

TENTATIVE AGENDA AND MINIBOOK  
**STATE WATER CONTROL BOARD MEETING**  
 THURSDAY, OCTOBER 1, 2015

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

**10:00 A.M.**

			<b>TAB</b>
<b>I.</b>	<b>Minutes</b> (June 25, 2015)		A
<b>II.</b>	<b>Regulations - Proposed</b> General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9VAC25-820)	Brockenbrough	B
<b>III.</b>	<b>Regulations - Fast-Track</b> Groundwater Withdrawal Regulation Amendments (9VAC25-610) Surface Water Management Area Regulation (9VAC25-220)	Graham Porterfield	C D
<b>IV.</b>	<b>Regulations - Final</b> General VPDES Permit Regulation for Seafood Processing Facilities (9VAC25-115)	Daub	E
<b>V.</b>	<b>Regulations - Final Exempt</b> Amendments to Fees for Permits and Certificates regulation (9VAC25-20), the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) Regarding Fees and Local Monitoring for Land Application of Industrial Wastes	Zahradka	F
<b>VI.</b>	<b>TMDLs</b> Two TMDLs Reports [Bacteria for Crooked Run, Borden Marsh Run, Willow Brook, West Run, Long Branch, Stephens Run, Manassas Run, and Happy Creek Watersheds, and Sediment for Happy Creek Watershed located in Clarke, Frederick, and Warren Counties and Bacteria for the Turkey Island Creek and James River Westover to Claremont Watershed in Charles City, Henrico, Prince George, and Surry Counties] and Water Quality Management Planning Regulation Amendments to 9VAC25-720-50 A [9 waste load allocations] and 9VAC25-720-60 A [3 waste load allocations]	McKercher	G
<b>VII.</b>	<b>Significant Noncompliers Report</b>	O'Connell	H
<b>VIII.</b>	<b>Consent Special Order</b> Honeywell Resins & Chemicals LLC (Hopewell)	O'Connell	I
<b>IX.</b>	<b>Public Forum</b>		
<b>X.</b>	<b>Other Business</b> FY2016 Clean Water Revolving Loan Funding List	Gills	J

## 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).

**General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia - Amendments to 9VAC25-820 and Reissuance of General Permit:** The current VPDES Watershed General Permit for nutrient discharges to Chesapeake Bay will expire on December 31, 2016 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. 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 from the Virginia Association of Municipal Wastewater Agencies, the Virginia Manufacturers Association, the Chesapeake Bay Foundation, the James River Association, Dominion Resources, Aqua Virginia, USEPA and DEQ staff. The proposed amendments are:

Section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	“Director” definition	Definition added to clarify the term for this permit regulation
	“Tributary” definition	Definition modified to refer to Chesapeake Bay TMDL in accordance with current Code of Virginia.
	Miscellaneous definitions	Numerous grammatical changes made to provide clarity to definitions
15		Added <i>“Applicability of incorporated references based on the dates that they became effective.”</i> This section was added to update all references to Title 40 Code of Federal Regulations (CFR) within the document to be those published as of July 1, 2014. This was a recommendation from the DEQ Office of Policy so that dates do not need to be added for each CFR reference
40.A	Required submittal of a compliance plan by 7/1/12 for facilities subject to reduced waste load allocations in the Chesapeake Bay TMDL and included in 9VAC25-820-80..	Requires submittal of a compliance plan by July 1, 2017 for facilities identified in 9VAC25-820-80 and subject to a limit effective date after January 1, 2017 as defined in 9-VAC25-820-70 I C 1. This change in combination with the changes in the sections referenced above requires a compliance plan from the Hampton Roads Sanitation District James River facilities for Total Nitrogen reductions identified in Virginia’s Phase I Watershed Implementation Plan as well as Appendix X to the Chesapeake Bay TMDL.
40.A.3	Compliance plan reference to Water Quality Improvement Fund	“Water Quality Improvement Fund” replaced with <i>“Nutrient Offset Fund”</i> to reflect current state code (§10.1-2128.2)
70	Effective date of permit	Changed the effective (2017) and expiration (2021) dates to reflect the

