192 "I certify under penalty of law that this document and all attachments were prepared  
193 under my direction or supervision in accordance with a system designed to assure that  
194 qualified personnel properly gather and evaluate the information submitted. Based on  
195 my inquiry of the person or persons who manage the system or those persons directly  
196 responsible for gathering the information, the information submitted is to the best of  
197 my knowledge and belief true, accurate, and complete. I am aware that there are  
198 significant penalties for submitting false information including the possibility of fine and  
199 imprisonment for knowing violations."

200 The registration statement shall be signed in accordance with 9VAC25-31-110 of the VPDES  
201 Permit Regulation.

202 D. The registration statement shall be delivered by either postal or electronic mail to the DEQ  
203 regional office serving the area where the facility is located. Following notification from the  
204 department of the start date for the required electronic submission of Notices of Intent to discharge  
205 forms (i.e., registration statements) as provided for in 9VAC25-31-1020, such forms submitted  
206 after that date shall be electronically submitted to the department in compliance with this section  
207 and 9VAC25-31-1020. There shall be at least three months' notice provided between the  
208 notification from the department and the date after which such forms must be submitted  
209 electronically.

210



211 **9VAC25-194-70. General permit.**

212 Any owner whose registration statement is accepted by the board shall comply with the  
213 requirements of the general permit and be subject to all requirements of 9VAC25-31-170 of the  
214 VPDES Permit Regulation.

215 General Permit No.: VAG75

216 Effective Date: ~~October 16, 2017~~ January 1, 2023

217 Expiration Date: ~~October 15, 2022~~ December 31, 2027

218 **GENERAL PERMIT FOR VEHICLE WASH FACILITIES AND LAUNDRY FACILITIES**  
219 **AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE**  
220 **ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW**  
221

222 In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the  
223 State Water Control Law and regulations adopted pursuant thereto, owners of vehicle wash  
224 facilities and laundry facilities are authorized to discharge to surface waters within the boundaries  
225 of the Commonwealth of Virginia, except those specifically named in board regulations ~~which~~ that  
226 prohibit such discharges.

227 The authorized discharge shall be in accordance with the information submitted with the  
228 registration statement, this cover page, Part I - Effluent Limitations, Monitoring Requirements, and  
229 Special Conditions, and Part II - Conditions Applicable to All VPDES Permits, as set forth in this  
230 general permit.

231 **Part I**

232 **A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.**

233 1. During the period beginning with the permittee's coverage under this general permit and  
234 lasting until the permit's expiration date, the permittee is authorized to discharge  
235 wastewater originating from vehicle wash facilities that discharge a monthly average flow  
236 rate less than or equal to 5,000 gallons per day from outfalls:

237 Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	<del>NL</del> <u>5,000</u>	1/Year	Estimate
pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/Year	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Year	Composite <sup>(4)</sup>
Oil and Grease (mg/l)	NA	15	1/Year	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

<sup>(2)</sup>Limit given is expressed in two significant figures.

<sup>(3)</sup>Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January of each year.

(4)Five grab samples evenly spaced over an eight-hour period or five grab samples evenly spaced for the duration of the discharge if less than eight hours in length.

238  
239  
240  
241  
242  
243  
244  
245

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

2. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from vehicle wash facilities that discharge a monthly average flow rate greater than 5,000 gallons per day from outfalls:

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/6 Months	Estimate
pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/6 Months	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/6 Months	Composite <sup>(4)</sup>
Oil and Grease (mg/l)	NA	15	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

<sup>(2)</sup>Limit given is expressed in two significant figures.

<sup>(3)</sup>Samples shall be collected by December 31 and June 30 of each year and reported on the facility's Discharge Monitoring Report (DMR). DMRs shall be submitted by January 10 and July 10 of each year.

<sup>(4)</sup>Five grab samples evenly spaced over an eight-hour period or five grab samples evenly spaced for the duration of the discharge if less than eight hours in length.

246  
247

248  
249  
250  
251  
252  
253

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

3. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a laundry facility from outfalls:

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/Quarter	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Quarter	Grab
BOD <sub>5</sub> (mg/l)	NA	60 <sup>(1), (2)</sup>	1/Quarter	Grab
Dissolved Oxygen (mg/l)	6.0 <sup>(1)</sup>	NA	1/Quarter	Grab
Temperature °C	NA	32 <sup>(1), (4)</sup>	1/6 Months	Immersion Stabilization
Total Residual Chlorine (mg/l)	NA	.011 <sup>(1)</sup>	1/Quarter	Grab
E. Coli <sup>(5)</sup>	NA	235 CFU/100 ml	1/6 Months	Grab
Enterococci <sup>(6)</sup>	NA	104 CFU/100 ml	1/6 Months	Grab
Fecal Coliform <sup>(7)</sup>	NA	200 CFU/100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

CFU – Colony forming units

<sup>(1)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, BOD<sub>5</sub>, DO, TRC and temperature in waters receiving the discharge, those standards shall be, as appropriate, the maximum and minimum effluent limitations.

<sup>(2)</sup>Limit given is expressed in two significant figures.

<sup>(3)</sup>Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January. Reports of once per six months shall be submitted no later than the 10th day of January and the 10th day of July for samples collected by December 31 and June 30 of each year.

<sup>(4)</sup>The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal

and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

<sup>(5)</sup>Applies only when the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).

<sup>(6)</sup>Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations).

<sup>(7)</sup>Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters).

254  
255  
256  
257  
258  
259  
260

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

4. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a combined vehicle wash and laundry facility from outfalls:

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/Quarter	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Quarter	5G/8HC
BOD <sub>5</sub> (mg/l)	NA	60 <sup>(1), (2)</sup>	1/Quarter	Grab
Oil and Grease	NA	15	1/6 Months	Grab
Dissolved Oxygen (mg/l)	6.0 <sup>(1)</sup>	NA	1/Quarter	Grab
Temperature °C	NA	32 <sup>(1), (4)</sup>	1/6 Months	Immersion Stabilization
Total Residual Chlorine (mg/l)	NA	.011 <sup>(1)</sup>	1/Quarter	Grab
E. Coli <sup>(5)</sup>	NA	235 CFU/100 ml	1/6 Months	Grab
Enterococci <sup>(6)</sup>	NA	104 CFU/100 ml	1/6 Months	Grab

Fecal Coliform <sup>(7)</sup>	NA	200 CFU/100 ml	1/6 Months	Grab
<p>NL - No Limitation, monitoring requirement only</p> <p>NA - Not applicable</p> <p>CFU – Colony forming units</p> <p>(1)Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, BOD<sub>5</sub>, DO, TRC and temperature in waters receiving the discharge, those standards shall be, as appropriate, the maximum and minimum effluent limitations.</p> <p>(2)Limit given is expressed in two significant figures.</p> <p>(3)Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January. Reports of once per six months shall be submitted no later than the 10th day of January and the 10th day of July for samples collected by December 31 and June 30 of each year.</p> <p>(4)The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.</p> <p>(5)Applies only when the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).</p> <p>(6)Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations).</p> <p>(7)Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters).</p>				

261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276

B. Special conditions.

1. The permittee of a vehicle wash facility shall perform visual examinations of the effluent including sheens, floating solids, or visible foam and maintenance of the wastewater treatment facilities and inlet protection measures, if applicable, at least once per week and document this visual examination and maintenance activities in the operational log. This operational log shall include the examination date and time, examination personnel, presence of a discharge, and the visual quality of the discharge ~~and~~. The operational log shall be made available for review by the department personnel upon request.
2. The effluent shall be free of sheens. There shall be no discharge of floating solids or visible foam in other than trace amounts.
3. No sewage shall be discharged from a point source to surface waters from this facility except under the provisions of another VPDES permit specifically issued for that purpose.
4. There shall be no chemicals added to the water or waste ~~which~~ that may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical is granted by the board.
5. Wastewater should be reused or recycled whenever feasible.

- 277 6. The permittee of a vehicle wash facility shall comply with the following solids  
278 management plan, where applicable:
- 279 a. All Any settling basins or oil water separators shall be cleaned frequently in order in  
280 accordance with the schedule outlined in the operation and maintenance (O&M)  
281 manual and at a frequent enough interval to achieve effective treatment.
- 282 b. All Any solids from settling basins, oil water separators, trash, or other debris shall  
283 be handled, stored, and disposed of so as to prevent a discharge to state waters of  
284 such solids.
- 285 7. Washing of vehicles or containers bearing residue of animal manure or toxic chemicals  
286 (fertilizers, organic chemicals, etc.) is prohibited. If the facility is a self-service operation,  
287 the permittee shall post this prohibition on a sign prominently located and of sufficient size  
288 to be easily read by all patrons.
- 289 8. If the facility has a vehicle wash discharge with a monthly average flow rate of less than  
290 5,000 gallons per day, and the flow rate increases above a monthly average flow rate of  
291 5,000 gallons per day, an amended registration statement shall be filed within 30 days of  
292 the increased flow.
- 293 9. A permittee submitting a registration statement in accordance with Part II M and  
294 discharging into a municipal separate storm sewer shall notify the owner of the municipal  
295 separate storm sewer system of the existence of the discharge at the time of registration  
296 under this permit and include that notification with the registration statement. The notice  
297 shall include the following information: the name of the facility, a contact person and  
298 contact information (phone number and email), the location of the discharge, the nature  
299 of the discharge, and the facility's VPDES general permit number, if known or existing.
- 300 10. Approval for coverage under this general permit does not relieve any owner of the  
301 responsibility to comply with any other federal, state, or local statute, ordinance, or  
302 regulation.
- 303 11. The owner of a facility discharging vehicle wash water directly to a stormwater drain  
304 shall provide inlet protection measures in addition to meeting all other requirements of the  
305 permit.
- 306 12. The permittee shall notify the department as soon as the permittee knows or has  
307 reason to believe:
- 308 a. That any activity has occurred or will occur that would result in the discharge, on a  
309 routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that  
310 discharge will exceed the highest of the following notification levels:
- 311 (1) One hundred micrograms per liter of the toxic pollutant;
- 312 (2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred  
313 micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one  
314 milligram per liter for antimony;
- 315 (3) Five times the maximum concentration value reported for that pollutant in the permit  
316 application; or
- 317 (4) The level established by the board.
- 318 b. That any activity has occurred or will occur that would result in any discharge, on a  
319 nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit, if  
320 that discharge will exceed the highest of the following notification levels:
- 321 (1) Five hundred micrograms per liter of the toxic pollutant;
- 322 (2) One milligram per liter for antimony;



323 (3) Ten times the maximum concentration value reported for that pollutant in the permit  
324 application; or

325 (4) The level established by the board.

326 13. Operation and maintenance manual requirement. The permittee shall develop and  
327 maintain an accurate operation and maintenance (O&M) manual for the wastewater  
328 treatment works and applicable inlet protection measures, if applicable. This manual shall  
329 detail the practices and procedures that will be followed to ensure compliance with the  
330 requirements of this permit. The permittee shall operate and maintain the treatment works  
331 and the inlet protection measures in accordance with the O&M manual. The O&M manual  
332 shall be reviewed and updated at least annually and shall be signed and certified in  
333 accordance with Part II K of this permit. The O&M manual shall be made available for  
334 review by the department personnel upon request. The O&M manual shall include, ~~but not~~  
335 ~~necessarily be limited to~~, the following items, as appropriate:

336 a. Techniques to be employed in the collection, preservation, and analysis of effluent  
337 samples;

338 b. ~~Discussion of best management practices or stormwater inlet protection methods~~  
339 Stormwater inlet protection measure directions for use and maintenance of equipment;

340 c. Best management practices employed;

341 d. Treatment system operation, routine preventive maintenance of units within the  
342 treatment system, critical spare parts inventory, and recordkeeping;

343 e. e. A sludge/solids management plan, including the schedule for settling basin or oil  
344 water separator cleaning and solids handling as required by Part I B 6;

345 e. f. Procedures for performing the visual examination and maintenance required by  
346 Part I B 1 including example log sheets and the location of the operational log; and

347 f. g. Date when the O&M manual was updated or reviewed and any changes that were  
348 made.

349 14. Compliance reporting under Part I A 1 through 4.

350 a. The quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
BOD <sub>5</sub>	2 mg/l
TSS	1.0 mg/l
Oil and Grease	5.0 mg/l
Chlorine	0.10 mg/l

351 The QL is defined as the lowest concentration used to calibrate a measurement  
352 system in accordance with the procedures published for the test method.

353 b. Reporting. Any single datum required shall be reported as "<QL" if it is less than the  
354 QL in subdivision 14 a of this subsection. Otherwise, the numerical value shall be  
355 reported. The QL must be less than or equal to the QL in subdivision 14 a of this  
356 subsection.

357 c. Monitoring results shall be reported using the same number of significant digits as  
358 listed in the permit. Regardless of the rounding convention used by the permittee (e.g.,  
359 five always rounding up or to the nearest even number), the permittee shall use the  
360 convention consistently and shall ensure that consulting laboratories employed by the  
361 permittee use the same convention.

- 362 15. The discharges authorized by this permit shall be controlled as necessary to meet  
363 applicable water quality standards in 9VAC25-260.
- 364 16. Discharges to waters with an approved total maximum daily load (TMDL). Owners of  
365 facilities that are a source of the specified pollutant of concern to waters where an  
366 approved TMDL has been established shall implement measures and controls that are  
367 consistent with the assumptions and requirements of the TMDL.
- 368 17. Notice of termination.
- 369 a. The owner may terminate coverage under this general permit by filing a complete  
370 notice of termination with the department. The notice of termination may be filed after  
371 one or more of the following conditions have been met:
- 372 (1) Operations have ceased at the facility and there are no longer wastewater  
373 discharges from vehicle wash or laundry activities from the facility;
- 374 (2) A new owner has assumed responsibility for the facility. A notice of termination  
375 does not have to be submitted if a VPDES Change of Ownership Agreement form has  
376 been submitted;
- 377 (3) All discharges associated with this facility have been covered by a VPDES  
378 individual permit or an alternative VPDES permit; or
- 379 (4) Termination of coverage is requested for another reason provided the board agrees  
380 that coverage under this general permit is no longer needed.
- 381 b. The notice of termination shall contain the following information:
- 382 (1) Owner's name, mailing address, telephone number, and email address (if  
383 available);
- 384 (2) Facility name and location;
- 385 (3) VPDES vehicle wash facilities and laundry facilities general permit number; and
- 386 (4) The basis for submitting the notice of termination, including:
- 387 (a) A statement indicating that a new owner has assumed responsibility for the facility;
- 388 (b) A statement indicating that operations have ceased at the facility and there are no  
389 longer wastewater discharges from vehicle wash or laundry activities from the facility;
- 390 (c) A statement indicating that all wastewater discharges from vehicle wash facilities  
391 and laundry facilities have been covered by an individual VPDES permit; or
- 392 (d) A statement indicating that termination of coverage is being requested for another  
393 reason (state the reason).
- 394 c. The following certification:
- 395 "I certify under penalty of law that all wastewater discharges from vehicle wash or  
396 laundry facilities from the identified facility that are authorized by this VPDES general  
397 permit have been eliminated, or covered under a VPDES individual or alternative  
398 permit, or that I am no longer the owner of the industrial activity, or permit coverage  
399 should be terminated for another reason listed above. I understand that by submitting  
400 this notice of termination, that I am no longer authorized to discharge wastewater from  
401 vehicle wash facilities or laundry facilities in accordance with the general permit, and  
402 that discharging pollutants in wastewater from vehicle wash facilities or laundry  
403 facilities to surface waters is unlawful where the discharge is not authorized by a  
404 VPDES permit. I also understand that the submittal of this notice of termination does  
405 not release an owner from liability for any violations of this permit or the Clean Water  
406 Act."
- 407 d. The notice of termination shall be signed in accordance with Part II K.



408 e. The notice of termination shall be submitted to the DEQ regional office serving the  
409 area where the vehicle wash or laundry facility is located.

410

411

412

Part II  
CONDITIONS APPLICABLE TO ALL VPDES PERMITS

413

A. Monitoring.

414

1. Samples and measurements taken as required by this permit shall be representative of  
415 the monitored activity.

416

417

418

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part  
136 or alternative methods approved by the U.S. Environmental Protection Agency unless  
other procedures have been specified in this permit.

419

420

421

3. The permittee shall periodically calibrate and perform maintenance procedures on all  
monitoring and analytical instrumentation at intervals that will ensure accuracy of  
measurements.

422

423

424

4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-  
45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46,  
Accreditation for Commercial Environmental Laboratories.

425

B. Records.

426

1. Records of monitoring information shall include:

427

a. The date, exact place, and time of sampling or measurements;

428

b. The individuals who performed the sampling or measurements;

429

c. The dates and times analyses were performed;

430

d. The individuals who performed the analyses;

431

e. The analytical techniques or methods used; and

432

f. The results of such analyses.

433

434

435

436

437

438

439

440

441

442

2. Except for records of monitoring information required by this permit related to the  
permittee's sewage sludge use and disposal activities, which shall be retained for a period  
of at least five years, the permittee shall retain records of all monitoring information,  
including all calibration and maintenance records and all original strip chart recordings for  
continuous monitoring instrumentation, copies of all reports required by this permit, and  
records of all data used to complete the registration statement for this permit, for a period  
of at least three years from the date of the sample, measurement, report or request for  
coverage. This period of retention shall be extended automatically during the course of  
any unresolved litigation regarding the regulated activity or regarding control standards  
applicable to the permittee, or as requested by the board.

443

C. Reporting monitoring results.

444

445

446

447

1. The permittee shall submit the results of the monitoring required by this permit not later  
than the 10th day of the month after monitoring takes place, unless another reporting  
schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the  
department's regional office.

448

449

450

451

452

453

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on  
forms provided, approved or specified by the department. Following notification from the  
department of the start date for the required electronic submission of monitoring reports,  
as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall  
be electronically submitted to the department in compliance with this section and 9VAC25-  
31-1020. There shall be at least three months' notice provided between the notification

454 from the department and the date after which such forms and reports must be submitted  
455 electronically.

456 3. If the permittee monitors any pollutant specifically addressed by this permit more  
457 frequently than required by this permit using test procedures approved under 40 CFR Part  
458 136 or using other test procedures approved by the U.S. Environmental Protection Agency  
459 or using procedures specified in this permit, the results of this monitoring shall be included  
460 in the calculation and reporting of the data submitted in the DMR or reporting form  
461 specified by the department.

462 4. Calculations for all limitations ~~which~~ that require averaging of measurements shall utilize  
463 an arithmetic mean unless otherwise specified in this permit.

464 D. Duty to provide information. The permittee shall furnish to the department, within a  
465 reasonable time, any information ~~which~~ that the board may request to determine whether cause  
466 exists for terminating coverage under this permit or to determine compliance with this permit. The  
467 board may require the permittee to furnish, upon request, such plans, specifications, and other  
468 pertinent information as may be necessary to determine the effect of the wastes from his the  
469 permittee's discharge on the quality of state waters, or such other information as may be  
470 necessary to accomplish the purposes of the State Water Control Law. The permittee shall also  
471 furnish to the department upon request, copies of records required to be kept by this permit.

472 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any  
473 progress reports on, interim and final requirements contained in any compliance schedule of this  
474 permit shall be submitted no later than 14 days following each schedule date.

475 F. Unauthorized discharges. Except in compliance with this permit or another permit issued  
476 by the board, it shall be unlawful for any person to:

477 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or  
478 deleterious substances; or

479 2. Otherwise alter the physical, chemical or biological properties of such state waters and  
480 make them detrimental to the public health, or to animal or aquatic life, or to the use of  
481 such waters for domestic or industrial consumption, or for recreation, or for other uses.

482 G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a  
483 discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into  
484 or upon state waters in violation of Part II F, or who discharges or causes or allows a discharge  
485 that may reasonably be expected to enter state waters in violation of Part II F, shall notify the  
486 department of the discharge immediately (see Part II I 4) upon discovery of the discharge, but in  
487 no case later than 24 hours after said discovery. A written report of the unauthorized discharge  
488 shall be submitted to the department within five days of discovery of the discharge. The written  
489 report shall contain:

490 1. A description of the nature and location of the discharge;

491 2. The cause of the discharge;

492 3. The date on which the discharge occurred;

493 4. The length of time that the discharge continued;

494 5. The volume of the discharge;

495 6. If the discharge is continuing, how long it is expected to continue;

496 7. If the discharge is continuing, what the expected total volume of the discharge will be;  
497 and

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

500 Discharges reportable to the department under the immediate reporting requirements of other  
501 regulations are exempted from this requirement.

502 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge,  
503 including a bypass or upset, should occur from a treatment works, and the discharge enters or  
504 could be expected to enter state waters, the permittee shall promptly notify (see Part II I 4), in no  
505 case later than 24 hours, the department by telephone after the discovery of the discharge. This  
506 notification shall provide all available details of the incident, including any adverse effects on  
507 aquatic life and the known number of fish killed. The permittee shall submit the report to the  
508 department in writing within five days of discovery of the discharge in accordance with Part II I 2.  
509 Unusual and extraordinary discharges include any discharge resulting from:

- 510 1. Unusual spillage of materials resulting directly or indirectly from processing operations;
- 511 2. Breakdown of processing or accessory equipment;
- 512 3. Failure or taking out of service some or all of the treatment works; and
- 513 4. Flooding or other acts of nature.

514 I. Reports of noncompliance. The permittee shall report any noncompliance which that may  
515 adversely affect state waters or may endanger public health.

516 1. An oral report shall be provided within 24 hours from the time the permittee becomes  
517 aware of the circumstances. The following shall be included as information which that shall  
518 be reported within 24 hours under this subsection:

- 519 a. Any unanticipated bypass; and
- 520 b. Any upset which causes a discharge to surface waters.
- 521 2. A written report shall be submitted within five days and shall contain:
  - 522 a. A description of the noncompliance and its cause;
  - 523 b. The period of noncompliance, including exact dates and times, and if the  
524 noncompliance has not been corrected, the anticipated time it is expected to continue;  
525 and
  - 526 c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the  
527 noncompliance.

528 The board may waive the written report on a case-by-case basis for reports of  
529 noncompliance under Part II I if the oral report has been received within 24 hours and no  
530 adverse impact on state waters has been reported.

531 3. The permittee shall report all instances of noncompliance not reported under ~~Parts~~ Part  
532 II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports  
533 shall contain the information listed in Part II I 2.

534 **NOTE:** 4. The immediate (within 24 hours) reports required in Part II G, H, and I may be  
535 made to the department's regional office. Reports may be made by telephone, FAX, or  
536 online at  
537 <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx>  
538 <https://www.deq.virginia.gov/get-involved/pollution-response>. For reports outside  
539 normal working hours, leave a message and this shall fulfill the immediate reporting  
540 requirement. For emergencies, the Virginia Department of Emergency Management  
541 maintains a 24-hour telephone service at 1-800-468-8892.

542 5. Where the permittee becomes aware that it failed to submit any relevant facts in a permit  
543 registration statement or in any report to the department, it shall promptly submit such  
544 facts or information.

545 J. Notice of planned changes.

- 546 1. The permittee shall give notice to the department as soon as possible of any planned  
547 physical alterations or additions to the permitted facility. Notice is required only when:
- 548 a. The permittee plans alteration or addition to any building, structure, facility, or  
549 installation from which there is or may be a discharge of pollutants, the construction of  
550 which commenced:
- 551 (1) After promulgation of standards of performance under § 306 of the Clean Water  
552 Act which are applicable to such source; or
- 553 (2) After proposal of standards of performance in accordance with § 306 of the Clean  
554 Water Act ~~which~~ that are applicable to such source, but only if the standards are  
555 promulgated in accordance with § 306 within 120 days of their proposal;
- 556 b. The alteration or addition could significantly change the nature or increase the  
557 quantity of pollutants discharged. This notification applies to pollutants ~~which~~ that are  
558 subject neither to effluent limitations nor to notification requirements specified  
559 ~~elsewhere in this permit in Part I B 12;~~ or
- 560 c. The alteration or addition results in a significant change in the permittee's sludge  
561 use or disposal practices, and such alteration, addition, or change may justify the  
562 application of permit conditions that are different from or absent in the existing permit,  
563 including notification of additional use or disposal sites not reported during the permit  
564 registration process or not reported pursuant to an approved land application plan.
- 565 2. The permittee shall give advance notice to the department of any planned changes in  
566 the permitted facility or activity which may result in noncompliance with permit  
567 requirements.
- 568 K. Signatory requirements.
- 569 1. Registration statement. All registration statements shall be signed as follows:
- 570 a. For a corporation: by a responsible corporate officer. For the purpose of this section,  
571 a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-  
572 president of the corporation in charge of a principal business function, or any other  
573 person who performs similar policy-making or decision-making functions for the  
574 corporation, or (ii) the manager of one or more manufacturing, production, or operating  
575 facilities, provided the manager is authorized to make management decisions that  
576 govern the operation of the regulated facility including having the explicit or implicit  
577 duty of making major capital investment recommendations, and initiating and directing  
578 other comprehensive measures to assure long-term environmental compliance with  
579 environmental laws and regulations; the manager can ensure that the necessary  
580 systems are established or actions taken to gather complete and accurate information  
581 for permit registration requirements; and where authority to sign documents has been  
582 assigned or delegated to the manager in accordance with corporate procedures;
- 583 b. For a partnership or sole proprietorship: by a general partner or the proprietor,  
584 respectively; or
- 585 c. For a municipality, state, federal, or other public agency: by either a principal  
586 executive officer or ranking elected official. For purposes of this section, a principal  
587 executive officer of a public agency includes: (i) the chief executive officer of the  
588 agency, or (ii) a senior executive officer having responsibility for the overall operations  
589 of a principal geographic unit of the agency.
- 590 2. Reporting requirements. All reports required by permits and other information requested  
591 by the board shall be signed by a person described in Part II K 1 or by a duly authorized  
592 representative of that person. A person is a duly authorized representative only if:
- 593 a. The authorization is made in writing by a person described in Part II K 1;

594 b. The authorization specifies either an individual or a position having responsibility for  
595 the overall operation of the regulated facility or activity such as the position of plant  
596 manager, operator of a well or a well field, superintendent, position of equivalent  
597 responsibility, or an individual or position having overall responsibility for  
598 environmental matters for the company. A duly authorized representative may thus be  
599 either a named individual or any individual occupying a named position; and

600 c. The written authorization is submitted to the department.

601 3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate  
602 because a different individual or position has responsibility for the overall operation of the  
603 facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to  
604 the department prior to or together with any reports or information to be signed by an  
605 authorized representative.

