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Exempt Action: Proposed Regulation Agency Background Document

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| Agency name | Department of Environmental Quality |
| Virginia Administrative Code (VAC) Chapter citation(s) | 9VAC25-630 |
| VAC Chapter title(s) | Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management |
| Action title | Reissue and amend, if necessary, the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management. |
| Date this document prepared | 5/18/2020 |

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The State Water Control Board is amending the existing Virginia Pollution Abatement (VPA) General Permit Regulation for Poultry Waste Management in order to reissue the permit regulation. The VPA General Permit Regulation 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 utilization, storage, tracking and accounting requirements related to poultry waste, including that transferred from poultry feeding operations. The current general permit became effective on December 1, 2010. The permit term is ten years, thus it is due to expire on November 30, 2020.

Mandate and Impetus

Identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "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."

The current Virginia Pollution Abatement (VPA) Regulation and General Permit expires on November 30, 2020. This action is required in order to reissue coverage under the general permit for the 954 poultry operations that are currently covered under the General Permit.

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.

1-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.

2-Poultry waste means dry poultry litter and composted dead poultry.

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.

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 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 and was reissued for another ten-year period, which became effective on December 1, 2010.

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The purpose of this action is to reissue 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, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

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.

Issues

Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage of the proposed regulatory action is the reissuance of the regulation that will allow for confined poultry feeding operations to be covered under the general permit. The permit contains provisions appropriate for the protection of state waters, and the general permit process allows for protection of water quality with minimum agency resources related to the issuance of the permit. This is an advantage for the public, the regulated community, as well as the Commonwealth. There are no disadvantages of the proposed regulatory action.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements for confined poultry feeding operations that do not discharge or propose to discharge. The Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management is a state program with requirements included in the regulation necessary to meet state statutory requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:

This general permit regulation affects the Department of Conservation and Recreation since this regulation includes requirements for Nutrient Management Plans. The requirements for developing nutrient management plans fall under the purview of the Department of Conservation and Recreation.

Localities Particularly Affected:

This general permit regulation affects the entire state; no particular localities are identified to be disproportionately impacted by this regulatory action.

Other Entities Particularly Affected:

This general permit regulation affects the permitted growers, unpermitted and permitted end-users of poultry waste and brokers of poultry waste, and commercial poultry processors; no other entities are identified to be disproportionately impacted by this regulatory action.

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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

Currently, 954 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.

Public Comment Received

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

Comments were submitted by nine commenters. The comments fell into three categories: requests to be on the TAC, support of the regulation as already written, and support to increase requirements to ensure nitrogen offsets from increases in poultry production and include air quality requirements.

| Commenter | Comment | Agency response |
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| Mr. Pete Watson | Betsy I have talked with Hobey and he has asked if I would be interested in the committee meetings, I would be very interested in attending if at all possible. I am a broiler grower and would like having some input and being there to hear what actually is decided. | Mr. Watson was recommended and approved to be a member of the Technical Advisory Committee. |
| Mr. Doug Baxter | I understand that the Poultry Waste Management general permit is going under review and possible revision prior to reissuance. I’ve participated in prior Technical Advisory Committees (TAC) and respectfully request the opportunity to serve on the TAC for this round of review. | Mr. Baxter was recommended and approved to be a member of the Technical Advisory Committee. |
| Mr. Mark Frondorf | Please consider me for joining the Technical Assistance Committee (TAC) for the purpose of reissuing and amending 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. In my earlier email to you, I requested consideration for joining the Technical Assistance Committee when it is actually the Technical Advisory Committee. So out of an abundance of caution, pls consider me for joining the Technical Advisory Committee (TAC) for the | Mr. Frondorf was recommended and approved to be a member of the Technical Advisory Committee. |

