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Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation(s)	9VAC25-860
Regulation title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Potable Water Treatment Plants
Action title	Amend and Reissue the Potable Water Treatment Plant General Permit
Final agency action date	December 6-7, 2017
Date this document prepared	October 24, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This rulemaking is proposed in order to reissue the existing VPDES general permit which expires on June 30, 2018. The general permit contains limitations and monitoring requirements for point source discharge of process wastewaters resulting from the production of potable water. The general permit regulation is being reissued in order to continue making it available for these facilities to continue to discharge.

In addition, a periodic review/small business impact review was conducted as part of this regulatory action. Please see the periodic review/small business impact review result section for additional information.

Substantive changes to the existing regulation include:

- Revised the “continuation of permit coverage” subsection so it is generic and not dependent on specific dates. Dates were removed but allowances for continuance of permit coverage are the same or can be implemented the same;
- Removing the requirement to submit a groundwater monitoring plan with the registration if the plan has been previously submitted and approved;
- Allowing for electronic submittals of registration statements;
- Defining how to estimate discharge flow as “a technical evaluation of the sources contributing to the discharge”;
- Eliminated the requirement for grab samples to occur within 15 minutes of commencement of the discharge when the discharge is continuous;
- Removing the allowance for reduced monitoring for reverse osmosis plants;
- Eliminated the requirement that the daily inspection of the effluent and the facility must be done when the facility is discharging;
- Requiring a corrective action plan when groundwater is contaminated; and,
- Changing the requirement to conduct whole effluent toxicity testing from facilities with a one-time daily maximum flow of greater than or equal to 50,000 gallons per day to facilities with a daily maximum flow rate greater than or equal to 50,000 gallons per day over three consecutive monitoring periods.
- Clarifying throughout the regulation where the requirements apply to the process wastewater treatment or discharge versus the drinking water treatment.

Changes since the proposed stage can be found in Sections 50 (C and D), 60 (A and B), 70 (Part 1 A 1, Part B 1, 9 and 10), Part II I, J, L, W, X and Y).

Acronyms and definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

- APA: Administrative Process Act
 DEQ: Department of Environmental Quality
 EPA: (U.S. EPA): United States Environmental Protection Agency
 MS4: Municipal Separate Storm Sewer System
 NAICS: North American Industry Classification System
 NPDES: National Pollutant Discharge Elimination System
 O&M: Operations and Maintenance
 TAC: Technical Advisory Committee
 USC: United States Code
 VAC: Virginia Administrative Code
 VPDES: Virginia Pollutant Discharge Elimination System
 WET: Whole Effluent Toxicity

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

At the December 6-7, 2017, meeting, the State Water Control Board adopted 9VAC25-860 Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Potable Water Treatment Plants.

Family impact

Please assess the impact of this 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.

Periodic review/small business impact review report of findings

Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by §2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

There were no comments received following the publication of the Notice of Periodic Review. The proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of wastewater to surface waters from potable water treatment plants. Protecting water quality in the Commonwealth's surface waters is necessary to protect the health, safety and welfare of citizens. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. The primary issue that needs to be addressed is that the existing general permit expires on June 30, 2018 and must be reissued in order to continue making it available after that date. The complexity of the regulation and ideas to make it clearer were discussed in the technical advisory committee and appropriate changes were made. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation as the State Water Control Board is the delegated authority to regulate point source discharges to surface water. The regulation was evaluated in 2013 when the permit was reissued last permit term.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
50 C	Statement that compliance with the general permit constitutes compliance with the federal Clean Water Act and State Water Control Law.	Clarified the paragraph by explaining compliance is for purposes of enforcement and added the specific sections of the Clean Water Act on which compliance is measured.	Clarifications to match 9VAC25-31-60 (Effect of a Permit) of the permit regulation.
50 D	Provided requirements, with dates, when continuation of permit	Revised so that this subsection is generic and not dependent on the dates. Dates were	The language better follows the permit regulation and the 2014