606 4. Certification. Any person signing a document under Part II K 1 or 2 shall make the  
607 following certification:

608 "I certify under penalty of law that this document and all attachments were prepared  
609 under my direction or supervision in accordance with a system designed to ensure that  
610 qualified personnel properly gather and evaluate the information submitted. Based on  
611 my inquiry of the person or persons who manage the system, or those persons directly  
612 responsible for gathering the information, the information submitted is, to the best of  
613 my knowledge and belief, true, accurate, and complete. I am aware that there are  
614 significant penalties for submitting false information, including the possibility of fine  
615 and imprisonment for knowing violations."

616 L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit  
617 noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act,  
618 except that noncompliance with certain provisions of this permit may constitute a violation of the  
619 State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for  
620 enforcement action, for permit coverage termination, or for denial of a permit coverage renewal  
621 application.

622 The permittee shall comply with effluent standards or prohibitions established under § 307(a)  
623 of the Clean Water Act for toxic pollutants ~~and with standards for sewage sludge use or disposal~~  
624 ~~established under § 405(d) of the Clean Water Act~~ within the time provided in the regulations that  
625 establish these standards or prohibitions ~~or standards for sewage sludge use or disposal~~, even if  
626 this permit has not yet been modified to incorporate the requirement.

627 M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after  
628 the expiration date of this permit, the permittee shall submit a new registration statement at least  
629 ~~30~~ 60 days before the expiration date of the existing permit, unless permission for a later date has  
630 been granted by the board. The board shall not grant permission for registration statements to be  
631 submitted later than the expiration date of the existing permit.

632 N. Effect of a permit. This permit does not convey any property rights in either real or personal  
633 property or any exclusive privileges, nor does it authorize any injury to private property or invasion  
634 of personal rights, or any infringement of federal, state or local law or regulations.

635 O. State law. Nothing in this permit shall be construed to preclude the institution of any legal  
636 action under, or relieve the permittee from any responsibilities, liabilities, or penalties established  
637 pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean  
638 Water Act. Except as provided in permit conditions on "bypassing" (Part II U) and "upset" (Part II  
639 V), nothing in this permit shall be construed to relieve the permittee from civil and criminal  
640 penalties for noncompliance.

641 P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude  
642 the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or  
643 penalties to which the permittee is or may be subject under Article 11 (§ 62.1-44.34:14 et seq.) of  
644 the State Water Control Law.

645 Q. Proper operation and maintenance. The permittee shall at all times properly operate and  
646 maintain all facilities and systems of treatment and control (and related appurtenances) ~~which~~  
647 that are installed or used by the permittee to achieve compliance with the conditions of this permit.  
648 Proper operation and maintenance also includes effective plant performance, adequate funding,  
649 adequate staffing, and adequate laboratory and process controls, including appropriate quality  
650 assurance procedures. This provision requires the operation of back-up or auxiliary facilities or  
651 similar systems which are installed by the permittee only when the operation is necessary to  
652 achieve compliance with the conditions of this permit.

653 R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of  
654 treatment or management of pollutants shall be disposed of in a manner so as to prevent any  
655 pollutant from such materials from entering state waters.

656 S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any  
657 discharge or sludge use or disposal in violation of this permit ~~which~~ that has a reasonable  
658 likelihood of adversely affecting human health or the environment.

659 T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an  
660 enforcement action that it would have been necessary to halt or reduce the permitted activity in  
661 order to maintain compliance with the conditions of this permit.

662 U. Bypass.

663 1. The permittee may allow any bypass to occur ~~which~~ that does not cause effluent  
664 limitations to be exceeded, but only if it also is for essential maintenance to assure efficient  
665 operation. These bypasses are not subject to the provisions of Part II U 2 and U 3.

666 2. Notice.

667 a. Anticipated bypass. If the permittee knows in advance of the need for a bypass,  
668 prior notice shall be submitted, if possible, at least 10 days before the date of the  
669 bypass.

670 b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass  
671 as required in Part II I.

672 3. Prohibition of bypass.

673 a. Bypass is prohibited, and the board may take enforcement action against a  
674 permittee for bypass, unless:

675 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property  
676 damage;

677 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary  
678 treatment facilities, retention of untreated wastes, or maintenance during normal  
679 periods of equipment downtime. This condition is not satisfied if adequate back-up  
680 equipment should have been installed in the exercise of reasonable engineering  
681 judgment to prevent a bypass ~~which~~ that occurred during normal periods of equipment  
682 downtime or preventive maintenance; and

683 (3) The permittee submitted notices as required under Part II U 2.

684 b. The board may approve an anticipated bypass, after considering its adverse effects,  
685 if the board determines that it will meet the three conditions listed in Part II U 3 a.

686 V. Upset.

687 1. An upset constitutes an affirmative defense to an action brought for noncompliance with  
688 technology based permit effluent limitations if the requirements of Part II V 2 are met. A  
689 determination made during administrative review of claims that noncompliance was  
690 caused by upset, and before an action for noncompliance, is not a final administrative  
691 action subject to judicial review.

692 2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate  
693 through properly signed, contemporaneous operating logs, or other relevant evidence  
694 that:

- 695 a. An upset occurred and that the permittee can identify the causes of the upset;
- 696 b. The permitted facility was at the time being properly operated;
- 697 c. The permittee submitted notice of the upset as required in Part II I; and
- 698 d. The permittee complied with any remedial measures required under Part II S.

699 3. In any enforcement proceeding the permittee seeking to establish the occurrence of an  
700 upset has the burden of proof.

701 W. Inspection and entry. The permittee shall allow the director, or an authorized representative  
702 (including an authorized contractor acting as a representative of the administrator), upon  
703 presentation of credentials and other documents as may be required by law to:

- 704 1. Enter upon the permittee's premises where a regulated facility or activity is located or  
705 conducted, or where records must be kept under the conditions of this permit;
- 706 2. Have access to and copy, at reasonable times, any records that must be kept under the  
707 conditions of this permit;
- 708 3. Inspect at reasonable times any facilities, equipment (including monitoring and control  
709 equipment), practices, or operations regulated or required under this permit; and
- 710 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance  
711 or as otherwise authorized by the Clean Water Act and the State Water Control Law, any  
712 substances or parameters at any location.

713 For purposes of this section, the time for inspection shall be deemed reasonable during  
714 regular business hours, and whenever the facility is discharging. Nothing contained herein shall  
715 make an inspection unreasonable during an emergency.

716 X. Permit actions. Permit coverage may be terminated for cause. The filing of a request by  
717 the permittee for a permit coverage termination or a notification of planned changes or anticipated  
718 noncompliance does not stay any permit condition.

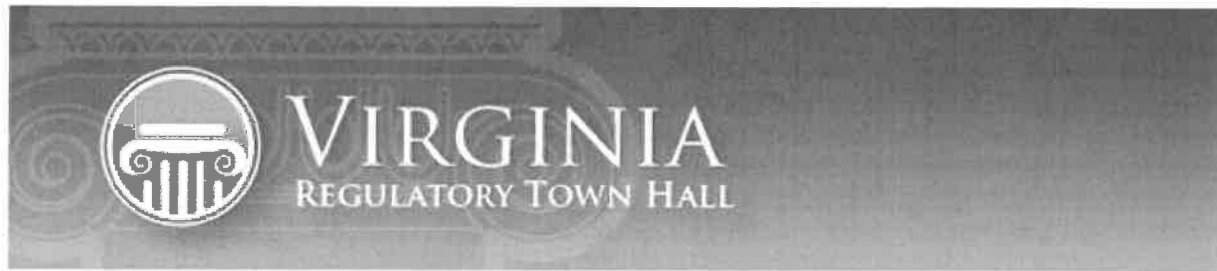
719 Y. Transfer of permit coverage. ~~Permits are~~

- 720 1. Permit coverage is not transferable to any person except after notice to the department.
- 721 2. Coverage under this permit may be automatically transferred to a new permittee if:
  - 722 ~~4. a.~~ The current permittee notifies the department within 30 days of the transfer of the  
723 title to the facility or property;
  - 724 ~~2. b.~~ The notice includes a written agreement between the existing and new permittees  
725 containing a specific date for transfer of permit responsibility, coverage, and liability  
726 between them; and
  - 727 ~~3. c.~~ The board does not notify the existing permittee and the proposed new permittee  
728 of its intent to modify or revoke and reissue the permit. If this notice is not received,  
729 the transfer is effective on the date specified in the agreement mentioned in Part II Y  
730 2 b.

731 Z. Severability. The provisions of this permit are severable, and, if any provision of this permit  
732 or the application of any provision of this permit to any circumstance, is held invalid, the application

733 of such provision to other circumstances, and the remainder of this permit, shall not be affected  
734 thereby.





[townhall.virginia.gov](http://townhall.virginia.gov)

## Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-194
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Vehicle Wash Facilities and Laundry Facilities
Action title	Update and amend the regulation that expires on October 15, 2022 in order to continue to offer general permit coverage for this industry
Final agency action date	
Date this document prepared	February 10, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The regulation specifies requirements for vehicle wash and laundry facilities to discharge process wastewater to protect water quality. The most significant amendments to this regulation are updating definitions, including NAICS codes and updating operations and maintenance manual requirements.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

The impetus of the regulatory change is Virginia Code § 62.1-44.15 (5a) which states, "All certificates issued by the Board under this chapter shall have fixed terms. The term of a Virginia Pollution Discharge Elimination System permit shall not exceed five years." This general permit expires on October 15, 2022 and must be reissued in order to make coverage available for vehicle wash and laundry facilities that discharge to surface waters after that date.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

- DEQ: Department of Environmental Quality
- EPA (U.S. EPA): United States Environmental Protection Agency
- MSGP: NPDES Multi-Sector Industrial Stormwater General Permit
- NAICS: North American Industry Classification System
- NPDES: National Pollutant Discharge Elimination System
- SCC: State Corporation Commission
- SIC: Standard Industrial Classification
- TAC: Technical Advisory Committee
- USC: United States Code
- VAC: Virginia Administrative Code
- VPDES: Virginia Pollutant Discharge Elimination System

### Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

On March 25, 2022, the State Water Control Board adopted the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Vehicle Wash Facilities and Laundry Facilities – 9VAC25-194 as a final regulation.

### Legal Basis

*Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program, §62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.16 specifies the Board's authority to regulate discharges of industrial wastes, § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

### Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.*

This proposed regulatory action is needed in order to establish permitting requirements for discharges from vehicle wash facilities and laundry facilities in order to protect the health, safety and welfare of citizens. The existing general permit expires on October 15, 2022 and must be reissued to cover existing and new vehicle wash and laundry discharges. The goal is to update the permit and the regulation to be consistent with other VPDES general permits.

### Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

Substantive provisions include adding new definitions for "golf course equipment", "inlet protection measures", "lawn maintenance equipment", "NAICS" and "SIC" and revising definitions of "laundry" and "vehicle wash" in existing section 10. Adding a flow limit of 5,000 gallons per day to the limits page for vehicle wash facilities that discharge a monthly average flow rate less than or equal to 5,000 gallons per day in existing section 70 A. Including oil water separators, trash and other debris in the solids management plan and O&M plan in existing section 70 B 6 (Part I B 6). Adding stormwater inlet protection measure use and maintenance, frequency of settling basin cleaning and solids handling and a schedule for process water sampling attempts to the O&M manual requirement in existing Part I B 13 (section 70). Adding a requirement to submit electronic registration forms and discharge monitoring reports when these are made available by the department in existing sections 60 D and Part II C 2 (section 70).

### Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The advantages to the public and the agency of reissuing this permit are that a VPDES general permit will continue to be available to facilities with eligible discharges enabling them to discharge to surface waters in a manner that is protective of those waters without the increased cost and more complicated application process associated with issuing an individual permit. There are no known disadvantages.

### Requirements More Restrictive than Federal

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

---

There are no changes to previously reporting information in that there are no requirements that exceed applicable federal requirements.

### **Requirements More Restrictive than Federal**

*Identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

---

There are no requirements that exceed applicable federal requirements.

### **Agencies, Localities, and Other Entities Particularly Affected**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

---

There are no changes to previously reported information in that there are no State agencies, localities or other entities particularly affected.

### **Agencies, Localities, and Other Entities Particularly Affected**

*Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

---

Other State Agencies Particularly Affected:  
None

Localities Particularly Affected:  
None

Other Entities Particularly Affected:  
None

### **Public Comment**

*Summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. Ensure to include all comments submitted: including any received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

---

One public comment was received during the public comment period as follows:

Commenter	Comment Received	DEQ Response
<p>Jessica E. B. Lassetter, MNR Senior Environmental Specialist City of Alexandria, Virginia T&amp;ES Stormwater Management</p>	<p>The City concurs with the General Permit route, given that the applicant provides the requisite application materials that shall be reviewed and approved prior to new or continued coverage under the General Permit. The City respectfully suggests that permit language be strengthened to not allow General Permit coverage for facilities that (a) have the ability to discharge to an existing public sanitary sewer where coverage under the General Permit is merely a cost-savings measure that introduces illicit flows into the storm sewer system and/or a nearby stream and b) may alternatively use a private vehicle washing facility that meets building code requirements and discharges to the local sanitary sewer system.</p>	<p>The registration specifically asks if central wastewater treatment facilities are available to serve the site. If there are, then the option of discharging to the central wastewater facility must be evaluated and the result of that evaluation reported with the registration. The commenter requests that cost savings not be considered as a reason for discharging to the storm sewer system or a nearby stream.</p> <p>DEQ agrees with the comment that additional costs should not automatically release a facility from these requirements. However, DEQ thinks an evaluation of reasonableness should still be made (9VAC25-194-50 B), including costs and this must be done on a case by case basis.</p> <p>The commenter also recommends that DEQ require facilities to consider the use of an alternate source (properly built and connected to sanitary) to wash vehicles in situations. DEQ frequently advises potential permittees to alternatively use a private vehicle washing facility. Using private facilities for fund raising is already promoted in DEQ fund raising car wash guidelines.</p> <p>DEQ does not propose to add changes to the regulation. DEQ thinks we have added sufficient additional protection to the permit for facilities that are not connected to central sewer and discharging directly to a storm drain. These facilities must use inlet protection measures that include equipment to prevent wash water from entering a stormwater inlet or socks designed to remove metals, oil and grease, solids and debris combined with other management measures including vacuuming of wastewater, shut off hose nozzles, washing or directing wastewater to grassy areas (9VAC25-194-10, 9VAC25-194-B 11). We have also added additional requirements for operations and maintenance of the stormwater inlet protection measures in 9VAC25-194-70 B 13.</p> <p>DEQ does discuss the evaluation of central sewer connection in guidance and will include the consideration of alternative private vehicle washing facilities as part of that central sewer evaluation.</p>

### Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
9VAC25-194-10	NA	NA	NA	Deleted second use of the word "primarily" in the definition of "Vehicle Wash." This is a clarification. No impact.

**Detail of All Changes Proposed in this Regulatory Action**

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

---

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-194-10. Definitions.		<p>No definitions exist for "Golf Course Equipment," Inlet Protection Measures," Lawn Maintenance Equipment," "NAICS" and "SIC."</p> <p>Vehicle wash definition excludes only chemical spreading equipment.</p>	<p>Added definitions for "Golf Course Equipment," "Inlet Protection Measures", "Lawn Maintenance Equipment," "NAICS" and "SIC." These definitions were added to clarify various requirements in the regulation.</p> <p>Clarified definition for "Vehicle Wash" to include references to NAICS and SIC codes to be consistent with other VPDES general permit regulations. Deleted second use of the word "primarily" in the definition of "Vehicle Wash." This is a clarification.</p> <p>Clarified that vehicle wash does not include chemical, fertilizer or pesticide spreading equipment.</p> <p>Moved the definition of "Maintenance Equipment" to the definition of "Vehicle Wash" (added street sweepers and catch basin cleaner trucks directly to the list of allowable vehicles) so the phrase "maintenance equipment" would not conflict with the same phrase in the definition of "Lawn Maintenance Equipment."</p> <p>Many of these changes were done as a result of discussion at the TAC meeting on June 10, 2021.</p> <p>The new definitions for "Golf Course Equipment" and "Lawn Maintenance Equipment" may impact some permittees if they are currently getting permit coverage for washing equipment used for fertilizer, pesticide or herbicide application because the new definitions exclude these applications.</p> <p>The definition for "Inlet Protection Measures" may require permittees that rely only on inlet protection to maintain water quality to add additional inlet protection measures since a combination of both equipment and other best management practices are included as part of the definition.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-194-15. Applicability of incorporated references based on the dates that they became effective.		Effective date for the Title 40 CFR is July 1, 2017	Effective date for the Title 40 CFR changed to July 1, 2021. No impact.
9VAC25-194-40. Effective date of the permit.		Effective date of permit is October 16, 2017 – October 15, 2022.	<p>Effective date of permit is January 1, 2023 – December 31, 2027.</p> <p>Updated to cover a new permit term. The effective date is moved to January 1, 2023 which is 2.5 months after the current 5 year term. Ending a permit term in the middle of the month as the permit is currently set up disrupts DMR or e-DMR record population, which is programmed to create DMR records based on full calendar months, quarters and semi-annual or annual time periods. Permit coverage will be administratively continued until January 1, 2023.</p> <p>There is an impact because during the period of administrative continuance (from October 15, 2022 until December 31, 2022, no new permit coverage can be issued. Administrative continuance of permit coverage can only apply to existing permittees. New permittees cannot apply for a permit that is expired.</p>
9VAC25-194-50. Authorization to discharge.		Continuation of permit coverage requires submittal of complete registration statement before October 16, 2017.	<p>Removed the specific date and provide that a complete registration statement must be submitted at least 60 days prior to permit expiration or as specified by the Board.</p> <p>This is being done to all general permit regulations to make the language more generic and avoid having to change dates at every reissuance.</p> <p>No impact.</p>



Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-194-60 A and B. Registration statement.		Registration statement deadlines and required submittals. Deadline 30 days prior expiration of permit, commencement of discharge or adding a new process.	<p>Changed 30 days to 60 days to be consistent with other general permits due dates, and allowed for a later date established by the Board.</p> <p>The impact is that permittees will have to submit a registration statement and other notifications to DEQ sooner. However, the regulation also allows for DEQ to accept a late registration statement but coverage cannot be retroactive.</p>
9VAC25-194-60 C. Registration statement.		No email, latitude, longitude or SCC requirements.	<p>Various grammar changes. Added email, latitude, longitude, and SCC entity identification number.</p> <p>These changes were added to make the registration requirements similar to other general permits. Latitude and longitude were added for e-reporting requirements per EPA. SCC entity identification number added to be clear on the owner's name for permitting and enforcement purposes.</p> <p>Some impact as the registrants will be required to find latitude longitude via a phone application or via the DEQ online VEGIS database.  <a href="https://www.deq.virginia.gov/connectwithdeq/vegis.aspx">https://www.deq.virginia.gov/connectwithdeq/vegis.aspx</a></p> <p>Some entities will also be required to obtain an email.</p> <p>Some entities will be required to obtain an SCC entity identification number. Typically, businesses operating in Virginia must already have an SCC entity identification number. This is required if the entity is not a sole proprietor.</p>
9VAC25-194-60 D. Registration statement.		Registration statement shall be delivered to the department by postal or electronic mail.	<p>Added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry, registration statements shall be submitted electronically. Three months' notice shall be given by the department about this requirement.</p> <p>Some impact because once electronic reporting dates are established and technology is developed at the department, the permittees will be required to file registration statements electronically. This may be difficult if the registrant has no available internet access (even via a public library) or computer/internet skills. Waivers are available under very limited circumstances.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-194-70. General permit.		Effective and expiration dates October 16, 2017 – October 15, 2022	<p>Effective date of permit is January 1, 2023 – December 31, 2027</p> <p>Updated to cover a new permit term. The effective date is moved to January 1, 2023 which is 2.5 months after the current 5 year term. Ending a permit term in the middle of the month as the permit is currently set up disrupts DMR or e-DMR record population, which is programmed to create DMR records based on full calendar months, quarters, semi-annual or annual time periods. Permit coverage will be administratively continued until January 1, 2023.</p> <p>There is an impact because during the period of administrative continuance (from October 15, 2022 until December 31, 2022, no new permit coverage can be issued. Administrative continuance of permit coverage can only apply to existing permittees. New permittees cannot apply for a permit that is expired.</p>
9VAC25-194-70. General permit. Part I A		Flow is a monitoring requirement and the permittee must notify DEQ when flow exceeds this amount.	<p>Added a 5,000 GPD limit for flow to reflect the maximum flow rate allowed by the Part I A limits page. This was discussed in the TAC meeting as a potential addition so it can be tracked more efficiently during the term of the permit.</p> <p>By adding this as a limit instead of a monitoring requirement, some permittees may get a warning letter if the flow exceeds 5,000 GPD.</p>
9VAC25-194-70. General permit. Part I B 1		Special condition includes weekly visual examinations of the effluent including sheens, floating solids, or visible foam.	<p>Presence of a discharge is added to the weekly visual examination. This is done to document to DEQ inspectors whether a “no discharge” result on the annual DMR is accurate.</p> <p>Some impact as another piece of information must be added to the operational log.</p>
9VAC25-194-70. General permit. Part I B 6		Settling basins shall be cleaned frequently to achieve effective treatment and all solids shall be handled, stored, and disposed of so as to prevent a discharge to state waters of such solids.	<p>The special condition now requires that oil water separators, trash and other debris are part of the solids management plan. The schedule for cleaning shall be in the O&amp;M manual. These are clarifications specific to solids management at vehicle washes.</p> <p>Some impact as permittees must add new information to the solids management plan and O&amp;M manual.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
<p>9VAC25-194-70. General permit. Part I B 9</p>		<p>Permittees discharging into a MS4 shall notify the owner of the MS4 of the existence of the discharge at the time of registration and include that notification with the registration statement. The notice shall include the name of the facility, a contact person and contact information, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number.</p>	<p>Added phone number and email as a detail required under contact information. This was requested by the TAC.</p> <p>Added "if known or existing" under the requirement to provide the facility's VPDES general permit number since new issuances would not have a VPDES general permit number.</p> <p>There may be an impact if a permittee does not have internet access and will be required to obtain that technology in order to provide an email.</p>
<p>9VAC25-194-70. General permit. Part I B 13</p>		<p>The O&amp;M manual requirements include effluent sampling techniques, a discussion of BMPs or stormwater inlet protection methods, treatment system operation, the sludge/solids management plan, procedures for performing the visual examination and a date when the O&amp;M manual was updated.</p>	<p>Clarifying that the O&amp;M manual should contain stormwater inlet protection measures directions for use and maintenance of equipment and should contain (with the sludge/solids management plan) the frequency of cleaning solids from settling basins and oil/water separators. Also, the O&amp;M manual should include the handling of solids from the settling basins or the oil/water separator, trash or other debris such that there is no discharge to state waters.</p> <p>Some impact as permittees must add new information to the O&amp;M manual.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-194-70 Part II C 2			<p>Added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry discharge monitoring reports shall be submitted electronically. Three months' notice shall be given by the department about this requirement.</p> <p>Some impact because once electronic reporting dates are established and technology is developed at the department, the permittees will be required submit discharge monitoring reports electronically. This may be difficult if the registrant has no available internet access (even via a public library) or computer/internet skills. Waivers are available under very limited circumstances.</p>
9VAC25-194-70 Part II I 4		Contains immediate notification requirements for noncompliance which may adversely affect state waters or may endanger public health.	<p>Updated the web site address for electronic immediate notification.</p> <p>No impact.</p>
9VAC25-194-70 Part II I 5		No requirement.	<p>Added a requirement that where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information.</p> <p>This is a requirement in the VPDES permit regulation at 9VAC25-31-190 L 9.</p> <p>Some impact as the permittee needs to be aware of this new requirement.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-194-70 Part II J 1 b		The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit	Removed "elsewhere in this permit" and specified this in Part I B 12.  No impact.
9VAC25-194-70 Part II W		The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law to enter the property, see records and take samples.	Clarified that the authorized representative includes an authorized contractor acting as a representative of the administrator. This is required by 9VAC25-31-190 I.  No impact.
9VAC25-194-70 Part II Y		Permits are not transferable to any person except after notice to the department.	Changed to say that permit coverage is not transferable to any person except after notice to the department. This is because general permits are "covered" under the permit regulation and therefore, permit coverage may be transferred.  This paragraph was also renumbered to match the numbering of other general permit regulations.  No impact.

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will*

*accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

---

The reissuance of the VPDES general permit accomplishes the objectives of applicable law and minimizes the costs to a small business owner and simplifies the application process. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase the complexity of a permit application and permit costs.

### **Family Impact**

*In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

---

This regulation will have no impact on the institution of the family or family stability.



*Commonwealth of Virginia*

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Andrew R. Wheeler  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

February 25, 2022

**MEMORANDUM**

TO: State Water Control Board Members  
FROM: Eleanore Daub, Office of VPDES Permits  
SUBJECT: VPDES General Permit Regulation for Potable Water Treatment Plants  
(9VAC25-860)

The current VPDES Potable Water Treatment Plant general permit will expire on June 30, 2023 and the regulation establishing this general permit is being amended to reissue another term. The staff is bringing this proposed regulation amendment before the Board to request authorization to hold a public comment period and a public hearing. The proposed regulation takes into consideration the recommendations of a technical advisory committee (TAC) formed for this regulatory action. A list of the TAC membership is attached.

Draft amendments showing proposed changes to the current regulation, the Agency Town Hall background document and Fact Sheet are also attached. Substantive changes to the existing regulation are:

- Section 10 – Added definition for “conventional filtration treatment” per the recommendation of the TAC since the term is used in this regulation. The definition is taken from the VDH Waterworks Regulation 12VAC5-590-10. Amended definition for "Membrane treatment" to mean a pressure driven or vacuum process. “Vacuum” was added at the request of the TAC to reflect the fact that membrane treatment can be pressure or vacuum driven.
- Sections 40 and 70 - Updated the effective dates to reflect the new five year term (July 1, 2023 – June 30, 2028).
- Section 60 C - Registration Questions – Added monthly average process wastewater flow and Virginia Department of Health Public Water Supply Identification (PWSID) number. Revised the schematic drawing instructions to show the treatment of the water from raw water intake through finished water distribution to clearly indicate where pollutants could enter the process discharge water.

- Added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry, registration statements shall be submitted electronically. Three months' notice shall be given by the department about this requirement.
- Section 70 Part I A 1 and 2 – Clarified footnote (4) instructions for composite sampling to match other permits with similar composite instructions. Also added that composite sample procedures may be approved by DEQ on a case by case basis.
- Section 70 Part I A 2 - Added limits for TSS and chlorine to the reverse osmosis plant discharge limits. TSS applies when conventional filtration treatment is used at the reverse osmosis plant and present in the discharge. Chlorine applies when chlorine is present in the discharge.
- 9VAC25-860-70 Part I B 8 – Added instructions to this special condition on how to calculate the monthly average and the daily maximum for quarterly reporting.
- Section 70 Part II A – Conditions Applicable to All Permits - Added under reporting, that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry and 3 months' notice is given, discharge monitoring reports shall be submitted electronically.