| Commenter | Comment | Agency response |
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| | purpose of reissuing and amending the existing Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management. | |
| Mr. Tony Banks | Per the NOIRA (8/21/18), I am recommending Mrs. Jacki Easter serve on the TAC planned for the reissuance of the VPA GP for Poultry Waste and am submitting this recommendation and her contact information on her behalf and with her consent. Mrs. Easter and her family have been growing broilers for over 20 years in Amelia. Their poultry operation is covered under the VPA GP for Poultry Waste. Mrs. Easter and her family also operate a poultry litter brokerage. | Ms. Easter was recommended and approved to be a member of the Technical Advisory Committee. |
| Ms. Jacki Easter | Thanks Tony and Betsy for the consideration. OAKDALE FARM, doing business as Easter Design, Inc. Thanks again, Jacki | Ms. Easter was recommended and approved to be a member of the Technical Advisory Committee. |
| Ms. Holly Porter | Delmarva Poultry Industry, Inc. (DPI) is pleased to comment on the subject regulatory action proposed by the Virginia Department of Environmental Quality (DEQ). DPI is a nonprofit trade association that represents the broiler chicken industry in Delaware, the Eastern Shore of Maryland and Eastern Shore of Virginia. Our 1,800-member organization is the voice for the industry, including growers, companies and allied businesses, focusing on advocacy, education and member relations. DPI is a key stakeholder in discussions about this regulatory program. DPI's poultry grower members are directly and substantially impacted by the composition of the program, which has been designed to achieve meaningful water quality benefits while minimizing its economic burden upon regulated farmers. DPI encourages DEQ to maintain the basic structure and components of the permit and not to include any additional demands that are beyond the scope of the permit. Finally, I would like to participate, as a representative of the Eastern Shore of Virginia poultry community, on the Technical Advisory Committee that will advise DEQ on the regulation. Thank you for your consideration. | Ms. Porter was recommended and approved to be a member of the Technical Advisory Committee. |
| Mr. Hobey Bauhan | Virginia Poultry Federation (VPF) is pleased to comment on the subject regulatory action proposed by the Virginia Department of Environmental Quality (DEQ). VPF is a nonprofit trade association that promotes the interests of Virginia's poultry and egg industry through public and governmental relations and educational programs. Virginia's largest agricultural sector, the poultry industry contributes about \$13 billion annually to the Virginia economy; supports the livelihood of some 1,100 family farms; and employs more than 15,000 people. VPF is a key stakeholder in discussions about this regulatory program, having been involved with it since its inception. VPF's poultry grower members are directly and substantially impacted by the composition of the program, which has been designed to achieve meaningful water quality benefits while minimizing its economic burden upon regulated farmers. VPF encourages DEQ to approach the reissuance of the regulation and general permit with an eye toward maintaining its basic structure and components, which farmers are successfully implementing. Finally, I respectfully ask to be part of the Technical Advisory | Mr. Bauhan was recommended and approved to be a member of the Technical Advisory Committee. |

| Commenter | Comment | Agency response |
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| | Committee that will advise DEQ on the regulation. Thank you for your consideration. | |
| Mr. Kevin Dunn | Thanks for getting back to me. A little back story on myself, I work for Piedmont which represents Prince Edward, Nottoway and Amelia which you have said is well represented. I am also a poultry producer in Buckingham and am a Director on the Peter Francisco District board representing Cumberland and Buckingham Counties. Is there any other grower representation for my counties? If not could I be considered? If your committee is set could you let me know the two farmers info so I and other growers in my area could convey our thoughts through them? | Mr. Dunn was recommended and approved to be a member of the Technical Advisory Committee. |
| Mr. Joe Wood | Please accept these comments related to the upcoming reissuance of the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management. CBF would greatly appreciate the opportunity to serve on the Technical Advisory Committee for the reissuance of the Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management. CBF has a long history of working on regulatory issues related to agriculture, environmental impacts and water quality issues. We specifically request membership for Joe Wood (Primary), Peggy Sanner (alternate) and Jay Ford (alternate). We look forward to working with DEQ and other stakeholders to develop a stronger and more effective permit for moving forward. The growing importance of poultry in Virginia. Poultry production represents the largest sector of the largest business (agriculture) in Virginia and this sector has shown consistent growth over the past 30 years. USDA's National Agricultural Statistics Surveys indicates that from 1984 to 2017, Virginia's poultry production increased from 158,624 birds/year (834,293 lbs/year) to 294,200 (2,067,540) corresponding to an 85% increase in animals and a 150% increase in production pounds (Figure 1). There have been periods of slight decline and accelerated growth, but on average, animal numbers have increased by 2.6% per year while production pounds have increased by 4.5% per year over the 33-year time span. In 2017, Virginia produced over \$700 Million in poultry products ¹ . The proportional importance (relative to livestock) also continues to grow as poultry makes up approximately 71% of animal units in Virginia's portion of the Chesapeake Bay Watershed, up substantially from 54% back in 1984 ¹ . Consequently, the number of animals covered by this VPA general permit has also been increasing, as evident by nearly 13% increase from 2010-2016 (Figure 2). Poultry growth clearly plays a significant role in Virginia's Agribusiness and economic benefits, but also presents new challenges for the state's goal to improve water quality, and to specifically reduce nutrient and sediment delivery to the Chesapeake Bay. Given the scale of poultry production in Virginia, and continued growth, it is critical for the state to establish a clear plan to address pollutant loads from this sector. The reissuance of this 10-year permit is extremely important and will ultimately have a large impact upon the restoration of the watershed. Further, this represents the last opportunity to improve this permit prior to the 2025 deadline for Chesapeake Bay Implementation. Relationship between growth and nutrient loads The impacts of the rate of poultry production upon nutrient and sediment loads can be divided into three main categories | impacts associated with increases in poultry litter and associated land application and 3) |