		reissuance date of the permit.
70.I.A.3.	Continuation of permit coverage	<p>Updated and made editorial changes as follows:</p> <p><i>“a. Any owner authorized to discharge under this general permit and who submits a complete registration statement for the reissued general permit by November 1, <del>2016</del>2021, in accordance with Part III A or who is not required to register in accordance with Part I A 2 is authorized to continue to discharge under the terms of this general permit until such time as the board either:</i></p> <p><i>(1) Issues coverage to the owner under the reissued general permit, or</i></p> <p><i>(2) Notifies the owner that <u>the discharge is not eligible for coverage under the reissued this general permit is denied.</u></i></p> <p><i>b. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:</i></p> <p><i>(1) Initiate enforcement action based upon the <u>2012 general permit that has been continued,</u></i></p> <p><i>(2) Issue a notice of intent to deny coverage under the <del>amended</del>reissued general permit. <del>if the general permit coverage is denied,</del> the owner would then be required to cease the <del>activities</del>discharges authorized by the <u>administratively continued coverage under the terms of the 2012 general permit</u> or be subject to enforcement action for operating without a permit, or</i></p> <p><i>(3) Take other actions authorized by the State Water Control Law.”</i></p>
70.I.B.3.c	Aggregate registration of facilities not subject to waste load allocations included in the Water Quality Management Planning Regulation (9VAC25-720-50.C thru 120.C) are not eligible to generate credits.	The language restricting the ability of these facilities to generate credits has been stricken to reflect the same provision being stricken from the Code of Virginia. The effect is that smaller, “non-significant” dischargers can generate credits and fully participate in the trading program.
70.I.C.1.a	York River Phosphorus schedule of compliance date of January 1, 2016.	References to the York River Phosphorus schedule of compliance have been deleted as this schedule will have been completed prior to the effective date of the reissued general permit. Effective dates for James River Phase 2 Total Nitrogen (January 1, 2022) and James River Phase 2 Total Phosphorus (January 1, 2017) waste load allocations are established for the new waste load allocations included in 9VAC25-820.80. No schedule of compliance is established for the new Total Phosphorus waste load allocations because the watershed aggregate waste load is currently being met and §62.1-44.19.14.C.2 of the Code of Virginia requires compliance with the new waste load allocations as soon as possible.
70.I.C.2.b	Waiving of compliance schedules	Reference to 9VAC25-820-70 replaced with “ <u>9VAC25-820-80</u> ” and compliance date updated from 2012 to “ <u>2017</u> ” to reflect location of listing of facilities subject to a compliance schedule and the reissued permit term.
70.I.D.	Annual update of compliance plan reference to Water Quality Improvement Fund	“Water Quality Improvement Fund” replaced with “ <u>Nutrient Offset Fund</u> ” to reflect current state code (§10.1-2128.2)
70.I.E.1.	Monitoring Requirements	Sample collection frequencies were modified to require more frequent sampling at certain facilities. A new sampling frequency of “ <u>2/Week*</u> ” was established for facilities designed to discharge between 5.0 and 19.999 Million Gallons per Day (MGD). A new sampling frequency of “ <u>4/Month**</u> ” was established for facilities designed to discharge between 0.5 and 0.999

		<p>MGD. These increased monitoring frequencies were made to more accurately quantify the annual nutrient loads from these facilities and to reflect the minimum monitoring frequency typically necessary for process control. In order to minimize any increase in laboratory analysis costs, the following footnotes to the new monitoring frequencies have been included:</p> <p><u>“* Two 24-hour flow composited samples taken in the same calendar week which are then composited by flow into a single weekly composite sample for analysis shall be considered to be in compliance with this requirement.</u></p> <p><u>** Two sets of two 8-hour flow composited samples taken at least one day apart but in the same calendar week which are then composited by flow into two weekly composite samples per month for analysis shall be considered to be in compliance with this requirement.”</u></p>										
70.I.E.4.	Treatment of total phosphorus data below the quantification level	<p>Treatment of total phosphorus data below the quantification level was modified as follows:</p> <p><u>“For total phosphorus, all daily concentration data below the quantification level (QL) for the analytical method used <del>should</del> shall be treated as half the QL.”</u></p> <p>This change clarifies intent and makes the provision consistent with the handling of total nitrogen data below the quantification level.</p>										
70.I.E.4.		<p>New maximum quantification levels were added for nitrogen parameters to eliminate the possible gaming of the permit language. Without this change the treatment of total nitrogen data below the quantification level would allow a party to report lower than actual total nitrogen loads by choosing higher quantification levels. The following language was added to the permit which is consistent with similar provisions in individual VPDES permits:</p> <p><u>“The quantification levels (QL) shall be less than or equal to the following concentrations:</u></p> <table border="1"> <thead> <tr> <th><u>Parameter</u></th> <th><u>Quantification Level</u></th> </tr> </thead> <tbody> <tr> <td><u>TKN</u></td> <td><u>0.50 mg/l</u></td> </tr> <tr> <td><u>Nitrite</u></td> <td><u>0.10 mg/l</u></td> </tr> <tr> <td><u>Nitrate</u></td> <td><u>0.20 mg/l</u></td> </tr> <tr> <td><u>Nitrite + Nitrate</u></td> <td><u>0.20 mg/l</u></td> </tr> </tbody> </table> <p><u>Higher QLs may be approved on a case by case basis where a higher QL routinely results in reportable results of the species in question or is otherwise technically appropriate based on standard lab practices.”</u></p>	<u>Parameter</u>	<u>Quantification Level</u>	<u>TKN</u>	<u>0.50 mg/l</u>	<u>Nitrite</u>	<u>0.10 mg/l</u>	<u>Nitrate</u>	<u>0.20 mg/l</u>	<u>Nitrite + Nitrate</u>	<u>0.20 mg/l</u>
<u>Parameter</u>	<u>Quantification Level</u>											
<u>TKN</u>	<u>0.50 mg/l</u>											
<u>Nitrite</u>	<u>0.10 mg/l</u>											
<u>Nitrate</u>	<u>0.20 mg/l</u>											
<u>Nitrite + Nitrate</u>	<u>0.20 mg/l</u>											
70.I.I	Public notice for registration statements proposing modification or incorporations of new waste load allocations or delivery factors.	<p>Added the following provision to allow for public comment on any proposed nonpoint source-to-point source trading ratio less than 2:1 allowed by new provisions under 9VAC25-820.II.B.1.b.(1):</p> <p><u>“e. If applicable, any proposed nonpoint source to point source trading ratio less than 2:1 proposed under Part II 1 b (1).”</u></p>										
70.I.J.1.c.	Compliance with waste load allocations reference to Water Quality Improvement Fund	<p>“Water Quality Improvement Fund” replaced with <u>“Nutrient Offset Fund”</u> to reflect current state code (§10.1-2128.2)</p>										
70.I.J.2.e.	Credit acquisition from owners of permitted facilities reference to Water Quality Improvement Fund	<p>“Water Quality Improvement Fund” replaced with <u>“Nutrient Offset Fund”</u> to reflect current state code (§10.1-2128.2)</p>										
70.I.J.3.	Credit acquisitions references to Water Quality Improvement	<p>“Water Quality Improvement Fund” replaced with <u>“Nutrient Offset Fund”</u> to reflect current state code (§10.1-2128.2)</p>										