A Notice of Intended Regulatory Action (NOIRA) for the amendment was issued August 2, 2021 for 30 days. No public comments were received.

The Office of the Attorney General will be sent the proposed regulation for certification of statutory authority. The U.S. Environmental Protection Agency will also need to review and approve the general permit prior to final adoption.

Attachments: TAC Membership, Draft General Permit Regulation, Agency Background Document (Town Hall) and Fact Sheet.



**TAC COMMITTEE MEMBERSHIP**  
**VPDES Potable Water Treatment Plant General Permit Regulation**  
**9VAC25-860**

<p>Robert D. Edelman, PE          Director, Division of Technical Services          Virginia Department of Health, Office of          Drinking Water          109 Governor Street, 6th Floor          Richmond, VA 23219          804-864-7490 (office)          434-466-4012 (cell/text)  <a href="mailto:robert.edelman@vdh.virginia.gov">robert.edelman@vdh.virginia.gov</a></p>	<p>Wendy Eikenberry          Tim Castillo (alternate)          Lab and Compliance Manager          Augusta County Service Authority          18 Government Center Lane          PO Box 859          Verona, VA 24482          Office (540)245-5677          Cell (540)487-0009  <a href="mailto:weikenberry@co.augusta.va.us">weikenberry@co.augusta.va.us</a>  <a href="mailto:tcastillo@co.augusta.va.us">tcastillo@co.augusta.va.us</a></p>
<p>Russ Navratil          VA American Water Works Association          Henrico County          10111 Three Chopt Road          Henrico, VA 23233          Phone: 804-501-7501  <a href="mailto:nav@henrico.us">nav@henrico.us</a></p>	<p>David Sirois          Virginia Municipal Drinking Water Association          (VMDWA)          P.O. Box 608          9840 Government Center Parkway          Chesterfield, VA 23832-0009          804-748-1271 (office)  <a href="mailto:Siroisd@chesterfield.gov">Siroisd@chesterfield.gov</a></p>
<p><b>DEQ Staff:</b>  <b>Elleanore Daub</b> – CO VPDES  <b>Allan Brockenbrough</b> - CO VPDES</p>	<p><b>DEQ Staff Technical Liaisons:</b>          Deborah Debiasi (CO, VPDES Permits)          Troy Nipper (CO, Water Compliance)          Kevin Crider (BRRO, VPDES Permits)          Adam Eller (PRO, VPDES Permits)          Heather Weimer (PRO, Water Compliance).</p>

1 **Project 6872**

2 **State Water Control Board**

3 **VPDES General Permit -Potable Water Treatment Plants - Amend and Reissue Existing**  
4 **Regulation - Chapter 860**

5 Virginia Pollutant Discharge Elimination System General Permit Regulation for Potable Water  
6 Treatment Plants

7 **9VAC25-860-10. Definitions.**

8 The words and terms used in this regulation shall have the meanings defined in the State  
9 Water Control Law and 9VAC25-31, the VPDES Permit Regulation, unless the context clearly  
10 indicates otherwise, except that for the purposes of this chapter:

11 "Conventional filtration treatment" means a series of processes including coagulation,  
12 flocculation, sedimentation, and filtration resulting in substantial particulate removal.

13 ~~"Department" or "DEQ" means the Virginia Department of Environmental Quality.~~

14 "Membrane treatment" means a pressure or vacuum driven process using synthetic materials  
15 to separate constituents from water. Membranes are used for dissolved solids or suspended  
16 solids removal. Membrane treatment for dissolved solids removal includes reverse osmosis and  
17 nanofiltration. Membrane treatment for suspended solids removal includes ultrafiltration and  
18 microfiltration.

19 "Microfiltration" means a method of membrane treatment designed to remove particles down  
20 to 0.1 µm in size. The treatment removes cysts, bacteria, and most (but not all) particulates.

21 "Nanofiltration" or "low-pressure reverse osmosis" or "membrane softening" means a method  
22 of membrane treatment designed to remove multivalent ions (softening) and removes  
23 contaminants down to 1 nm (nanometer = 0.001 µm) in size.

24 "Potable water treatment plant" means an establishment engaged in producing water for  
25 domestic, commercial, or industrial use as designated by North American Industry Classification  
26 System (NAICS) Code 221310 - Water Supply and Irrigation Systems, (Executive Office of the  
27 President, Office of Management and Budget, United States, 2017), Standard Industrial Classified  
28 (SIC) Code 4941 - Water Supply (Office of Management and Budget (OMB) SIC Manual, 1987),  
29 or others as approved by the board.

30 "Reverse osmosis" means a method of membrane treatment designed to remove salts and  
31 low-molecular weight solutes and remove all contaminants down to 0.0001 µm (microns) in size.  
32 Reverse osmosis methods apply pressure in excess of osmotic pressure to force water through  
33 a semi-permeable membrane from a region of high salt concentration to a region of lower salt  
34 concentration.

35 "Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a  
36 pollutant that a waterbody can receive and still meet water quality standards and an allocation of  
37 that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point  
38 source discharges, and load allocations (LAs) for nonpoint sources or natural background or both,  
39 and must include a margin of safety (MOS) and account for seasonal variations.

40 "Ultrafiltration" means a method of membrane treatment designed to remove particles down  
41 to 0.01 µm in size. The treatment removes cysts, bacteria, and viruses as well as suspended  
42 solids.

43 **9VAC25-860-15. Applicability of incorporated references based on the dates that they**  
44 **became effective.**

45 Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in  
46 Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated in this chapter,  
47 that regulation shall be as it exists and has been published as of July 1, 2017.July 1, 2021.

48 **9VAC25-860-20. Purpose.**

49 This general permit regulation governs the discharge of process wastewater from potable  
50 water treatment plants to surface waters.

51 **9VAC25-860-30. Delegation of authority.**

52 The director, or an authorized representative, may perform any act of the board provided  
53 under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

54 **9VAC25-860-40. Effective date of the permit.**

55 This general VPDES permit will become effective on July 1, ~~2018~~2023, and will expire on  
56 June 30, ~~2023~~2028. This general permit is effective for any covered owner upon compliance with  
57 all the provisions of 9VAC25-860-50.

58 **9VAC25-860-50. Authorization to discharge.**

59 A. Any owner governed by this general permit is hereby authorized to discharge to surface  
60 waters of the Commonwealth of Virginia provided that:

- 61 1. The owner submits a registration statement in accordance with 9VAC25-860-60 and  
62 that registration statement is accepted by the board;
- 63 2. The owner submits the required permit fee;
- 64 3. The owner complies with the applicable effluent limitations and other requirements of  
65 9VAC25-860-70; and
- 66 4. The board has not notified the owner that the discharge is not eligible for coverage in  
67 accordance with subsection B of this section.

68 B. The board will notify an owner that the discharge is not eligible for coverage under this  
69 general permit in the event of any of the following:

- 70 1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170  
71 B 3 of the VPDES Permit Regulation;
- 72 2. The owner is proposing to discharge to state waters specifically named in other board  
73 regulations that prohibit such discharges;
- 74 3. The discharge violates or would violate the antidegradation policy in the Water Quality  
75 Standards at 9VAC25-260-30;
- 76 4. The discharge is not consistent with the assumptions and requirements of an approved  
77 TMDL;
- 78 5. The facility is subject to the requirements of 9VAC25-820-70 Part I G 1 (General VPDES  
79 Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and  
80 Nutrient Trading in the Chesapeake Watershed in Virginia - Requirement to Register); and
- 81 6. An owner applying for coverage under this general permit submits the results of  
82 representative whole effluent toxicity testing of the discharge, and the results demonstrate  
83 that there is a reasonable potential for toxicity.

84 C. Compliance with this general permit constitutes compliance, for purposes of enforcement,  
85 with §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b) of the federal Clean Water Act and  
86 the State Water Control Law with the exceptions stated in 9VAC25-31-60 of the VPDES Permit  
87 Regulation. Approval for coverage under this general permit does not relieve any owner of the  
88 responsibility to comply with any other applicable federal, state, or local statute, ordinance, or  
89 regulation.

90 D. Continuation of permit coverage.

- 91 1. Permit coverage shall expire at the end of its the applicable permit term. However,  
92 expiring permit coverages are automatically continued if the owner has submitted a  
93 complete registration statement at least 60 days prior to the expiration date of the permit,

94 or a later submittal established by the board, which cannot extend beyond the expiration  
95 date of the original permit. The permittee is authorized to continue to discharge until such  
96 time as the board either:

- 97 a. Issues coverage to the owner under this general permit; or  
98 b. Notifies the owner that the discharge is not eligible for coverage under this general  
99 permit.

100 2. When the owner that was covered under the expiring or expired general permit has  
101 violated or is violating the conditions of that permit, the board may choose to do any or all  
102 of the following:

- 103 a. Initiate enforcement action based upon the general permit coverage that has been  
104 continued;  
105 b. Issue a notice of intent to deny coverage under the reissued general permit. If the  
106 general permit coverage is denied, the owner would then be required to cease the  
107 discharges authorized by the continued general permit coverage ~~under the terms of~~  
108 ~~the general permit~~ or be subject to enforcement action for discharging without a permit;  
109 c. Issue an individual permit with appropriate conditions; or  
110 d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

111 **9VAC25-860-60. Registration statement.**

112 A. Deadlines for submitting registration statement. The owner seeking coverage under this  
113 general permit shall submit a complete VPDES general permit registration statement in  
114 accordance with this section, which shall serve as a notice of intent for coverage under the general  
115 VPDES general permit regulation for potable water treatment plants.

116 1. New facilities. Any owner proposing a new discharge shall submit a complete  
117 registration statement at least 60 days prior to the date planned for commencement of the  
118 new discharge.

119 2. Existing facilities.

120 a. Any owner covered by an individual VPDES permit who is proposing to be covered  
121 by this general permit shall submit a complete registration statement at least ~~270~~240  
122 days prior to the expiration date of the individual VPDES permit. or a later submittal  
123 established by the board.

124 b. Any owner that was authorized to discharge under the expiring or expired general  
125 VPDES general permit and who intends to continue coverage under this general  
126 permit shall submit a complete registration statement to the board at least 60 days  
127 prior to the expiration date of the existing permit or a later submittal established by the  
128 board.

129 ~~c. Any owner of a potable water treatment plant not currently covered by a VPDES~~  
130 ~~permit who is proposing to be covered by this general permit shall file the registration~~  
131 ~~statement.~~

132 B. Late registration statements. Registration statements for existing owners covered under  
133 subdivision A 2 b of this section will be accepted after the expiration date of the permit, but  
134 authorization to discharge will not be retroactive.

135 C. The required registration statement shall contain the following information:

- 136 1. Facility name and street address, owner name, mailing address, telephone number,  
137 and email address (if available);  
138 2. Operator or other contact name, mailing address, telephone number, and email address  
139 (if available);

- 140 3. The nature of the business;
- 141 4. A USGS 7.5 minute topographic map or equivalent computer generated map showing
- 142 the facility location extending to at least one mile beyond the property boundary and the
- 143 location of the discharge points;
- 144 5. The receiving waters of the discharge;
- 145 6. The outfall number, latitude and longitude (in decimal degrees (six digits - ten-
- 146 thousandths place)), the daily maximum ~~actual or projected process wastewater flow rate~~
- 147 and monthly average process wastewater flow (millions of gallons per day or gallons per
- 148 day), ~~typical volume~~, duration of discharges, and frequency of discharge;
- 149 7. The type of water treatment (e.g., conventional filtration treatment, microfiltration,
- 150 ultrafiltration, nanofiltration, reverse osmosis, or a combination of these) and, if applicable,
- 151 a description of any treatment type changes since the previous registration statement was
- 152 submitted;
- 153 8. The number of any existing VPDES or VPA permit that ~~authorizes discharges from the~~
- 154 ~~potable water treatment plant~~;
- 155 9. The Virginia Department of Health Public Water Supply Identification (PWSID) number;
- 156 ~~9-10.~~ If the existing VPDES permit contains a groundwater monitoring plan requirement,
- 157 a copy of the board-approved plan shall be submitted unless the plan has been previously
- 158 submitted and approved and remains unchanged. If a plan has been previously approved,
- 159 cite the plan and date of approval;
- 160 ~~10-11.~~ Information regarding the lining of any settling basins or lagoons, whether such
- 161 units are earthen lined, and if so, whether the linings have a permeability of no greater
- 162 than  $10^{-6}$  cm/sec;
- 163 ~~11-12.~~ The results of any whole effluent toxicity evaluation required by the ~~2013~~2018
- 164 potable water treatment plant general permit regulation, 9VAC25-860-50 A 3, or the
- 165 current individual permit, if not previously submitted to the department;
- 166 ~~12-13.~~ A schematic drawing showing ~~the sources of water used on the property and the~~
- 167 ~~conceptual design of the methods of treatment and disposal of process wastewater;~~the
- 168 treatment of the water from raw water intake through finished water distribution. Indicate
- 169 clearly where backwash, reject water, clean in place water, and disinfection chemicals
- 170 could enter the process wastewater and exit the outfall to state waters. Also include in
- 171 schematic where solids from any treatment process are settled or dried.
- 172 ~~13-14.~~ Information on chemicals used in the production of drinking water and process
- 173 wastewater treatment, to include (i) a description of chemicals, (ii) a proposed or actual
- 174 schedule and quantity of chemical usage, (iii) a description of any chemical or chemical
- 175 usage changes since the previous registration statement was submitted, and (iv) a
- 176 description of which chemicals have no likelihood of entering the process wastewater;
- 177 ~~14-15.~~ A description of how solids and residue from any settling basins or lagoons are
- 178 disposed;
- 179 ~~15-16.~~ Whether the facility will discharge to a municipal separate storm sewer system
- 180 (MS4). If ~~so~~, yes, the name of the MS4 owner must be provided. If the owner of the potable
- 181 water treatment plant is not the owner of the MS4, the facility owner shall notify the MS4
- 182 owner of the existence of the discharge and include a copy of the notification with the
- 183 registration statement. The notification shall include the following information: the name of
- 184 the facility, a contact person ~~and telephone number~~,contact information (phone number
- 185 and email), the location of the discharge, the nature of the discharge, and the owner's
- 186 VPDES general permit number;

187 ~~46.17.~~ If a new potable water treatment plant owner proposes to discharge within five  
188 miles upstream of another public water supply system's intake, the new potable water  
189 treatment plant owner shall notify the public water supply system's owner and include a  
190 copy of the notification with the registration statement; and

191 ~~47.18.~~ The following certification:

192 "I certify under penalty of law that this document and all attachments were prepared  
193 under my direction or supervision in accordance with a system designed to assure that  
194 qualified personnel properly gather and evaluate the information submitted. Based on  
195 my inquiry of the person or persons who manage the system or those persons directly  
196 responsible for gathering the information, the information submitted is to the best of  
197 my knowledge and belief true, accurate, and complete. I am aware that there are  
198 significant penalties for submitting false information including the possibility of fine and  
199 imprisonment for knowing violations."

200 D. The registration statement shall be signed in accordance with 9VAC25-31-110.

201 E. The registration statement shall be delivered to the department's regional office where the  
202 industrial facility is located by either postal or electronic mail. Following notification from the  
203 department of the start date for the required electronic submission of Notices of Intent to discharge  
204 forms (i.e., registration statements) as provided for in 9VAC25-31-1020, such forms submitted  
205 after that date shall be electronically submitted to the department in compliance with this section  
206 and 9VAC25-31-1020. There shall be at least three months' notice provided between the  
207 notification from the department and the date after which such forms must be submitted  
208 electronically.

209

210 **9VAC25-860-70. General permit.**

211 Any owner whose registration statement is accepted by the board will receive coverage under  
212 the following permit and shall comply with the requirements therein and be subject to all  
213 requirements of 9VAC25-31.

214 General Permit No.: VAG64  
215 Effective Date: ~~July 1, 2018~~ July 1, 2023  
216 Expiration Date: ~~June 30, 2023~~ June 30, 2028  
217 GENERAL PERMIT FOR POTABLE WATER TREATMENT PLANTS

218 AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE  
219 ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

220 In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the  
221 State Water Control Law and regulations adopted pursuant thereto, owners of potable water  
222 treatment plants are authorized to discharge to surface waters within the boundaries of the  
223 Commonwealth of Virginia, except those specifically named in board regulations that prohibit such  
224 discharges.

225 The authorized discharge shall be in accordance with the information submitted with the  
226 registration statement, this cover page, Part I - Effluent Limitations, Monitoring Requirements, and  
227 Special Conditions; and Part II - Conditions Applicable to All VPDES Permits, as set forth in this  
228 general permit.

229

230  
231  
232  
233  
234  
235  
236

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. Facilities other than reverse osmosis or nanofiltration plants.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater from outfalls: \_\_\_\_\_

Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Minimum	Maximum	Frequency <sup>(1)</sup>	Sample Type
Flow (MGD)	NL	NA	NL	1/3 Months	Estimate <sup>(2)</sup>
pH (SU) <sup>(3)</sup>	NA	6.0	9.0	1/3 Months	Grab
Total Suspended Solids (mg/l)	30	NA	60	1/3 Months	Composite <sup>(4)</sup>
Total Residual Chlorine <sup>(5)</sup> (mg/l)	0.011	NA	0.011	1/3 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</sup> Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

<sup>(2)</sup> Reported estimated flow is to may be based on the technical evaluation of the sources contributing to the discharge.

<sup>(3)</sup> Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the minimum and maximum effluent limitations.

<sup>(4)</sup> Composite - For continuous discharges, five grab samples collected at hourly intervals. For batch discharges, five grab samples taken at evenly placed intervals until the discharge ceases, for the duration of the discharge, or until a minimum of five grab samples have been collected. For batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge. Composite sample procedures for batch discharges unable to meet the above requirements may be approved by DEQ on a case by case basis.

<sup>(5)</sup> Total residual chlorine limit shall only be applicable if chlorine is present in the process wastewater.

237  
238



239  
240  
241  
242  
243  
244

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

2. Reverse osmosis and nanofiltration plants.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater originating from outfalls: \_\_\_\_\_

Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NL	1/ Month	Estimate <sup>(1)</sup>
pH (SU) <sup>(2)</sup>	NA	6.0	9.0	1/ Month	Grab
Total Dissolved Solids (mg/l)	NA	NA	NL	1/ Month	Composite <sup>(3)</sup>
Total Suspended Solids (mg/l) <sup>(4)</sup>	<u>30</u>	<u>NA</u>	<u>60</u>	<u>1/ Month</u>	<u>Composite<sup>(3)</sup></u>
Dissolved Oxygen (mg/l) <sup>(4)</sup> (mg/l) <sup>(5)</sup>	NA	4.0	NA	1/ Month	Grab
Total Residual Chlorine (mg/l) <sup>(6)</sup>	<u>0.011</u>	<u>NA</u>	<u>0.011</u>	<u>1/ Month</u>	<u>Grab</u>

NL - No limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</sup>Reported estimated flow is ~~to~~ may be based on the technical evaluation of the sources contributing to the discharge.

<sup>(2)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the minimum and maximum effluent limitations.

<sup>(3)</sup>Composite - For continuous discharges, five grab samples collected at hourly intervals. For batch discharges, five grab samples taken at evenly placed intervals ~~until the discharge ceases or for the duration of the discharge, or~~ until a minimum of five grab samples have been collected. For batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge. Composite sample procedures for batch discharges unable to meet the above requirements may be approved by DEQ on a case by case basis.

<sup>(4)</sup>Applicable when conventional filtration treatment discharge is part of drinking water treatment and present in the process wastewater.

<sup>(4)(5)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for dissolved oxygen in waters receiving the discharge, those standards shall be the minimum effluent limitations.

<sup>(6)</sup>Total residual chlorine limit shall only be applicable if chlorine is present in the process wastewater.

245

246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291

B. Special conditions.

1. Inspection of the effluent, and maintenance of the process wastewater treatment facility, shall be performed daily. Documentation of the inspection and maintenance shall be recorded in an operational log. This operational log shall be made available for review by the department personnel upon request.
2. No domestic sewage discharges are permitted under this general permit.
3. No chemicals used for water and process wastewater treatment, other than those listed on the owner's accepted registration statement, are allowed. Prior approval shall be obtained from the board before any changes are made to the chemicals, in order to assure protection of water quality and beneficial uses of the waters receiving the discharge. The owner shall indicate whether the chemical is likely to enter state waters through the process wastewater discharge.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts.
5. Owners of facilities that are a source of the specified pollutant of concern to waters where an approved total maximum daily load (TMDL) has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.
6. The permittee shall notify the department as soon as the permittee knows or has reason to believe:
  - a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:
    - (1) One hundred micrograms per liter;
    - (2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;
    - (3) Five times the maximum concentration value reported for that pollutant in the general permit registration statement; or
    - (4) The level established by the board.
  - b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:
    - (1) Five hundred micrograms per liter;
    - (2) One milligram per liter for antimony;
    - (3) Ten times the maximum concentration value reported for that pollutant in the general permit registration statement; or
    - (4) The level established by the board.
7. If a board-approved groundwater monitoring plan was submitted with the registration statement, the permittee shall continue to sample and report in accordance with the plan. The approved plan shall be an enforceable part of this permit. The board or the owner, with board approval, may evaluate the groundwater monitoring data and demonstrate that revisions to or the cessation of the groundwater monitoring are appropriate. If the department determines that monitoring indicates that groundwater is contaminated, the permittee shall submit a corrective action plan within 60 days of being notified by the regional office. The plan shall set forth the steps to ensure the contamination source is eliminated or that the contaminant plume is contained on the permittee's property. In

292  
293  
294  
295  
  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
  
323  
324  
  
325  
326  
327  
328  
329  
  
330  
  
331  
332  
333  
334

addition, based on the extent of contamination, a risk analysis may be required. Once approved, this plan or analysis shall become an enforceable part of this permit.

8. Compliance reporting under Part I A.

a. The quantification levels (QL) shall be ~~as follows less than or equal to the following:~~

Effluent Characteristic	Quantification Level
Chlorine	0.10 mg/l
TSS	1.0 mg/l

b. Reporting.

(1) Monthly average. Compliance with the monthly average limitations and reporting requirements for the parameters listed in subdivision 8 a of this subsection shall be determined as follows: all concentration data below the QL listed in subdivision 8 a shall be treated as zero. All concentration data equal to or above the QL listed in subdivision 8 a shall be treated as it is reported. An arithmetic average shall be calculated using all reported data for the month, including the defined zeros. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated. If all data are below the QL, then the average shall be reported as "<QL." ~~If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.~~ For quarterly monitoring frequencies, the monthly average value to be reported on the DMR shall be the maximum of the arithmetic monthly averages calculated for each calendar month during the monitoring period.

(2) Daily maximum. Compliance with the daily maximum limitations or reporting requirements for the parameters listed in subdivision 8 a of this subsection shall be determined as follows: all concentration data below the QL listed in subdivision 8 a shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the daily maximum. If all data are below the QL, then the average shall be reported as "<QL." ~~If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.~~ For quarterly monitoring frequencies, the daily maximum value to be reported on the DMR shall be the maximum of the daily values for each calendar day during the monitoring period.

c. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision 8 a of this subsection. Otherwise, the numerical value shall be reported.

d. The permittee shall report at least the same number of significant digits as the permit limit for a given parameter. Regardless of the rounding convention used (i.e., five always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

9. Operation and maintenance manual requirement.

a. Within 90 days after the date of coverage under this general permit, the permittee shall develop or update an operation and maintenance (O&M) manual for the process wastewater treatment works. The O&M manual shall be reviewed within 90 days of changes to the treatment system. The O&M manual shall be certified in accordance

335 with Part II K of this permit. The O&M manual shall be made available for review by  
336 department personnel upon request.

337 b. This manual shall detail the practices and procedures that will be followed to ensure  
338 compliance with the requirements of this permit. Within 30 days of a request by the  
339 department, the current O&M manual shall be submitted to the board for review and  
340 approval. The permittee shall operate the process wastewater treatment works in  
341 accordance with the O&M manual. Noncompliance with the O&M manual shall be  
342 deemed a violation of the permit.

343 c. This manual shall include, but not necessarily be limited to, the following items, as  
344 appropriate:

345 (1) Techniques to be employed in the collection, preservation, and analysis of effluent  
346 samples;

347 (2) Discussion of best management practices;

348 (3) Process wastewater treatment system design, operation, routine preventive  
349 maintenance of units within the process wastewater treatment system, critical spare  
350 parts inventory and recordkeeping;

351 (4) A plan for the management or disposal of waste solids and residues, which includes  
352 a requirement to clean settling basins and lagoons (if present at the facility) in order to  
353 achieve effective treatment and a requirement that all solids shall be handled, stored,  
354 and disposed of so as to prevent a discharge to state waters;

355 (5) Procedures for measuring and recording the duration and volume of treated  
356 process wastewater discharged; and

357 (6) Location of the operational log for performing the daily inspections of the effluent.  
358 The log shall note any solids or sheens and if there is no discharge at time of  
359 inspection.

360 10. Owners of a facility with a daily maximum flow rate greater than or equal to 50,000  
361 gallons per day over three consecutive monitoring periods that have not conducted whole  
362 effluent toxicity (WET) testing to demonstrate there is no reasonable potential for toxicity  
363 from their discharge shall conduct WET testing as described in subdivisions 10 a through  
364 e of this subsection. Owners with changes in treatment technology or chemical usage that  
365 change the characteristics of the discharge and with a daily maximum flow rate greater  
366 than or equal to 50,000 gallons per day over three consecutive monitoring periods shall  
367 conduct WET testing as described in subdivisions 10 a through e of this subsection.

