



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	State Water Control Board
VAC Chapter Number:	9 VAC 25-191 et seq.
Regulation Title:	Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Concentrated Animal Feeding Operations
Action Title:	Adoption of VPDES General Permit for Concentrated Animal Feeding Operations
Date:	March 24, 2003

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose*

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the proposed action is to develop and adopt a general permit regulation to comply with the requirements set forth in 40 CFR Parts 9, 122, 123, and 412, as published in the Federal Register Volume 68, No. 29, dated February 12, 2003. This general permit regulation will govern the authorization to manage pollutants from concentrated animal feeding operations, including storage and land application of animal waste.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory

action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Section 62.1-44.15 of the Code of Virginia allows the State Water Control Board to issue permits authorizing the proper management of pollutants, including animal waste.

Need*

Please detail the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied

In order to comply with the changes to 40 CFR Parts 9, 122, 123, and 412, as published in the Federal Register Volume 68, No. 29, dated February 12, 2003, the Board must update VPDES regulations. The use of a general permit provides permittees the authority to manage pollutants and allows for the protection of state waters while utilizing fewer resources of the Commonwealth. A site specific nutrient management plan will be required for each individual operation covered by the VPDES general permit.

Substance*

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed.

The State Water Control Board has the authority to administer the Federal National Pollutant Discharge Elimination System program within the Commonwealth, and as such, the program is called the Virginia Pollutant Discharge Elimination System program. Operations that meet the Federal definition of Concentrated Animal Feeding Operation (CAFO) found in 40 CFR 122.23 must seek coverage under a NPDES permit. This action will result in the promulgation of a VPDES general permit that will allow those operations to obtain this type of permit. Some operations currently permitted under the Virginia Pollution Abatement (VPA) General Permit for Confined Animal Feeding Operations will be required to obtain a VPDES permit.

Alternatives*

Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action, and the reasoning by which the agency has rejected any of the alternatives considered.

There are two alternatives for compliance with the new Federal requirements. One is to issue an individual VPDES permit to each operation that meets the new Federal requirements. The other is to adopt a general VPDES permit to cover this activity. Due to the magnitude of concentrated animal feeding operations that must seek coverage, it is not practical to issue individual permits to each of these sites. Individual permits will only be issued to those sites that do not qualify to be permitted under the general permit.

Public Participation*

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a meeting because the agency has authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate where information on the public meeting (i.e., date, time and place) may be found.

The Board is seeking comments on the intended regulatory action, including (i) ideas to assist in the development of a proposal, (ii) the costs and benefits of the alternatives stated in this notice or other alternatives, and (iii) impacts of the regulation on farm or forest lands. Anyone wishing to submit written comments for the public comment file may do so by mail, fax, or email to Scott Haley, Office of Water Permit Programs; Dept. of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804)698-4443, fax (804)698-4032, email tshaley@deq.state.va.us. Written comments must include the name and address of the commenter. In order to be considered comments must be received by 4:00 PM on April 23, 2003.

Following publication of the draft general permit regulation in the *Virginia Register*, the Board will hold at least one public hearing to provide opportunity for public comment.

Participatory Approach*

Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board is forming a Technical Advisory Committee composed of relevant stakeholders to assist in the development of the general permit. Persons interested in participation on the advisory committee should provide their name, address, telephone number and the name of the organization they represent to the contact person by 4:00 PM on April 23, 2003.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

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