

TENTATIVE AGENDA  
**STATE WATER CONTROL BOARD MEETING**  
 THURSDAY, DECEMBER 6, 2012

House Room C  
 General Assembly Building  
 9th and Broad Streets  
 Richmond, VA 23219

CONVENE - 10:00 A.M.

**TAB**

- |              |  |                   |        |
|--------------|--|-------------------|--------|
| <b>I.</b>    | <b>Election of Officers</b>  |                   |        |
| <b>II.</b>   | Minutes (September 27, 2012)   |                   | A      |
| <b>III.</b>  | <b>Exempt Final Regulations</b><br>VPDES Permit Regulation (9VAC25-31)<br>Procedural Rule No. 4 (9VAC25-250)   | Harris<br>Norris  | B<br>C |
| <b>IV.</b>   | <b>Fast-Track Regulations</b><br>Procedural Rule No. 3 (9VAC25-240)  | Norris            | D      |
| <b>V.</b>    | <b>Proposed Regulations</b><br>General VPDES Permit for Potable Water Treatment Plants (9VAC25-860)  | Daub              | G      |
| <b>VI.</b>   | <b>Significant Noncompliers Report</b>   | O'Connell         |        |
| <b>VII.</b>  | <b>Consent Special Orders (VPDES Permit Program/Unpermitted Discharges)</b><br>Piedmont Regional Office<br>DuPont Teijin Films U.S. Limited Partnership (Chesterfield Co.)<br>Northern Regional Office<br>Four Winds Club Inc. – Four Winds Campground<br>Sewage Treatment Plant (Caroline Co.)<br>Valley Regional Office<br>Fork Union Sanitary District (Fluvanna Co.) | O'Connell         | H      |
| <b>VIII.</b> | <b>Consent Special Orders (VWP Permit Program/Wetlands/Ground Water Permit Program)</b><br>Piedmont Regional Office<br>Harvest Garden Pro, LLC (Hanover Co.)<br>The McGurn Company, Inc. (Henrico Co.)   | O'Connell         | I      |
| <b>IX.</b>   | <b>Consent Special Orders (UST/Oil)</b><br>Blue Ridge Regional Office<br>Watts Petroleum Corporation (Bedford Co.)<br>Piedmont Regional Office<br>Vane Line Bunkering, Inc.  | O'Connell         | J      |
| <b>X.</b>    | <b>Public Forum</b>  |                   |        |
| <b>XI.</b>   | <b>Other Business</b><br>Virginia Revolving Loan Fund 2013 Funding List<br>Enforcement Briefing  | Gills<br>Reynolds | K      |

## 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 arising as to the latest status of the agenda should be directed to the staff contact listed below.

**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. If a public hearing is held, there is an additional comment period, usually 45 days, during which the 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 during the public comment period (i.e., those who commented at the public hearing or during the public comment period) up to 3 minutes 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 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: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

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**Final Exempt Action, 2012 CFR Update for 9VAC25-31:** This regulatory amendment is presented to the Board for consideration as a final regulation. The Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9VAC25-31, includes citations and requirements in the form of incorporated sections of Title 40 of the Code of Federal Regulations (CFR). This regulatory amendment will revise these citations and incorporation of Title 40 of the CFR as updated as of July 1, 2012. 9VAC25-31-25 has been revised to update the date for the CFR to July 1, 2012.

**Repeal of Procedural Rule No. 4 – Proxy Voting by Board Members:** The staff intends to bring to the Board at the December 6, 2012 meeting, a request to cancel and repeal Procedural Rule No. 4 (9VAC25-250). Procedural Rule No. 4 establishes conditions and procedures for a member of the State Water Control Board to vote by proxy. This rule is proposed to be repealed because the Board lacks authority to vote by proxy. Section 62.1-44.15(7) of the Code of Virginia authorizes the State Water Control Board to adopt rules governing the procedure of the Board with respect to: (a) hearings; (b) the filing of reports; (c) the issuance of certificates and special orders; and (d) all other matters relating to procedure; and to amend or cancel any rule adopted. However, there is no statutory authority which would allow a member to vote through a representative or designee.