| Commenter | Comment | Agency response |
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| | <p>which include 1) the impacts of feeding spaces, 2) impacts associated with increases in poultry litter and associated land application and 3) impacts of air (ammonia) emissions. In order to explore the potential impact of poultry growth on pollutant loads we present modeling efforts performed through the Chesapeake Assessment Scenario Tool (CAST). CAST allows for a hypothetical consideration of land use, animal units, and BMPs upon pollutant loads under previous, current and future conditions. However, the impacts of ammonia emissions from poultry are not calibrated to shifts in animal units and thus these values should be interpreted only as a summary of feedings space loads and impacts of increased litter production². The Chesapeake Bay model divides agricultural loads into categories including Row Crops, Hay, Feeding Spaces, Other Ag, and Pasture. Feeding Spaces represent the most intense agricultural use with the highest pollutant loading rates which are more than 10-fold higher than any other type (Figure 3). The acreage of feeding space represents only a small proportion of agricultural lands (~.16% in Virginia’s Chesapeake Bay Watershed) but a much larger proportion of the overall agricultural sources of nutrients and sediment delivered to the bay (2-4% depending on pollutant). As a result, management of these lands represents a critical opportunity to mitigate agricultural pollutant loads where they are most concentrated. Further, management of these lands is specifically considered in this AFO Poultry Permit. We specifically consider here scenarios from 1984 to 2017, and we have focused upon the five counties which have the highest rates of poultry production which includes Accomack, Augusta, Page, Rockingham and Shenandoah. Specifically, we considered progress reports from 1984-2017 with two BMP implementation scenarios. First, we considered the BMP implementation rates which correspond to the progress year (Progress), and second, we considered a constant BMP implementation (No Action) across all years. The progress scenario indicates estimates of actual pollutant loads whereas the no action scenario is intended to provide insights about how pollutant loads would have changed with growth in the absence of BMPs. The results of these analyses are shown below in Figure 4. Model inputs of poultry production generally increase from 1984 to 2017 similar USDA data (Figure 1) which is utilized as a source for the model. In the Progress scenario there is a steep decline in feeding space nitrogen loads from 1995-2000 corresponding to the timing of adoptions of the original AFO permit and its associated management actions. This load reduction is not observed in the No action scenario and thus emphasizes the important role this permit has played in reducing feeding space loads. However, from 2000 to 2017 the progress scenario displays a 15% increase in feeding space nitrogen loads, suggesting we are backtracking on the original progress made by the adoption of this permit on these lands, not due to declining management but rather as a result of increasing poultry production. Poultry production rates also influence the production of manure and the rate at which manure is applied to agricultural lands. The Chesapeake Bay model, following the guidance of the agricultural workgroup, estimates the proportion of land which received manure by considering the total number</p> | |