	coverage is allowed.	removed but allowances for continuance of permit coverage are the same or can be implemented the same.	permit manual. The section allows permit coverage continuance if the registration is complete and turned in on time unless the board authorizes a later submittal date (but not before expiration). Registration statements can come in after expiration but coverage is not retroactive. This new language should transition well from term to term without needing date changes
60 A	Provided due dates for submittal of registration statements.	Revised so that due match the "Duty to reapply" language in Part II "Conditions applicable to all permits," which says exiting owners must submit registration statements at least 60 days prior to the expiration date of the existing permit or a later submittal established by the board.	Clarification and to make more generic. This new language should transition well from term to term without needing date changes.
60 B	Allowance for existing owners that submit registration statements after May 1, 2018, that the facility is authorized to discharge under the continuance of permit coverage provisions of 9VAC25-860-50 D if a complete registration statement is submitted on or before June 30, 2018.	Removed the sentence. However, in the revised language in 50 D 1 allows for later registration statement submittals if a later date is established by the board.	Language with all the dates was confusing and the more generic format will still allow the board to accept registration statements after the due date but not after the expiration date. This new language should transition well from term to term without needing date changes.
60 B	Provided rules for late registration statements and stated that late registration statements after June 30, 2018 would be accepted, but authorization to discharge is not retroactive.	Removed the date (June 30, 2018) and said that registration statements can be submitted after the expiration date of the permit, but authorization to discharge is not retroactive.	Follows the more generic format of due dates described in the sections above. This new language should transition well from term to term without needing date changes.
70 Part 1 A 1 footnote 4 and Part 1 A 2 footnote 3	For continuous or batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge.	Eliminated the requirement for continuous discharges.	Public comment received that this needs clarification. You cannot get a grab sample within 15 minutes of commencement of the discharge if it is a continuous discharge. This should only apply to batch discharges.
70 Part 1 A 1 footnote 5	Footnote instructed that the total residual chlorine limit shall only be applicable to facilities that use chlorine in the treatment process.	Footnote changed to say that the total residual chlorine limit shall only be applicable if chlorine is present in the process wastewater.	To clarify the intent. The concern is what is present in the process wastewater discharge. Chlorine is often used at potable water treatment plants but it is a disinfectant added to the drinking water which is distributed to the public. Depending on when it is added in the drinking water process, it may or may not be present in the discharge.
70 Part B 1	Requirement to inspect the effluent and maintenance of the process wastewater treatment system daily when discharging.	Removed the requirement that the process wastewater treatment facility must be discharging.	Public comment was received that it is not realistic to have the operators wait until a discharge occurs just so they can inspect it. Often these are batch discharges and may or may not be discharging when the operator is present. They have no issue documenting the effluent when it is discharging while the operators are there. Also see changes to O&M manual Special Condition 10 c.
70 Part B	Special condition that describes	Added the term "process wastewater" to	Clarification that the requirement