**Repeal of Procedural Rule No. 3 – Certification Pursuant to 33 USC, § 1341:** The staff intends to bring to the Board at the December 6, 2012 meeting, a request to proceed to notice of public comment on proposed repeal of Procedural Rule No. 3 – Certification Pursuant to 33 USC § 1341 (9VAC25-240). Procedural Rule No. 3 provides for the issuance of a certification by the Board that a proposed activity that may result in a discharge to State waters meets the requirements of the Clean Water Act. This regulation has been suspended by the Virginia Water Protection Permit Regulation (9VAC25-210) and is therefore no longer necessary. Section 62.1-44.15(7) of the Code of Virginia authorizes the State Water Control Board to adopt rules governing the procedure of the Board with respect to: (a) hearings; (b) the filing of reports; (c) the issuance of certificates and special orders; and (d) all other matters relating to procedure; and to amend or cancel any rule adopted. In addition, Section 62.1-44.15(10) of the Code of Virginia authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program of the Board in all or part of the Commonwealth. This regulation is being proposed for repeal as it has been superseded by the adoption of the Virginia Water Protection Permit Program Regulation - 9VAC25-210 which includes procedures and requirements for the certification pursuant to 33 USC § 1341.

**General VPDES Permit Regulation for Potable Water Treatment Plants, VAG64 Amendments to 9VAC25-860 and Reissuance of General Permit:** The current VPDES Potable Water Treatment Plant General Permit will expire on December 23, 2013, and the regulation establishing this general permit is being amended to reissue another five-year permit. 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 the proposed changes to the current regulation

and a summary of the changes are attached. The draft regulation takes into consideration the recommendations of a technical advisory committee formed for this regulatory action. The technical advisory committee consisted of representatives from water treatment plants, VDH and DEQ staff. A Notice of Intended Regulatory Action (NOIRA) for the amendment was issued on March 26, 2012. The only comment received was from the Augusta County Service authority who asked to serve on the technical advisory committee (they did). Summary of 9vac25-860 Proposed Revisions For 2013 Reissuance Potable Water Treatment Plant General Permit:

Section 10 – Definitions were added for Department, membrane treatment, microfiltration, municipal separate storm sewer system, nanofiltration, reverse osmosis, total maximum daily load and ultrafiltration. This terminology is used in the regulation and needed explanation. The definition of potable water treatment plant is expanded to include creation of potable water for private industrial uses and not just limit it to plants primarily engaged in distributing water for sale for domestic, commercial or industrial use. Most of these plants fall under Standard Industrial Classified (SIC) Code 4941 (Water Supply) but some establishments that produce potable water for their own use may not fit under this SIC Code and the technical advisory committee thought they should also have an opportunity for coverage under this permit.

Section 40 – Effective dates are updated to reflect this reissuance throughout the regulation. In addition, the expiration date of this permit is changed from December 23, 2018 to June 30, 2018 to move it away from the end of the year to address DEQ staff resource issues and to have the permit effective date begin on a calendar quarter which is consistent with other general permits.

Section 50 A, B– Authorization – Reformatted to match structure of other general permits being issued at this time. Added two additional reasons authorization to discharge cannot be granted per EPA comments on other general permits issued recently. Therefore, an owner will be denied authorization when the discharge would violate the antidegradation policy and if additional requirements are needed to meet a TMDL. Also the details of the previously required whole effluent toxicity testing were moved into the permit itself. A simple statement was added to the authorization section that owners who demonstrate reasonable potential for toxicity are not allowed coverage under the general permit.

Section 50 C – Added the statement "*Compliance with this general permit constitutes compliance with the Clean Water Act and the State Water Control Law, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation.*" This was added in response to AGO comments on other general permits recently to recognize there are some exceptions to compliance with the CWA as stated in the permit regulation.

Section 50 D– Added language to allow for administrative continuance of coverage under the old expired general permit until the new permit is issued, and coverage is either granted or denied, if the permittee has submitted a timely registration and is in compliance with the old permit. This language is being added to all recently reissued general permits so permittees can discharge legally and safely if the permit reissuance process is delayed.