| Commenter | Comment | Agency response |
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| | <p>of animal units per county and the overall agricultural acres which exist within that county, along with data reporting on manure transport and export³. Figure 4 (top, orange diamonds) illustrates the estimated proportion of land within the top 5 producing counties which receive manure. Results indicate there has been an increase in manured lands from ~53% in 1984 to 56% in 2017. While this 3% increase may seem small, it is important to note that this is 3% of all agricultural silage and grain acres which represent a much larger acreage (1,000 x the acreage of feeding spaces) than animal feeding operations occupy. In summary, these analyses indicate first that the AFO general permit has made tremendous strides towards mitigating nitrogen loads from feeding spaces, but also that increased poultry production plays an important role in offsetting this progress. As a result, we contend that maintaining a status quo permit, given the growth in poultry production which has been documented over the past 30 years, will result in increased nitrogen loads to Chesapeake Bay. Furthermore, these results do not capture air quality impacts related to ammonia air emissions which have been documented as a significant issue^{4, 5}. While air monitoring represents a new and challenging component to incorporate into these permits, it is critical DEQ take this opportunity to comprehensively consider the water quality impacts directly related to ammonia emissions and monitoring is a critical step to moving forward on this front. We look forward to working with DEQ and other stakeholders to identify cost-effective and un-intrusive strategies which will advance this permit such that it achieves the goals intended of mitigating pollution and specifically reducing nitrogen, phosphorous and sediment loads to the Chesapeake Bay. We would welcome an opportunity to meet to discuss these analyses and ideas for moving forward prior to the Technical Advisory Committee, and further would be happy to present this information to the committee. Thanks so much for this opportunity to provide comments and we look forward to working together soon.</p> | |
| <p>Mr. Wayne Pryor submitted by Ms. Whitney Perkins</p> | <p>The Virginia Farm Bureau Federation is the largest farm membership organization in Virginia representing over 35,000 farm families from every agricultural production sector including poultry producers. Our comments pertain to the notice of intended regulatory action dated August 21, 2018 for the Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management. We believe the VPA general permit is sufficient to regulate poultry farms that generate dry poultry waste and protect water quality; and, therefore we support the reissuance of the current general permit for poultry waste management.</p> | <p>Mr. Wayne Pryor submitted by Ms. Whitney Perkins</p> |

Public Participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the State Water Control Board is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. 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) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

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

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

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Please include citations to the specific section(s) of the regulation that are changing.