368 a. The WET testing shall consist of a minimum of four sets (a set includes both  
369 vertebrate and invertebrate tests) of acute or chronic tests that reflect the current  
370 characteristics of the process wastewater treatment plant effluent using the following  
371 tests and organisms:

For an intermittent or batch discharger	48 hour static acute toxicity tests
Freshwater organisms	Pimephales promelas or Oncorhynchus mykiss (for cold water) (vertebrates) Ceriodaphnia dubia (invertebrate)
Saltwater organisms	Cyprinodon variegatus (vertebrate) Americamysis bahia (invertebrate)
For continuous discharger	

Freshwater	7-Day Chronic Static Renewal Larval Survival and Growth Test with <i>Pimephales promelas</i> (vertebrate)
	3-Brood Chronic Static Renewal Survival and Reproduction Test with <i>Ceriodaphnia dubia</i> (invertebrate)
Saltwater	7-Day Chronic Static Renewal Larval Survival and Growth Test with <i>Cyprinodon variegatus</i> (vertebrate)
	7-Day Chronic Static Renewal Survival, Growth and Fecundity Test with <i>Americamysis bahia</i> (invertebrate)

372 Freshwater organisms are used where the salinity of the receiving water is less than  
373 1.0‰ (parts per thousand). Where the salinity of the receiving water is greater than or  
374 equal to 1.0‰ but less than 5.0‰ either freshwater or saltwater organisms may be  
375 used. Saltwater organisms are used where the salinity is greater than or equal to 5.0‰.  
376 There shall be a minimum of 30 days between sets of tests, and test procedures shall  
377 follow 40 CFR Part 136, which references the EPA guidance manuals for WET testing.

378 b. This testing shall be completed, at a minimum, during the first year of coverage  
379 under the general permit or within one year of commencing discharge.

380 c. The department will evaluate all representative data statistically to see if there is  
381 reasonable potential for toxicity in the facility discharge. If such reasonable potential  
382 exists and cannot be eliminated, the owner will be notified that the owner must apply  
383 for an individual VPDES permit at next reissuance and a WET limit will be included in  
384 that individual permit. If the potential cause of the toxicity is eliminated during the five-  
385 year term of this general permit, the owner may conduct additional WET testing to  
386 demonstrate that there is no longer reasonable potential for toxicity and an individual  
387 permit will not be required at the next reissuance.

388 d. If the department determines that no reasonable potential for toxicity exists in the  
389 facility discharge, no further WET testing is required unless changes in treatment  
390 technology or chemical usage are made at the plant that change the characteristics of  
391 the discharge. If there have been changes to the effluent characteristics, then four sets  
392 of WET testing, either acute or chronic tests as applicable to the current characteristics  
393 of the process wastewater treatment plant effluent, must be performed to  
394 recharacterize the discharge.

395 e. Any WET testing data will be submitted with the next required discharge monitoring  
396 report.

397 11. The discharges authorized by this permit shall be controlled as necessary to meet  
398 applicable water quality standards.

399 12. Notice of termination.

400 a. The owner may terminate coverage under this general permit by filing a complete  
401 notice of termination with the department. The notice of termination may be filed after  
402 one or more of the following conditions have been met:

403 (1) Operations have ceased at the facility and there are no longer discharges of  
404 process wastewater from the potable water treatment plant;

405 (2) A new owner has assumed responsibility for the facility. A notice of termination  
406 does not have to be submitted if a VPDES Change of Ownership Agreement form has  
407 been submitted;

408 (3) All discharges associated with this facility have been covered by an individual  
409 VPDES permit or a VPDES general permit; or

410 (4) Termination of coverage is being requested for another reason, provided the board  
411 agrees that coverage under this general permit is no longer needed.

412 b. The notice of termination shall contain the following information:

413 (1) Owner's name, mailing address, telephone number, and email address (if  
414 available);

415 (2) Facility name and location;

416 (3) VPDES general permit registration number for the facility; and

417 (4) The basis for submitting the notice of termination, including:

418 (a) A statement indicating that a new owner has assumed responsibility for the facility;

419 (b) A statement indicating that operations have ceased at the facility and there are no  
420 longer discharges from the facility;

421 (c) A statement indicating that all discharges have been covered by an individual  
422 VPDES permit; or

423 (d) A statement indicating that termination of coverage is being requested for another  
424 reason and a description of the reason.

425 c. The following certification: "I certify under penalty of law that all process wastewater  
426 discharges from the identified facility that are authorized by this VPDES general permit  
427 have been eliminated, or covered under a VPDES individual or a VPDES general  
428 permit, or that I am no longer the owner of the facility, or permit coverage should be  
429 terminated for another reason listed above. I understand that by submitting this notice  
430 of termination, that I am no longer authorized to discharge process wastewater in  
431 accordance with the general permit, and that discharging pollutants to surface waters  
432 is unlawful where the discharge is not authorized by a VPDES permit. I also  
433 understand that the submittal of this notice of termination does not release an owner  
434 from liability for any violations of this permit or the Clean Water Act."

435 d. The notice of termination shall be submitted to the department and signed in  
436 accordance with Part II K.

437 13. Approval for coverage under this general permit does not relieve any owner of the  
438 responsibility to comply with any other federal, state, or local statute, ordinance, or  
439 regulation.

440 Part II  
441 CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

442 A. Monitoring.

443 1. Samples and measurements taken as required by this permit shall be representative of  
444 the monitored activity.

445 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part  
446 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless  
447 other procedures have been specified in this permit.

448 3. The permittee shall periodically calibrate and perform maintenance procedures on all  
449 monitoring and analytical instrumentation at intervals that will ensure accuracy of  
450 measurements.

451 4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-  
452 45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46,  
453 Accreditation for Commercial Environmental Laboratories.

454 B. Records.

455 1. Records of monitoring information shall include:



- 456 a. The date, exact place, and time of sampling or measurements;  
457 b. The individuals who performed the sampling or measurements;  
458 c. The dates and times analyses were performed;  
459 d. The individuals who performed the analyses;  
460 e. The analytical techniques or methods used; and  
461 f. The results of such analyses.

462 2. The permittee shall retain records of all monitoring information, including all calibration  
463 and maintenance records and all original strip chart recordings for continuous monitoring  
464 instrumentation, copies of all reports required by this permit, and records of all data used  
465 to complete the registration statement for this permit, for a period of at least three years  
466 from the date of the sample, measurement, report or request for coverage. This period of  
467 retention shall be extended automatically during the course of any unresolved litigation  
468 regarding the regulated activity or regarding control standards applicable to the permittee,  
469 or as requested by the board.

470 C. Reporting monitoring results.

471 1. The permittee shall submit the results of the monitoring required by this permit not later  
472 than the 10th day of the month after monitoring takes place, unless another reporting  
473 schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the  
474 department's regional office.

475 2. Monitoring results shall be reported on a DMR or on forms provided, approved or  
476 specified by the department. Following notification from the department of the start date  
477 for the required electronic submission of monitoring reports, as provided for in 9VAC25-  
478 31-1020, such forms and reports submitted after that date shall be electronically submitted  
479 to the department in compliance with this section and 9VAC25-31-1020. There shall be at  
480 least three months' notice provided between the notification from the department and the  
481 date after which such forms and reports must be submitted electronically.

482 3. If the permittee monitors any pollutant specifically addressed by this permit more  
483 frequently than required by this permit using test procedures approved under 40 CFR Part  
484 136 or using other test procedures approved by the U.S. Environmental Protection Agency  
485 or using procedures specified in this permit, the results of this monitoring shall be included  
486 in the calculation and reporting of the data submitted in the DMR or reporting form  
487 specified by the department.

488 4. Calculations for all limitations that require averaging of measurements shall utilize an  
489 arithmetic mean unless otherwise specified in this permit.

490 D. Duty to provide information. The permittee shall furnish to the department, within a  
491 reasonable time, any information that the board may request to determine whether cause exists  
492 for ~~modifying, revoking and reissuing, or~~ terminating this permit or to determine compliance with  
493 this permit. The board may require the permittee to furnish, upon request, such plans,  
494 specifications, and other pertinent information as may be necessary to determine the effect of the  
495 wastes from the permittee's discharge on the quality of state waters, or such other information as  
496 may be necessary to accomplish the purposes of the State Water Control Law. The permittee  
497 shall also furnish to the department upon request, copies of records required to be kept by this  
498 permit.

499 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any  
500 progress reports on, interim and final requirements contained in any compliance schedule of this  
501 permit shall be submitted no later than 14 days following each schedule date.

502 F. Unauthorized discharges. Except in compliance with this permit, or another permit issued  
503 by the board, it shall be unlawful for any person to:

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

509 G. Reports of unauthorized discharges. Any permittee that discharges or causes or allows a  
510 discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into  
511 or upon state waters in violation of Part II F, or that discharges or causes or allows a discharge  
512 that may reasonably be expected to enter state waters in violation of Part II F, shall notify the  
513 department of the discharge immediately (see Part II I 3) upon discovery of the discharge, but in  
514 no case later than 24 hours after said discovery. A written report of the unauthorized discharge  
515 shall be submitted to the department, within five days of discovery of the discharge. The written  
516 report shall contain:

- 517 1. A description of the nature and location of the discharge;  
518 2. The cause of the discharge;  
519 3. The date on which the discharge occurred;  
520 4. The length of time that the discharge continued;  
521 5. The volume of the discharge;  
522 6. If the discharge is continuing, how long it is expected to continue;  
523 7. If the discharge is continuing, what the expected total volume of the discharge will be;  
524 and  
525 8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present  
526 discharge or any future discharges not authorized by this permit.

527 Discharges reportable to the department under the immediate reporting requirements of other  
528 regulations are exempted from this requirement.

529 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge  
530 including a bypass or upset should occur from a treatment works and the discharge enters or  
531 could be expected to enter state waters, the permittee shall promptly notify (see Part II I 3), in no  
532 case later than 24 hours, the department by telephone after the discovery of the discharge. This  
533 notification shall provide all available details of the incident, including any adverse effects on  
534 aquatic life and the known number of fish killed. The permittee shall reduce the report to writing  
535 and shall submit it to the department within five days of discovery of the discharge in accordance  
536 with Part II I 1 b. Unusual and extraordinary discharges include any discharge resulting from:

- 537 1. Unusual spillage of materials resulting directly or indirectly from processing operations;  
538 2. Breakdown of processing or accessory equipment;  
539 3. Failure or taking out of service some or all of the treatment works; and  
540 4. Flooding or other acts of nature.

541 I. Reports of noncompliance.

542 1. The permittee shall report any noncompliance that may adversely affect state waters or  
543 may endanger public health.

544 a. An oral report shall be provided within 24 hours from the time the permittee becomes  
545 aware of the circumstances. The following shall be included as information that shall  
546 be reported within 24 hours under this subsection:

- 547 (1) Any unanticipated bypass; and



- 548 (2) Any upset that causes a discharge to surface waters.  
549 b. A written report shall be submitted within five days and shall contain:  
550 (1) A description of the noncompliance and its cause;  
551 (2) The period of noncompliance, including exact dates and times, and if the  
552 noncompliance has not been corrected, the anticipated time it is expected to continue;  
553 and  
554 (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the  
555 noncompliance.

556 The board may waive the written report on a case-by-case basis for reports of  
557 noncompliance under Part II I if the oral report has been received within 24 hours and no  
558 adverse impact on state waters has been reported.

559 2. The permittee shall report all instances of noncompliance not reported under Parts II I  
560 1, in writing, at the time the next monitoring reports are submitted. The reports shall contain  
561 the information listed in Part II I 1 b.

562 ~~NOTE:3.~~ The immediate (within 24 hours) reports required in Parts II G, H and I ~~may~~shall  
563 be made to the department's regional office. Reports may be made by telephone, FAX, or  
564 online at  
565 ~~http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.~~  
566 ~~asp~~<https://www.deq.virginia.gov/get-involved/pollution-response> (online reporting  
567 preferred). For reports outside normal working hours, ~~a message may be left and this shall~~  
568 ~~fulfill the immediate reporting requirement.~~the online portal shall be used. For  
569 emergencies, call the Virginia Department of Emergency Services maintains a 24-hour  
570 telephone serviceManagement's Emergency Operations Center (24-hours) at 1-800-468-  
571 8892.

572 ~~3.4.~~ Where the permittee becomes aware that it failed to submit any relevant facts in a  
573 permit registration statement, or submitted incorrect information in a permit registration  
574 statement or in any report to the department, it shall promptly submit such facts or  
575 information.

576 J. Notice of planned changes.

- 577 1. The permittee shall give notice to the department as soon as possible of any planned  
578 physical alterations or additions to the permitted facility. Notice is required only when:
- 579 a. The permittee plans alteration or addition to any building, structure, facility, or  
580 installation from which there is or may be a discharge of pollutants, the construction of  
581 which commenced:
- 582 (1) After promulgation of standards of performance under § 306 of the Clean Water  
583 Act that are applicable to such source; or
- 584 (2) After proposal of standards of performance in accordance with § 306 of the Clean  
585 Water Act that are applicable to such source, but only if the standards are promulgated  
586 in accordance with § 306 within 120 days of their proposal;
- 587 b. The alteration or addition could significantly change the nature or increase the  
588 quantity of pollutants discharged. This notification applies to pollutants that are subject  
589 neither to effluent limitations nor to notification requirements under Part I B 6; or
- 590 c. The alteration or addition results in a significant change in the permittee's sludge  
591 use or disposal practices, and such alteration, addition, or change may justify the  
592 application of permit conditions that are different from or absent in the existing permit,  
593 including notification of additional use or disposal sites not reported during the permit  
594 registration process or not reported pursuant to an approved land application plan.

595 2. The permittee shall give advance notice to the department of any planned changes in  
596 the permitted facility or activity that may result in noncompliance with permit requirements.

597 K. Signatory requirements.

598 1. Registration statement. All registration statements shall be signed as follows:

599 a. For a corporation: by a responsible corporate officer. For the purpose of this section,  
600 a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-  
601 president of the corporation in charge of a principal business function, or any other  
602 person who performs similar policy-making or decision-making functions for the  
603 corporation, or (ii) the manager of one or more manufacturing, production, or operating  
604 facilities, provided the manager is authorized to make management decisions that  
605 govern the operation of the regulated facility including having the explicit or implicit  
606 duty of making major capital investment recommendations, and initiating and directing  
607 other comprehensive measures to assure long-term environmental compliance with  
608 environmental laws and regulations; the manager can ensure that the necessary  
609 systems are established or actions taken to gather complete and accurate information  
610 for permit registration requirements; and where authority to sign documents has been  
611 assigned or delegated to the manager in accordance with corporate procedures;

612 b. For a partnership or sole proprietorship: by a general partner or the proprietor,  
613 respectively; or

614 c. For a municipality, state, federal, or other public agency: by either a principal  
615 executive officer or ranking elected official. For purposes of this section, a principal  
616 executive officer of a public agency includes (i) the chief executive officer of the  
617 agency, or (ii) a senior executive officer having responsibility for the overall operations  
618 of a principal geographic unit of the agency.

619 2. Reports and other information. All reports required by permits, and other information  
620 requested by the board shall be signed by a person described in Part II K 1, or by a duly  
621 authorized representative of that person. A person is a duly authorized representative only  
622 if:

623 a. The authorization is made in writing by a person described in Part II K 1;

624 b. The authorization specifies either an individual or a position having responsibility for  
625 the overall operation of the regulated facility or activity such as the position of plant  
626 manager, operator of a well or a well field, superintendent, position of equivalent  
627 responsibility, or an individual or position having overall responsibility for  
628 environmental matters for the company. (A duly authorized representative may thus  
629 be either a named individual or any individual occupying a named position); and

630 c. The written authorization is submitted to the department.

631 3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate  
632 because a different individual or position has responsibility for the overall operation of the  
633 facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to  
634 the department prior to or together with any reports, or information to be signed by an  
635 authorized representative.

636 4. Certification. Any person signing a document under Part II K 1 or 2 shall make the  
637 following certification:

638 "I certify under penalty of law that this document and all attachments were prepared under  
639 my direction or supervision in accordance with a system designed to assure that qualified  
640 personnel properly gather and evaluate the information submitted. Based on my inquiry of  
641 the person or persons who manage the system, or those persons directly responsible for  
642 gathering the information, the information submitted is, to the best of my knowledge and

643 belief, true, accurate, and complete. I am aware that there are significant penalties for  
644 submitting false information, including the possibility of fine and imprisonment for knowing  
645 violations."

646 L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit  
647 noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act,  
648 except that noncompliance with certain provisions of this permit may constitute a violation of the  
649 State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for  
650 enforcement action, for permit coverage termination, or for denial of permit coverage renewal.

651 The permittee shall comply with effluent standards or prohibitions established under § 307(a)  
652 of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish  
653 these standards or prohibitions, even if this permit has not yet been modified to incorporate the  
654 requirement.

655 M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after  
656 the expiration date of this permit, the permittee shall submit a new registration statement at least  
657 60 days before the expiration date of the existing permit, unless permission for a later date has  
658 been granted by the board. The board shall not grant permission for registration statements to be  
659 submitted later than the expiration date of the existing permit.

660 N. Effect of a permit. This permit does not convey any property rights in either real or personal  
661 property or any exclusive privileges, nor does it authorize any injury to private property or invasion  
662 of personal rights, or any infringement of federal, state or local law or regulations.

663 O. State law. Nothing in this permit shall be construed to preclude the institution of any legal  
664 action under, or relieve the permittee from any responsibilities, liabilities, or penalties established  
665 pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean  
666 Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II  
667 V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties  
668 for noncompliance.

669 P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude  
670 the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or  
671 penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-  
672 44.34:23 of the State Water Control Law.

673 Q. Proper operation and maintenance. The permittee shall at all times properly operate and  
674 maintain all facilities and systems of treatment and control (and related appurtenances) that are  
675 installed or used by the permittee to achieve compliance with the conditions of this permit. Proper  
676 operation and maintenance also includes effective plant performance, adequate funding,  
677 adequate staffing, and adequate laboratory and process controls, including appropriate quality  
678 assurance procedures. This provision requires the operation of back-up or auxiliary facilities or  
679 similar systems that are installed by the permittee only when the operation is necessary to achieve  
680 compliance with the conditions of this permit.

681 R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of  
682 treatment or management of pollutants shall be disposed of in a manner so as to prevent any  
683 pollutant from such materials from entering state waters.

684 S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any  
685 discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of  
686 adversely affecting human health or the environment.

687 T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an  
688 enforcement action that it would have been necessary to halt or reduce the permitted activity in  
689 order to maintain compliance with the conditions of this permit.

690 U. Bypass.

691 1. "Bypass" means the intentional diversion of waste streams from any portion of a  
692 treatment facility. The permittee may allow any bypass to occur which does not cause  
693 effluent limitations to be exceeded, but only if it also is for essential maintenance to assure  
694 efficient operation. These bypasses are not subject to the provisions of Part II U 2 and U  
695 3.

696 2. Notice.

697 a. Anticipated bypass. If the permittee knows in advance of the need for a bypass,  
698 prior notice shall be submitted, if possible at least 10 days before the date of the  
699 bypass.

700 b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass  
701 as required in Part II I.

702 3. Prohibition of bypass.

703 a. Bypass is prohibited, and the board may take enforcement action against a  
704 permittee for bypass, unless:

705 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property  
706 damage;

707 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary  
708 treatment facilities, retention of untreated wastes, or maintenance during normal  
709 periods of equipment downtime. This condition is not satisfied if adequate back-up  
710 equipment should have been installed in the exercise of reasonable engineering  
711 judgment to prevent a bypass that occurred during normal periods of equipment  
712 downtime or preventive maintenance; and

713 (3) The permittee submitted notices as required under Part II U 2.

714 b. The board may approve an anticipated bypass, after considering its adverse effects  
715 if the board determines that it will meet the three conditions listed in Part II U 3 a.

716 V. Upset.

717 1. An upset constitutes an affirmative defense to an action brought for noncompliance with  
718 technology-based permit effluent limitations if the requirements of Part II V 2 are met. A  
719 determination made during administrative review of claims that noncompliance was  
720 caused by upset, and before an action for noncompliance, is not a final administrative  
721 action subject to judicial review.

722 2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate,  
723 through properly signed, contemporaneous operating logs, or other relevant evidence  
724 that:

725 a. An upset occurred and that the permittee can identify the causes of the upset;

726 b. The permitted facility was at the time being properly operated;

727 c. The permittee submitted notice of the upset as required in Part II I; and

728 d. The permittee complied with any remedial measures required under Part II S.

729 3. In any enforcement proceeding preceding the permittee seeking to establish the occurrence of an  
730 upset has the burden of proof.

731 W. Inspection and entry. The permittee shall allow the director, or an authorized  
732 representative, including an authorized contractor acting as a representative of the administrator,  
733 upon presentation of credentials and other documents as may be required by law, to:

734 1. Enter upon the permittee's premises where a regulated facility or activity is located or  
735 conducted, or where records must be kept under the conditions of this permit;

- 736 2. Have access to and copy, at reasonable times, any records that must be kept under the  
737 conditions of this permit;
- 738 3. Inspect at reasonable times any facilities, equipment (including monitoring and control  
739 equipment), practices, or operations regulated or required under this permit; and
- 740 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance  
741 or as otherwise authorized by the Clean Water Act and the State Water Control Law, any  
742 substances or parameters at any location.

743 For purposes of this subsection, the time for inspection shall be deemed reasonable during  
744 regular business hours or whenever the facility is discharging. Nothing contained in this general  
745 permit shall make an inspection unreasonable during an emergency.

746 X. Permit actions. Permit coverages may be terminated for cause. The filing of a request by  
747 the permittee for a permit termination or a notification of planned changes or anticipated  
748 noncompliance does not stay any permit condition.

749 Y. Transfer of permit coverage. ~~Permit coverage is not transferable to any person except after~~  
750 ~~notice to the department.~~

751 1. Permit coverage is not transferable to any person except after notice to the department.

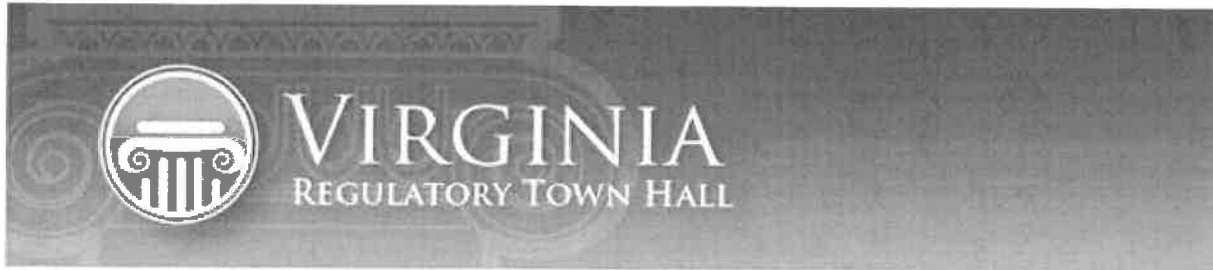
752 2. Coverage under this permit may be automatically transferred to a new permittee if:

753 1-a. The current permittee notifies the department within 30 days of the transfer of the  
754 title to the facility or property unless permission for a later date has been granted by  
755 the board;

756 2-b. The notice includes a written agreement between the existing and new permittees  
757 containing a specific date for transfer of permit responsibility, coverage, and liability  
758 between them; and

759 3-c. The board does not notify the existing permittee and the proposed new permittee  
760 of its intent to deny the new permittee coverage under the permit. If this notice is not  
761 received, the transfer is effective on the date specified in the agreement mentioned in  
762 Part II Y 2.

763 Z. Severability. The provisions of this permit are severable, and if any provision of this permit  
764 or the application of any provision of this permit to any circumstance, is held invalid, the application  
765 of such provision to other circumstances, and the remainder of this permit, shall not be affected  
766 thereby.



[townhall.virginia.gov](http://townhall.virginia.gov)

## Exempt Action: Proposed Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC25-860
<b>VAC Chapter title(s)</b>	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Potable Water Treatment Plants
<b>Action title</b>	VPDES General Permit -Potable Water Treatment Plants - Amend and Reissue Existing Regulation
<b>Date this document prepared</b>	February 17, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The regulation specifies requirements potable water treatment plants to discharge process wastewater to protect water quality. The most significant amendments to this regulation are updating definitions, adding total suspended solids and chlorine discharge limits for reverse osmosis and nanofiltration plants and including future electronic reporting requirements.

### Mandate and Impetus

*Identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*



The impetus of the regulatory change is Virginia Code § 62.1-44.15 (5a) which states, "All certificates issued by the Board under this chapter shall have fixed terms. The term of a Virginia Pollution Discharge Elimination System permit shall not exceed five years." This general permit expires on June 30, 2023 and must be reissued in order to make coverage available for seafood processors that discharge to surface waters after that date.

## Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

---

DEQ: Department of Environmental Quality  
EPA (U.S. EPA): United States Environmental Protection Agency  
NAICS: North American Industry Classification System  
NPDES: National Pollutant Discharge Elimination System  
PREP: Pollution Response Program  
SCC: State Corporation Commission  
SIC: Standard Industrial Classification  
TAC: Technical Advisory Committee  
USC: United States Code  
VAC: Virginia Administrative Code  
VPDES: Virginia Pollutant Discharge Elimination System  
WTP: Water Treatment Plant

## Legal Basis

*Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

---

The promulgating entity is the State Water Control Board. The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program, §62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.16 specifies the Board's authority to regulate discharges of industrial wastes, § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

## Purpose

*Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

---

This proposed regulatory action is needed in order to establish permitting requirements for discharges from potable water treatment plants in order to protect the health, safety and welfare of citizens. The existing general permit expires on June 30, 2023 and must be reissued to cover existing potable water treatment plant discharges. The goal is to update the permit and the regulation to be consistent with other VPDES general permits.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

---

Substantive provisions include updating definitions, adding total suspended solids and chlorine discharge limits for reverse osmosis and nanofiltration plants and including future electronic reporting requirements.

## Issues

*Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

---

The advantages to the public and the agency of reissuing this permit are that a VPDES general permit will continue to be available to facilities with eligible discharges enabling them to discharge to surface waters in a manner that is protective of those waters without the increased cost and more complicated application process associated with issuing an individual permit. There are no known disadvantages.

## Requirements More Restrictive than Federal

*Please identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

---

There are no requirements that exceed applicable federal requirements.

## Agencies, Localities, and Other Entities Particularly Affected

*Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the*



*regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

---

Other State Agencies Particularly Affected:

None

Localities Particularly Affected:

None. There are many localities that operate drinking water treatment plants for their locality that have coverage under this permit but none bear a disproportionate material impact.

Other Entities Particularly Affected:

None

### **Regulatory Flexibility Analysis**

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

---

The reissuance of the VPDES general permit accomplishes the objectives of applicable law and minimizes the costs to a small business owner and simplifies the application process. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase the complexity of a permit application and permit costs.

### **Public Comment Received**

*Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

---

No comments were received during the Notice of Intended Regulatory Action.