Section 60 A – Registration Statement – Reformatted to match the structure of other recent general permits. Existing facilities currently holding an individual VPDES permit and proposing to be covered under this general permit must notify DEQ 270 days prior to the expiration date of their individual permit, rather than the existing 180 days prior to their expiration date. This gives the permittee plenty of time (90 days) to meet their required '180 day prior to expiration' individual permit application deadline if their request for coverage under the general permit is denied. Facilities covered under the existing general permit must submit a registration statement prior to October 24, 2013 (which is 60 days prior to expiration of the 2008 general permit).

Section 60 B – Added that late registration statements will be accepted, but authorization to discharge will not be retroactive. Also, added that permittees may get administrative continuance of their existing general permit coverage if a complete registration statement is submitted before December 24, 2013 (the expiration date).

Section 60 C – Several minor additions to the registration statement questions were made for clarification. For example, added email address, allowance for computer generated maps to accompany the registration statement, and a few other minor clarifications. Expanded the question about treatment type and whether it has changed since the previous registration. The whole effluent toxicity testing question is clarified to include submittal of data if required by the 2008 general permit or their individual permit, if not previously submitted to the Department. The chemical usage question was expanded to ask if chemical usage had changed since the previous registration. A question about MS4s was added as follows: "*Whether the facility will discharge to a MS4. If so, the name of the MS4 owner must be provided. If the owner of the potable water treatment plant is not the owner of the MS4, the facility owner shall notify the MS4 owner of the existence of the discharge and include a copy of the notification with the registration statement. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the owner's VPDES general permit number.*" A question was added as follows: "*If a new potable water treatment plant owner proposes to discharge within five miles*

*upstream of another public water supply system's intake, the new potable water treatment plant owner shall notify the public water supply system's owner and include a copy of the notification with the registration statement."* The technical advisory committee thought this notification was important to ensure any downstream localities are notified of any new discharges upstream.

Section 70 Part I A 1– General Permit limits pages for process water. Clarified that Part I A 1 pages apply to any water treatment plant that does not utilize reverse osmosis or nanofiltration. These are generally what are referred to as 'conventional' plants. The agency also determined that monitoring data associated with the existing general permit showed that monthly reporting from any facility is not necessary based on past compliance within the industry and the fact that these facilities often have no discharge. Therefore, all facilities are now afforded the 'reduced monitoring' allowance of 1/3 months (quarterly). Also, footnote #2 clarifies how a composite sample shall be taken, which varies if the discharge is continuous or batch. The previous 5Grab/8 Hour Composite requirement was a hardship for batch-type discharges.

The narrative requirement for no discharge of floating solids or visible foam in other than trace amounts was moved to Part B, Special Conditions.

Section 70 Part I A 2 – General Permit limits pages for reverse osmosis and nanofiltration plants. Except for the same clarifications on the composite sampling mentioned in Part I A 1 above, these requirements remained the same. There was no indication that monitoring frequencies should be reduced, although the owner may get reduced monitoring based on compliance history.

Section 70 Part I B 1 - Changed that inspections are performed 'when discharging' rather than 'daily.' This was done at the request of the industry TAC members. This seemed reasonable as other states had a similar frequency or no inspections at all.

Section 70 Part I B 4 – This is where the 'no discharge of floating solids or visible foam in other than trace amounts' was moved. Old special condition 4 is deleted, which had explained the compliance conditions under which to reinstate more frequent monitoring (monthly) when reduced monitoring (quarterly) had been granted. Almost all the water treatment plants in Virginia fall under Part I A 1 (conventional plants) which we are proposing to reduce to quarterly monitoring as the normal frequency. So this section no longer applies to them. If any reverse osmosis plants falling under Part I A 2 qualify for reduced monitoring (monthly to quarterly) they will retain that reduced monitoring frequency until reissuance.

Section 70 Part I B 5 – Added a new special condition that *“Owners of facilities that are a source of the specified pollutant of concern to waters where an approved TMDL has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.”* This is a special condition that is being added to all general permits. It reinforces the way general permits are currently handled in TMDLs. The assumption of the TMDL is that general permits are insignificant to the total load until such time that the TMDL program determines that the load is significant, and the TMDL needs to be modified to include the load.

Section 70 Part I B 7 - Added that groundwater monitoring plans may be reevaluated and changed when appropriate, and that the owner may submit that evaluation to the Board for approval. The technical advisory committee thought this was reasonable.