	Fund  Payments to the Fund for nitrogen credits	Prices for purchases from the Fund are updated as follows: <del>Payments to the Water Quality Improvement</del> <u>Nutrient Offset Fund shall be in the amount of \$6.04\$4.60 for each pound of nitrogen and \$15.08\$10.10 for each pound of phosphorus and shall be subject to the following requirements:</u> These prices reflect the average cost of nutrient removal at projects financed by the Water Quality Improvement Fund over the previous 5 years.
70.II.B.1. b.	Acquisition of waste load allocations	<p><i>“1. Such allocations may be acquired from one or a combination of the following:</i></p> <p><i>a. Acquisition of all or a portion of the waste load allocations or point source nitrogen or point source phosphorus credits from the owners of one or more permitted facilities, based on delivered pounds by the respective trading parties as listed by the department;</i></p> <p><i>b. Acquisition of credits certified by the board pursuant to § 62.1-44.19:20 of the Code of Virginia or certified by the Soil and Water Conservation Board pursuant to § 10.1-603.15:2 of the Code of Virginia. Credits used to offset new or increased nutrient loads under this subdivision shall be:</i></p> <p><i>(1) Subject to a trading ratio of two pounds reduced for every pound to be discharged if certified as a nonpoint source credit by the Soil and Water Conservation Boardboard pursuant to § 10.1-603.15:2§62.1-44.19:20 of the Code of Virginia; On a case-by-case basis the board may approve nonpoint source to source trading ratios of less than 2:1 (but not less than 1:1) when the applicant demonstrates factors that ameliorate the presumed 2:1 uncertainty ratio for credits generation by nonpoint sources such as:</i></p> <p><i>(a) When direct and representative monitoring of the pollutant loadings from a nonpoint source is performed in a manner and at a frequency similar to that performed at VPDES point sources and there is consistency in the effectiveness of the operation of the nonpoint source BMP approaching that of a conventional point source.</i></p> <p><i>(b) When nonpoint source credits are generated from land conservation that ensures permanent protection through a conservation easement or other instrument attached to the deed and when load reductions can be reliably determined.</i></p> <p>These changes reflect the transfer of the responsibility to certify nonpoint source credits from the Department of Conservation to the Department of Environmental Quality as well as the allowance of nonpoint source-to-point source trading ratios less than 2:1 under limited circumstances. The application of the provision for nonpoint-to-point source trading ratios less than 2:1 is subject to public comment and is expected to occur very rarely.</p>
70.II.B.1. c.	Acquisition of waste load allocations reference to Water Quality Improvement Fund	“Water Quality Improvement Fund” replaced with <u>“Nutrient Offset Fund”</u> to reflect current state code (§10.1-2128.2)
70.II.B.4.	Provision addressing pricing of annual allocation acquisitions from the Fund	The following modifications were made to replace “Water Quality Improvement Fund” with <u>“Nutrient Offset Fund”</u> to reflect current state code (§10.1-2128.2) and to delete outdated references to the Department of Conservation and Recreation: <del>“4. Annual allocation acquisitions from the Water Quality Improvement</del> <u>Nutrient Offset Fund. The cost for each pound of nitrogen and each pound of phosphorus shall be determined at the time payment is made to the WQIFNutrient Offset Fund, based on the higher of (i) the estimated cost of</u>

		<p><i>achieving a reduction of one pound of nitrogen or phosphorus at the facility that is securing the allocation, or comparable facility, for each pound of allocation acquired; or (ii) the average cost, as determined by the <del>Department of Conservation and Recreation</del> department on an annual basis, of reducing two pounds of nitrogen or phosphorus from nonpoint sources in the same tributary for each pound of allocation acquired.</i></p>
70.III	Conditions Applicable to all VPDES Permits	<p>A wholesale replacement was made to Section 70.III Conditions Applicable to all VPDES Permits to replace outdated language and to ensure consistency with other general VPDES permits as well as 9VAC-31-190 Conditions applicable to all permits. The modifications are as follows:</p> <p style="text-align: center;"><i>“Part III Conditions Applicable To All VPDES Permits</i></p> <p><i>A. Monitoring:</i></p> <ol style="list-style-type: none"> <li><i>1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.</i></li> <li><i>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.</i></li> <li><i>3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.</i></li> <li><i>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).</i></li> </ol> <p><i>B. Records:</i></p> <ol style="list-style-type: none"> <li><i>1. Records of monitoring information shall include:</i> <ol style="list-style-type: none"> <li><i>a. The date, exact place, and time of sampling or measurements;</i></li> <li><i>b. The individual(s) who performed the sampling or measurements;</i></li> <li><i>c. The date(s) and time(s) analyses were performed;</i></li> <li><i>d. The individual(s) who performed the analyses;</i></li> <li><i>e. The analytical techniques or methods used; and</i></li> <li><i>f. The results of such analyses.</i></li> </ol> </li> <li><i>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.</i></li> </ol> <p><i>C. Reporting monitoring results. Monitoring results under this permit are not required to be submitted to the department. However, should the board request that the permittee submit monitoring results, the following subsections would apply:</i></p> <ol style="list-style-type: none"> <li><i>1. The permittee shall submit the results of the monitoring required by</i></li> </ol>

