


M E M O R A N D U M
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION

SUBJECT: OWPS Guidance Memorandum No. 95 - 008
General Permits

TO: Regional Directors

FROM: Larry G. Lawson, P.E. 

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As you know the State Water Control Board (SWCB or Board) has issued various VPDES General Permits, one VPA and one CAP General Permit. With each of these General Permits we have provided Guidance on their implementation. However, there apparently is still some confusion on the use and interpretation of the General Permit program. Thus, the purpose of this memorandum is to provide some background information as well as additional clarification on the General Permit and its applicability. This discussion will be primarily limited to the VPDES General Permit and specifically the VPDES General Permit for domestic sewage dischargers of $\leq 1,000$ gallons per day. However, the discussion will be applicable to the other General Permits that have been issued and that may be issued in the future.

The Clean Water Act (CWA or Act) and the State Water Control Law (SWCL or Law) and their implementing regulations require that the owner of a point source discharge of pollutants to surface waters must obtain a VPDES permit. EPA recognized, at the federal level, that to administer a permit program that involved the issuance of multiple individual VPDES permits for small discharges that involved the same or similar operations, and that contained the same effluent limitations and monitoring requirements was a questionable use of the permitting resources. Thus, they developed the concept of the General Permit and included it in the national NPDES permit regulation.

The SWCB agreed that the option provided by the EPA General Permit program would comply with the SWCL and the regulatory requirements for a VPDES permit and included the General Permit program as Section 6.2 in the adoption of the Permit Regulation that became effective in September 1989. In May 1991 EPA authorized the Board to administer a General Permit program in the Commonwealth.

Section 6.2 of the Permit Regulation states in part that:

"The Board may issue a General Permit in accordance with the following:

A. Sources

A General Permit may be written to regulate a category of discharges within a geographic area that:

1. Involve the same or similar types of operations,
2. Discharge the same or similar types of wastes,
3. Require the same effluent limitations or operating conditions,
4. Require the same or similar monitoring; and
5. In the opinion of the Board, are more appropriately controlled under a General Permit than under individual permits.

B. Administration

1.
2. The Board may require any person operating under a General Permit to apply for and obtain an individual permit. Interested persons may petition the Board to take action under this subparagraph. Cases where an individual permit may be required include the following:
 - a.
 - b.
 - c.
 - d.
 - e......"

In Virginia, in order to adopt a VPDES General Permit and to make it effective the following procedures must be completed:

1. A General Permit is considered a Regulation under the Administrative Process Act (APA), thus the procedures set forth in the APA to adopt a Regulation must be followed, and
2. A General Permit is a VPDES permit, thus the procedures set forth in the Permit Regulation to issue an individual VPDES permit must be followed.

At the time that the staff was working on the development of the General Permit program and the appropriate regulations the SWCB Valley Regional Office (VRO) was receiving a significant number of applications for individual VPDES permits from single family homes. Various discussions were held with the Virginia Department of Health and the SWCB Members regarding the number of applications being received, and the staff resources involved in having to process individual VPDES permits. The final decision from these discussions was that this was an ideal situation for the first General Permit proposed by the SWCB. The Virginia General Assembly actually adopted legislation associated with this issue.

The Headquarters and VRO staff developed a General Permit for domestic sewage discharges of less than or equal to 1,000 gallons per day. This General Permit is sometimes referred to as a single family home or SFH permit although that is not completely technically correct, but for discussion purposes it may be referred to as the SFH General Permit.

The SFH General Permit that was developed is applicable statewide except where Board Regulations or Policies, as specifically defined in Guidance Memo No. 91-017, Sections 3 and 4, prohibit such discharges. The SFH General Permit included effluent limitations that meet the definition of secondary treatment. It was determined that these limits will maintain the Water Quality Standards that have been adopted by the SWCB and that these limits meet the requirement of Section 2.5.E. of the Permit Regulation which says:

"The permit shall include limitations to prevent violations of water quality standards or to comply with any requirement of the Act or Law."

This General Permit complies with Section 2.5.E. of the Permit Regulation and whoever meets the requirements of Section 6 of the General Permit should be covered. Limits have been established and decisions about protecting water quality were made when the permit was adopted. No further analysis of the limits by the permit writer is necessary for processing of this General Permit. The General Permit for domestic sewage dischargers of less than or equal to 1,000 gallons per day was issued in accordance with the APA, the CWA, the SWCL, and the Permit Regulation. This General Permit was approved by EPA, and the SWCB adopted it. The General Permit was initially adopted as an Emergency Regulation in 1991, it became effective as a final Regulation and a General Permit on July 1, 1992, and it is scheduled to expire on August 1, 1996.

I would now like to point out and to discuss specific Sections of VR 680-14-09 - VPDES General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 gallons per day (SFH General Permit).

Section 5 states that any owner that complies with all the provisions of Section 6 and that receives this General Permit is covered by this General Permit. Owner is a domestic sewage discharger of $\leq 1,000$ gallons per day. Although an owner may believe he is covered by the General Permit he is actually not covered until the DEQ staff has made the decision that he is covered and he is given a copy of the General Permit. Thus, the SFH General Permit applicability final decision is made by the DEQ staff.

Section 6 states any owner governed by this General Permit is authorized to discharge treated domestic sewage to any surface waters of the Commonwealth, regardless of the type of surface water, provided the owner files the Registration Statement of Section 7, complies with the effluent limitations and other requirements of Section 8, and provided that the owner has complied with all the following provisions:

- A. The owner shall not have been required to obtain an individual VPDES permit as may be required in Section 6.2.B. of the Permit Regulation.

Section 6.2.B. of the Permit Regulation applies to owners already operating under the General Permit. This Section provides the Board the opportunity to require an existing General Permit authorized discharger to apply for an individual permit. It does not apply to a new discharger.

- B. The owner shall not be authorized by this General Permit to discharge to surface waters where other Board Regulations or Policies prohibit such dischargers.

The Board has adopted various policies and regulations as specifically listed in Sections 3 and 4 of Guidance Memo No. 91-017 where the discharger must meet specific conditions or is prohibited to discharge. This Section of the General Permit states that the General Permit is not applicable for dischargers to these waters. It should also be noted that an evaluation of a discharge for compliance with the Water Quality Standards is not necessary for this General Permit as that determination was made when the Permit was issued.

- C. The owner shall not be authorized by this General Permit to discharge to surface waters where there are central facilities reasonably available.

This is a decision that the staff must make on an individual Registration Statement.

- D. This Section required the submittal of a LGOF. However, since the LGOF legislation has been eliminated from the SWCL for VPDES permits this Section is no longer applicable.

- E. This Section requires a statement from the Department of Health that there is no technology available to serve this site.

Section 7 requires the owner to file a complete Registration Statement for domestic sewage discharges of less than or equal to 1,000 gallons per day.

Section 8 is actually the General Permit. It includes all the provisions that are included in an individual VPDES permit .

The only decisions that the staff has to make and in fact the only decisions that the staff can make in determining if an owner is covered by the SFH General Permit is to evaluate the information submitted on the Registration Statement. By OWRM Guidance Memo Numbers 91-017 and 91-021 dated July 26, 1991, and October 1, 1991, respectively, you were provided with guidance on how to review the Registration Statement.

If the staff review of the Registration Statement indicates that the facility will be able to meet all the requirements of Section 6 of the General Permit Regulation, then the General Permit should be sent to the owner.