### **Public Participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

---

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. The agency/board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Eleanore Daub, P.O. Box 1105, Richmond, Virginia 23218, phone: (804) 659-2655 (for questions),

[elleanore.daub@deq.virginia.gov](mailto:elleanore.daub@deq.virginia.gov) or Fax: 804-698-4178 (**please insure recipient [Elleanore Daub] is on fax or cover page of fax**). Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at (<http://www.townhall.virginia.gov>). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

### **Detail of Changes**

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Please include citations to the specific section(s) of the regulation that are changing.*

---

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-860-10. Definitions.		<p>Definition exists for "Department" or "DEQ" which means Virginia Department of Environmental "Quality."</p> <p>No definition for "conventional filtration treatment."</p>	<p>Removed definition for "Department" as this definition is already in the VPDES Permit Regulation. The words and terms used in the VPDES Potable WTP regulation have the meanings defined in the State Water Control Law and 9VAC25-31, the VPDES Permit Regulation and this term is already defined in the VPDES Permit Regulation.</p> <p>Added definition for "conventional filtration treatment" per the recommendation of the TAC since the term is used in this regulation. The definition is taken from the VDH Waterworks Regulation <u>12VAC5-590-10</u>.</p> <p>Amended definition for "Membrane treatment" to mean a pressure driven or vacuum process. "Vacuum" was added at the request of the TAC to reflect the fact that membrane treatment can be pressure or vacuum driven.</p>
9VAC25-860-15. Applicability of incorporated references based on the dates that they became effective.		Effective date for the Title 40 CFR is July 1, 2017	Effective date for the Title 40 CFR changed to July 1, 2021. No impact.
9VAC25-860-40. Effective date of the permit.		Effective date of permit is July 1, 2018 and expires on June 30, 2023.	<p>Effective date of permit changed to July 1, 2023 and expires on June 30, 2028.</p> <p>Updated to reflect new five year permit term.</p>
9VAC25-860-50. D Authorization to discharge.		Subdivision 1 describes requirements for continuation of permit coverage.	Same requirement, amendments made to language to match other general permit continuation language. No impact.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-860-60 A Registration statement.		Subsection A contains deadlines for registration statement submittals for new and existing facilities.	Same requirements, amendments made to language to match other general permit registration language. No impact.

<p>9VAC25-860-60 C. Registration statement.</p>		<p>Subsection C contains registration requirements.</p> <p>Question #6 asks for flow information (daily maximum actual or projected process wastewater flow rate (MGD or GPD), typical volume, duration of discharges, and frequency of discharge. Question also asks for latitude and longitude.</p> <p>Question #7 provides examples for types of treatment.</p> <p>Question #8 asks for other VPDES permit numbers that allow discharges.</p> <p>No question asking for Virginia Department of Health Public Water Supply Identification (PWSID) number.</p> <p>After insertion of VDH PWSID number, the following subdivisions are renumbered.</p> <p>Question #13 asks for information on chemicals used in the production of drinking water and process wastewater treatment, to include (i) a description of chemicals, (ii) a proposed or actual schedule and quantity of chemical usage, (iii) a description of any chemical or chemical usage changes since the previous registration statement was submitted, and (iv) a description of which chemicals have no likelihood</p>	<p>Amendments made to language to match other general permit registration requirement language in questions 2, 12 and 16. No impact.</p> <p>Question #6 changed to require daily maximum and monthly average process wastewater flow and typical volume deleted. No impact as this information is required by the permit. Clarified that latitude and longitude should be in decimal degrees (six digits - ten-thousandths place. This is consistent with the VPDES Construction General Permit 9VAC25-880-50 for a similar requirement. No impact.</p> <p>Question #7 provided examples for types of treatment but clarified that "conventional" was "conventional filtration treatment" to match new definition in section 10. No impact.</p> <p>Question #8 same question but clarifies DEQ wants VPDES or VPA permit numbers.</p> <p>Question #9 inserted which asks for (PWSID) number. This assists DEQ in identifying and crosschecking VDH and DEQ potable WTPs. No impact as all potable WTPs already know their VDH PWSID number.</p> <p>Question #13 revised to ask for a schematic drawing showing the treatment of the water from raw water intake through finished water distribution. Indicate clearly where backwash, reject water, clean in place water, and disinfection chemicals could enter the process wastewater and exit the outfall to state waters. Also include in schematic where solids from any treatment process are settled or dried. This was done so DEQ can clearly see what process water is being discharged so that the appropriate permit limits page is applied to that facility. Minor impact as some</p>
-------------------------------------------------	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		of entering the process wastewater.	permittees may have to redraw their schematics to be clearer where process waters are discharged.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-860-60 E. Registration statement.		Registration statement shall be delivered to the department by postal or electronic mail.	<p>Added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry, registration statements shall be submitted electronically. Three months' notice shall be given by the department about this requirement.</p> <p>Some impact because once electronic reporting dates are established and technology is developed at the department, the permittees will be required to file registration statements electronically. This may be difficult if the registrant has no available internet access (even via a public library) or computer/internet skills. Waivers are available under very limited circumstances.</p>
9VAC25-860-70. General permit.		Effective and expiration dates July 1, 2018 – June 30, 2023.	Updated to next term July 1, 2023 to June 30, 2028.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
<p>9VAC25-860-70. General permit. Part I A 1</p>		<p>Footnote (2) states that the reported estimated flow is to be based on the technical evaluation of the sources contributing to the discharge.</p> <p>Footnote (4) contains instructions for composite sampling.</p>	<p>Amended footnote (2) to say the estimated flow "may be" based on a technical evaluation of the sources contributing to the discharge. Flow is often measured using a flow meter (which is more accurate than an estimate) so the footnote estimate is an allowance and not a requirement. No impact as this reflects existing procedures.</p> <p>Footnote (4) instructions for composite sampling clarified to match other permits with similar composite instructions. Also added that composite sample procedures for batch discharges unable to meet the above requirements may be approved by DEQ on a case by case basis. This is a clarification to add flexibility to batch composite procedures as batch discharges may be very short and variable. DEQ has had to approve alternative compositing procedures in the past that met the spirit and intent of this footnote in order to receive representative samples. This is a clarification of existing procedures. No impact.</p>



Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
<p>9VAC25-860-70. General permit. Part I A 2</p>		<p>Part I A 2 contains limits for reverse osmosis and nanofiltration plants.</p>	<p>Added limits for TSS and chlorine under certain circumstances. TSS applies when conventional filtration treatment is used at the reverse osmosis plant and present in the discharge. Chlorine applies when chlorine is present in the discharge. As drinking water treatment scenarios have changed over the years, DEQ has determined that conventional treatment technologies can be used prior to the reverse osmosis or nanofiltration and should therefore contain TSS and chlorine limits similarly to Part 1 A 1 pages. This will impact plants that contain these mixed treatment technologies to include TSS and chlorine in their discharges. DEQ estimates there is currently one facility impacted by these additional requirement.</p> <p>Composite sampling procedures in footnote (3) were amended as described in Part I A 1 (footnote (4)) above.</p>
<p>9VAC25-860-70. General permit. Part I B</p>		<p>Subdivision 8 contains compliance reporting conditions for the limits in Part I A.</p>	<p>Subdivision clarified to add instructions for how to calculate the monthly average and the daily maximum for quarterly reporting. This may impact facilities that have been calculating averages or maximums differently.</p> <p>Deleted the instructions on how to calculate quantity when samples are below detection. There are no quantity related calculations with QLs so the instructions are not needed. No impact.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-860-70 Part II C		Monitoring results shall be submitted on a form provided by DEQ.	<p>Added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry, DMRs shall be submitted electronically. Three months' notice shall be given by the department about this requirement.</p> <p>Some impact because once electronic reporting dates are established and technology is developed at the department, the permittees will be required to file DMRs electronically. This may be difficult if the registrant has no available internet access (even via a public library) or computer/internet skills. Waivers are available under very limited circumstances.</p>
9VAC25-860-70 Part II G, H, I, L and Y		<p>Subsection D contains the duty to provide information that the board requests for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit.</p> <p>Subsection G contains unauthorized discharge reporting requirement.</p> <p>Subsection H contains unusual discharge reporting requirements</p> <p>Subsection I contains noncompliance reporting requirements.</p> <p>Subsection L contains the requirement to reapply for coverage.</p> <p>Subdivision Y contains transfer of permit coverage requirements.</p>	<p>D, G, H, I, L and Y contain the same requirements but amendments made to the language to match other general permit language in these requirements.</p> <p>Subsection I was also amended to reflect more recent reporting requirements after discussions with DEQs Pollution Response Program (PREP) staff who requested all after hours reporting be done online via the PREP portal. This portal automatically notifies regional offices and logs the report in the database. This requirement should not be a problem for this particular industrial sector as most of these permittees are localities with internet access so online access is available.</p>

### Family Impact

*In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

There is no potential impact of the proposed regulatory action on the institution of the family and family stability.



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

NORTHERN REGIONAL OFFICE  
13901 Crown Court, Woodbridge, Virginia 22193  
(703) 583-3800 FAX (804) 698-4178  
[www.deq.virginia.gov](http://www.deq.virginia.gov)

Andrew R. Wheeler  
Secretary of Natural and Historic Resources

Michael S Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4000

Thomas A. Faha  
Regional Director

February 17, 2022

**MEMORANDUM**

**TO:** State Water Control Board Members

**FROM:** Alison Thompson, Water Permits Technical Reviewer, DEQ-NRO

**SUBJECT:** VPDES General Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests (VAG 83); Amendments to 9VAC25-120 and Reissuance of General Permit

The current VPDES General Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests will expire on February 25, 2023, and the regulation establishing this general permit is being amended to reissue this general permit for another five-year term. The staff is bringing this proposed regulation amendment before the Board to request authorization to hold a public comment period and a public hearing. Draft amendments showing proposed changes to the current regulation and the Agency Town Hall background document, which includes a summary, are attached.

With this reissuance of the general permit, DEQ staff proposes to expand the general permit to include other sources of contamination not identified as petroleum or chlorinated hydrocarbon solvents. Non-petroleum sources of contamination include, but are not limited to releases of solvents, degreasers, cleaners, or paint removers, releases from industrial operations, and improper waste management, disposal or transport. The types of sites eligible for coverage under this activity category may be a result of remediation activities related to groundwater pump and treat systems, dewatering systems or other activities where non-petroleum-related sources are a known source of contaminant of concern, including sites where metals are present.

Adding these limited additional activities and pollutants to the scope of activities authorized under this general permit is needed to better serve the regulated community, to better coordinate across DEQ programs and to save staff time and resources.

The proposed regulation takes into consideration the recommendations of a technical advisory committee formed for this regulatory action. The technical advisory committee consisted of representatives of consultants and professionals that support projects and permitting, local government and DEQ staff.

A Notice of Intended Regulatory Action (NOIRA) for the amendment was issued on September 28, 2020. No public comments were received in response to the NOIRA.

The Office of the Attorney General is currently reviewing the proposed regulation for certification of statutory authority. The U.S. Environmental Protection Agency will also need to review and approve the general permit prior to final adoption.

Attachments: Draft General Permit Regulation  
Agency Background Document (Townhall).

cc: Melanie Davenport  
Cindy Berndt  
Melissa Porterfield

SUMMARY OF 9VAC25-120 PROPOSED REVISIONS FOR THE 2023 REISSUANCE DISCHARGES  
OF PETROLEUM CONTAMINATED SITES, GROUNDWATER REMEDIATION, AND  
HYDROSTATIC TESTS GENERAL PERMIT

February 17, 2022

**Title** – Staff proposes to change the title of the regulation to Groundwater Remediation of Contaminated Sites, Dewatering Activities of Contaminated Sites, and Hydrostatic Tests General Permit

**Section 10 – Definitions.** Struck the definitions of “Board” and Department,” since these are defined in the VPDES permit regulations and the introduction references the existing definitions.

**Section 15 – Applicability of incorporated references based on the dates that they became effective.** A statement was revised to update all Title 40 Code of Federal Regulations within the document to be those published as of July 1, 2021. This is a recommendation from the DEQ Office of Policy.

**Section 20 – Purpose.** The purpose of the general permit was expanded to include remediation of groundwater from metals contamination and ongoing dewatering projects from contaminated sites.

**Section 50 – Effective date of the permit.** The effective date and expiration date of the general permit were updated to March 1, 2023 and February 29, 2028 respectively.

**Section 60 – Authorization to discharge.** The wording for the Continuation of Permit Coverage was updated for clarification. Clarify that ongoing dewatering projects may require additional coordination, permitting and/or reporting for permittees in accordance with 9VAC25-200 and 9VAC25-610.

**Section 70 – Registration Statement.** The activities covered under this general permit were updated to reflect the addition of metals contamination and dewatering activities. For existing facilities covered by an individual permit and seeking general permit coverage, changed registration submittal from 210 to 240 days prior to expiration of the individual permit in order to be consistent with other general permits. A section was added for the owner to provide information if the facility is enrolled in the Voluntary Remediation Program (VRP) if applicable for the project. The location was changed to latitude and longitude in decimal degrees (six digits - ten-thousandths place) so that the outfall location can be clearly identified. A requirement was added for the owner to provide the State Corporation Commission entity identification number if the facility is required to obtain one by law. A statement about notification was added for

clarification. The registration statement can be emailed to the regional office. Staff added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry and 3 months' notice is given, registration statements shall be submitted electronically.

**Section 80 – General Permit.** The following modification and additions were made to the "Effluent Limitations and Monitoring Requirements" section (9VAC25-120-80) Part I A 2: A revision was made to the approved methodology for Total Petroleum Hydrocarbons. The limit for Total Petroleum Hydrocarbons was revised to two significant figures.

The following modification and additions were made to the "Effluent Limitations and Monitoring Requirements" section (9VAC25-120-80) Part I A 3: Revised the Benzene effluent limit to reflect the changes to the Virginia Water Quality Standard Human Health criteria for Public Water Supplies, Removed the decimal place for the Ethanol effluent limitation because the detection limit for this compound using Method 8260B is 200 ug/l. To carry this to the required significant figure would likely require secondary ion mass spec analysis – a big cost burden for no apparent value. Added "Total" for Hardness monitoring since this is how hardness is reported. Limitations for Toluene, Total Xylenes, MTBE, and Ethylene Dibromide in freshwater PWS, were revised to two significant figures. Total Recoverable Lead is now expressed as a numeric limitation to eliminate confusion with reporting and determining compliance.

The following modification and additions were made to the "Effluent Limitations and Monitoring Requirements" section (9VAC25-120-80) Part I A 4: Revised the Benzene effluent limit to reflect the changes to the Virginia Water Quality Standard Human Health criteria for Public Water Supplies. A revision was made to the approved methodology for Total Petroleum Hydrocarbons. The limitations for Total Petroleum Hydrocarbons and MTBE were revised to two significant figures.

The following modification and additions were made to the "Effluent Limitations and Monitoring Requirements" section (9VAC25-120-80) Part I A 5: The Chloroform effluent limitation was revised to reflect the changes to the Virginia Water Quality Standards and is now expressed as two significant figures. The limitations for cis-1,2 Dichloroethylene, trans-1,2 Dichloroethylene, 1,1,1 Trichloroethane, and 1,2 Dichlorobenzene were revised to two significant figures.

The following addition was added to 9VAC25-120-80: section Part I A 6 was added to address metals contamination from groundwater remediation or post-construction dewatering activities. Limitations for pH, Total Recoverable Arsenic, Total Recoverable Cadmium, Total Recoverable Chromium, Total Recoverable Copper, Total Recoverable Lead, Total Recoverable Nickel, Total Recoverable Selenium, Total Recoverable Silver, Total Recoverable Thallium, and Total Recoverable Zinc were included. Monitoring for Flow and Total Hardness were also added.

In Part II C, staff added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry and 3 months' notice is given, discharge monitoring reports shall be submitted electronically. In Part II I, the link for reporting pollution incidents was updated.

Members of the Technical Advisory Committee:

James Thornhill	Wire Gill LLP
Gavin Pellitteri	Transportation & Env. Services, City of Alexandria
John Diehl, CPG, LRS	ECC Inc.
Christopher Elliott	Env. Senior Project Mgr., ECS MID ATLANTIC
David Bookbinder, CPG	ECS MID ATLANTIC
Allan Brockenbrough	DEQ CO VPDES Permits
Alison Thompson	Water Permits Technical Reviewer, DEQ-NRO

DEQ Staff Technical Liaisons

Elleanore Daub	CO VPDES Permits
Frank Bowman	BRRO VPDES Permits
Bryant Thomas	NRO WPM
Ann Zimmerman	NRO VPDES Permits
Troy Nipper	CO Compliance
Jeanne Puricelli	PRO VPDES Permits
Heather Weimer	PRO Water Compliance
James Barnett	CO Remediation
Zachery Pauley	CO Remediation

1 **Project 6517**

2 **State Water Control Board**

3 **Amend and Reissue the Existing General Permit Regulation**

4 Chapter 120

5 VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT  
6 REGULATION FOR DISCHARGES FROM ~~PETROLEUM CONTAMINATED SITES,~~  
7 GROUNDWATER REMEDIATION OF CONTAMINATED SITES, DEWATERING ACTIVITIES  
8 OF CONTAMINATED SITES, AND HYDROSTATIC TESTS...

9 **9VAC25-120-10. Definitions.**

10 The words and terms used in this chapter shall have the meanings defined in the State Water  
11 Control Law and 9VAC25-31 (VPDES Permit Regulation) unless the context clearly indicates  
12 otherwise, except that for the purposes of this chapter:

13 ~~"Board" means the State Water Control Board.~~

14 "Central wastewater treatment facilities" means any facility that treats (for disposal, recycling,  
15 or recovery of materials) or recycles hazardous or nonhazardous waste, hazardous or  
16 nonhazardous industrial wastewater, or used material from off-site. This includes both a facility  
17 that treats waste received from off-site exclusively, and a facility that treats waste generated on-  
18 site as well as waste received from off-site.

19 "Chlorinated hydrocarbon solvents" means solvents containing carbon, hydrogen, and  
20 chlorine atoms and the constituents resulting from the degradation of chlorinated hydrocarbon  
21 solvents.

22 ~~"Department" or "DEQ" means the Virginia Department of Environmental Quality.~~

23 "Director" means the Director of the Virginia Department of Environmental Quality, or an  
24 authorized representative.

25 "Petroleum products" means petroleum-based substances comprised of a complex blend of  
26 hydrocarbons derived from crude oil such as motor fuels, jet fuels, distillate fuel oils, residual fuel  
27 oils, lubricants, petroleum solvents and used oils. "Petroleum products" does not include  
28 hazardous waste as defined by the Virginia Hazardous Waste Management Regulations  
29 (9VAC20-60).

30 "Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a  
31 pollutant that a waterbody can receive and still meet water quality standards and an allocation of  
32 that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point  
33 source discharges, and load allocations (LAs) for nonpoint sources or natural background or both,  
34 and must include a margin of safety (MOS) and account for seasonal variations.

35 **9VAC25-120-15. Applicability of incorporated references based on the dates that they**  
36 **became effective.**

37 Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set  
38 forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and  
39 incorporated by reference, that regulation shall be as it exists and has been published as of July  
40 1, ~~2017~~2021.

41 **9VAC25-120-20. Purpose.**

42 This general permit regulation governs the discharge of wastewaters from petroleum  
43 contaminated sites, contaminated by petroleum products, chlorinated hydrocarbon solvents, non-



44 petroleum contaminated sites, groundwater remediation discharges, dewatering activities, the  
45 hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and  
46 dewatering of petroleum storage tank systems and associated distribution equipment, and the  
47 hydrostatic testing of water storage tanks and pipelines. These wastewaters may be discharged  
48 from the following activities: excavation dewatering, conducting aquifer tests to characterize site  
49 conditions, pumping contaminated groundwater to remove free product, discharges resulting from  
50 another petroleum product, ~~or chlorinated hydrocarbon solvent,~~ metals or other contaminated site  
51 ~~cleanup activity approved by the board,~~ hydrostatic tests of natural gas and petroleum storage  
52 tanks or pipelines, hydrostatic tests and dewatering of storage tanks and associated distribution  
53 equipment, and hydrostatic tests of water storage tank systems or pipelines. Discharges not  
54 associated with petroleum-contaminated water, water contaminated by chlorinated hydrocarbon  
55 solvents, or hydrostatic tests are not covered under this general permit.

56 **9VAC25-120-40. Delegation of authority.**

57 The director, or an authorized representative, may perform any act of the board provided  
58 under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

59 **9VAC25-120-50. Effective date of the permit.**

60 This general permit will become effective on ~~February 26, 2018~~ March 1, 2023. This general  
61 permit will expire on February ~~25, 29, 2023~~ 2028. This general permit is effective as to any covered  
62 owner upon compliance with all the provisions of 9VAC25-120-60.

63 **9VAC25-120-60. Authorization to discharge.**

64 A. Any owner governed by this general permit is hereby authorized to discharge to surface  
65 waters within the Commonwealth of Virginia provided that:

- 66 1. The owner submits a registration statement, if required to do so, in accordance with  
67 9VAC25-120-70, and that registration statement is accepted by the board;
- 68 2. The owner complies with the applicable effluent limitations and other requirements of  
69 9VAC25-120-80; and
- 70 3. The board has not notified the owner that the discharge is not eligible for coverage in  
71 accordance with subsection B of this section.

72 B. The board will notify an owner that the discharge is not eligible for coverage under this  
73 general permit in the event of any of the following:

- 74 1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170  
75 B of the VPDES Permit Regulation;
- 76 2. The owner is proposing to discharge within five miles upstream of a public water supply  
77 intake or to state waters specifically named in other board regulations which prohibit such  
78 discharges;
- 79 3. The owner is proposing to discharge to surface waters where there are permitted central  
80 wastewater treatment facilities reasonably available, as determined by the board;
- 81 4. The discharge violates or would violate the antidegradation policy in the Water Quality  
82 Standards at 9VAC25-260-30; or
- 83 5. The discharge is not consistent with the assumptions and requirements of an approved  
84 TMDL.

85 C. Compliance with this general permit constitutes compliance, for purposes of enforcement,  
86 with §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b) of the federal Clean Water Act and  
87 the State Water Control Law with the exceptions stated in 9VAC25-31-60 of the VPDES Permit  
88 Regulation. Approval for coverage under this general permit does not relieve any owner of the  
89 responsibility to comply with any other applicable federal, state, or local statute, ordinance, or

90 regulation, including compliance with the water withdrawal reporting, 9VAC25-200, and the  
91 groundwater permitting program 9VAC25-610.

92 D. Continuation of permit coverage.

93 1. Permit coverage shall expire at the end of ~~its~~ the applicable permit term. However,  
94 expiring permit coverages are automatically continued if the owner has submitted a  
95 complete registration statement at least 60 days prior to the expiration date of the permit,  
96 or a later submittal date established by the board, which cannot extend beyond the  
97 expiration date of the original permit. The permittee is authorized to continue to discharge  
98 until such time as the board either:

99 a. Issues coverage to the owner under this general permit; or

100 b. Notifies the owner that the discharge is not eligible for coverage under this general  
101 permit.

102 2. When the owner that was covered under the expiring or expired general permit has  
103 violated or is violating the conditions of that permit, the board may choose to do any or all  
104 of the following:

105 a. Initiate enforcement action based upon the general permit coverage that has been  
106 continued;

107 b. Issue a notice of intent to deny coverage under the amended general permit. If the  
108 general permit coverage is denied, the owner would then be required to cease the  
109 discharges authorized by the continued general permit coverage or be subject to  
110 enforcement action for discharging without a permit;

111 c. Issue an individual permit with appropriate conditions; or

112 d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

113 **9VAC25-120-70. Registration statement.**

114 A. Any owner seeking coverage under this general permit that is required to submit a  
115 registration statement shall submit a complete VPDES general permit registration statement in  
116 accordance with this section, which shall serve as a notice of intent for coverage under the general  
117 VPDES general permit for discharges from ~~petroleum contaminated sites,~~ groundwater  
118 remediation of contaminated sites, dewatering activities of contaminated sites, and hydrostatic  
119 tests.

120 B. Owners of the following types of proposed or existing discharges are not required to submit  
121 a registration statement to apply for coverage under this general permit:

122 1. Short term projects (14 consecutive calendar days or less in duration) including:

123 a. Emergency repairs;

124 b. Dewatering projects;

125 c. Utility work and repairs in areas of known contamination;

126 d. Tank placement or removal in areas of known contamination;

127 e. Pilot studies or pilot tests, including aquifer tests; and

128 f. New well construction discharges of groundwater;

129 2. Hydrostatic testing of petroleum and natural gas storage tanks, pipelines, or distribution  
130 system components; and

131 3. Hydrostatic testing of water storage tanks, pipelines, or distribution system components.

132 Owners of these types of discharges are authorized to discharge under this permit  
133 immediately upon the permit's effective date of ~~February 26, 2018~~ March 1, 2023.

134 Owners shall notify the department's regional office in writing within 14 days of the completion  
135 of the discharge. The notification shall include the owner's name and address, the type of  
136 discharge that occurred, the physical location of the discharge work, and the receiving stream. If  
137 the discharge is to a municipal separate storm sewer system (MS4), the owner shall also notify  
138 the MS4 owner within 14 days of the completion of the discharge.

139 Owners of these types of discharges are not required to submit a notice of termination of  
140 permit coverage at the completion of the discharge.

141 C. Deadlines for submitting registration statements.

142 1. New facilities. Any owner proposing a new discharge shall submit a complete  
143 registration statement at least 30 days prior to the date planned for commencing operation  
144 of the new discharge or a later submittal date established by the board, unless exempted  
145 by subsection B of this section.

146 2. Existing facilities.

147 a. Any owner covered by an individual VPDES permit who is proposing to be covered  
148 by this general permit shall submit a complete registration statement at least ~~240~~240  
149 days prior to the expiration date of the individual VPDES permit.

150 b. Any owner that was authorized to discharge under the expiring petroleum  
151 contaminated sites, groundwater remediation, and hydrostatic tests ~~general~~ VPDES  
152 general permit that is not exempted under subsection B of this section and that intends  
153 to continue coverage under this general permit shall submit a complete registration  
154 statement to the board at least 30 days prior to the expiration date of the existing permit  
155 or a later submittal established by the board.

156 D. Late registration statements. Registration statements will be accepted after the expiration  
157 date of the permit, but authorization to discharge will not be retroactive.