~~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.~~

~~2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.~~

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

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

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

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

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

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

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

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

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

~~2. The cause of the discharge;~~

~~3. The date on which the discharge occurred;~~

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

~~5. The volume of the discharge;~~

- 6. ~~If the discharge is continuing, how long it is expected to continue;~~
- 7. ~~If the discharge is continuing, what the expected total volume of the discharge will be; and~~
- 8. ~~Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.~~

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

~~H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:~~

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

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

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

- a. ~~Any unanticipated bypass; and~~
- b. ~~Any upset that causes a discharge to surface waters.~~

~~2. A written report shall be submitted within five days and shall contain:~~

- a. ~~A description of the noncompliance and its cause;~~
- b. ~~The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and~~
- c. ~~Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.~~

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

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

~~NOTE: The immediate (within 24 hours) reports required in Parts III G, H, and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingReport.aspx>. For reports outside normal working hours, a message may~~

~~be left and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.~~

~~J. Notice of planned changes.~~

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

~~a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced: (1) After promulgation of standards of performance under Section 306 of the Clean Water Act that are applicable to such source; or (2) After proposal of standards of performance in accordance with Section 306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal;~~

~~b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or~~

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

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

~~K. Signatory requirements.~~

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

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

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

~~c. For a municipality, state, federal, or other public agency: by~~

*either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.*

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

*a. The authorization is made in writing by a person described in Part III K 1;*

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

*e. The written authorization is submitted to the department.*

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

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

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

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

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

*M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee*

shall submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

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

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

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

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

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

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

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

*U. Bypass.*

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

2. Notice.

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

b. Unanticipated bypass. The permittee shall submit notice of an

~~unanticipated bypass as required in Part III I.~~

~~3. Prohibition of bypass.~~

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

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

~~(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime.~~

~~This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and~~

~~(3) The permittee submitted notices as required under Part III U~~

~~2.~~

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

~~V. Upset.~~

~~1. An upset, defined in 9VAC25-31-10, constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.~~

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

~~a. An upset occurred and that the permittee can identify the cause(s) of the upset;~~

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

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

~~d. The permittee complied with any remedial measures required under Part III S.~~

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

~~W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:~~

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

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

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

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

~~For purposes of this section, the time for inspection shall be deemed~~

~~reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.~~

~~X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or notification of planned changes or anticipated noncompliance does not stay any permit condition.~~

~~Y. Transfer of permits.~~

~~Permits are not transferable to any person except after notice to the department. Coverage under this permit may be automatically transferred to a new permittee if:~~

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

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

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

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

A. Monitoring.

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

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.

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

4. 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).

B. Records.

1. Records of monitoring information shall include:

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

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

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.

C. Reporting monitoring results. Monitoring results under this permit are not required to be submitted to the department. However, should the board request that the permittee submit monitoring results, the following subsections would apply.

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.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

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

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

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

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

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

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

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

G. Reports of unauthorized discharges. Any permittee who discharges or

causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

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

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

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:

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

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

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

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to surface waters.

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

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

NOTE: The immediate (within 24 hours) reports required in Parts III G, H, and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingReport.aspx>. For reports outside normal working hours, a message may be left and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

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

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

(1) After promulgation of standards of performance under Section 306 of the Clean Water Act that are applicable to such source; or

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

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

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

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

K. Signatory requirements.

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

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which

govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or other actions taken to gather complete and accurate information for permit registration requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

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

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

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

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

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

c. The written authorization is submitted to the department.

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

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

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

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with

certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit coverage renewal application.

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

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

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

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

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

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

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

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

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

conditions of this permit.

U. Bypass.

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

2. Notice.

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

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

3. Prohibition of bypass.

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

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

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime.

This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

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

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

V. Upset.

1. An upset, defined in 9VAC25-31-10, constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

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

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

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

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

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

		<p><u>1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;</u></p> <p><u>2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;</u></p> <p><u>3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and</u></p> <p><u>4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.</u></p> <p><u>For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.</u></p> <p><u>X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or notification of planned changes or anticipated noncompliance does not stay any permit condition.</u></p> <p><u>Y. Transfer of permits.</u>  <u>Permits are not transferable to any person except after notice to the department. Coverage under this permit may be automatically transferred to a new permittee if:</u></p> <p><u>1. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property, unless permission for a later date has been granted by the board;</u></p> <p><u>2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and</u></p> <p><u>3. The board does not notify the existing permittee and the proposed new permittee of its intent to deny the new permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2.</u></p> <p><u>Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.”</u></p>
80	This section includes TP waste load allocations for York Basin dischargers as required by the Chesapeake Bay TMDL.	Eliminate the York River TP waste load allocations as they are now incorporated in 9VAC25-720 (Water Quality Management Planning Regulation) and includes reduced TN and TP waste load allocations for James River Basin dischargers in accordance with the Commonwealth of Virginia Chesapeake Bay TMDL Phase I Watershed Implementation Plan dated November 29, 2010. This includes establishing individual TP waste load allocations for the James River dischargers..
10 thru 80		There are numerous minor grammatical and editorial changes throughout the regulation that do not change the intent of the regulatory provision.