Section 70 Part I B 9 - Clarified several of the requirements of the operations and maintenance manual. The manual shall be updated within 90 days of coverage or within 90 days of changes to the treatment system. However, now the O&M manuals will no longer be submitted to the Department for approval. However, they must be made available to Department personnel upon request. O&M manuals have always been an enforceable part of this permit.

Section 70 Part I B 10 – The details of the whole effluent toxicity testing requirement was moved to this special condition and out of the 'authorization to discharge' section 50 of the regulation. The 2008 regulation required this WET testing before coverage could be granted. This was a hardship on new permittees who had to apply and pay for an individual permit before they could qualify for the general permit. With this draft, we are proposing to require the WET testing during the term of the general permit, but only for permittees with maximum daily flows greater than or equal to 50,000 GPD. We are also giving the owners an opportunity to find and eliminate the source of any toxicity before they are subject to a WET limit at the next permit reissuance. This should attract new permittees and existing permittees with a maximum daily flow less than 50,000 GPD to move away from their individual permits to the general permit. The regulation also allows for representative toxicity data from the past to be used to qualify for the general permit coverage, and the owner does not have to retest unless there are significant changes at the plant.

Finally, the WET testing requirement within the general permit is a onetime requirement. Once the permittee shows no reasonable potential for toxicity, then they do not need to repeat the tests unless changes are made at the plant. This should also attract more individual permit holders that already have this WET testing information to turn to the general permit.

Section 70 Part I B 11 Added *"The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards."* This is a general requirement to meet water quality standards and matches similar language going into other recent general permits.

Section 70 Part I B 12 – Added a new special condition that describes how terminations of a general permit will be implemented. This is being added to all general permits as they are reissued.

Section 70 Part I B 13 Added *"Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation."* This requirement is part of the regulation at section 50 C and staff thought it should be repeated in the permit to remind the permittee of the responsibility.

Section 70 Part II – Conditions applicable to all Permits - Added *"Samples taken as required by this permit shall be analyzed in accordance with IVAC30-45: Certification for Noncommercial Environmental Laboratories, or IVAC30-46: Accreditation for Commercial Environmental Laboratories."* This is a new regulatory requirement effective January 1, 2012.

Section 70 Part II Y – Transfer of permits – Deleted paragraph Y 1 which is the ability to transfer to a new owner by a modification or revocation and reissuance or minor modification. General permit coverage is not modified, or revoked and reissued. Revised Y 2 to say automatic transfers can occur within 30 days of transfer, rather than 30 days in advance of transfer. We have been told by staff that notification of an ownership transfer cannot occur in advance. Our regional office staff has also stated this advance transfer notification is unnecessary and we should be able to accept a transfer notification at any time.

**DuPont Teijin Films U.S. Limited Partnership - Consent Special Order with Civil Charges:** Teijin owns and operates two wastewater treatment plants located at DuPont Teijin Films, 3600 Discovery Drive, Chesterfield, Virginia ("Facility"). One plant is an industrial wastewater treatment plant and the second plant is a sanitary wastewater treatment plant. The industrial wastewater plant discharges through internal Outfall 101 and the sanitary wastewater plant discharges through internal Outfall 102. Both Outfalls 101 and 102 ultimately discharge to the James River via Outfall 001. These plants operate under VPDES Permit No. VA0003077.