9	requirements for the operations and maintenance (O&M) manual.	clarify that the O&M manual applied to the process wastewater treatment works.	is referring to process wastewater treatment (which is defined in the permit regulation) and not the drinking water treatment. This clarification was made in several subsections of the permit.
70 Part B 9 c (2)	Best management practice must be described in the O&M manual, if applicable.	Deleted "if applicable."	Unnecessary since the opening sentence says the manual shall include these items "as appropriate." "If applicable" was considered duplicative..
70 Part B 9 c (6)	No requirement.	Added the requirement that the O&M manual shall contain the location of the operational log for performing the daily inspections of the effluent. The log shall note any solids or sheens and if there is no discharge at time of inspection.	This is added to tie into special condition B 1 which removed the requirement for inspection daily when discharging. The effluent is inspected daily but an inspection that notes "no discharge" is also acceptable. Adding that the location of the operational log should be noted in the O&M manual and that solids and sheen are noted in the log, ties in several of the operation related special conditions (B 1 and B 4) into the O&M manual.
70 Part B 10	Special condition that describes requirements for WET testing. WET testing applies when the daily maximum flow rate is greater than or equal to 50,000 gallons per day over three consecutive monitoring periods.	Repeated "over three consecutive monitoring periods" in another sentence of the paragraph where it was left off.	Clarification.
70 Part II I	Condition that describes when reports of noncompliance must be provided.	Added a new paragraph 3 that states "Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement, or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information."	EPA commented that this paragraph was missing in this section. This language is present in the NPDES permit regulation.
70 Part II J b	Requirement to notify the department when pollutants discharged change. Does not apply to pollutants already limited or pollutants specified elsewhere in the permit.	Same requirement except the section where pollutants are specified elsewhere in the permit is cited (Part I B 6).	EPA commented on this and it is a clarification.
70 Part II J c	Requirement to notify the department when sludge practices change that were not reported in the permit application.	Same requirement except permit application changed to permit registration.	Registration is the term used for general permit applications. Clarification.
70 Part II L	Permit noncompliance is grounds for ... permit termination, revocation and reissuance, or modification or denial of a permit coverall renewal application.	Same requirement except permit noncompliance is grounds for... permit coverage termination or denial of permit coverage renewal.	General permittees are "covered" under the general permit so that word is routinely inserted in general permit language. Revocation and reissuance, modifications do not apply to general permit coverage so this was deleted. The term "application" was deleted These are changes to reflect more accurately terminology used in general permits.
70 Part II W	The permittee shall allow the director, or an authorized representative to enter the facility.	Added that an authorized contractor acting as a representative of the administrator also has authority to enter the facility.	EPA commented that this paragraph was missing in this section. This language is present in the NPDES permit regulation.

70 Part II X	The filing of a request by the permittee for a permit or a notification of planned changes...	The filing of a request by the permittee for a permit termination, or a notification of planned changes...	The word "termination" was inadvertently deleted in the proposal. Typo.
70 Part II Y	Transfer of permits.	Transfer of permit coverage.	General permittees are "covered" under the general permit so that word is routinely inserted in general permit language. Clarification

Public Comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
EPA, Region 3, Joel Blanco-Gonzales	The language for inspection and entry was not as stringent as the standard condition contained at 40 CFR § 122.41(i). The standard condition lacked, "(including an authorized contractor acting as a representative of the Administrator)."	We will add this language in Part II W of the permit, when it is submitted for final approval to the State Water Control Board, as follows: (including an authorized contractor acting as a representative of the administrator).
EPA, Region 3, Joel Blanco-Gonzales	The bypass condition lacked the definition of "severe property damage" contained in 40 CFR § 122.41(m)(1)(ii) and the upset standard condition lacked the definition of "upset" contained in 40 CFR § 122.41(n)(1).	These definitions are in the individual VPDES Permit Regulation at 9VAC25-31-10 and are included by reference in the proposed general permits in section 10. Virginia has always only included definitions in the general permits that are not in the individual permit regulation. No change made.
EPA, Region 3, Joel Blanco-Gonzales	The notice of planned changes standard condition lacked the phrase "nor to notification requirements under § 122.42(a)(1)" contained in 40 CFR § 122.41(l)(1)(ii).	We will add similar language in Part II J (which is equivalent to 122.41(l)(1)(ii)) as follows: "nor to notification requirements under Part I B 6." Part I B 6 are equivalent to 122.42(a)(1).
EPA, Region 3, Joel Blanco-Gonzales	The reports of noncompliance condition lacked the phrase "Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours" contained in 40 CFR § 122.41(l)(6)(ii)(C).	The Director has determined that no pollutants need to be listed for 24-hour reporting as per 40 CFR 122.44(g). The addition of this language will be confusing to our permittees without specific toxic pollutants listed. No change.
EPA, Region 3, Joel Blanco-Gonzales	The other information standard condition language contained in 40 CFR § 122.41(l)(8) was missing from the reporting requirements.	We will add this language in Part II I as follows: "Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement, or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information." This is equivalent to 40 CFR § 122.41(l)(8).
EPA, Region 3, Joel Blanco-Gonzales	The civil and administrative penalty language contained in 40 CFR § 122.41(a), Duty to comply, was not included.	<p>The conditions in 40 CFR § 122.41(a) (2) is not included in the general permit regulations because this administrative penalty language is in state statute at § 62.1-44.32. Permittees are reminded on the back of the DMR (instructions) that failure to report or failure to report truthfully can result in civil penalties of \$32,500 per violation, per day and felony prosecutions which can carry a 15 year term.</p> <p>As for the requirements in 40 CFR § 122.41(a) (3) §62.1-44.15 of the state statute does allow the agency to unilaterally assess administrative penalties of up to \$100,000 per case, under certain conditions. The statute also allows the agency to assess, with the consent of the regulated party, administrative penalties of up to \$32,500 per day per violation.</p> <p>This covers all the administrative penalty language EPA is referring to. No change.</p>