**Fast Track Action: Amendment to the Groundwater Withdrawal Regulations (9VAC25-610) (Rev. A15):** This fast-track regulatory action is being taken to implement changes to state law resulting from Chapter 465 of the 2015 Acts of

Assembly. These are final amendments to the existing regulation. Staff intends to ask the Board to authorize the Department to publish the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. Staff will ask that this authorization also constitute adoption of the regulation amendments at the end of the comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal. Additionally, staff intends to ask the Board to authorize the Department to set an effective date 15 days after the close of the 30-day comment period, provided that (i) the proposal completes the fast-track process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the proposal.

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules; or the Department finds it necessary, based on public comments or for any other reason, to make any changes to the proposal, the agency shall: (i) file notice of the objection/reason with the Registrar of Regulations for publication in the Virginia Register; and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action. The substantive changes to the groundwater withdrawal regulation include:

Registration of private wells: A new section (9VAC25-610-42) is added to provide requirements for the registration of private wells. Subsection A of that section requires that certified water well systems providers that are constructing private wells in groundwater management areas register those wells constructed after a certain date. Subsection B requires that the wells be registered within 30 days of the completion of construction. Subsection C requires that registration be made using forms provided by the Department and the forms be submitted to the Department. Subsection D requires that the registration include certain information necessary to identify the well, to locate the well, to determine the type of use for the groundwater, the construction of the well, and capacity of the well if applicable, the pump setting, and geophysical information associated with the placement of the well.

New definitions: Two new definitions are added to 9VAC25-610-10; "water well systems provider" and "private well". These terms are necessary to properly implement the revised regulation.

**Request to Adopt Fast Track Amendments to the Surface Water Management Area Regulation (9VAC25-220 et seq.):** The staff will bring to the State Water Control Board (Board) at the October 1, 2015 meeting, a request to accept final amendments to the Surface Water Management Area Regulation (9VAC25-220 et seq.) This regulatory amendment will be processed using the fast-track regulatory process. Section 2.2-4012.1 of the Code of Virginia allows for regulations to be modified using the fast track process when changes are expected to be noncontroversial. This regulation establishes the requirements for surface water withdrawals that occur within surface water management areas. This regulatory amendment is needed to update the regulation with state statute, and to correct statutory citations within the regulation. Staff recently reviewed this regulation as part of a periodic review and minor changes were identified as being needed to the regulation. Outdated references to the Public Participation Guidelines and the Administrative Process Act were identified in the regulation. Inconsistencies with state statute were also identified.

**General VPDES Permit Regulation for Seafood Processing Facilities (VAG52) Amendments to 9VAC25-115:** The current VPDES Seafood Processing General Permit will expire on July 23, 2016, and the regulation establishing this general permit is being amended to reissue another five-year permit. The staff is bringing this final regulation before the Board to adopt the revised permit regulation. The regulation takes into consideration the recommendations of a technical advisory committee formed for this regulatory action. The technical advisory committee consisted of industry representatives and DEQ staff. None of the changes proposed are significant. Changes proposed include adding new dates, reformatting and adding clarifying language to match other general permits, adding the existing definition of 'raw material' to the oyster processing limits table, adding a special condition explaining permit coverage termination procedures, changing the preparation, update and implementation of the storm water pollution prevention plan to within 60 days of permit coverage, adding allowable non-stormwater discharges and adding a requirement to take monitoring samples in accordance with VELAP (Virginia Environmental Laboratory Accreditation Program). A Notice of Public Comment and Hearing (NOPC) was issued on May 4, 2015 with the public comment period ending on July 6, 2015. No one attended the public hearing on June 11, 2015. One comment was received indicating concern about the proposed

regulation from Delegate Margaret Ransone (99<sup>th</sup> District – Northern Neck area). Staff responded with the information requested and nothing further resulted.