Teijin was included in the Chesapeake Bay TMDL, which was approved by the EPA on 12/29/2010. The Facility is included in the aggregated wasteload allocations for total nitrogen, total phosphorus, and total suspended solids for non-significant wastewater dischargers in the upper tidal freshwater James River estuary (JMSTF2). In addition, the Facility was addressed in the James River and Tributaries – City of Richmond Bacterial TMDL, which was approved by the EPA on 11/4/2010. The Facility was assigned an E. coli wasteload allocation of 1.74E+12 cfu/year. On December 16, 2011, Teijin's consent order, containing interim BOD<sub>5</sub> limits, became effective. Teijin requested the December 16, 2011, consent order, as Teijin is converting the Facility to only utilize its terephthalic acid manufacturing process, and needed less stringent BOD<sub>5</sub> limits than Teijin's permit limits until the installation of upgrade or replacement for the terephthalic acid process is complete. Teijin indicated in its monthly DMRs, as required by the Permit, that it exceeded discharge limitations contained in Part I.A of the Permit, for BOD<sub>5</sub>, during the month of November 2011. Teijin also exceeded discharge limitations contained in the December 16, 2011 order for BOD<sub>5</sub>, during the month December 2011. Teijin attributed the violations to the fact that some of the process lines were down, and not as much methanol was available for the bacteria, resulting in a die-off. Subsequently, a still bottom truck was cleaned and the resulting ethylene glycol entered the system. The loss of a significant portion of the biomass resulted in less bacteria to process the ethylene glycol resulting in the exceedances. Teijin attributed the December exceedance to the events in November, 2011, stating that the system had not fully recovered. Teijin indicated in its monthly DMRs, as required by the Permit, that it exceeded discharge limitations contained in Part I.A of the Permit, for TSS, during the month of December, 2011. Teijin indicated that it believed the exceedances from the process wastewater treatment plant were due to poor settling in the clarifier along with issues with the sand filters which were taken down for repairs. A portable filter was used when the sand filters were taken off-line, however the initial portable filter was not large enough to handle the load. Teijin agreed to the Consent Special Order with DEQ to address the above described violations. The Order requires the payment of a civil charge and performance of a Supplemental Environmental Project ("SEP") which was approved on August 14, 2012. Civil Charge and SEP: \$10,080 civil charge of which Teijin shall pay \$2,520 and satisfy the remaining \$7560 by satisfactorily completing a SEP. The SEP proposes to reduce erosion, reduce suspended solids and stabilize the riparian zone along a portion of the Appomattox River. This is a voluntary BMP and will reduce total suspended solids in the Appomattox River. Appendix A of the order outlines the requirements for the SEP.

**Four Winds Club Inc. – Four Winds Campground Sewage Treatment Plant (STP) - Consent Special Order w/Civil Charges:** Four Winds Campground (Four Winds) is a campground and golf course with associated infrastructure. Four

Winds was referred to enforcement for Ammonia violations at the STP in March, April and May 2012, for failing to submit a complete discharge pipe integrity report as required by the Permit, and for failing to submit groundwater monitoring reports in a timely fashion. The groundwater monitoring report was submitted to DEQ approximately two months late. The discharge pipe integrity report was also submitted late and did not contain the necessary elements as required by the Permit, and was therefore deemed incomplete by DEQ. The Consent Order requires Four Winds to conduct a dye test and walk the entirety of the discharge pipe to determine if all the effluent is reaching the end of the STP's discharge pipe, as well as submit a plan and schedule to DEQ for review and approval that details the steps Four Winds intends to take to address ammonia violations at the Plant. Four Winds has elected to replace the Geo-reactor at the STP to address the ammonia violations. Replacing the Geo-reactor is estimated to cost approximately \$40,000.00. The cost associated with the dye test is negligible. Civil Charge: \$10,500.

**Fork Union Sanitary District (“FUSD”) - Consent Special Order w/ Civil Charge:** FUSD owns and operates the Facilities, which generate potable drinking water for the Fork Union Sanitary District in Fluvanna County, Virginia. The Permits authorize FUSD to discharge treated backwash wastewater from the Facilities to two different unnamed tributaries to Martins Creek, in strict compliance with the terms and conditions of the Permits. The design flows of the Morris Facility and the Omohundro Facility have been rated and approved as 0.035 MGD and 0.005 MGD respectively, measured as a monthly average flow. On June 9, 2011, DEQ provided FUSD with the routine Technical and Laboratory Inspection reports for the May 24, 2011, inspection conducted at the Omohundro Well WTP. These reports documented the presence of sludge in the discharge channel during the inspection. The reports also noted that FUSD had not conducted the required lagoon integrity studies and noted as well operational deficiencies. The inspection report contained recommended corrective actions to address improper operations. On February 14, 2012, VRO issued a NOV to FUSD for failure to submit timely and complete VPDES permit reissuance applications. On March 31, 2012, FUSD's Permits expired because FUSD had not provided timely and complete permit reissuance applications due by October 3, 2011. On May 11, 2012, the Permits for the Omohundro Well WTP and Morris Well WTP were reissued to FUSD. On May 21, 2012, VRO issued NOVs to FUSD for the Facilities for discharging treated wastewater without authorization of a VPDES permit during April and May 2012. The proposed Order contains a civil charge and a schedule of compliance to install new lagoon liners at the Omohundro Well WTP and to address operational issues as well. Civil Charge: \$10,219.