158 E. The required registration statement shall contain the following information:

- 159 1. Facility name and mailing address, owner name and mailing address, telephone  
160 number, and email address (if available);
- 161 2. Facility street address (if different from mailing address) or location (if the facility location  
162 does not have a mailing address);
- 163 3. Facility operator (local contact) name, address, telephone number, and email address  
164 (if available) if different than owner;
- 165 4. Nature of business conducted at the facility;
- 166 5. Type of petroleum or natural gas products, or chlorinated hydrocarbon solvents causing  
167 or that caused the contamination;
- 168 6. Identification of activities that will result in a point source discharge from the site;
- 169 7. Whether a site characterization report for the site has been submitted to the Department  
170 of Environmental Quality;
- 171 8. Characterization or description of the wastewater or nature of contamination including  
172 all related analytical data;
- 173 9. The ~~location~~latitude and longitude in decimal degrees (six digits - ten-thousandths  
174 place) of the discharge point and identification of the waterbody into which the discharge  
175 will occur. For linear projects, the ~~location~~latitude and longitude in decimal degrees (six  
176 digits - ten-thousandths place) of all the proposed discharge points along the project length  
177 and the associated waterbody for each discharge point;
- 178 10. The frequency with which the discharge will occur (i.e., daily, monthly, continuously);
- 179 11. An estimate of how long each discharge will last;

- 180 12. An estimate of the total volume of wastewater to be discharged;
- 181 13. An estimate of the average and maximum flow rate of the discharge;
- 182 14. A diagram of the proposed wastewater treatment system identifying the individual  
183 treatment units;
- 184 15. A USGS 7.5 minute topographic map or equivalent computer generated map that  
185 indicates the receiving waterbody name or names, the discharge point or points, the  
186 property boundaries, as well as springs, other surface waterbodies, drinking water wells,  
187 and public water supplies that are identified in the public record or are otherwise known to  
188 the applicant within a 1/2 mile radius of the proposed discharge or discharges;
- 189 16. A determination of whether the facility will discharge to an MS4. If the facility  
190 discharges to an MS4, the facility owner must notify the owner of the MS4 of the existence  
191 of the discharge information at the time of registration under this permit and include that  
192 notification with the registration statement. The notice shall include the following  
193 information: the name of the facility, a contact person and telephone number, the location  
194 of the discharge, the nature of the discharge, and the facility's VPDES general permit  
195 number;
- 196 17. Whether central wastewater facilities are available to the site, and if so, whether the  
197 option of discharging to the central wastewater facility has been evaluated and the results  
198 of that evaluation;
- 199 18. Whether the facility currently has any permit issued by the board, and if so, the permit  
200 number;
- 201 19. Any pollution complaint number or Voluntary Remediation Program (VRP) information  
202 associated with the project;
- 203 20. A statement as to whether the material being treated or to be discharged is certified  
204 as a hazardous waste under the Virginia Hazardous Waste Management Regulations  
205 (9VAC20-60); and
- 206 21. The following certification:  
207 "I certify under penalty of law that this document and all attachments were prepared  
208 under my direction or supervision in accordance with a system designed to assure that  
209 qualified personnel properly gather and evaluate the information submitted. Based on  
210 my inquiry of the person or persons who manage the system or those persons directly  
211 responsible for gathering the information, the information submitted is to the best of  
212 my knowledge and belief true, accurate, and complete. I am aware that there are  
213 significant penalties for submitting false information including the possibility of fine and  
214 imprisonment for knowing violations. I do also hereby grant duly authorized agents of  
215 the Department of Environmental Quality, upon presentation of credentials, permission  
216 to enter the property for the purpose of determining the suitability of the general  
217 permit." State Corporation Commission entity identification number if the facility is  
218 required to obtain an entity identification number by law; and
- 219 22. The following certification:  
220 "I certify under penalty of law that this document and all attachments were prepared  
221 under my direction or supervision in accordance with a system designed to assure that  
222 qualified personnel properly gather and evaluate the information submitted. Based on  
223 my inquiry of the person or persons who manage the system or those persons directly  
224 responsible for gathering the information, the information submitted is to the best of  
225 my knowledge and belief true, accurate, and complete. I am aware that there are  
226 significant penalties for submitting false information including the possibility of fine and  
227 imprisonment for knowing violations. I do also hereby grant duly authorized agents of

228 the Department of Environmental Quality, upon presentation of credentials, permission  
229 to enter the property for the purpose of determining the suitability of the general  
230 permit."

231 F. The registration statement shall be signed in accordance with 9VAC25-31-110.

232 G. The registration statement shall be delivered by either postal or electronic mail to the DEQ  
233 regional office serving the area where the facility is located. Following notification from the  
234 department of the start date for the required electronic submission of Notices of Intent to discharge  
235 forms (i.e., registration statements), as provided for in 9VAC25-31-1020, such forms submitted  
236 after that date shall be electronically submitted to the department in compliance with this section  
237 and 9VAC25-31-1020. There shall be at least three months' notice provided between the  
238 notification from the department and the date after which such forms must be submitted  
239 electronically.

240 **9VAC25-120-80. General permit.**

241 Any owner whose registration statement is accepted by the board, or that is automatically  
242 authorized to discharge under this permit, shall comply with the requirements of the general permit  
243 and be subject to all requirements of 9VAC25-31-170 B of the VPDES Permit Regulation. Not all  
244 of Part I A of the general permit will apply to every permittee. The determination of which  
245 provisions apply will be based on the type of contamination at the individual site and the nature  
246 of the waters receiving the discharge. Part I B and all of Part II apply to all permittees.

247 General Permit No.: VAG83  
248 Effective Date: ~~February 26, 2018~~ March 1, 2018 2023  
249 Expiration Date: February ~~25, 2023~~ 29, 2023 2028

250 VPDES GENERAL PERMIT FOR DISCHARGES FROM PETROLEUM CONTAMINATED  
251 SITES, GROUNDWATER REMEDIATION OF CONTAMINATED SITES, DEWATERING  
252 ACTIVITIES OF CONTAMINATED SITES, AND HYDROSTATIC TESTS

253 AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE  
254 ELIMINATION SYSTEM PERMIT PROGRAM AND THE VIRGINIA STATE WATER CONTROL  
255 LAW

256 In compliance with the provisions of the Clean Water Act, as amended, the State Water  
257 Control Law and regulations adopted pursuant thereto, the owner is authorized to discharge to  
258 surface waters within the boundaries of the Commonwealth of Virginia, except to designated  
259 public water supplies or waters specifically named in other board regulations which prohibit such  
260 discharges.

261 The authorized discharge shall be in accordance with the information submitted with the  
262 registration statement, this cover page, Part I - Effluent Limitations and Monitoring Requirements,  
263 and Part II - Conditions Applicable to All VPDES Permits, as set forth in this general permit.

264 If there is any conflict between the requirements of a board approved cleanup plan and this  
265 permit, the requirements of this permit shall govern.

266 Part I

267 **A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.**

268 **1. SHORT TERM PROJECTS.**

269 The following types of short term projects (14 consecutive calendar days or less in  
 270 duration) are authorized under this permit:

- 271 a. Emergency repairs;
- 272 b. Dewatering projects. Dewatering projects shall be managed to control the volume  
 273 and velocity of the discharge, including peak flow rates and total volume, to minimize  
 274 erosion at outlets and to minimize downstream channel and stream bank erosion;
- 275 c. Utility work and repairs in areas of known contamination;
- 276 d. Tank placement or removal in areas of known contamination;
- 277 e. Pilot studies or pilot tests, including aquifer tests; and
- 278 f. New well construction discharges of groundwater.

279 Effluent limits for short term projects correspond to the type of contamination at the project  
 280 site and are given in Tables A 3 through A 56 below. The sampling frequency for these  
 281 projects shall be once per discharge. Discharge monitoring reports for these projects are  
 282 not required to be submitted to the department, but shall be retained by the owner for a  
 283 period of at least three years from the completion date of the project.

284 Owners shall notify the department's regional office in writing within 14 days of the  
 285 completion of the project discharge. The notification shall include the owner's name and  
 286 address, the type of discharge that occurred, the physical location of the project work, and  
 287 the receiving stream. If the discharge is to a municipal separate storm sewer system  
 288 (MS4), the owner shall also notify the MS4 owner within 14 days of the completion of the  
 289 discharge.

290 **Part I**

291 **A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.**

292 **2. DISCHARGES OF HYDROSTATIC TEST WATERS -- ALL RECEIVING WATERS.**

293 During the period beginning with the permittee's coverage under this general permit and  
 294 lasting until the permit's expiration date, the permittee is authorized to discharge from  
 295 outfall serial number xxxx. Samples taken in compliance with the monitoring requirements  
 296 specified below shall be taken at the following location: outfall from the final treatment unit  
 297 prior to mixing with any other waters.

298 Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS <sup>(2)</sup>	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	1/discharge	Estimate
pH (standard units)	6.0	9.0	1/discharge	Grab
Total Petroleum Hydrocarbons (TPH, mg/l) (1)	NA	15-0	1/discharge	Grab
Total Organic Carbon (TOC, mg/l)	NA	NL	1/discharge	Grab



Total Residual Chlorine (TRC, mg/l) <sup>(3)</sup>	NA	0.011 <sup>(3)</sup>	1/discharge	Grab
Total Suspended Solids (TSS)	NA	NL	1/discharge	Grab

NL = No limitation, monitoring required  
NA = Not applicable

The equipment being tested shall be substantially free of debris, raw material, product, or other residual materials.

The discharge flow shall be managed to control the volume and velocity of the discharge, including peak flow rates and total volume, to minimize erosion at outlets, and to minimize downstream channel and stream bank erosion.

<sup>(1)</sup>TPH is the sum of individual gasoline range organics and diesel range organics or TPH-GRO and TPH-DRO to be measured by EPA SW 846 Method 8015C (2000) or EPA SW 846 Method 8015C (2007) for gasoline and diesel range organics, or by EPA SW 846 Methods 8260B (1996) and 8270D (2014) or 8270E (2018).

<sup>(2)</sup>Discharge monitoring reports for hydrostatic test discharges are not required to be submitted to the department but shall be retained by the owner for a period of at least three years from the completion date of the hydrostatic test.

Owners shall notify the department's regional office in writing within 14 days of the completion of the hydrostatic test discharge. The notification shall include the owner's name and address, the type of hydrostatic test that occurred, the physical location of the test work, and the receiving stream.

<sup>(3)</sup>Total residual chlorine limitation of 0.011 mg/l and chlorine monitoring only apply to discharges of test water that have been chlorinated or come from a chlorinated water supply. All data below the quantification level (QL) of 0.1 mg/L shall be reported as "<QL."

299

Part I

300

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

301

3. GASOLINE CONTAMINATION -- ALL RECEIVING WATERS.

302

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

303

304

305

306

307

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	<sup>(4)</sup>	Estimate

Benzene (µg/l) <sup>(1)</sup>	NA	<del>12.05</del> 8	(4)	Grab
Toluene (µg/l) <sup>(1)</sup>	NA	<del>43.0</del>	(4)	Grab
Ethylbenzene (µg/l) <sup>(1)</sup>	NA	4.3	(4)	Grab
Total Xylenes (µg/l) <sup>(1)</sup>	NA	<del>33.0</del>	(4)	Grab
MTBE (methyl tert-butyl ether) (µg/l) <sup>(1)</sup>				
Freshwaters not listed as public water supplies and saltwater	NA	<del>440.0</del>	1/Month <sup>(4)</sup>	Grab
Freshwaters listed as public water supply	NA	<del>15.0</del>	2/Month <sup>(4)</sup>	Grab
pH (standard units)	6.0	9.0	(4)	Grab
Total Recoverable Lead (µg/l) <sup>(2)</sup>	<u>NA</u>	<u>7.2</u>	(4)	<u>Grab</u>
<del>Freshwaters not listed as public water supplies and saltwater</del>	NA	<del>e<sup>(1.273(ln hardness))</sup> - 3.259</del>	(4)	<del>Grab</del>
<del>Freshwaters listed as public water supply</del>	NA	<del>Lower of e<sup>(1.273(ln hardness))</sup> - 3.259 or 15</del>	(4)	<del>Grab</del>
Total Hardness (mg/l CaCO <sub>3</sub> ) <sup>(2)</sup>	NL	NA	(4)	Grab
Ethylene Dibromide (µg/l) <sup>(2)</sup>				
Freshwaters not listed as public water supplies and saltwater	NA	1.9	1/Month <sup>(4)</sup>	Grab
Freshwaters listed as public water supply	NA	0.164	2/Month <sup>(4)</sup>	Grab
1,2 Dichloroethane (µg/l) <sup>(2)</sup>	NA	3.8	(4)	Grab
Ethanol (µg/l) <sup>(3)</sup>	NA	<del>4100.0</del>	(4)	Grab



NL = No limitation, monitoring required

NA = Not applicable

(1) Benzene, Toluene, Ethylbenzene, Total Xylenes and MTBE shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136) or EPA SW 846 Method 8021B (2014).

(2) Monitoring for this parameter is required only when contamination results from leaded fuel. Lead shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136). ~~The minimum hardness concentration that will be used to determine the lead effluent limit is 25 mg/l.~~ 1,2 dichloroethane and ethylene dibromide (EDB) shall be analyzed by a current and appropriate EPA SW 846 Method or EPA Wastewater Method from 40 CFR Part 136. EDB in wastewaters discharged to public water supplies shall be analyzed using EPA SW 846 Method 8011 (1992) or EPA Drinking Water Method 504.1 (1995).

(3) Monitoring for ethanol is only required for discharges of water contaminated by gasoline containing greater than 10% ethanol. Ethanol shall be analyzed according to EPA SW 846 Method 8015C (2000) or EPA SW 846 Method 8015C (2007) or EPA SW 846 Method 8260B (1996).

(4) The monitoring frequency for discharges into freshwaters not listed as public water supplies and saltwater shall be once per month. If the first 12 months of permit coverage results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency for ethanol be reduced from monthly to 1/quarter. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, monitoring frequency may be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation or be the subject of an active enforcement action, monitoring frequency for ethanol shall revert to 1/month upon issuance of the letter or notice or execution of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January in each year of permit coverage.

The monitoring frequency for discharges into freshwaters listed as public water supplies shall be twice per month for all constituents or parameters. If the first 12 months of permit coverage results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency for ethanol be reduced to 1/quarter and the other parameters to 1/month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, the monitoring frequency for ethanol may be reduced to 1/quarter and the other parameters to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month upon issuance of the letter or notice or execution of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January in each year of permit coverage.

308

## Part I

309

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

310

#### 4. CONTAMINATION BY PETROLEUM PRODUCTS OTHER THAN GASOLINE -- ALL RECEIVING WATERS.

311

312  
313  
314  
315  
316  
317

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	(4)	Estimate
Naphthalene (µg/l) <sup>(1)</sup>	NA	8.9	(4)	Grab
Total Petroleum Hydrocarbons (mg/l) <sup>(2)</sup>	NA	15.0	(4)	Grab
pH (standard units)	6.0	9.0	(4)	Grab
Benzene (µg/l) <sup>(3)</sup>	NA	<del>12.0</del> 5.8	2/Month <sup>(4)</sup>	Grab
MTBE (methyl tert-butyl ether) (µg/l) <sup>(3)</sup>	NA	15.0	2/Month <sup>(4)</sup>	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>Naphthalene shall be analyzed by a current and appropriate EPA Wastewater Method from 40 CFR Part 136 or a current and appropriate EPA SW 846 Method.

<sup>(2)</sup>TPH shall be analyzed using EPA SW 846 Method 8015C (2000) or EPA SW 846 Method 8015C (2007) for diesel range organics, or by EPA SW 846 Method 8270D (2014) or 8270E (2018).

<sup>(3)</sup>Monitoring for benzene and MTBE is only required for discharges into freshwaters listed as public water supplies. Benzene and MTBE shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136) or EPA SW 846 Method.

<sup>(4)</sup>The monitoring frequency for discharges into freshwaters not listed as public water supplies and saltwater shall be once per month.

The monitoring frequency for discharges into freshwaters listed as public water supplies shall be twice per month for all constituents or parameters. If the first 12 months of permit coverage results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced to once per month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, the monitoring frequency for ethanol may be reduced to 1/quarter or the other parameters to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month upon issuance of the letter or notice or execution of the enforcement action and remain in effect until the permit's expiration date.

318

Part I

319  
320  
321  
322  
323  
324  
325  
326  
327

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

5. CONTAMINATION BY CHLORINATED HYDROCARBON SOLVENTS -- ALL RECEIVING WATERS.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	1/Month	Estimate
			2/Month if public water supply <sup>(2)</sup>	Estimate
Chloroform (CAS # 67663), (µg/l) <sup>(1)</sup>	NA	80.060	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1 Dichloroethane (CAS # 75343) (µg/l) <sup>(1)</sup>	NA	2.4	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,2 Dichloroethane (CAS # 107062) (µg/l) <sup>(1)</sup>	NA	3.8	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1 Dichloroethylene (CAS # 75354) (µg/l) <sup>(1)</sup>	NA	7.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
cis-1,2 Dichloroethylene (CAS # 159592) (µg/l) <sup>(1)</sup>	NA	70.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
	NA	100.0	1/Month	Grab

trans 1,2 Dichloroethylene (CAS # 156605) (µg/l) <sup>(1)</sup>			2/Month if public water supply <sup>(2)</sup>	Grab
Methylene Chloride (CAS # 75092) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Tetrachloroethylene (CAS # 127184) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1,1 Trichloroethane (CAS # 71556) (µg/l) <sup>(1)</sup>	NA	54.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1,2 Trichloroethane (CAS # 79005) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Trichloroethylene (CAS # 79016) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Vinyl Chloride (CAS # 75014) (µg/l) <sup>(1)</sup>	NA	2.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Carbon Tetrachloride (CAS # 56235) (µg/l) <sup>(1)</sup>	NA	2.3	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,2 Dichlorobenzene (CAS # 95501) (µg/l) <sup>(1)</sup>	NA	45.816	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Chlorobenzene (CAS # 108907) (µg/l) <sup>(1)</sup>	NA	3.4	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab

Trichlorofluoromethane (CAS # 75694) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Chloroethane (CAS # 75003) (µg/l) <sup>(1)</sup>	NA	3.6	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
pH (standard units)	6.0	9.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>This constituent shall be analyzed by a current and appropriate gas chromatograph/mass spectroscopy method from EPA SW 846 or the EPA Wastewater Method series from 40 CFR Part 136.

<sup>(2)</sup>Monitoring frequency for discharges into surface waters listed as public water supplies shall be 2/month for the first year of permit coverage. If the first 12 months of permit coverage results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced from 2/month to 1/month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, monitoring frequency may be reduced to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month upon issuance of the letter or notice or execution of the enforcement action and remain in effect until the permit's expiration date.

328

Part I

329

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

330

6. DEWATERING ACTIVITIES WITH CONTAMINATION BY METALS -- ALL RECEIVING WATERS.

331

332

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

333

334

335

336

337

Such discharges shall be limited and monitored by the permittee as specified below:

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>		<u>MONITORING REQUIREMENTS</u>	
	<u>Instantaneous Minimum</u>	<u>Instantaneous Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>

<u>Flow (GPD)</u>	<u>NA</u>	<u>NL</u>	<u>1/Month</u>	<u>Estimate</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Estimate</u>
<u>Total Hardness (as CaCO<sub>3</sub> in mg/l)<sup>(2)</sup></u>	<u>NA</u>	<u>NL</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Antimony (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>5.6</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Arsenic (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>10</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Cadmium (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>0.55</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Chromium (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>11</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Copper (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>6.6</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Lead (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>7.2</u>	<u>1/Month</u>	<u>Grab</u>

			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Mercury (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>0.77</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Nickel (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>15</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Selenium (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>5.0</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Silver (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>1.9</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Thallium (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>0.24</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Zinc (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>87</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>pH (standard units)</u>	<u>6.0</u>	<u>9.0</u>	<u>1/Month</u>	<u>Grab</u>

2/Month if public  
water supply<sup>(3)</sup>

Grab

NL = No limitation, monitoring required

NA = Not applicable

(1)Metals shall be analyzed by a current and appropriate EPA Wastewater Method from 40 CFR Part 136.

(2)Total Hardness shall be collected concurrently with the metals.

(3)The monitoring frequency for discharges into freshwaters not listed as public water supplies and saltwater shall be once per month.

The monitoring frequency for discharges into freshwaters listed as public water supplies shall be twice per month for all constituents or parameters. If the first 12 months of permit coverage results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced to once per month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, the monitoring frequency for ethanol may be reduced to 1/quarter or the other parameters to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month upon issuance of the letter or notice or execution of the enforcement action and remain in effect until the permit's expiration date.

338

## Part I

339

### B. Special conditions.

340

1. There shall be no discharge of floating solids or visible foam in other than trace amounts.

341

2. The permittee shall sample each permitted outfall each calendar month in which a discharge occurs. When no discharge occurs from an outfall during a calendar month, the discharge monitoring report for that outfall shall be submitted indicating "No Discharge."

342

343

344

345

346

347

348

349

350

3. Operation and maintenance (O&M) manual. If the permitted discharge is through a treatment works, within 30 days of coverage under this general permit, the permittee shall develop and maintain on-site, an O&M manual for the treatment works permitted in this general permit. This manual shall detail practices and procedures that will be followed to ensure compliance with the requirements of this permit. The permittee shall operate the treatment works in accordance with the O&M manual. The manual shall be made available to the department upon request.

351

352

353

354

4. Operation schedule. The permittee shall construct, install and begin operating the treatment works described in the registration statement prior to discharging to surface waters. The permittee shall notify the department's regional office within five days after the completion of installation and commencement of operation.

355

356

357

358

359

360

5. Materials storage. Except as expressly authorized by this permit or another permit issued by the board, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters.

361

362

6. If the permittee discharges to surface waters through an MS4, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate



363 storm sewer system in writing of the existence of the discharge and provide the following  
364 information: the name of the facility, a contact person and telephone number, the location  
365 of the discharge, the nature of the discharge, and the facility's VPDES general permit  
366 number. A copy of such notification shall be provided to the department. Discharge  
367 Monitoring Reports (DMRs) required to be submitted under this permit shall be submitted  
368 to both the department and the owner of the municipal separate storm sewer system.

369 7. Monitoring results shall be reported using the same number of significant digits as listed  
370 in the permit. Regardless of the rounding convention used by the permittee (e.g., five  
371 always rounding up or to the nearest even number), the permittee shall use the convention  
372 consistently and shall ensure that consulting laboratories employed by the permittee use  
373 the same convention.

374 8. The discharges authorized by this permit shall be controlled as necessary to meet  
375 applicable water quality standards.

376 9. Approval for coverage under this general permit does not relieve any owner of the  
377 responsibility to comply with any other federal, state, or local statute, ordinance, or  
378 regulation.

379 10. Discharges to waters with an approved TMDL. Owners of facilities that are a source  
380 of the specified pollutant of concern to waters where an approved TMDL has been  
381 established shall implement measures and controls that are consistent with the  
382 assumptions and requirements of the TMDL.

383 11. Termination of coverage. Provided that the board agrees that the discharge covered  
384 under this general permit is no longer needed, the permittee may request termination of  
385 coverage under the general permit, for the entire facility or for specific outfalls, by  
386 submitting a request for termination of coverage. This request for termination of coverage  
387 shall be sent to the department's regional office with appropriate documentation or  
388 references to documentation already in the department's possession. Upon the  
389 permittee's receipt of the regional director's approval, coverage under this general permit  
390 will be terminated. Termination of coverage under this general permit does not relieve the  
391 permittee of responsibilities under other board regulations or directives.

392 12. The permittee shall notify the department as soon as the permittee knows or has  
393 reason to believe:

394 a. That any activity has occurred or will occur that would result in the discharge, on a  
395 routine or frequent basis, of any toxic pollutant that is not limited in this permit if that  
396 discharge will exceed the highest of the following notification levels:

397 (1) One hundred micrograms per liter;

398 (2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred  
399 micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one  
400 milligram per liter for antimony;

401 (3) Five times the maximum concentration value reported for that pollutant in the  
402 general permit registration statement; or

403 (4) The level established by the board.

404 b. That any activity has occurred or will occur that would result in any discharge, on a  
405 nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit if that  
406 discharge will exceed the highest of the following notification levels:

407 (1) Five hundred micrograms per liter;

408 (2) One milligram per liter for antimony;

- 409 (3) Ten times the maximum concentration value reported for that pollutant in the  
410 general permit registration statement; or  
411 (4) The level established by the board.

412 Part II  
413 Conditions Applicable to All VPDES Permits

414 A. Monitoring.

- 415 1. Samples and measurements taken as required by this permit shall be representative of  
416 the monitored activity.  
417 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part  
418 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless  
419 other procedures have been specified in this permit.  
420 3. The permittee shall periodically calibrate and perform maintenance procedures on all  
421 monitoring and analytical instrumentation at intervals that will ensure accuracy of  
422 measurements.  
423 4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-  
424 45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46,  
425 Accreditation for Commercial Environmental Laboratories.

426 B. Records.

- 427 1. Records of monitoring information shall include:  
428 a. The date, exact place, and time of sampling or measurements;  
429 b. The individuals who performed the sampling or measurements;  
430 c. The dates and times analyses were performed;  
431 d. The individual or individuals who performed the analyses;  
432 e. The analytical techniques or methods used; and  
433 f. The results of such analyses.  
434 2. Except for records of monitoring information required by this permit related to the  
435 permittee's sewage sludge use and disposal activities, which shall be retained for a period  
436 of at least five years, the permittee shall retain records of all monitoring information,  
437 including all calibration and maintenance records and all original strip chart recordings for  
438 continuous monitoring instrumentation; copies of all reports required by this permit; and  
439 records of all data used to complete the registration statement for this permit for a period  
440 of at least three years from the date of the sample, measurement, report or request for  
441 coverage. This period of retention shall be extended automatically during the course of  
442 any unresolved litigation regarding the regulated activity or regarding control standards  
443 applicable to the permittee, or as requested by the board.

444 C. Reporting monitoring results.

- 445 1. The permittee shall submit the results of the monitoring required by this permit not later  
446 than the 10th day of the month after monitoring takes place unless another reporting  
447 schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the  
448 department's regional office.  
449 2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on  
450 forms provided, approved or specified by the department. Following notification from the  
451 department of the start date for the required electronic submission of monitoring reports,  
452 as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall

453 be electronically submitted to the department in compliance with this section and 9VAC25-  
454 31-1020. There shall be at least three months' notice provided between the notification  
455 from the department and the date after which such forms and reports must be submitted  
456 electronically.

457 3. If the permittee monitors any pollutant specifically addressed by this permit more  
458 frequently than required by this permit using test procedures approved under 40 CFR Part  
459 136 or using other test procedures approved by the U.S. Environmental Protection Agency  
460 or using procedures specified in this permit, the results of this monitoring shall be included  
461 in the calculation and reporting of the data submitted in the DMR or reporting form  
462 specified by the department.

463 4. Calculations for all limitations that require averaging of measurements shall utilize an  
464 arithmetic mean unless otherwise specified in this permit.