**Final Exempt Action: Amendments to the Fees for Permits and Certificates (Fee) regulation (9VAC25-20-10 et seq.), the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31-10 et seq.) and the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32-10 et seq.) Regarding Fees and Local Monitoring for Land Application of Industrial Wastes:** At the October 1, 2015 meeting, the staff intends to bring to the Board a request to amend regulations that pertain to the regulation of industrial wastes in the Commonwealth. These changes are being made solely as a result of the legislative changes included in the 2015 Session House Bill 1364 and Senate Bill 1413, which amended §§ 62.1-44.16 and 62.1-44.19:3 of the Code of Virginia and added a section numbered 62.1-44.16:1, relating to fees for the land application of industrial wastes. The amended legislation specifies the conditions under which localities may employ local monitors for monitoring land application of solid and semi-solid industrial wastes, and authorizes DEQ to charge a land application fee for each dry ton of solid and semi-solid industrial wastes land applied in localities with local ordinances for monitoring of industrial wastes. Fees would be collected in order to reimburse localities for monitoring activity. Enactment clause #2 of HB1364 and SB 1413 specifies that the State Water Control Board shall promulgate regulations to implement the provisions of the acts to be effective no later than January 1, 2016. The State Water Control Board's initial adoption of regulations necessary to implement the provisions of the acts shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) of the Code of Virginia, except that the Department of Environmental Quality (DEQ) shall utilize a regulatory advisory panel to assist in the development of necessary regulations and shall provide an opportunity for public comment on the regulations prior to adoption. While the land application of industrial residuals is managed in a manner similar to the land application of biosolids, one difference was that a locality has the authority to adopt an ordinance to establish a local biosolids monitor who can oversee biosolids land application activities and conduct testing in accordance with §62.1-44.19:3.I of the Code of Virginia. In accordance with §62.1-44.19:3.P of the Code of Virginia, the Department of Environmental Quality also collects a fee for biosolids land applied Virginia to fund the program and reimburse localities for local monitoring activities. However, §62.1-44.16 of the Code of Virginia, regarding industrial wastes, did not include corresponding language allowing for a similar local monitoring program for the land application of industrial wastes. During the 2015 Session of the Virginia General Assembly, House Bill 1364 and Senate Bill 1413 (identical bills) were passed by the House and Senate, respectively, and approved by the Governor. The amended legislation authorized local monitors for land application of solid and semi-solid industrial wastes, and authorized DEQ to charge a land application fee for each dry ton of solid and semi-solid industrial wastes land applied in localities with local ordinances for monitoring of industrial wastes. The legislation amended § 62.1-44.16 of the Code of Virginia to allow localities to adopt ordinances establishing a local monitoring program to test and monitor the land application of solid and semisolid industrial waste. The amendments mirror the requirements for the fees for testing and monitoring of biosolids land application in §§62.1-44.19:3 and 62.1-44.19:3.2 of the Code of Virginia. § 62.1-44.16:1 was added to address the responsibilities and authority of a locality with an ordinance to enforce the regulation. This statute mirrors the language in § 62.1-44.19:3.2 of the Code of Virginia, which describes local enforcement of sewage sludge regulations. The legislation also amended § 62.1-44.16 of the Code of Virginia to authorize the State Water Control Board to adopt regulations imposing a fee on the generators of solid or semisolid industrial waste land applied and establish necessary procedures for managing the funds. § 62.1-44.19:3 of the Code of Virginia was amended to address the deposition of fees related to the land application of industrial wastes into the Sludge Management Fund, and specify parameters for the management of those fees. Enactment clause #3 of both bills stipulated that DEQ charge a fee of \$5.00 per dry ton of solid or semisolid industrial wastes land applied in localities where an ordinance has been adopted.

Enactment clause #2 of both bills stipulated that while the act was exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) of the Code of Virginia, the Department of Environmental Quality shall utilize a regulatory advisory panel to develop the regulation and provide an opportunity for public comment prior to adoption. The regulatory advisory panel met on June 19, 2015. A draft of the proposed regulatory amendments was posted on Town Hall on July 14, 2015, opening the comment period; and the comment period ended August 14, 2015. Two comments were received; both commenters were concerned with the adequacy of the \$5.00 fee, relative to the \$7.50 fee for the land application of biosolids. One local government was concerned about their ability to satisfy the needs of their citizens with divergent opinions on land application, the time and costs involved for monitoring, and the available training. As DEQ staff developed the proposed amendments in strict accordance with the legislative directive, no changes were made to the proposed regulatory amendments in response to the comments received.

Below is a detailed summary of the regulatory amendments:

Fee Regulation:

- Section 10. Definitions - A new definition was added to define the term “industrial residuals” and other definitions were revised to include the term “industrial residuals,” where appropriate. The definition of land application was also revised to be consistent with other regulations.
- Section 20. Purpose – Added a statement to acknowledge the fees for land application of industrial residuals in the regulation.
- Section 40. Applicability – Added a statement to acknowledge the fees for land application of industrial residuals in the regulation.
- Section 60. Due Dates - Added “industrial residuals” to the fee requirements.
- Section 90. Deposit and use of fees – Added “industrial residuals” and references to § 62.1-44.16 to the procedural requirements.
- Section 100. General – Added “industrial residuals” to the general description.
- Part IV – Added “industrial residuals” to the title “Biosolids Fees and Reimbursable Costs”
- Section 146. Established Fees - Added the requirement for land applier to collect fee of \$5.00 per dry ton from the generator of industrial residuals land applied in localities that have adopted ordinances. Included industrial residuals in procedures for disbursement as required for biosolids.
- Section 147. Records and Reports - Added language to records and reporting requirements to include documentation of industrial residuals land applied in order to determine the fees.
- Section 148. Added language to include industrial residuals in the itemization of reimbursable cost.
- Section 149. Reimbursement of Local Monitoring Costs - Revised language to include industrial residuals in the procedures for applying for reimbursement for monitoring and testing activities.

VPDES Regulation:

- Section 10. Definitions – Four new definitions were added: “industrial residuals,” “industrial wastes,” “land application” and “local ordinance.”
- Section 475. Local Enforcement of Biosolids Regulations. This section was moved from Part VI – Standards for the Use of Biosolids or Disposal of Sewage Sludge to Part VIII – Enforcement, to include industrial residuals.
- Section 915. Local Enforcement – This section was moved to Part VIII Enforcement from Part VI - Standards for the Use of Biosolids or Disposal of Sewage Sludge. Language was added to include enforcement of the land application industrial residuals in the same manner as biosolids.

VPA Regulation:

- Section 10. Definitions – Added the definition for “industrial residuals” and revised other definitions as appropriate to include industrial residuals.
- Section 285. Local Enforcement – This section was moved to Part VII Enforcement from Part IX Biosolids Program and language was added to include enforcement of the land application industrial residuals in the same manner as biosolids.
- Section 320. Local Enforcement of Biosolids Regulations. This section was moved as described above.

All regulatory changes included in this recommendation would become effective on January 1, 2016 as prescribed by Enactment clause #3 of HB1364 and SB 1413.