**Harvest Garden Pro, LLC - Consent Special Order with Civil Charges:** Harvest Garden Pro, LLC (“Garden Pro”) owns the Site in Hanover County, Virginia and owns and operates the Facility. The Facility manufactures, dyes, packages, stores and distributes wood mulch for profit as well as manufactures top soil and stores other types of horticultural products. The Facility discharges stormwater associated with industrial activity. The Site contains multiple stormwater management (“SWM”) ponds. On April 12, 2010 DEQ staff inspected the Site and observed material that was discharged from the Facility into non-tidal palustrine forested wetlands, and determined that the Site did not have a stormwater permit. On March 16, 2011, DEQ staff inspected the Site and observed Pond 1, an unlined SWM pond, contained red, brown and black dyes that were observed leaching from nearby mulch piles and flowing into Pond 1. Effluent from Pond 1, comprised of industrial wastewater from the mulch dyeing operation and contaminated storm water, was observed flowing from the discharge pipe south along the Plantation Pipe Line easement approximately 500 feet, then into a drainage feature that flows into a forested wetland/stream system which is an unnamed tributary to Bull Run. DEQ staff also observed that Garden Pro failed to notify DEQ of the unpermitted discharge of industrial wastewater and contaminated stormwater and that a product storage area was created by the unauthorized filling of forested wetlands. Water samples collected by DEQ staff from the effluent of SWM Pond 1, had dissolved oxygen (“DO”) concentrations below Virginia's minimum water quality standard for DO of 4.0 mg/L for non-tidal waters in the Coastal and Piedmont zones. DEQ staff also observed elevated conductivity in SWM Pond 1 from dye contamination. DEQ received results of the metals testing of the water samples from SWM Pond 1 at the Facility which showed four metals, including aluminum, chromium, copper and iron exceeded stormwater benchmarks contained in the appropriate general stormwater permit. DEQ also received the analytical results of the dye testing from Garden Pro, which showed many metals exceeding stormwater benchmarks. On April 17, 2012, Garden Pro purchased 1.0 acres of wetland credits from the Pamunkey Farm Mitigation Bank, LLC to mitigate the 0.5 acre of forested wetlands that was impacted by the creation of the product storage area. Garden Pro agreed to the Consent Special Order with DEQ to address the above described violations. The Order requires the payment of a civil charge and performance of appendix items. The appendix requires Garden Pro to submit an inspection and sampling plan for the Site to DEQ for approval in order to determine the appropriate permits Garden Pro needs to obtain from DEQ. The appendix requires permits to be in place within six months of submission of the results from the inspection and sampling plan. The appendix requires Garden Pro to submit a corrective action plan if the results of the inspection and sampling indicate it is necessary. Civil Charge: \$28,794.

**The McGurn Company, Inc. - Consent Special Order with Civil Charge:** McGurn Company, Inc. (“McGurn”) owns and developed the Property in Hanover County, Virginia. On April 13, 2007, DEQ issued Permit WP4-07-0451 to McGurn for wetland impacts associated with the construction of Green Top Center Drive Development in Hanover County, Virginia. The Permit authorized impacts to 0.28 acres of emergent wetland and 0.12 acres of open water and required the purchase of 0.28 acres of wetland credits from the Chickahominy Environmental Bank located in Charles City County, Virginia. The Permit also required notification of construction to DEQ, submitted prior to commencement of activities in permitted impact areas and construction monitoring reports submitted to DEQ in association with the permitted activities. DEQ staff performed an inspection of the Property and observed that the authorized impacts had been completed. DEQ staff reviewed the file for the Permit and found no record of documentation that mitigation bank credits were purchased; no record of a notification of construction submitted prior to commencement of activities in permitted impact areas; and no record of construction monitoring reports submitted in association with the permitted activities. DEQ issued a NOV to McGurn for violation of the permit and Virginia Code and regulations. McGurn responded to the NOV and indicated it had submitted the construction notice and monitoring reports to DEQ as required by the Permit. McGurn provided DEQ with copies of the construction notice with photographs, the construction monitoring reports it had sent to DEQ during construction and the notification of completion of the project sent to DEQ. DEQ staff received an affidavit from Arthur McGurn, President of McGurn, affirming that the construction notice, construction monitoring reports and notification of completion were sent to DEQ on the dates indicated in the affidavit and as required by the Permit. McGurn purchased 0.28 acres of wetland credits as required by the permit and agreed to the Consent Special Order with civil charges to address the above described violations. Civil Charge: \$19,880.