<p>Augusta County Service Authority, Jean Andrews, Lab and Compliance Manager</p>	<p>Part I.A.1 footnote 4 – the last sentence needs clarification. It currently reads: For continuous or batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge. How do you get a grab sample within 15 minutes of commencement of the discharge if it is a continuous discharge? We believe this should only apply to batch discharges.</p>	<p>Footnote 4 in Part I A 1 and footnote 3 in Part I A 2 will be amended to remove the word “continuous.”</p>
<p>Augusta County Service Authority, Jean Andrews, Lab and Compliance Manager</p>	<p>Part 1.B.1. This currently reads "Inspection of the effluent, and maintenance of the process wastewater treatment facility, shall be performed daily when discharging. We are requesting that the word daily be removed and include wording stating that a schedule and inspection requirements be included in the O&M Manual. The ACSA has seven (7) microfiltration units and we have no issue on documenting inspecting the effluent when it is discharging while the operators are there. However, these units only discharge wastewater when a certain volume of water has passed through the membranes or after a programed number of minutes. In other words, there is not a continuous discharge. We want to ensure that DEQ is not implying that the wastewater has to be inspected daily when the membrane units are functioning but not discharging at the time our operators are working at these facilities. It is not realistic to have the operators wait until a discharge occurs just so that they can inspect it.</p> <p>The consensus of the Technical Advisory Committee was that daily inspections when discharging may be too restrictive and that the condition can refer to a schedule and inspection requirements spelled out in the O&M manual. DEQ inspectors would then be able to tell if the O&M manual is deficient. This would also apply to inspecting the daily maintenance of the process wastewater treatment facility, because there is no daily maintenance to the wastewater treatment facility at the membrane filtration plants.</p>	<p>Having an unspecified schedule for inspections was determined to be a difficult requirement to enforce so the daily schedule requirement remains. However, DEQ agrees that it is unrealistic for the operators to wait until a discharge occurs in order to inspect it. The requirement was clarified to eliminate the need to inspect daily <u>when discharging</u>. Also, another O&M manual item was added to clarify what observations should be noted during the inspections (solids and sheens), where the operational log is kept and that “no discharge at time of inspection” was acceptable observation for the inspection.</p>

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
9VAC25-860-10. Definitions	NA	Municipal separate storm sewer (MS4) is defined.	MS4 definition is deleted because the same definition exists in the 9VAC25-31 (VPDES Permit Regulation). This general permit regulation states that “The words and terms used in this regulation shall have the meanings defined in the State Water Control Law and 9VAC25-31, the VPDES Permit Regulation, unless the context clearly indicates otherwise, except that for the purposes of this chapter: No impact.
9VAC25-	NA	Potable water treatment plant	Potable water treatment plant definition expanded to