465 D. Duty to provide information. The permittee shall furnish to the department, within a  
466 reasonable time, any information which the board may request to determine whether cause exists  
467 for ~~modifying, revoking and reissuing~~, or terminating this permit or to determine compliance with  
468 this permit. The board may require the permittee to furnish, upon request, such plans,  
469 specifications, and other pertinent information as may be necessary to determine the effect of the  
470 wastes from ~~his~~ the permittee's discharge on the quality of state waters or such other information  
471 as may be necessary to accomplish the purposes of the State Water Control Law. The permittee  
472 shall also furnish to the department upon request copies of records required to be kept by this  
473 permit.

474 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any  
475 progress reports on, interim and final requirements contained in any compliance schedule of this  
476 permit shall be submitted no later than 14 days following each schedule date.

477 F. Unauthorized discharges. Except in compliance with this permit or another permit issued  
478 by the board, it shall be unlawful for any person to:

479 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or  
480 deleterious substances; or

481 2. Otherwise alter the physical, chemical or biological properties of such state waters and  
482 make them detrimental to the public health, to animal or aquatic life, to the use of such  
483 waters for domestic or industrial consumption, for recreation, or for other uses.

484 G. Reports of unauthorized discharges. Any permittee that discharges or causes or allows a  
485 discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into  
486 or upon state waters in violation of Part II F or that discharges or causes or allows a discharge  
487 that may reasonably be expected to enter state waters in violation of Part II F shall notify the  
488 department of the discharge immediately (see Part II I 3) upon discovery of the discharge, but in  
489 no case later than 24 hours after the discovery. A written report of the unauthorized discharge  
490 shall be submitted to the department within five days of discovery of the discharge. The written  
491 report shall contain:

492 1. A description of the nature and location of the discharge;

493 2. The cause of the discharge;

494 3. The date on which the discharge occurred;

495 4. The length of time that the discharge continued;

496 5. The volume of the discharge;

497 6. If the discharge is continuing, how long it is expected to continue;

498 7. If the discharge is continuing, what the expected total volume of the discharge will be;  
499 and

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

502 Discharges reportable to the department under the immediate reporting requirements of other  
503 regulations are exempted from this requirement.

504 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge  
505 including a bypass or upset should occur from a treatment works and the discharge enters or  
506 could be expected to enter state waters, the permittee shall promptly notify, ~~in no case later than~~  
507 ~~24 hours,~~ (see Part II I 3) the department ~~by telephone~~ after the discovery of the discharge. This  
508 notification shall provide all available details of the incident, including any adverse effects on  
509 aquatic life and the known number of fish killed. The permittee shall reduce the report to writing  
510 and shall submit the report to the department within five days of discovery of the discharge in  
511 accordance with Part II I 1 b. Unusual and extraordinary discharges include any discharge  
512 resulting from:

- 513 1. Unusual spillage of materials resulting directly or indirectly from processing operations;
- 514 2. Breakdown of processing or accessory equipment;
- 515 3. Failure or taking out of service some or all of the treatment works; and
- 516 4. Flooding or other acts of nature.

517 I. Reports of noncompliance.

518 1. The permittee shall report any noncompliance that may adversely affect state waters or  
519 may endanger public health.

520 a. An oral report shall be provided within 24 hours from the time the permittee becomes  
521 aware of the circumstances. The following shall be included as information, which shall  
522 be reported within 24 hours under this subsection:

523 (1) Any unanticipated bypass; and

524 (2) Any upset which causes a discharge to surface waters.

525 b. A written report shall be submitted within five days and shall contain:

526 (1) A description of the noncompliance and its cause;

527 (2) The period of noncompliance including exact dates and times and, if the  
528 noncompliance has not been corrected, the anticipated time it is expected to continue;  
529 and

530 (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the  
531 noncompliance.

532 The board may waive the written report on a case-by-case basis for reports of  
533 noncompliance under Part II I if the oral report has been received within 24 hours and no  
534 adverse impact on state waters has been reported.

535 2. The permittee shall report all instances of noncompliance not reported under Part II I 1,  
536 in writing, at the time the next monitoring reports are submitted. The reports shall contain  
537 the information listed in Part II I 1 b.

538 ~~NOTE:3.~~ The immediate (within 24 hours) reports required in Part II G, H and I ~~may~~ shall  
539 be made to the department's regional office. Reports may be made by telephone, FAX, or  
540 online at

541 <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/PollutionReportingForm.aspx>  
542 <https://www.deq.virginia.gov/get-involved/pollution-response> (online

543 reporting preferred). For reports outside normal working hours, ~~leave a message and this~~  
544 ~~shall fulfill the immediate reporting requirement~~ the online portal shall be used. For

545 emergencies, call the Virginia Department of Emergency Management's Emergency

546 Operations Center (24-hours) Services maintains a 24-hour telephone service at 1-800-  
547 468-8892.

548 34. Where the permittee becomes aware that it failed to submit any relevant facts in a  
549 permit registration statement or submitted incorrect information in a permit registration  
550 statement or in any report to the department, it shall promptly submit such facts or  
551 information.

552 J. Notice of planned changes.

553 1. The permittee shall give notice to the department as soon as possible of any planned  
554 physical alterations or additions to the permitted facility. Notice is required only when:

555 a. The permittee plans an alteration or addition to any building, structure, facility, or  
556 installation from which there is or may be a discharge of pollutants, the construction of  
557 which commenced:

558 (1) After promulgation of standards of performance under § 306 of the Clean Water  
559 Act which are applicable to such source; or

560 (2) After proposal of standards of performance in accordance with § 306 of the Clean  
561 Water Act which are applicable to such source, but only if the standards are  
562 promulgated in accordance with § 306 of the Act within 120 days of their proposal;

563 b. The alteration or addition could significantly change the nature or increase the  
564 quantity of pollutants discharged. This notification applies to pollutants that are subject  
565 neither to effluent limitations nor to notification requirements under Part I B 12; or

566 c. The alteration or addition results in a significant change in the permittee's sludge  
567 use or disposal practices, and such alteration, addition, or change may justify the  
568 application of permit conditions that are different from or absent in the existing permit,  
569 including notification of additional use or disposal sites not reported during the permit  
570 registration process or not reported pursuant to an approved land application plan.

571 2. The permittee shall give advance notice to the department of any planned changes in  
572 the permitted facility or activity which may result in noncompliance with permit  
573 requirements.

574 K. Signatory requirements.

575 1. Registration statement. All registration statements shall be signed as follows:

576 a. For a corporation: by a responsible corporate officer. For the purpose of this section,  
577 a responsible corporate officer means (i) a president, secretary, treasurer, or vice-  
578 president of the corporation in charge of a principal business function, or any other  
579 person who performs similar policy-making or decision-making functions for the  
580 corporation or (ii) the manager of one or more manufacturing, production, or operating  
581 facilities, provided the manager is authorized to make management decisions that  
582 govern the operation of the regulated facility including having the explicit or implicit  
583 duty of making major capital investment recommendations, and initiating and directing  
584 other comprehensive measures to assure long-term environmental compliance with  
585 environmental laws and regulations; the manager can ensure that the necessary  
586 systems are established or actions taken to gather complete and accurate information  
587 for permit application requirements; and where authority to sign documents has been  
588 assigned or delegated to the manager in accordance with corporate procedures;

589 b. For a partnership or sole proprietorship: by a general partner or the proprietor,  
590 respectively; or

591 c. For a municipality, state, federal, or other public agency: by either a principal  
592 executive officer or ranking elected official. For purposes of this section, a principal

593 executive officer of a public agency includes (i) the chief executive officer of the agency  
594 or (ii) a senior executive officer having responsibility for the overall operations of a  
595 principal geographic unit of the agency.

596 2. Reports. All reports required by permits, and other information requested by the board  
597 shall be signed by a person described in Part II K 1, or by a duly authorized representative  
598 of that person. A person is a duly authorized representative only if:

599 a. The authorization is made in writing by a person described in Part II K 1;

600 b. The authorization specifies either an individual or a position having responsibility for  
601 the overall operation of the regulated facility or activity such as the position of plant  
602 manager, operator of a well or a well field, superintendent, position of equivalent  
603 responsibility, or an individual or position having overall responsibility for  
604 environmental matters for the company. A duly authorized representative thus may be  
605 either a named individual or any individual occupying a named position; and

606 c. The written authorization is submitted to the department.

607 3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate  
608 because a different individual or position has responsibility for the overall operation of the  
609 facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to  
610 the department prior to or together with any reports or information to be signed by an  
611 authorized representative.

612 4. Certification. Any person signing a document under Part II K 1 or 2 shall make the  
613 following certification:

614 "I certify under penalty of law that this document and all attachments were prepared  
615 under my direction or supervision in accordance with a system designed to ensure that  
616 qualified personnel properly gather and evaluate the information submitted. Based on  
617 my inquiry of the person or persons who manage the system, or those persons directly  
618 responsible for gathering the information, the information submitted is, to the best of  
619 my knowledge and belief, true, accurate, and complete. I am aware that there are  
620 significant penalties for submitting false information, including the possibility of fine  
621 and imprisonment for knowing violations."

622 L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit  
623 noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act,  
624 except that noncompliance with certain provisions of this permit may constitute a violation of the  
625 State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for  
626 enforcement action; for permit coverage termination or denial of permit coverage renewal.

627 The permittee shall comply with effluent standards or prohibitions established under § 307(a)  
628 of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal  
629 established under § 405(d) of the Clean Water Act within the time provided in the regulations that  
630 establish these standards or prohibitions or standards for sewage sludge use or disposal, even if  
631 this permit has not yet been modified to incorporate the requirement.

632 M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after  
633 the expiration date of this permit, the permittee shall submit a new registration statement at least  
634 3060 days before the expiration date of the existing permit, unless permission for a later date has  
635 been granted by the board. The board shall not grant permission for registration statements to be  
636 submitted later than the expiration date of the existing permit.

637 N. Effect of a permit. This permit does not convey any property rights in either real or personal  
638 property or any exclusive privileges, nor does it authorize any injury to private property or invasion  
639 of personal rights, or any infringement of federal, state or local law or regulations.



640 O. State law. Nothing in this permit shall be construed to preclude the institution of any legal  
641 action under, or relieve the permittee from any responsibilities, liabilities, or penalties established  
642 pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean  
643 Water Act. Except as provided in permit conditions on "bypassing" (Part II U) and "upset" (Part II  
644 V), nothing in this permit shall be construed to relieve the permittee from civil and criminal  
645 penalties for noncompliance.

646 P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude  
647 the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or  
648 penalties to which the permittee is or may be subject under Article 11 (§ 62.1-44.34:14 et seq.) of  
649 the State Water Control Law.

650 Q. Proper operation and maintenance. The permittee shall at all times properly operate and  
651 maintain all facilities and systems of treatment and control (and related appurtenances) which are  
652 installed or used by the permittee to achieve compliance with the conditions of this permit. Proper  
653 operation and maintenance also includes effective plant performance, adequate funding,  
654 adequate staffing, and adequate laboratory and process controls, including appropriate quality  
655 assurance procedures. This provision requires the operation of back-up or auxiliary facilities or  
656 similar systems that are installed by the permittee only when the operation is necessary to achieve  
657 compliance with the conditions of this permit.

658 R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of  
659 treatment or management of pollutants shall be disposed of in a manner so as to prevent any  
660 pollutant from such materials from entering state waters.

661 S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any  
662 discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of  
663 adversely affecting human health or the environment.

664 T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an  
665 enforcement action that it would have been necessary to halt or reduce the permitted activity in  
666 order to maintain compliance with the conditions of this permit.

667 U. Bypass.

668 1. "Bypass" means the intentional diversion of waste streams from any portion of a  
669 treatment facility. The permittee may allow any bypass to occur that does not cause  
670 effluent limitations to be exceeded, but only if it also is for essential maintenance to assure  
671 efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

672 2. Notice.

673 a. Anticipated bypass. If the permittee knows in advance of the need for a bypass,  
674 prior notice shall be submitted, if possible, at least 10 days before the date of the  
675 bypass.

676 b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass  
677 as required in Part II I.

678 3. Prohibition of bypass.

679 a. Bypass is prohibited, and the board may take enforcement action against a  
680 permittee for bypass, unless:

681 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property  
682 damage;

683 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary  
684 treatment facilities, retention of untreated wastes, or maintenance during normal  
685 periods of equipment downtime. This condition is not satisfied if adequate back-up  
686 equipment should have been installed in the exercise of reasonable engineering

687 judgment to prevent a bypass which occurred during normal periods of equipment  
688 downtime or preventive maintenance; and

689 (3) The permittee submitted notices as required under Part II U 2.

690 b. The board may approve an anticipated bypass, after considering its adverse effects,  
691 if the board determines that it will meet the three conditions listed in Part II U 3 a.

692 V. Upset.

693 1. An upset constitutes an affirmative defense to an action brought for noncompliance with  
694 technology-based permit effluent limitations if the requirements of Part II V 2 are met. A  
695 determination made during administrative review of claims that noncompliance was  
696 caused by upset and before an action for noncompliance is not a final administrative action  
697 subject to judicial review.

698 2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate  
699 through properly signed, contemporaneous operating logs or other relevant evidence that:

700 a. An upset occurred and that the permittee can identify the cause or causes of the  
701 upset;

702 b. The permitted facility was at the time being properly operated;

703 c. The permittee submitted notice of the upset as required in Part II I; and

704 d. The permittee complied with any remedial measures required under Part II S.

705 3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an  
706 upset has the burden of proof.

707 W. Inspection and entry. The permittee shall allow the director or an authorized representative,  
708 including an authorized contractor acting as a representative of the administrator, upon  
709 presentation of credentials and other documents as may be required by law, to:

710 1. Enter upon the permittee's premises where a regulated facility or activity is located or  
711 conducted or where records must be kept under the conditions of this permit;

712 2. Have access to and copy, at reasonable times, any records that must be kept under the  
713 conditions of this permit;

714 3. Inspect at reasonable times any facilities, equipment (including monitoring and control  
715 equipment), practices, or operations regulated or required under this permit; and

716 4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance  
717 or as otherwise authorized by the Clean Water Act and the State Water Control Law any  
718 substances or parameters at any location.

719 For purposes of this section, the time for inspection shall be deemed reasonable during  
720 regular business hours or whenever the facility is discharging. Nothing contained in this general  
721 permit shall make an inspection unreasonable during an emergency.

722 X. Permit actions. Permit coverage may be terminated for cause. The filing of a request by  
723 the permittee for permit coverage termination or a notification of planned changes or anticipated  
724 noncompliance does not stay any permit condition.

725 Y. Transfer of permit coverage.

726 1. Permit coverage is not transferable to any person except after notice to the department.

727 2. Coverage under this permit may be automatically transferred to a new permittee if:

728 a. The current permittee notifies the department within 30 days of the transfer of the  
729 title to the facility or property;

730 b. The notice includes a written agreement between the existing and new permittees  
731 containing a specific date for transfer of permit responsibility, coverage, and liability  
732 between them; and



733 c. The board does not notify the existing permittee and the proposed new permittee of  
734 its intent to deny permit coverage. If this notice is not received, the transfer is effective  
735 on the date specified in the agreement mentioned in Part II Y 2 b.

736 Z. Severability. The provisions of this permit are severable, and if any provision of this permit  
737 or the application of any provision of this permit to any circumstance, is held invalid, the application  
738 of such provision to other circumstances, and the remainder of this permit, shall not be affected  
739 thereby.

#### 740 FORMS

741 VPDES General Permit Registration Statement for Discharges from Petroleum Contaminated  
742 Sites, Groundwater Remediation and Hydrostatic Tests (rev. 2/08).

#### 743 Documents Incorporated By Reference

744 Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-  
745 846, U.S. Environmental Protection Agency, Third Edition as amended by Final Updates I, II, IIA,  
746 IIB, IIIA, IIIB, IVA, and IVB, National Technical Information Service (NTIS), 5285 Port Royal Road,  
747 Springfield, VA 22161, (703) 605-6000 or (800) 553-6847, <https://www.epa.gov/hw-sw846>

748 Method 504.1, rev. 1.1 (August 1995)

749 Method 7010 (February 2007)

750 Method 8011 (July 1992)

751 Method 8015C (November 2000)

752 Method 8015C (February 2007)

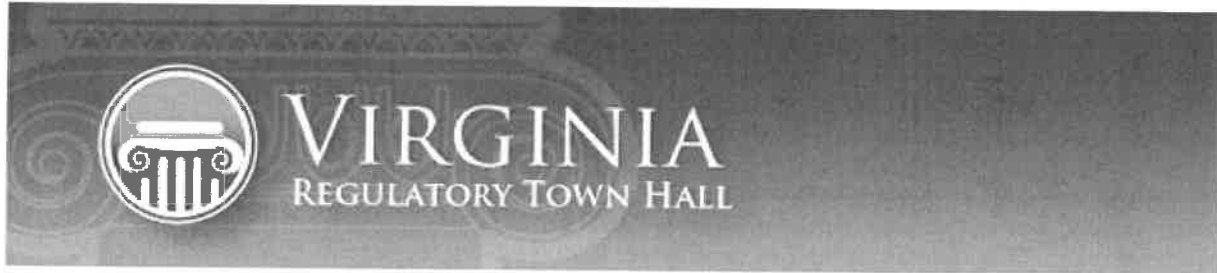
753 Method 8021B (July 2014)

754 Method 8260B (December 1996)

755 Method 8270D (July 2014)

756 Method 9040C (November 2004)

757 Methods for the Determination of Organic Compounds in Drinking Water, Supplement III, EPA  
758 Publication 600/R-95/131 (August 1995), U.S. Environmental Protection Agency, Office of  
759 Research and Development, Washington, D.C. 20460



[townhall.virginia.gov](http://townhall.virginia.gov)

## Exempt Action: Proposed Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-120
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests
Action title	Amend and Reissue the Existing General Permit Regulation
Date this document prepared	February 17, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

This action addresses the proposed reissuance of the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests. The existing general permit contains effluent limitations, monitoring requirements and special conditions for discharges of sites contaminated by petroleum products, chlorinated hydrocarbon solvents, the hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines. The proposed changes would amend the scope to also include non-petroleum contaminated sites, groundwater remediation discharges, and dewatering activities. Two limits have been revised based on updated standards, and 11 metal limits have been added to address dewatering activities with contamination by metals. In addition, hardness-dependent metal limits have been specified in place of the existing formula. The proposed changes to the regulation are being made to reissue this general permit and in response to Technical

Advisory Committee suggestions, public inquiries for expanded coverage, and staff suggestions to revise, update and clarify the permit conditions.

### Mandate and Impetus

*Identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

This regulation (9VAC25-120) constitutes a VPDES general permit administered by Virginia DEQ, a U.S. EPA authorized permitting authority under CWA § 402(b). Under CWA § 402(b)(1)(B) and 9VAC25-31-240, VPDES permits must be for fixed terms not to exceed five years. The existing general permit expires on February 25, 2023 and must be reissued for another term to remain available to permittees. In addition, internal staff review and TAC meeting input have identified areas where the general permit could be updated and potentially improved.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

- APA: Administrative Process Act
- CFR: Code of Federal Regulations
- DEQ: Department of Environmental Quality
- DMR: Discharge monitoring report
- EPA: (U.S. EPA): United States Environmental Protection Agency
- MTBE: methyl tert-butyl ether
- NPDES: National Pollutant Discharge Elimination System
- PWS: Public water supply
- TAC: Technical Advisory Committee
- TPH: Total Petroleum Hydrocarbon
- USC: United States Code
- VAC: Virginia Administrative Code
- VPDES: Virginia Pollutant Discharge Elimination System
- VRP: Voluntary Remediation Program

### Legal Basis

*Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program, §62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.16 specifies the Board's authority to regulate

discharges of industrial wastes, § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

## Purpose

*Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

This proposed regulatory action is needed in order to amend and reissue the existing VPDES General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests, which expires on February 25, 2023. The goal of the proposed regulation is to continue to make available the general permit, which establishes standard language for control of these point source discharges through effluent limitations, monitoring requirements and special conditions to ensure protection of the environment and public health, safety and welfare.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

Proposed changes to the general permit regulation include:

- Revising the title to reflect the adjusted scope.
- Amending the purpose to address wastewaters from petroleum contaminated sites, non-petroleum contaminated sites, groundwater remediation discharges, dewatering activities, the hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines.
- Revising the term of the general permit to March 1, 2023 through February 29, 2028.
- Making certain language more generic so dates do not have to be changed each reissuance.
- Under registration statement information requirements, replaced location with latitude and longitude of the discharge point.
- Adding VRP information to the registration statement.
- Adding State Corporation Commission entity identification data requirement to the registration statement.
- Adding conditional requirements for the electronic submission of registration statements.
- Adding conditional requirements for the electronic submission of DMRs.
- Amending the benzene limit based on revisions to the state water quality standard.
- Amending the chloroform limit based on revisions to the state water quality standard.
- Adding limits for 12 (total recoverable) metals (Antimony, Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Silver, Thallium, and Zinc to address dewatering activity discharges contaminated with metals.
- Removing the hardness based formula for metals and replacing them with numeric limit values.
- Specifying that hardness monitoring is total hardness.

- Amending several limits to express them as two significant figures, consistent with existing guidance.
- Updating certain noncompliance report language to reflect updated DEQ website.

## Issues

*Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

---

The advantages to the public, permittees and the agency of reissuing this general permit are that a VPDES general permit will continue to be available to facilities with eligible discharges enabling them to discharge to surface waters in a manner that is protective of those waters. In addition, the continued availability of this general permit avoids the increased cost and more complicated application process for permittees associated with issuing an individual permit, and makes permit administration more reasonable for DEQ. There are no known disadvantages.

Expanding the scope of this VPDES general permit offers some projects potential permit coverage as an alternative to seeking costly disposal/ treatment alternatives or seeking an individual VPDES permit, which is much more costly and requires more time to implement.

The advantage of (eventual) electronic submission of registration statements or combined applications and DMRs is that this approach complies with U.S. EPA program requirements for e-reporting. Once in place, this system will also allow for greater efficiency in the submittal, management, and transfer of program data.

## Requirements More Restrictive than Federal

*Please identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

---

There are no requirements that exceed applicable federal requirements.

## Agencies, Localities, and Other Entities Particularly Affected

*Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

---

Other State Agencies Particularly Affected:

There are no state agencies, localities or other entities particularly affected by the proposed regulation as the regulation applies statewide.

Localities Particularly Affected:  
See above.

Other Entities Particularly Affected:  
See above.

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

This general permit does not predominantly apply to small businesses, rather, it applies to discharges from petroleum contaminated sites, groundwater remediation, and hydrostatic tests. Nevertheless, the reissuance of this VPDES general permit accomplishes the objectives of applicable law and minimizes the application burden and permit implementations costs to affected small business owners. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase the complexity of a permit application, implementation and compliance costs.

### Public Comment Received

*Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

Commenter	Comment	Agency response
NA	No comments were received on the NOIRA.	NA

### Public Participation

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. The agency/board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.



Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Alison Thompson, 13901 Crown Court, Woodbridge, Virginia 22193; [Alison.Thompson@deq.virginia.gov](mailto:Alison.Thompson@deq.virginia.gov) ; phone (571) 866 6083; fax (804) 698 4178 (please ensure recipient [Alison Thompson] is on the fax or cover page of the fax). Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at (<http://www.townhall.virginia.gov>). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

### Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Please include citations to the specific section(s) of the regulation that are changing.*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
Title		VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT REGULATION FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES, GROUNDWATER REMEDIATION, AND HYDROSTATIC TESTS	VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT REGULATION FOR DISCHARGES FROM GROUNDWATER REMEDIATION OF CONTAMINATED SITES, DEWATERING ACTIVITIES OF CONTAMINATED SITES, AND HYDROSTATIC TESTS  <i>Struck "petroleum" and added "dewatering activities." Seeking to accommodate common activities that lack general permit coverage now.</i>
9VAC25-120-10 Definitions		Definitions exist for the terms "Board" and "Department."	Struck the definitions of "Board" and "Department," since these are defined in the VPDES permit regulations and the introduction references the existing definitions.
9VAC25-120-20 Purpose		This general permit regulation governs the discharge of wastewaters from sites contaminated by petroleum products, chlorinated hydrocarbon solvents, the hydrostatic	This general permit regulation governs the discharge of wastewaters from petroleum contaminated sites, non-petroleum contaminated sites, groundwater remediation discharges, dewatering activities, the

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines.	<p>hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines.</p> <p><i>Replaced "site contaminated with petroleum products" with "petroleum contaminated sites", struck "chlorinated hydrocarbon solvents", and added "non-petroleum contaminated sites, groundwater remediation discharges, dewatering activities."</i></p> <p><i>In description of wastewaters that may be discharged, added discharges resulting from "metals or other contaminated site" cleanup. Also struck "approved by the board" since VRP cleanups are approved by the director.</i></p> <p><i>Expanding scope to address dewatering and certain cleanups beyond petroleum based on requests for GP coverage.</i></p>
9VAC25-120-50. Effective date of the permit		This general permit will become effective on February 26, 2018. This general permit will expire on February 25, 2023.	<p>This general permit will become effective on March 1, 2023. This general permit will expire on February 29, 2028.</p> <p><i>Amended dates to reflect new 5-year term. Started term at the beginning of the month consistent with DEQ VPDES monitoring policy.</i></p>
9VAC25-120-60. Authorization to discharge		C. Compliance with this general permit constitutes compliance, for purposes of enforcement, with §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b) of the federal Clean Water Act and the State Water Control Law with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this	<p><i>Added the phrase, "including compliance with the water withdrawal reporting, 9VAC25-200, and the groundwater permitting program 9VAC25-610," at the end of the final sentence.</i></p> <p><i>This was added to clarify to registrants that they may need a water withdrawal permit and/or to report groundwater withdrawn to DEQ.</i></p>



Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.	
9VAC25-120-60. Authorization to discharge		D.1. Permit coverage shall expire at the end of its term....	D.1. Permit coverage shall expire at the end of the applicable permit term....  <i>Replaced "its" with "the applicable permit".</i>
9VAC25-120-70. Registration statement		A. Any owner seeking coverage .... shall submit a complete VPDES general permit registration statement ...which shall serve as a notice of intent for coverage under the general VPDES permit .....	<i>Replaced "general VPDES permit" with "VPDES general permit", which is a wording correction being made to all general permits, and revised text to reflect new title of the general permit.</i>  <i>This "VPDES general permit" wording was also revised in other locations in the general permit.</i>
9VAC25-120-70. Registration statement		Under B, short term projects "are authorized to discharge under this permit immediately upon the permit's effective date of February 26, 2018."	<i>Under B, revised the permit's effective date to be March 1, 2023.</i>
9VAC25-120-70. Registration statement		Under C.1, new facilities must submit a complete registration statement 30 days prior to commencing operation.	<i>Under C.1, added "or a later submittal date established by the board", which is consistent with other general permits and provides flexibility to address submittals later than 30 days prior to operation.</i>
9VAC25-120-70. Registration statement		C.2.a. Any owner covered by an individual VPDES permit who is proposing to be covered by this general permit shall submit a complete registration statement at least 210 days prior to the expiration date of the individual VPDES permit	<i>Changed "210 days" to "240 days" to be consistent with other general permits.</i>
9VAC25-120-70. Registration statement		C.2.b. Any owner that was authorized to discharge under the petroleum contaminated sites.... general VPDES permit ....and that intends to continue coverage ....shall submit a complete registration statement to the	<i>Inserted "expiring" prior to "petroleum contaminated sites...". VPDES general permit.</i>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		board at least 30 days prior to the expiration date of the existing permit or a later submittal established by the board.	
9VAC25-120-70. Registration statement		E.9. Requires the location of the discharge point, or all proposed discharge points for linear project.	<i>Replaced "location" with "latitude and longitude in decimal degrees (six digits - ten-thousandths place)." This information is required by EPA for electronic reporting (e-reporting).</i>
9VAC25-120-70. Registration statement		E.19. The registration statement must include any pollution complaint number associated with the project.	<i>After "number" added "or Voluntary Remediation Program (VRP) information." Many of the projects seeking permit coverage are VRP projects, and this information characterizes the nature of the project and the discharge.</i>
9VAC25-120-70. Registration statement		None.	<i>Added (in place of existing 21) a requirement that registration statements include State Corporation Commission entity identification number if a facility is required to obtain an entity identification number by law. This provision is being added to all general permits. It ensures the facility is able to conduct business in Virginia and aides potential enforcement.</i>
9VAC25-120-70. Registration statement	E.22.	E.21. Certification statement.	<i>Re-numbered existing certification statement (E.21) as new subsection E.22.</i>
9VAC25-120-70. Registration statement		G. The registration statement shall be delivered by either postal or electronic mail to the DEQ regional office serving the area where the facility is located.	Added the following contingent e-reporting language: <i>"Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements), as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after</i>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p>which such forms must be submitted electronically.”</p> <p><i>E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR 69189; 11/2/2020) and state regulation (9VAC25-31-1020).</i></p>
9VAC25-120-80. General permit		Effective and expiration dates, and title.	Revised as indicated above.
9VAC25-120-80. General permit. Part I A 2  Discharges of hydrostatic test waters		TPH limit – 15.0 mg/l.	TPH limit – 15 mg/l.  <i>Limit expressed as two significant figures in accordance with agency guidance.</i>
9VAC25-120-80. General permit. Part I A 3  Gasoline contamination		Limits:  Benzene – 12.0 ug/l.  Toluene – 43.0 ug/l. Total Xylenes – 33.0 ug/l. MTBE (freshwater not PWS and saltwater) – 440.0 ug/l. MTBE (freshwater listed as PWS) – 15.0 ug/l. Lead (total recoverable) – Hardness-based formula. Ethylene Dibromide (freshwater listed as PWS) – 0.161 ug/l. Ethanol – 4100.0 ug/l.  Monitoring Only: Hardness (mg/l CaCO3)	Limits:  Benzene limit – 5.8 ug/l. <i>Based on revised WQS.</i>  Toluene – 43 ug/l. Total Xylenes – 33 ug/l. MTBE (freshwater not PWS and saltwater) – 440 ug/l. MTBE (freshwater listed as PWS) – 15 ug/l. Lead (total recoverable) – 7.2 ug/l. Ethylene Dibromide (freshwater listed as PWS) – 0.16 ug/l. Ethanol – 4100 ug/l. <i>Limits expressed in two significant figures per agency guidance memorandum GM06-2016.</i>  <i>For lead, the existing hardness-based formula in the general permit has been complex for permittees to understand and implement and has resulted in poor discharge monitoring reporting and unclear compliance. DEQ has replaced the formula with numeric metals limits calculated based on the 10<sup>th</sup> percentile of hardness as indicated in available state data. The new metals limits in I A 6 have been calculated in the same manner.</i>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p><i>Specified that hardness (monitoring only) is total.</i></p> <p><i>In footnote 2, deleted "The minimum hardness concentration that will be used to determine the lead effluent limit is 25 mg/l" since the hardness-based formula was removed.</i></p>
<p>9VAC25-120-80. General permit. Part I A 4</p> <p>Contamination by petroleum products other than gasoline</p>		<p>Limits:</p> <p>Benzene 12.0 ug/l.</p> <p>TPH – 15.0 mg/l.</p> <p>MTBE – 15.0 ug/l.</p>	<p>Limits:</p> <p>Benzene limit – 5.8 ug/l. <i>Based on revised WQS</i></p> <p>TPH – 15 mg/l. MTBE – 15 ug/l. <i>Limits expressed in two significant figures per agency guidance memorandum GM06-2016.</i></p>
<p>9VAC25-120-80. General permit. Part I A 5.</p> <p>Contamination by chlorinated hydrocarbon solvents</p>		<p>Limits:</p> <p>Chloroform – 80.0 ug/l.</p> <p>cis-1,2 Dichloroethylene – 70.0 ug/l.</p> <p>trans 1,2 Dichloroethylene – 100.0 ug/l.</p> <p>1,1,1 Trichloroethane – 54.0 ug/l.</p> <p>1,2 Dichlorobenzene – 15.8 ug/l.</p>	<p>Limits:</p> <p>Chloroform – 60.0 ug/l. <i>Based on revised WQS.</i></p> <p>cis-1,2 Dichloroethylene – 70 ug/l. trans 1,2 Dichloroethylene – 100 ug/l. 1,1,1 Trichloroethane – 54 ug/l. 1,2 Dichlorobenzene – 16 ug/l. <i>Limits expressed in two significant figures per agency guidance memorandum GM06-2016.</i></p>
	<p>9VAC25-120-80. General permit. Part I A 6 Dewatering activities with contamination by metals</p>	<p>None.</p> <p>(A lead limit is included in I A 3 as a hardness based formula).</p>	<p>Limits: (metals are all total recoverable)</p> <p>Antimony – 5.6 ug/l. Arsenic – 10 ug/l. Cadmium – 0.55 ug/l. Chromium – 11 ug/l. Copper – 6.6 ug/l. Lead – 7.2 ug/l. Mercury – 0/77 ug/l. Nickel – 15 ug/l. Selenium – 5.0 ug/l. Silver – 1.9 ug/l. Thallium – 0.24 ug/l. Zinc – 87 ug/l. pH – 6.0 to 9.0 standard units.</p> <p>Monitoring only:</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p>Flow. Total Hardness (as CaCO<sub>3</sub> in mg/l).</p> <p><i>Metals are being added to address dewatering projects that are not sufficiently covered by the existing general permit, and thereby provide a more efficient general permit option for such projects.</i></p>
	<p>9VAC25-120-80. General permit. Part I A 6 Dewatering activities with contamination by metals.</p> <p>Footnotes.</p>		<p>(1) Metals analyzed per 40 CFR 136. (2) Collect total hardness concurrent with the metals. (3) Monitoring frequency 1/ month for discharges into freshwaters not listed as PWS and into saltwaters. The frequency is 2/ month for freshwaters listed as PWS (if compliance in the first 12 months of coverage the permittee can request a frequency of 1/ month [1/quarter for ethanol]. Frequency reverts if warning letter, NOV or enforcement action).</p>
<p>9VAC25-120-80. General permit. Part II C Reporting and Monitoring Results</p>		<p>2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.</p>	<p>Added the following contingent e-reporting language:</p> <p>“Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months’ notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.”</p> <p><i>E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR 69189; 11/2/2020) and state regulation (9VAC25-31-1020).</i></p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-120-80. General permit. Part II D Duty to Provide Information		The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit.	Struck "modifying, revoking and reissuing". <i>General permits are issued as regulations and are not modified, revoked and reissued. Global edit for all general permits.</i>  <i>Also replaced "his discharge" with "the permittee's discharge" in the second sentence.</i>
9VAC25-120-80. General permit. Part II G Reports of Unauthorized Discharges		Reports of unauthorized discharges.	With regard to immediate notification of the department, added reference to Part II I 3. <i>Facilitates the use of online reporting.</i>
9VAC25-120-80. General permit. Part II H Reports of Unusual or Extraordinary Discharges		Reports of unusual or extraordinary discharges.	Struck "in no case later than 24 hours" and "by telephone" and added reference to Part II I 3. <i>Facilitates the use of online reporting.</i>
9VAC25-120-80. General permit. Part II I Reports of Noncompliance		<p>3. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information.</p> <p>NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at <a href="http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/PollutionReportingForm.aspx">http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/PollutionReportingForm.aspx</a>.</p>	<p><i>Existing 3 renumbered to be new 4.</i></p> <p><i>Renumbered the existing "NOTE" to be item 3. Also updated reporting link to be: <a href="https://www.deq.virginia.gov/get-involved/pollution-response">https://www.deq.virginia.gov/get-involved/pollution-response</a></i></p>
9VAC25-120-80. General permit.		Duty to comply.	Struck "or standards for sewage sludge use or disposal."

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
Part II L Duty to Comply			<i>This general permit does not address sewage sludge.</i>

### Family Impact

*In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

This general permit applies to discharges from petroleum contaminated sites, groundwater remediation, and hydrostatic tests. It is being revised to address dewatering from contaminated sites. Its availability allows for these discharges and associated cleanups to be conducted efficiently while protecting surface waters in a manner consistent with state law. This permit does not directly impact families, however, facilitating cleanups and development could promote economic interests generally, and indirectly support families and contribute to economic self-sufficiency. This general permit has been designed to minimize burden while achieving a level of water quality protection consistent with state and federal requirements.



*Commonwealth of Virginia*

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Andrew R. Wheeler  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4000

**Memorandum**

To: State Water Control Board Members

From: Melissa Porterfield, Office of Regulatory Affairs

Date: February 15, 2022

Subject: Withdrawal of regulatory actions pertaining to Confined Animal Feeding Operations

---

At the March 25, 2022 meeting of the State Water Control Board (Board), DEQ staff will request that the Board withdraw outdated incomplete regulatory actions pertaining to the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) related to Confined Animal Feeding Operations (CAFOs).

**Background**

Historically there have been many changes concerning the regulation of CAFOs made at the federal level that have required changes to the regulations at the state level. In some cases, DEQ staff initiated regulatory actions at the state level, followed by the federal regulations being further revised, and DEQ staff then initiated a new regulatory action to meet the requirements of the Administrative Process Act (2.2-4000 et seq.) and to conform with the applicable federal regulations. This has led to the abandonment of some regulatory actions related to the VPA Permit Regulation that continue to be listed on the Virginia Regulatory Town Hall website. All necessary changes to the VPA Permit Regulation related to CAFOs have been processed using other regulatory actions. Withdrawal of outdated pending regulatory actions is now deemed appropriate.

**Staff recommendation**

Staff recommends the Board withdraw the following regulatory actions:



State Water Control Board

February 15, 2022

Page 2

9VAC25-32- Virginia Pollution Abatement- Fast-track Amendment to Conform the Regulation to Federal Regulation Amendments Concerning CAFOs (Town Hall action 1649). There has been no activity related to this regulatory action since 2004.

9VAC25-32- Virginia Pollution Abatement Amendment to Conform the Regulation to Federal Regulation Amendments Concerning CAFOs (Town Hall action 1607). There has been no activity related to this regulatory action since 2004.

**Contact Information:**

Melissa Porterfield

Office Regulatory Affairs

804-698-4238

Melissa.porterfield@deq.virginia.gov

Neil Zahradka

Manager, Office of Land Application Programs

804-698-4102

Neil.zahradka@deq.virginia.gov



*Commonwealth of Virginia*

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219  
P.O. Box 1105, Richmond, Virginia 23218  
(800) 592-5482 FAX (804) 698-4178  
[www.deq.virginia.gov](http://www.deq.virginia.gov)

Andrew R. Wheeler  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4000

**TO: The Members of the State Water Control Board**  
**FROM: Kristen Sattler, Division of Enforcement**  
**DATE: March 25, 2022**  
**RE: REPORT ON FACILITIES IN SIGNIFICANT NONCOMPLIANCE AND CHESAPEAKE BAY PRESERVATION ACT PROGRAM NOTICES OF VIOLATION**

**Significant Noncompliance**

One new permittee was reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance (SNC) for the quarter ending September 30, 2021. The permittee, the facility and the reported instances of noncompliance are as follows:

**1. Permittee/Facility: Huntington Ingalls Inc.-Newport News Shipbuilding Division**  
**Type of Noncompliance: Failure to Sample and Submit DMR**  
**City/County: Newport News, Virginia**  
**Receiving Water: Lower James River**  
**Impaired Water: The Lower James River is impaired for aquatic life use due to aquatic vegetation and benthic criteria and fish consumption use due to PCBs in fish tissue. The facility is located within the Chesapeake Bay TMDL Watershed.**  
**River Basin: James River Basin**  
**Dates of Noncompliance: June 2021**  
**Requirements Contained In: VPDES Permit**  
**DEQ Region: Tidewater Regional Office**

The Permittee explained that there was a discharge during the monitoring period but the sample collection staff did not recognize that the outfall was active during the short time that the discharge occurred and did not collect a sample for monitoring. DEQ issued a Warning Letter to the Permittee. The Permittee has submitted subsequent samples on time.

**Chesapeake Bay Preservation Act Program Notice of Violation**

DEQ has not issued any CBPA Program NOV's from November 11, 2021 to February 11, 2022.

**ENFORCEMENT ITEM SUMMARY FORM  
STATE WATER CONTROL BOARD MEETING  
ON MARCH 25, 2022**

**ITEM:** Accomack County                      **DEQ CONTACT:** Tidewater Regional Office  
John Brandt  
757-407-2341  
[john.brandt@deq.virginia.gov](mailto:john.brandt@deq.virginia.gov)

**FACILITY ADDRESS:** Nonmetallic Mineral Mine located adjacent to 11267 Sand Street,  
Temperanceville, Accomack County

**TYPE OF PERMIT/PROGRAM:** Virginia Pollutant Discharge Elimination System (VPDES) and  
Virginia Water Protection Program (VWPP)

**STATE WATERS AFFECTED:** Assawoman Creek and the Atlantic Ocean

**PROPOSED BOARD ACTION:** Consent Order with Civil Charge and Corrective Action Plan

**BACKGROUND:** Accomack County, on the Eastern Shore of Virginia, owns and operates the nonmetallic mineral mine located adjacent to 11267 Sand Street in Temperanceville, Accomack County, Virginia. Material from the mine, sand, is used to provide cover for the Accomack County Northern Landfill (Solid Waste Permit number 461).

On June 21, 2021, Accomack County staff reported a release of a pollutant (sediment) from the mine to state waters. On June 23, 2021, DEQ staff conducted an inspection at the site. DEQ staff observed unpermitted impacts to 2,056 linear feet of stream bed. The depth of sediment varied from approximately 1 inch to 2 feet in the stream bed. Accomack County staff reported that water is discharged regularly from the mine as part of dewatering activities for sand mining. However, during the June 21, 2021 de-watering, sand and sediment were discharged into state waters.

On July 2, 2021, Accomack County was issued Notice of Violation number W2106-001871 for impacting the stream without a VWPP permit. On July 6, 2021, Accomack County was issued Notice of Violation number W2021-07-T-0001 for discharging from the mine without a VPDES permit. On October 19, 2021, Accomack received VPDES permit coverage for its dewatering activities.

**DISCUSSION:** The proposed consent order contains the requirement for Accomack to submit a corrective action plan to restore the stream bed that was impacted without a permit within 60 days of the effective date of the order. The corrective action plan must be sufficient to achieve no net loss of functions in the stream bed.

**CIVIL CHARGES:** The proposed consent order imposes a civil charge of \$80,826, payable within 30 days of the effective date of the consent order. The civil charge will be deposited into the Virginia Environmental Emergency Response Fund.

**PREVIOUS ENFORCEMENT ACTIONS:** Accomack County has not been issued a consent order within the past 36 months.

**PUBLIC COMMENT:** The proposed consent order was signed by Accomack County on December 16, 2021 and it was public noticed on January 15, 2022 in the Eastern Shore News newspaper, and on January 17, 2022 in the *Virginia Register*. The 30-day public comment period ended on February 16, 2022 and no comments were received.



*Commonwealth of Virginia*

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

TIDEWATER REGIONAL OFFICE  
5636 Southern Boulevard, Virginia Beach, Virginia 23462  
(757) 518-2000 FAX (804) 698-4178

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Andrew R Wheeler  
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

Craig R. Nicol  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
Accomack County  
FOR  
Non Metallic Mineral Mine  
VPDES Permit No. VAG84; Registration No. VAG840249  
Unpermitted Discharge to Streambed**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Accomack County, regarding the Non Metallic Mineral Mine located adjacent to 11267 Sand Street, Temperanceville, Virginia, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Accomack County" is a political subdivision of the Commonwealth of Virginia. Accomack County is a "person" within the meaning of Va. Code § 62.1-44.3.
3. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. "Discharge" means the discharge of a pollutant, or any addition of a pollutant or combination of pollutants, to state waters or waters of the contiguous zone or ocean other than a discharge from a vessel or other floating craft when being used as a means of transportation.
7. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
  - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. "Facility" means the nonmetallic mineral mine located adjacent to 11267 Sand Street in Temperanceville, Accomack County, Virginia, from which discharges of commingled wastewater (i.e. mine pit dewatering and stormwater associated with industrial activity occur.
9. "Impacts" means results caused by those activities specified in § 62.1-44.15:20 A of the Code of Virginia.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
12. "Permit" means VPDES General Permit No. VAG84, which was issued under the State Water Control Law and the Regulation on July 1, 2019 and which expires on June 30, 2024. Accomack County applied for registration under the Permit on September 23, 2021 and was issued Registration No. VAG840249 on October 19, 2021.
13. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
14. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but

which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

15. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
16. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 2.2 (Va. Code §§ 62.1-44.15:20 through 62.1-44.15:23) of the State Water Control Law addresses the Virginia Water Resources and Wetlands Protection Program.
17. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
18. "Surface water" means all state waters that are not ground waters as defined in Va. Code § 62.1-255.
19. "TRO" means the DEQ Tidewater Regional Office located in Virginia Beach, Virginia.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means Virginia Pollutant Discharge Elimination System.
23. "VWPP" means Virginia Water Protection Program.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Accomack County owns and operates the Facility. The Permit recognizes the discharge of commingled wastewater from the Facility Outfall BP001 to an unnamed tributary that leads to Assawoman Creek and the Atlantic Ocean, in strict compliance with the terms and conditions of the Permit.
2. Assawoman Creek is listed in DEQ's 305(b) report as impaired for dissolved oxygen and *Escherichia coli* (*E. coli*) and does not support the designated use for aquatic life and recreation.
3. Va. Code § 62.1-44.5 and 9 VAC 25-31-50(A) states that [E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.
4. Va. Code § 62.1-44.15:20 and 9 VAC 25-210-50(A) states that except in compliance with a VWPP permit, no person shall dredge, fill, or discharge any pollutant into, or adjacent to

surface waters, or otherwise alter the physical, chemical, or biological properties of surface waters of the Commonwealth.

5. On June 21, 2021, Accomack County staff reported a discharge of a pollutant (sediment) from the Facility to state waters. On June 23, 2021, DEQ staff inspected the Facility and observed unpermitted impacts to the state surface water unnamed tributary. According to Accomack County, commingled wastewater (i.e. mine pit dewatering and industrial stormwater) has been discharged as needed for dewatering activities at the Facility. At the date of the release, Accomack County was not authorized to discharge process waste water from the Facility to state waters under the Permit or any other permit.
6. According to an independent contractor, the discharge resulted in the unpermitted impacts to 2,056 linear feet of stream, with a depth of sediment 1 inch to 2 feet in depth.
7. On September 30, 2021, Accomack County provided records of the dates and times that dewatering discharges occurred at the Facility according to the length of time the dewatering pump was in operation for three discharge events since January 2020:
  - a. January 10, 2020 to February 28, 2020, the discharge pump operated 407 hours
  - b. November 2, 2020 to January 30, 2021, the discharge pump operated 479 hours
  - c. June 3, 2021 to June 21, 2021, the discharge pump operated 429 hours
8. On July 2, 2021 and July 6, 2021, DEQ issued to Accomack County NOV No. W2021-07-T-001 and NOV No. 2106-001871 for the VWPP and VPDES program violations, respectively.
9. Accomack County responded to the VWPP and VPDES NOV's on July 7, 2021 by telephone. According to Accomack County staff, on the most recent Facility dewatering event (as listed in C.7.c, above), the Facility water level had dropped more quickly than normal, perhaps due to prolonged dry weather conditions, such that dewatering picked up and discharged significant sand and sediment to the unnamed tributary. Also according to Accomack, Accomack County staff believed the facility to be exempt from permitting if the work was performed by government employees.
10. Va. Code § 62.1-44.5 and 9 VAC 25-31-50(A) states that [E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.
11. Va. Code § 62.1-44.15:20 and 9 VAC 25-210-50(A) states that except in compliance with a VWPP permit, no person shall dredge, fill, or discharge any pollutant into, or adjacent to surface waters, or otherwise alter the physical, chemical, or biological properties of surface waters of the Commonwealth.
12. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

13. The Department has issued no permits or certificates to Accomack County for the Facility other than coverage under the Permit.
14. The unnamed tributary to Assawoman Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
15. Based on the results of the June 21, 2021 report by Accomack County, the June 23, 2021 DEQ site inspection, the July 7, 2021 meeting, and the records of Facility dewatering discharges provided by Accomack County on September 30, 2021, the Board concludes that Accomack County has violated Va. Codes §§ 62.1-44.5 and 44.15:20, and 9 VAC 25-31-50(A), and 25-210-50(A), by discharging commingled wastewater without a VPDES permit and impacting streambed without a VWPP permit, as described in paragraphs C(5) through C(7), above.
16. On October 19, 2021, Accomack County received coverage for the Facility under the Permit.
17. In order for Accomack County to complete its return to compliance, DEQ staff and representatives of Accomack County have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.15, the Board orders Accomack County, and Accomack County agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$80,826.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Accomack County shall include its Federal Employer Identification Number (FEIN) 54-6001099 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Accomack County shall be liable for attorneys' fees of 30% of the amount outstanding.



**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Accomack County for good cause shown by Accomack County, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in VWPP NOV No. 2106-001871 dated July 2, 2021 and in VPDES NOV No. W2021-07-001 dated July 6, 2021. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Accomack County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Accomack County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Accomack County declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Accomack County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Accomack County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Accomack County shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Accomack County shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are

occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Accomack County. Nevertheless, Accomack County agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Accomack County has completed all of the requirements of the Order;
  - b. Accomack County petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Accomack County.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Accomack County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Accomack County and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

- 13. The undersigned representative of Accomack County certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Accomack County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Accomack County.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
- 15. By its signature below, Accomack County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Craig R. Nicol, Regional Director  
Department of Environmental Quality

Accomack County voluntarily agrees to the issuance of this Order.

Date: 12/16/21 By: Michael T. Mason, County Administrator  
(Person) (Title)  
Accomack County

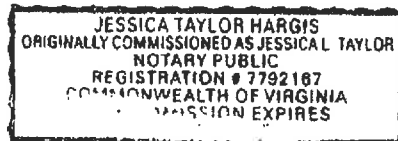
Commonwealth of Virginia  
City/County of Accomack

The foregoing document was signed and acknowledged before me this 16<sup>th</sup> day of December, 2021, by Michael T. Mason who is County Administrator of Accomack County on behalf of Accomack County.

[Signature]  
\_\_\_\_\_  
Notary Public  
7792167  
Registration No.

My commission expires: July 31, 2022.

Notary seal:



## **APPENDIX A VWPP SCHEDULE OF COMPLIANCE**

1. Within 60 days of the effective date of this Order, Accomack County shall submit an approvable Corrective Action Plan (CAP) for the restoration of state waters at the Facility that have been impacted without a Permit that meets the requirements of 9 VAC 25-210-116. The CAP must be sufficient to achieve no net loss of functions in all surface waters in accordance with 9 VAC 25-210-116. Accomack County shall respond to any DEQ Notice of Deficiency regarding the CAP within 14 calendar days.
2. Upon DEQ approval of the CAP, Accomack County shall begin implementation of the Corrective Action Plan in accordance with the schedule contained therein. Any changes to the approved Final CAP or schedule shall not be initiated without advance notice to and approval by DEQ. Accomack County shall complete the CAP in accordance with its terms.
  - a. If the performance criteria specified in the Final CAP are not achieved at the end of the applicable monitoring period, then Accomack County shall so advise DEQ in the applicable monitoring report for that monitoring period and shall describe why it appears the criteria could not be achieved. If DEQ thereafter so directs, Accomack County shall submit to DEQ for review and approval an alternative CAP within 60 days of DEQ's letter requiring the same. The DEQ-approved alternative CAP shall then be implemented by Accomack County in accordance with the schedule set forth in the alternative CAP.
  - b. If the performance criteria specified in the Final CAP or any alternative CAP are not achieved by the end of the last monitoring period and DEQ determines that additional corrective action cannot sufficiently address the reasons for such failures, then Accomack County shall submit to DEQ for review and approval, within 30 days of such determination, a proposal to purchase mitigation bank credits or contributions to an in-lieu fee fund to address any remaining corrective action required in the Final CAP or, as applicable, any previously submitted alternate CAP. Accomack County shall respond to any DEQ notice of deficiency to the proposal in accordance with the terms of the notice. Accomack County shall purchase mitigation bank credits or make contributions to an in-lieu fund, as approved by DEQ in accordance with this paragraph, within 30 days of DEQ approval.
3. If required in accordance with the DEQ approved CAP prepared under Paragraph 2b of this Appendix A, Accomack County shall submit proof of purchase of the specified wetland credits from a DEQ-approved mitigation bank or in-lieu fee fund that is authorized and approved by DEQ to sell credits in the area in which the impacts occurred and has credits available (as released by DEQ) to achieve no-net-loss of existing wetland acreage and no-net-loss of function in all surface waters in accordance with 9 VAC 25-210-116.

Consent Order  
Accomack County  
Nonmetallic Mineral Mine  
VAG840249  
Page 10 of 10

4. Unless otherwise specified in this Order, Accomack County shall submit all requirements of Appendix A of this Order to:

VA DEQ Tidewater Regional Office  
5636 Southern Boulevard  
Virginia Beach, VA 23462