**Watts Petroleum Corporation - Order by Consent – Issuance with Civil Charge:** On May 28, 2012 a tanker truck operated by Watts Petroleum Corporation (“Watts”) containing approximately 8,435 gallons of oil had an accident near the intersection of US 460 East and Wilkerson Mill Road in Bedford County, Virginia that resulted in a subsequent release of petroleum to state land and waters. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems, and Watts is subject to the statutory prohibition. Emergency response personnel were promptly dispatched to the scene and began cleanup operations to mitigate potential impacts to human health and/or the environment. The Department did not observe direct or indirect impacts to human health and/or the environment as a result of the petroleum spill. As a result of the unpermitted petroleum discharge to state waters, the Department issued Notice of Violation (“NOV”) No. NOV-12-06-BRRO-R-001 to Watts on June 20, 2012. The Order presented for consideration before the Board assesses a civil charge to Watts for the unauthorized discharge of oil to state lands and waters, which resulted in Watts violating Article 11 of the State Water Control Law addressing Discharge of Oil into Waters. Watts has completed a corrective action plan for restoration of the accident site and the oil impacts to state waters. Approximately 5,000 tons of contaminated soil were excavated from the discharge location. Watts has provided the Department with documentation that it has expended in excess of \$575,000 on the containment and cleanup, restoration and monitoring efforts. Civil Charge and Supplemental Environmental Project: \$43,613 of which Watts shall pay \$16,616.47 and satisfy the remaining \$26,996.53 by satisfactorily completing a SEP. The SEP consists of the purchase of emergency response equipment and supplies for the Bedford County Department of Fire & rescue. The proposed equipment purchase will assist first responders in assessing accidents involving various petroleum and chemical spills throughout Bedford County and contain potentially toxic materials from entering lands and waters of the state.

**Vane Line Bunkering, Inc. - Consent Special Order with civil charge:** Vane Line transports oil by way of tank vessels. On December 20, 2011, a tugboat named the “Endeavor” and Vane Line’s tank vessel “VB-38” was docked at the United States Coast Guard pier at Yorktown, VA and VB-38 was loaded with approximately 25,000 barrels (1,050,000 Gallons) of oil destined for Baltimore, Maryland. During transportation, an oil sheen was observed by a Coast Guard helicopter in the mouth of the York River at New Point Comfort, Mathews County, Virginia. The Coast Guard initially boarded the tank vessel and did not observe an oil sheen around the vessel. Convinced that Vane Line’s tank vessel was not the source of the oil sheen, they cleared the tank vessel to proceed to Baltimore, but Vane Line decided to stop the tank vessel and check the integrity of the compartments. Vane Line determined that there was 2 inches of water at the bottom of one of the tank vessel compartments and initiated their incident response plan, turning the tank vessel back to port in Yorktown, Virginia to unload the product. United States Coast Guard calculated that the amount of petroleum product discharged was 769 gallons based on the before and after tank vessel weights. PRO issued Notice of Violation No. 2012-05-PRO-201 to Vane Line Bunkering for the discharge of oil to state waters. On May 10, 2012, Vane Line submitted a written response to the NOV which provided details about the discharge of oil to the Bay and confirmed that the discharge came from their tank vessel “VB-38” towed by the “Endeavor.” After the discovery of the issue by Vane Line Bunkering, the Coast Guard stated that the oil sheen

that formed had already dissipated and further remediation at the discharge location was not required. The Order requires only the payment of a civil charge. Civil Charge: \$6,780.