860-10. Definitions		definition does not contain the North American Industry Classification System (NAICS) code.	include the NAICS code 221310 for water supply and irrigation systems. No impact.
9VAC25-860-15. Applicability of incorporated references based on the dates that they became effective.	NA	Effective date for the Title 40 CFR is July 1, 2012	Effective date for the Title 40 CFR changed to July 1, 2017. No impact.
9VAC25-860-20. Purpose.	NA	Purpose of regulation is to govern discharge of wastewater from potable water treatment plants.	Purpose clarified to govern discharge of <u>process</u> wastewater from potable water treatment plants. Process wastewater is defined in 9VAC25-31 (VPDES Permit Regulation). No impact as this was always the intent of the purpose.
9VAC25-860-40. Effective date of the permit.	NA	Old effective dates December 24, 2013 – June 30, 2018.	New effective dates July 1, 2018 – June 40, 2023. No impact.
9VAC25-860-50. Authorization to discharge	NA	Subsection C is states that compliance with the general permit constitutes compliance with the federal Clean Water Act and State Water Control Law.	Clarified the paragraph by explaining compliance is for purposes of enforcement and added the specific sections of the Clean Water Act on which compliance is measured. This clarification is made to match 9VAC25-31-60 (Effect of a Permit) of the permit regulation. No impact.
9VAC25-860-50. Authorization to discharge.	NA	Subdivisions D 1 and 2 provides requirements, with dates, when continuation of permit coverage is allowed.	Revised so that this subsection is generic and not dependent on the dates. Dates were removed but allowances for continuance of permit coverage are the same or can be implemented the same. The language better follows the permit regulation and the 2014 permit manual. The section allows permit coverage continuance if the registration is complete and turned in on time unless the board authorizes a later submittal date (but not before expiration). Registration statements can come in after expiration but coverage is not retroactive. This new language should transition well from term to term without needing date changes. No impact.
9VAC25-860-60. Registration statement.	NA	Subdivision A 2 provides due dates for submittal of registration statements.	Revised so that due match the “Duty to reapply” language in Part II “Conditions applicable to all permits,” which says exiting owners must submit registration statements at least 60 days prior to the expiration date of the existing permit or a later submittal established by the board. Clarification and to make more generic. This new language should transition well from term to term without needing date changes. No impact.
9VAC25-860-60. Registration statement.	NA	Subsection B provides rules for late registration statements. Stated that late registration statements after December 24, 2013 would be accepted, but authorization to discharge is not retroactive. Also an allowance for existing owners that submit registration statements after October 24, 2013 are authorized to discharge under the continuance of permit coverage provisions of 9VAC25-860-50 D if a complete registration statement is submitted on or before December 24, 2013.	Removed the date (December 24, 2013) and said that registration statements can be submitted after the expiration date of the permit, but authorization to discharge is not retroactive. This is a clarification and follows the more generic format of due dates described in the sections above. This new language should transition well from term to term without needing date changes. Removed the allowance sentence. However, in the revised language in 50 D 1 allows for later registration statement submittals if a later date is established by the board. Language with all the dates was confusing and the more generic format will still allow the board to accept registration statements after the due date but not after the expiration date. This new language should transition well from term to term without needing date

