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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation(s)</b>	9VAC25-630
<b>Regulation title(s)</b>	Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management.
<b>Action title</b>	Reissue and amend, if necessary, the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management
<b>Date this document prepared</b>	August 21, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

### Brief Summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The intent of this action is to reissue and amend, if necessary, the existing Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management in order to continue the general permit coverage of nearly 1000 confined poultry feeding operations. The current VPA general permit expires on November 30, 2020. The VPA Regulation and General Permit for Poultry Waste Management governs the management of poultry feeding operations which confine 200 or more animal units (20,000 chickens or 11,000 turkeys) and establishes the utilization, storage, tracking and accounting requirements related to poultry waste.

### Acronyms and Definitions

*Please define all acronyms or technical definitions used in the Agency Background Document. .*

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Confined poultry feeding operation means any confined animal feeding operation with 200 or more animal units of poultry. This equates to 20,000 chickens or 11,000 turkeys, regardless of animal age or sex.

Poultry waste means dry poultry litter and composted dead poultry.

## Mandate and Impetus

*Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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Virginia Code § 62.1-44.15 (5b) states, "All certificates issued by the Board under this chapter shall have fixed terms. ... The term of a Virginia Pollution Abatement permit shall not exceed 10 years, except that the term of a Virginia Pollution Abatement permit for confined animal feeding operations shall be 10 years." The general permit issued through this regulation must be reissued in order to meet the requirements of § 62.1-44.17:1.1 and continue the general permit coverage of nearly 1000 confined poultry feeding operations.

## Legal Basis

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

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In 1999, the Virginia General Assembly passed House Bill 1207 (§ 62.1-44.17:1.1) establishing the Virginia Poultry Waste Management Program. The Act required the State Water Control Board to develop a regulatory program governing the storage, treatment and management of poultry waste including dry waste. Virginia Code § 62.1-44.17:1.1 authorizes the State Water Control Board to establish and implement the Poultry Waste Management Program. The program established provisions for issuing general permits to confined poultry feeding operations. The regulation and general permit first became effective on December 1, 2000. The regulation and general permit was reissued for another ten-year period and became effective on December 1, 2010.

## Purpose

*Please describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.*

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The purpose of this action is to reissue and amend, if necessary, the existing Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management. The current VPA general permit expires on November 30, 2020. The VPA Regulation and General Permit for Poultry Waste Management

governs the management of poultry feeding operations which confine 200 or more animal units (20,000 chickens or 11,000 turkeys) and establishes the utilization, storage, tracking and accounting requirements related to poultry waste.

### Substance

*Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

This action is primarily a reissuance of the existing general permit as well as amendments that may be identified following the submittal of public comments on this notice or through discussions with the Technical Advisory Committee.

### Alternatives

*Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

Currently, 949 confined poultry feeding operations are covered under this general permit. One alternative to the reissuance of the VPA Regulation and General Permit for Poultry Waste Management is to issue coverage under an individual VPA permit to each poultry feeding operation, which confines 200 or more animal units. However, due to the number of confined poultry feeding operations currently required to obtain coverage under a VPA permit, it is not practical to issue coverage to each operation under an individual VPA permit. Operations that do not qualify for coverage under the general permit will be issued coverage under an individual VPA permit.

### Periodic Review and Small Business Impact Review Announcement

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."*

In addition, pursuant to Executive Order 14 (as amended, July 16, 2018) and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

### Public Participation

*Please indicate whether the agency is seeking comments on this regulation, including ideas to assist the agency in the development of the regulation and the costs and benefits of the alternatives stated in this notice or other alternatives.*

*Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulation.*

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The agency is seeking comments on this regulation, including but not limited to: ideas to be considered in the development of this regulation, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation. In addition, the agency/board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the *Code of Virginia*. Information may include: 1) projected reporting, recordkeeping, and other administrative costs; 2) the probable effect of the regulation on affected small businesses; and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at <https://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to **Betsy Bowles, P.O. Box 1105, Richmond, Virginia 23218, phone: 804-698-4059, Fax: 804-698-4032 and [Betsy.Bowles@deq.virginia.gov](mailto:Betsy.Bowles@deq.virginia.gov)**. In order to be considered, comments must be received by 11:59 p.m. on the last day of the public comment period.

### Public hearing at proposed stage

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

### Technical Advisory Committee

*A technical advisory committee will be involved in the development of the proposed regulation.*

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The Board is using a technical advisory committee to develop a proposal. Persons interested in assisting in the development of a proposal should notify the department contact person by the end of the comment period and provide their name, address, phone number, email address and the organization you represent (if any). The primary function of the advisory committee is to develop recommended regulation amendments for Department consideration through the collaborative approach of regulatory negotiation and consensus. Multi-applications from a single company, organization, group or other entity count as one for purposes of making the decision specified in the preceding sentence. Notification of the composition of the advisory committee will be sent to all applicants.

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## Family Impact

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

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It is not anticipated that an amendment to this regulation will have any impacts on the family and family stability.