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
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| 9VAC25-630-10 (Definitions) | N/A | This definition is not in the current regulation, only in the Law. | Added “Commercial poultry processor” definition. Definition comes directly from §62.1-17:1.1 and relates to new section added (9VAC25-630-90). This addition brings the definition forward into the regulation to facilitate a better understanding of the defined term. |
| 9VAC25-630-10 (Definitions) | N/A | This definition is currently contained in the special conditions located in the contents of the general permit 9VAC25-630-50. | Added “Seasonal high water table” definition. Definition was stated in numerous conditions within the regulation; it was removed from conditions and moved to the definition section. This addition to the definition section will facilitate a better understanding of the term used throughout the regulation sections. |
| 9VAC25-630-20 C (Purpose) | N/A | The current regulation will expire on December 1, 2020. | Amended effective date for General Permit to read December 1, 2020. Amended dates to allow for continuation of coverage under the General Permit. Amending this date will allow for the reissuance of the regulation and thereby extend the ability to provide coverage under the general permit for another 10 years. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
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| 9VAC25-630-25 E (Duty to comply) | N/A | Currently, the regulation does not outline any specific requirements to be followed by the commercial poultry processor. | Added: E. Any commercial poultry processor shall comply with the requirements outlined in 9VAC25-630-90. Added subsection to make it clear the duty to comply relating to the new section added (9VAC25-630-90). The addition of this subsection makes it clear that there is a duty to comply to specific requirements outlined in the new section (9VAC25-630-90). |
| 9VAC25-630-30 A 2 (Authorization to manage pollutants) | N/A | The current section refers to the water quality standards regulation but does not cite the regulation. | Added the citation for the specific water quality standards regulation and amended condition language to make it consistent with other regulations. |
| 9VAC25-630-30 B 2 b (Authorization to manage pollutants) | N/A | The current section refers to the water quality standards regulation but does not cite the regulation. | Added the citation for the specific water quality standards regulation and amended condition language to make it consistent with other regulations. |
| 9VAC25-630-30 D 1 (Authorization to manage pollutants) | N/A | The current regulation allows for the continuation of the general permit coverage. | Removed the dates and revised the language to make it consistent with language in other general permits. |
| 9VAC25-630-30 D 2 (Authorization to manage pollutants) | N/A | The current regulation is slightly inconsistent with the other general permit that covers animal feeding operations. | Amended language to make it consistent with the other VPA General Permit related to Animal Waste (9VAC25-192-50). This amended language will bring consistency to the general permit language that covers all of the animal waste facilities covered by the general permits. |
| 9VAC25-630-40 A (Registration statement) | N/A | The email address is only required if applicable. The registration statement only refers to the integrator and not the commercial poultry processor. | Amended language: removed "if available" for the email address item on the registration statement. Amending this language will allow the agency to have a more efficient and cost effective method for contacting the permittee. Added the commercial poultry processor to the registration statement section to ensure the applicant understands the term and ensure consistency in throughout the regulation. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
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| 9VAC25-630-40 B (Registration statement) | N/A | The email address is only required if applicable. The registration statement does not require the applicant to indicate the integrator. | Amended language: removed “if available” for the email address item on the registration statement. Amending this language will allow the agency to have a more efficient and cost effective method for contacting the permittee. Added requirement to provide name of commercial poultry processor/integrator if the permittee is contracting to raise birds with an integrator. Adding this information allows the agency to know who the integrator is for the facility. |
| 9VAC25-630-50 (Contents of the general permit) | N/A | The current regulation will expire on December 1, 2020. | Amended effective date for General Permit to read December 1, 2020. Amended date for reissuance of General Permit. Amending this date will allow for the reissuance of the regulation and thereby extend the ability to provide coverage under the general permit for another 10 years. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection B | N/A | The tagline does not exist. | Amended subsection tagline to assist with reorganizing the conditions into specific subject matters. New tagline: “Site design, storage and operation requirements”. The conditions have been separated from the poultry waste transfer and utilization and other general conditions to facilitate a clearer understanding of the requirements. Adding the tagline helps distinguish the subsections. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection B | N/A | The specifics for determining the 100 year floodplain is not contained in the regulation. | Added clarification as to which tools are to be used to determine the floodplain when siting poultry waste storage facilities. Adding the language ensures that the permittee will know what tools must be used to make this determination. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
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| 9VAC25-630-50 (Contents of the general permit) Part I subsection B | N/A | The special conditions are not organized into specific subject areas. | Made the following changes to the subdivisions: B 1 was not renumbered B 2 was not renumbered B 3 was not renumbered Original B 4 is now C 1 Original B 4 d is now C 2 New condition - C 3 Original B 4 e is now C 4 B 4 is a new condition Original B 5 is now D 2 Original B 6 is now C 5 Original B 7 is now B 5 Original B 8 is now C 6 Original B 9 is now C 7 Original B 10 is now C 8 Original B 11 is now C 10 Original B 12 is now C 11 Original B 13 is now D 1 Conditions are being kept, some were amended, many were moved to a specific subsection and renumbered. The site conditions have been separated from the poultry waste transfer and utilization conditions and other special conditions to facilitate a clearer understanding of the requirements. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection B 2 c. | N/A | Amended condition | Added "of" to the condition in two places to correct the sentence structure. Amending this language clarifies the condition. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection B 2 c. | N/A | Definition exists in current regulation | Removed definition of seasonal high water table because it was added to the definition section of the regulation. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection B 2 d (2) | N/A | The setback is in the land application setbacks only. | Added a new setback condition for siting temporary poultry waste storage - 200 feet from any occupied dwelling not on the permittee's property (unless the occupant of the dwelling signs a waiver of the storage site). This condition is consistent with the land application setback. This addition of this setback provides for greater protection to neighboring dwelling occupants of the storage site just as with the land application sites. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection B 3 | N/A | The specifics for determining the 100 year floodplain is not contained in the regulation. | Added clarification as to which tools are to be used to determine the floodplain when siting poultry waste storage facilities. Adding the language ensures that the permittee will know what tools must be used to make this determination. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