			changes. No impact.
9VAC25-860-60. Registration statement.	NA	Subdivision C 6 does not ask for latitude and longitude.	Paragraph C 6 added latitude longitude to registration statement requirement. This is necessary to properly identify facility and outfall locations in the DEQ Comprehensive Environmental Database System. No impact, information is easily obtainable on any free online mapping service.
9VAC25-860-60. Registration statement.	NA	Subdivision s C6 and C 12 refers to 'wastewater' in the questions.	Clarified that wastewater is 'process wastewater' as opposed to other conventional ideas of wastewater being sewage or gray water. Process wastewater is defined in 9VAC25-31 Permit Regulation. No impact as this was always the intent.
9VAC25-860-60. Registration statement.	NA	Subdivision C 9 requires submittal of a groundwater monitoring plan.	Requires submittal of groundwater monitoring plan unless the plan has already been submitted to DEQ. Also requires the name of the plan and the date of board approval. The TAC didn't think the plan needed to be submitted again if DEQ already had the plan. Citing the plan and the date of approval will require the permittee to check on the actual existence of the plan and DEQ can look the plan up if necessary based on the name and date. No impact.
9VAC25-860-60. Registration statement.	NA	Subdivision C 11 requires result of WET evaluation required by 2008 permit.	Requires result of WET evaluation required by 2013 permit. No impact.
9VAC25-860-60. Registration statement.	NA	Subdivision C 13 requires information on chemicals used at the plant.	Clarified that the chemicals DEQ is interested in are those used in the production for drinking water and process wastewater treatment. DEQ thought it important to know these types of chemicals on the site since they could appear in the process wastewater or spilled on the site. The TAC also thought it would be helpful if the permittee had an opportunity to describe whether any of the listed chemicals would have no likelihood of entering the process wastewater. No impact.
9VAC25-860-60. Registration statement.	NA	Subdivision C 15 uses the acronym 'MS4' with no explanation.	Added 'municipal separate storm sewer system before 'MS4.' No impact.
9VAC25-860-60. Registration statement.	NA	No subsection E.	New paragraph explains the registration statement shall be delivered to the department's regional office by postal or electronic mail. No impact, although allowing electronic submittals of registration statements to DEQ is a recent allowance in all General Permits as they are reissued and should make it easier to submit registration statements.
9VAC25-860-70. General permit.	NA	Effective dates December 24, 2013 – June 30, 2018.	New dates July 1, 2018 – June 30, 2023. New dates reflect the upcoming permit term and will allow permit coverage for the next five years.
9VAC25-860-70. General permit.	NA	Second opening paragraph states the authorized discharge is in accordance with the cover page, Part I Effluent Limitations, Monitoring Requirements, and Part II Conditions Applicable to All VPPDES permit.	Added that the authorized discharge is also in accordance with the information submitted with the registration statement (because that is what DEQ uses to determine if the discharge can be authorized). Added also Special Conditions to Part I authorization because the special conditions are also part of the permit requirements. No impact, wording is similar to other general permits and individual permits.
9VAC25-860-70. General permit.	NA	Subdivision Part I A 1 and 2 does not have a definition of 'estimate' for the sample type for flow measurements.	Added a footnote to define 'estimate' as based on the technical evaluation of the sources contributing to the discharge. This is a definition used in individual permits. DEQ thought the term should be explained similarly to individual permits. Also renumbered the footnotes because of the new