**Approval of two TMDL reports and amendment of the Water Quality Management Planning Regulation to incorporate the corresponding TMDL wasteload allocations:** Staff will ask the Board to approve portions of two TMDL Reports and add twelve new WLAs to two sections of the Water Quality Management Planning (WQMP) regulation: 9 VAC 25-720-50.A (Potomac-Shenandoah River Basin) and 9 VAC 25-720-60.A (James River Basin). The two TMDL reports and twelve WLAs are:

1. The report titled, “*Bacteria TMDL Development for Crooked Run, Borden Marsh Run, Willow Brook, West Run, Long Branch, Stephens Run, Manassas Run, and Happy Creek Watersheds, and Sediment TMDL Development for Happy Creek Watershed Located in Clarke, Frederick, and Warren Counties, Virginia,*” proposes sediment reductions for the Happy Creek watershed and provides a sediment wasteload allocation of 29.05 tons/year. In addition, the TMDL report proposes *E. coli* reductions for the Crooked Run, Borden Marsh Run, Willow Brook, West Run, Long Branch, Stephens Run, Manassas Run, and Happy Creek watersheds and provides *E. coli* wasteload allocations of 2.22E12 cfu/year, 2.81E11 cfu/year, 2.33E11 cfu/year, 5.80E11 cfu/year, 1.73E11 cfu/year, 3.07E11 cfu/year, 3.24E11 cfu/year, and 4.27E11 cfu/year.

2. The report titled “*Bacteria TMDL Development for the Turkey Island Creek and James River Westover to Claremont Watershed in Charles City, Henrico, Prince George, and Surry Counties, Virginia,*” proposes *E. coli* reductions for the Turkey Island Creek, James River Westover to Chippokes Point, and James River Chippokes Point to Claremont watersheds and provides *E. coli* wasteload allocations of 4.31E11 cfu/year, 4.25E13 cfu/year, and 4.99E13 cfu/year. The specific portions of the TMDL reports to be approved include the TMDL itself and all the TMDL allocation components, the pollutant reduction scenarios, implementation strategies, and reasonable assurance that the TMDL can be implemented and a summary of the public participation process. The process for amending the WQMP regulation is specified in §2.2-4006A.14 and §2.2-4006B of the Code of Virginia. The amendments consist of adding twelve new WLAs that are included in TMDL reports reviewed by EPA. Staff will therefore propose that the Board, in accordance with §2.2-4006A.14 and §2.2-4006B of the Code of Virginia, adopt the amendments to the WQMP Regulation (9 VAC 25-720) below.

**Report on Facilities in Significant Noncompliance:** Two permittees were reported to EPA on the Quarterly Noncompliance Report (QNCR) as being in significant noncompliance (SNC) for the quarter ending March 31, 2015. The permittees, the facilities and the reported instances of noncompliance are as follows:

Permittee/Facility:  Type of Noncompliance:  City/County: Receiving Water: Impaired Water:   River Basin: Dates of Noncompliance: Requirements Contained In: DEQ Region:	<b>King George County Service Authority,          Dahlgren District Wastewater Treatment Plant          Failure to Meet Permit Effluent Limit (Total Suspended Solids Concentration Average)</b> King George, Virginia Williams Creek Williams Creek is listed in DEQ's 305(b) report as impaired for aquatic life use due to low dissolved oxygen and insufficient aquatic plants (macrophytes). The segment into which the facility discharges is also listed as impaired for recreational use due to elevated levels of Enterococci bacteria. The sources of the impairments are listed variously as agriculture, municipal point sources, industrial discharges, sanitary sewer overflows, loss of habitat and atmospheric deposition of Nitrogen. Potomac River Basin, Potomac River SubBasin January, February and March 2015 VPDES Permit No. VA0026514 Northern Regional Office
---	--

Both Central Office staff and staff of the Department's Northern Regional Office are evaluating the case for enforcement action. The Authority has been the subject of a number of enforcement actions in the past. Given the foregoing, a referral of the case to the Office of the Attorney General for civil action is under consideration.

Permittee/Facility:  Type of Noncompliance:  City/County: Receiving Water: Impaired Water:   River Basin: Dates of Noncompliance:  Requirements Contained In: DEQ Region	<b>Greif Packaging, LLC, Riverville Wastewater Treatment Facility          Failure to Meet Permit Effluent Limit (Biochemical Oxygen Demand Quantity Average)</b> Amherst County James River The stream segment of the James River into which the facility discharges is listed as impaired for the fish consumption use because of polychlorinated biphenyls (PCBs) in the water column. The sources of the impairment are listed as contaminated sediments or unknown. James River Basin, James River (Middle) SubBasin February and March 2015 VPDES Permit No. VA0006408 Blue Ridge Regional Office
---	--

The staff of the Department's Blue Ridge Regional Office have drafted an administrative penalty order addressing the violations and are currently discussing its terms with the permittee.

**Honeywell Resins & Chemicals LLC, Hopewell - Consent Special Order w/ Civil Charges:** The order addresses violations of monitoring and reporting requirements of the VPDES permit, violations of permit effluent limitations and spills of chemicals and other materials used by Honeywell, i.e. nitric acid, hydroxylamine, methyl ethyl ketoxime, methyl ethyl ketone, ammonium carbonate, caprolactam, cyclohexanone, oil, hydraulic fluid and gasoline. The most recent spill occurred in November 2014 and resulted in a kill of more than 2,000 fish in Gravelly Run. Honeywell is a major producer and global supplier of caprolactam, a merchant-grade, nylon 6 intermediate used in a range of applications, including carpet, textiles, engineering plastics, films and industrial filament. The Honeywell plant in Hopewell, Va., with a capacity of 350,000 metric tons of caprolactam per year, is one of the largest single-site caprolactam production facilities in the world. The proposed order requires Honeywell to inspect, repair or replace process sewers and sumps at the facility that, due to their deteriorated condition, allowed the release of spilled chemicals into the James River. The other violations mentioned above have already been addressed by the company. (It should be noted that, in addition to the proposed enforcement action, DEQ and the U.S. Fish and Wildlife Service are coordinating to address natural resource damages caused by past spills at the site, including recovery of damages and costs for the November 2014 fish kill.) Honeywell estimates that corrective action will cost more than \$12,000,000. Civil charge: \$300,000.