**FY 2013 Virginia Clean Water Revolving Loan Fund Authorizations:** Title IV of the Clean Water Act requires the yearly submission of a Project Priority List and an Intended Use Plan in conjunction with Virginia’s Clean Water Revolving Loan Fund Capitalization Grant application. Section 62.1-229 of Chapter 22, Code of Virginia, authorizes the Board to establish to whom loans are made, the loan amounts, and repayment terms. The next step in this yearly process is for the Board to set the loan terms and authorize the execution of the loan agreements. At its September 2012 meeting, the Board targeted 14 projects totaling \$54,144,196 in loan assistance from available and anticipated FY 2013 resources and authorized the staff to present the proposed funding list for public comment. A public meeting was convened on November 7th. Notice of the meeting was posted on the Virginia Regulatory Town Hall, the DEQ public calendar, and DEQ’s Clean Water Financing and Assistance Program websites as well as being mailed to all loan applicants. No adverse comments were received during the public review/comment period.

The staff has conducted initial meetings with the FY 2013 targeted recipients and has finalized the associated user charge impact analyses in accordance with the Board’s guidelines. There are no changes to the previously approved list. Therefore, the 2013 funding list remains at 14 projects being recommended for final authorization at a total amount of \$54,144,196. The loan terms listed below are submitted for Board consideration. The applications were reviewed in accordance with the Board’s guidelines, with a residential user charge impact analysis conducted for each project. This analysis determines the anticipated user charges as a result of the project relative to the affordable rate as a percentage of the applicant’s median household income. Projects involving higher user charges relative to community income generally receive lower interest rates than those with relatively lower user charges. Note that the Coeburn-Norton- Wise Regional Wastewater Treatment Authority project, involving a regional biosolids drying facility, qualified for a 1% reduction (below ceiling rate) under the program’s innovative technology criteria.

Once approved, this information and the approved interest rates will be forwarded to the Virginia Resources Authority (VRA) for concurrence and recommendation. VRA will prepare the credit summaries and financial capability analyses on the recipients authorized for FY 2013 funding, looking at their repayment capability and individual loan security requirements. The program sets its VCWRLF ceiling rate on wastewater loans at 1% below the current municipal bond market rate. Based on discussions with VRA, we are recommending that the interest rate for each ceiling rate project be set based on VRA’s evaluation of the market conditions that exist the month prior to each loan closing. Bond interest rates are currently at historic lows; consequently the program’s ceiling rates will be extremely favorable this year.

Since the Board’s September meeting, Congress has still not finalized the federal SRF appropriation for FY 2013. As such, we are unsure as to whether the appropriation bill will include requirements similar to those established in FY 2012 regarding principal forgiveness and green reserve project funding. Staff believes that the stormwater, energy conservation, and water reuse projects already included on this list will satisfy the green project reserve requirement that might be included, and at the same time are worthwhile projects to go forward that meet our program criteria. The staff has also analyzed the projects with regard to the program’s hardship criteria and will be prepared to work with the Director on providing principal forgiveness to some projects as allowed by previous delegations if it is included in the appropriation language.

FY 2013 Proposed Interest Rates and Loan Authorizations

	<i>Locality</i>	<i>Loan Amount</i>	<i>Rates &amp; Loan Terms</i>
1	City of Lynchburg	2,000,000	0%, 30 years
2	Town of Rural Retreat	107,000	CR, 20 years
3	City of Salem	3,138,087	CR, 20 years
4	Scott County Public Service	1,400,000	0%, 20 years
5	Town of Grottoes	2,083,000	CR, 20 years
6	Augusta County Service Authority	10,021,500	CR, 20 years
7	Town of Clifton Forge	1,187,000	0%, 20 years
8	King George County Service	967,999	<b>CR, 20 years</b>
9	City of Norfolk	10,000,000	<b>0%, 20 years</b>
10	Tazewell County Public Service	9,255,550	<b>0%, 25 years</b>
11	Town of Coeburn	1,509,240	<b>0%, 20 years</b>

12	C-N-W Wastewater Treatment	4,654,170	CR-1%*, 20 years
13	Loudoun Water	6,760,000	CR, 20 years
14	City of Richmond	1,060,650	0%, 20 years
	<b>Total Request</b>	<b>\$54,144,196</b>	<b>CR= Ceiling Rate</b>

\* Innovative Technology Reduction