			footnote (2) in Part I A 1. No impact.
9VAC25-860-70. General permit.	NA	Subdivisions Part 1 A 1 footnote 4 and Part 1 A 2 footnote 3 states that for continuous or batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge.	Eliminated the requirement for continuous discharges. Public comment received that this needs clarification. You cannot get a grab sample within 15 minutes of commencement of the discharge if it is a continuous discharge. This should only apply to batch discharges.
9VAC25-860-70. General permit.	NA	Subdivision Part 1 A 1 footnote 4 instructed that the total residual chlorine limit shall only be applicable to facilities that use chlorine in the treatment process.	Footnote (4) changed to footnote (5) because of insertion of new footnote (2). Also changed to say that the total residual chlorine limit shall only be applicable if chlorine is present in the process wastewater. This was done to clarify the intent. The concern is what is present in the process wastewater discharge. Chlorine is often used at potable water treatment plants but it is a disinfectant added to the drinking water which is distributed to the public. Depending on when it is added in the drinking water process, it may or may not be present in the discharge.
9VAC25-860-70. General permit.	NA	Subdivision Part I A 2 has an allowance for reduced monitoring.	Deleted this allowance as it has not been used and there is no explanation when reduced monitoring would be allowed. If adding language to describe under what conditions to grant reduced monitoring then language must be added to explain under what conditions reduced monitoring is revoked. Since there is only one permittee covered under Part I A 2 and that permittee does not have reduced monitoring, DEQ thought it was not needed and too complicated for a general permit. No impact since no permittees covered under this general permit have reduced monitoring.
9VAC25-860-70. General permit.	NA	Subdivision Part I B 1 Special Conditions has a daily requirement for inspection of the effluent and maintenance of the wastewater treatment facility when discharging.	Same requirement but clarified it is for the 'process' wastewater treatment facility. No impact as this was always the intent. Removed the requirement that the process wastewater treatment facility must be discharging. Public comment was received that it is not realistic to have the operators wait until a discharge occurs just so they can inspect it. Often these are batch discharges and may or may not be discharging when the operator is present. They have no issue documenting the effluent when it is discharging while the operators are there. Also see changes to O&M manual Special Condition 10 c.
9VAC25-860-70. General permit.	NA	Subdivision Part I B 3 Special Conditions has a requirement that only chemicals listed on the owner's registration statement are allowed.	Clarified that the chemicals listed are those used for water and process wastewater treatment so that insignificant chemicals (e.g., cleaning products, lawn products) are not included in this requirement. No impact as this was always the intent. Also added that the owner shall indicate whether the chemical is likely to enter state waters through the process discharge. This corresponds to the questioning about chemicals in 9VAC25-860-60. Registration statement paragraph C 13.
9VAC25-860-70. General permit.	NA	Subdivision Part I B 7 Special Conditions requires the permittee to sample and report groundwater monitoring in accordance with the plan submitted with the registration statement (9VAC25-860-60 C 9).	Added that a corrective action plan be submitted within 60 days if contamination is identified by the DEQ. This requirement for correction of contamination is in the VPDES permit manual and placed in individual permits with groundwater monitoring. DEQ thought requirements about what to do if contamination was found in groundwater was missing from this permit. This will affect existing permittees with groundwater monitoring if contamination is found. It will also allow any water treatment plant individual permittees that have groundwater contamination to move to the general permit and continue correction action under the general permit.

<p>9VAC25-860-70. General permit.</p>	<p>NA</p>	<p>Subdivision Part I B 9 Special Conditions contains the O&M manual requirements and time period allowed to develop the O&M manual.</p>	<p>Added that the O&M manual must be updated within 90 days of coverage. This will affect all covered permittees since they have not previously been required to update the O&M manual with each reissuance.</p> <p>Clarified that the O&M procedures and requirements are for the process wastewater and not the drinking water treatment. No impact as this was always the intent.</p> <p>Deleted "if applicable" after "Discussion of best management practices." The phrase is unnecessary since the opening sentence says the manual shall include these items "as appropriate." "If applicable" was considered duplicative. No impact.</p> <p>Added the requirement that the O&M manual shall contain the location of the operational log for performing the daily inspections of the effluent. The log shall note any solids or sheens and if there is no discharge at time of inspection. This is added to tie into special condition B 1 which removed the requirement for inspection daily when discharging. The effluent is inspected daily but an inspection that notes "no discharge" is also acceptable. Adding that the location of the operational log should be noted in the O&M manual and that solids and sheen are noted in the log, ties in several of the operation related special conditions (B 1 and B 4) into the O&M manual. This should have minimal impact as solids and sheens are the observations that the daily inspections should have always been noting. Adding the location of the log to the O&M manual is a minimal impact.</p>
<p>9VAC25-860-70. General permit.</p>	<p>NA</p>	<p>Subdivision Part I B 10 Special Conditions requires facilities with daily maximum flow rates greater than or equal to 50,000 gallons per day to conduct WET testing if they have not already done so.</p>	<p>Changed so that facilities with daily maximum flow rates greater than or equal to 50,000 gallons per day over three consecutive monitoring periods to conduct WET testing. The TAC agreed that sometimes a potable water treatment plant might go temporarily over 50,000 depending on production needs, but that one daily flow should not immediately require them to do WET testing. Making the WET requirement apply after three consecutive monitoring periods exceeding 50,000 gallons per day seemed more reasonable. The impact is that some permittees may not be required to do WET testing under this new scenario.</p> <p>Clarified that the WET testing is done to reflect the characteristics of the process wastewater treatment plant effluent. Adding "process wastewater" is a clarification being made throughout the permit. No impact as this was always the intent.</p> <p>Corrected the spelling on <i>Cyprinodon variegatus</i>.</p>
<p>9VAC25-860-70. General permit.</p>	<p>NA</p>	<p>Subdivision Part 1 B 12 Special Conditions provides termination procedures and in paragraph b (4) (d) says that "a statement indicating that termination of coverage is being requested for another reason (state the reason)."</p>	<p>Clarified this by removing (state the reason) in parenthesis with "and a description of the reason." No impact.</p> <p>Clarified certification language to refer to "process wastewater." No impact as this reflects the intent.</p>
<p>9VAC25-860-70. General permit.</p>	<p>NA</p>	<p>Subsections Part II B, L and X Conditions Applicable to All Permits (various conditions).</p>	<p>Requirements related to sewage sludge and modification, revoke and reissue language deleted as sewage sludge does not apply to this permit nor do modifications or revoke and reissue. No impact.</p>
<p>9VAC25-860-70. General</p>	<p>NA</p>	<p>Subsection Part II I is a condition that describes when reports of noncompliance must be provided.</p>	<p>Added a new subdivision 3 that states "Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement, or</p>