**Development of Virginia's FY 2016 Clean Water Revolving Loan Funding List:** In order to begin the process of developing the 2016 Clean Water Revolving Loan Funding List, the Board needs to consider its FY 2016 loan requests, tentatively adopt a FY 2016 Project Priority List based on anticipated funding, and authorize the staff to receive public comments. On May 29, 2015 the staff solicited applications from the Commonwealth's localities and wastewater authorities as well as potential land conservation applicants and Brownfield remediation clientele. July 17, 2015 was established as the deadline for receiving applications. Based on this solicitation, DEQ received fifteen (15) wastewater improvement applications requesting \$62,175,702, two (2) applications for land conservation projects (totaling \$5,310,000), one (1) Brownfield remediation application (1,000,000), and one (1) stormwater management application for an additional \$1,705,275, bringing the total amount requested to \$70,190,977.

Funding Availability for FY 2016: With substantial revenues coming in from our large loan portfolio, continued federal and state match funding, and moderate loan demand over the last several years, the VCWRLF continues to maintain very healthy account balances. Therefore, even with the likely reduction in federal appropriations expected this year, the accumulation of monies that have and will occur in the Fund through loan payments, interest earnings, and de-allocations from leverage accounts will result in enough funding being available during the FY 2016 funding cycle to fund all of the applications received. The staff believes it is prudent to move forward with the initial targeting of Virginia's proposed FY 2016 clean water revolving loan funding list for public review based on this projected availability. Final Board approval of the list will not be requested until the December meeting.

Application Evaluation: All 15 wastewater applications were evaluated in accordance with the program's Funding Distribution Criteria. In keeping with the program objectives and funding prioritization criteria, the staff reviewed project type and impact on state waters, the locality's compliance history and fiscal stress, and the projects' readiness-to-proceed. The one stormwater application was reviewed in accordance with the Board's Priority Ranking Criteria for Stormwater projects. All wastewater/stormwater applications are considered to be of good quality and should provide significant water quality and environmental improvement. The Brownfield remediation project was also determined to provide direct improvement to groundwater quality and is being recommended for funding. The 2 land conservation applications were reviewed using the Board's evaluation criteria and the staff also received input from the Department of Conservation and Recreation in accordance with the Board guidelines and state law. Based on this review and input, the staff believes that both land conservation projects would provide for the protection of land that is valuable from a water quality perspective and should be funded. During its 2003 session, the Virginia General Assembly added language to the Code that allowed the State Water Control Board to authorize low interest loans from the Fund for acquisition of title or other rights to real property, when the Board was satisfied that the acquisition would protect or improve water quality and prevent pollution of state waters. According to the enabling legislation, VCWRLF financing for land acquisition can only be available in fiscal years when there is a balance remaining after the Fund has satisfied all eligible loan requests from local governments. There are funds available in the Fund for these projects after all the requests from local governments are satisfied.

The recommended project funding list shown below provides funding for all the applications received. It is based on the best information and assumptions currently available to staff from the applications received, existing and projected Fund balances, federal budget projections, and discussions between DEQ and the Virginia Resources Authority. Several

activities will be occurring over the next few months to help clarify these factors and provide additional input to the process including the following: (1) DEQ will hold individual meetings with targeted recipients to verify the information in the applications, (2) finalization of the federal budget for 2016 should determine the federal appropriation for the Clean Water SRF, and (3) staff will provide public notification of the proposed project list and hold a public meeting. The staff is recommending that the list be tentatively adopted, subject to the verification of information in the loan applications and public review and comment. The final list will be brought back to the Board in December.

	<b>Applicant</b>	<b>Project Type</b>	<b>Requested Amount</b>
1	City of Norfolk	Wastewater	\$7,000,000
2	Town of Pound	Wastewater	\$3,386,135
3	Bristol Virginia Utilities Authority	Wastewater	\$5,976,277
4	Town of Elkton	Wastewater	\$2,767,900
5	City of Salem	Wastewater	\$4,991,000
6	Wise County PSA	Wastewater	\$268,977
7	City of Martinsville	Wastewater	\$10,000,000
8	Town of White Stone	Wastewater	\$6,565,000
9	City of Martinsville	Wastewater	\$11,740,000
10	Town of Marion	Wastewater	\$505,175
11	Charles City County	Wastewater	\$1,104,500
12	City of Galax	Wastewater	\$8,573,000
13	Floyd County PSA	Wastewater	\$1,549,500
14	Scott County PSA	Wastewater	\$563,238
15	Harrisonburg/Rockingham RSA	Wastewater	\$3,000,000
16	City of Lynchburg	Stormwater	\$1,705,275
17	Virginia Conservation Legacy Fund	Land Conservation	\$2,650,000
18	The Nature Conservancy in VA	Land Conservation	\$2,660,000
19	City of Norfolk	Brownfield	\$1,000,000
		<b>Total =</b>	<b>\$70,190,977</b>