permit.			submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information." EPA commented that this paragraph was missing in this section. This language is present in the NPDES permit regulation.
9VAC25-860-70. General permit.	NA	Subdivision Part II J b is a requirement to notify the department when pollutants discharged change. Does not apply to pollutants already limited or pollutants specified elsewhere in the permit. Subdivision Part II J c is a requirement to notify the department when sludge practices change that were not reported in the permit application.	Same requirement except the section where pollutants are specified elsewhere in the permit is cited (Part I B 6). EPA commented on this and it is a clarification. No impact. Permit application changed to permit registration. Permit registration is the term used for general permit applications. This is a clarification. No impact.
9VAC25-860-70. General permit.	NA	Subsection Part II L states that permit noncompliance is grounds for ... permit termination, revocation and reissuance, or modification or denial of a permit overall renewal application.	Same requirement except permit noncompliance is grounds for... permit coverage termination or denial of permit coverage renewal. General permittees are "covered" under the general permit so that word is routinely inserted in general permit language. Revocation and reissuance, modifications do not apply to general permit coverage so this was deleted. The term "application" was deleted These are changes to reflect more accurately terminology used in general permits.
9VAC25-860-70. General permit.	NA	Subsection Part II W contains the inspection and entry requirements and states that the permittee shall allow the director, or an authorized representative to enter the facility.	Added that an authorized contractor acting as a representative of the administrator also has authority to enter the facility. EPA commented that this paragraph was missing in this section. This language is present in the NPDES permit regulation. It is not expected to have an impact since DEQ does not use contractors to inspect facilities and EPA or their contractors will rarely need to inspect a VPDES facility.
9VAC25-860-70. General permit.	NA	Subsection Part II X discusses filing of requests by the permittee for various permit actions (modifications, revoke and reissue and termination).	Revocation and reissuance, modifications do not apply to general permit coverage so this was deleted. Termination was retained as this does apply to general permits. No impact as this is a clarification.
9VAC25-860-70. General permit.	NA	Subsection Part II Y Conditions Applicable to All Permits contains requirements for transferring permit coverage if the current permittee notifies the department at least 30 days in advance of the proposed transfer of the title of the facility or property.	General permittees are "covered" under the general permit so that word was routinely inserted in the general permit language. No impact as this is a clarification. Changed transfer deadline to within 30 days of the transfer of title. This reflects what usually happens and is more reasonable. This change has been added to all general permits as they are reissued. This will help permittees to better comply with this condition.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The reissuance of the general VPDES permit accomplishes the objectives of applicable law and minimizes the costs to a small business owner and simplifies the application process. However, most of these water treatment plants are owned by localities and are not small businesses.