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| 9VAC25-630-50 (Contents of the general permit) Part I subsection B | N/A | New condition. | Added a new special condition (new B 4) for the site related to managing impervious surfaces and poultry waste. Adding this condition ensures clarity with the expectations of site management. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection (new) C | N/A | The overall requirements for storage exist in the current regulation. | Added a new subsection related to poultry waste storage conditions to allow for the reorganization of the conditions into specific subject matters within the permit to facilitate a clearer understanding of the requirements. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection (new) C | N/A | These conditions exist in the regulation. | Added a new subsection and tagline specific to "Poultry waste transfer and utilization requirements". This change will allow for the reorganization of the conditions within the permit to facilitate a clearer understanding of the requirements. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection (new) C | N/A | Locality is specifically spelled out but county is not. | Added "county" to locality. The addition of county to the poultry waste transfer data recordkeeping will facilitate a more complete and accurate data set of poultry waste transfers that can be sent by DEQ to the Chesapeake Bay Program Office of the Environmental Protection Agency (EPA) for inclusion in the Bay model and progress runs. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection (new) C | N/A | These conditions exist in the regulation. | Corrected the citation in renumbered C 2 and C 5 a because the conditions were moved to the new subsection C. This change will ensure the requirements are understandable. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection (new) C | N/A | The condition only requires that the records are maintained on site and made available to staff upon request. | Added a reporting requirement to phase in reporting by the permitted grower. In the first year of the effective date of the permit-the permitted grower will submit the poultry waste transfer records upon the request of the department, in a format and method determined by the department. In the second year of the effective date of the permit-the permitted grower will submit the poultry waste transfer records, annually, records for the preceding state fiscal year (July 1 through June 30) no later than September 15. The addition of this requirement ensures that the agency will receive the transfer records annually to facilitate the submittal of the records by DEQ to the Chesapeake Bay Office of the EPA. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection (new) C | N/A | These conditions exist in the regulation. | Corrected the citation in C 3 that changed due to the recodification of the Nutrient Management Training and Certification Regulations administered by the Department of Conservation and Recreation. This change will ensure the requirements are accurate and understandable. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
|--|-----------------------------------|--|---|
| 9VAC25-630-50 (Contents of the general permit) Part I subsection (new) C | N/A | These conditions exist in the regulation. | Corrected the citation in C 4 that changed due to the recodification of the Nutrient Management Training and Certification Regulations administered by the Department of Conservation and Recreation. This change will ensure the requirements are accurate and understandable. |
| 9VAC25-630-50 (Contents of the general permit) Part I (new) C | N/A | The requirement to report unusual or extraordinary discharges is a condition found in Part II H of the permit. | Added a new condition to clarify requirements in cases of waste storage emergencies such as fire or flood. The new condition provides criteria for the land application of poultry waste outside of the land application schedule found in the nutrient management plan so long as land application information is documented and the Department is notified. This condition provides permittees with clear requirements related to waste storage and land application when the permittee is faced with an emergency. |
| 9VAC25-630-50 (Contents of the general permit) Part I (new) D | N/A | These conditions exist in the regulation. | Added a new subsection and tagline specific to “Other special conditions”. The language in the conditions moved to this new subsection remain unchanged. This change will allow for the reorganization of the conditions within the permit to facilitate a clearer understanding of the requirements. |
| 9VAC25-630-50 (Contents of the general permit) Part II subsection A | N/A | This condition exists in the regulation. | Amended this condition. The procedures for soil and waste analysis are determined by the Department of Conservation and Recreation (DCR). DCR also administers the Nutrient Management Training and Certification Regulations. Amended the language to clarify that the requirements are found in the permit. |
| 9VAC25-630-50 (Contents of the general permit) Part II subsection H | N/A | This condition exists in the regulation. | Amended this condition. Correct a typo effect instead of affect. |
| 9VAC25-630-50 (Contents of the general permit) Part II subsection I | N/A | This condition exists in the regulation. | Amended this condition. Corrected name of the Virginia Department of Emergency Management. |
| 9VAC25-630-50 (Contents of the general permit) Part II subsection W | N/A | The condition exists in the regulation. | Amended the condition. Amended the language to make it clear that all areas (such as storage, and land application areas) where the pollutant management activities occur can be inspected by department staff. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
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| 9VAC25-630-50 (Contents of the general permit) Part III subsection B | N/A | The tagline does not exist. | Amended subsection tagline to assist with reorganizing the conditions into specific subject matters. New tagline: "Site design, storage and operation requirements". The conditions have been separated from the poultry waste transfer and utilization and other general conditions to facilitate a clearer understanding of the requirements. Adding the tagline helps distinguish the subsections. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection B | N/A | The special conditions are not organized into specific subject areas. | <p>Made the following changes to the subdivisions:</p> <ul style="list-style-type: none"> B 1 was not renumbered B 2 was not renumbered B 3 was not renumbered Original B 4 is now C 1 B 4 is a new condition Original B 5 is now C 2 Original B 6 is now C 3 Original B 7 is now C 4 New condition - C 5 Original B 8 is now C 6 Original B 9 is now D 2 Original B 10 is now C 7 Original B 11 is now B 5 Original B 12 is now C 8 Original B 13 is now C 9 Original B 14 is now C 10 New condition - C 11 Original B 15 is now C 12 Original B 16 is now C 13 Original B 17 is now D 1 <p>Conditions are being kept, some were amended, many were moved to a specific subsection and renumbered. The site conditions have been separated from the poultry waste transfer and utilization conditions and other special conditions to facilitate a clearer understanding of the requirements.</p> |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection B 2 c. | N/A | Amended condition | Added "of" to the condition in two places to correct the sentence structure. Amending this language clarifies the condition. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection B 2 c. | N/A | Definition exists in current regulation | Removed definition of seasonal high water table because it was added to the definition section of the regulation. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
|--|-----------------------------------|---|--|
| 9VAC25-630-50 (Contents of the general permit) Part III subsection B 2 d (2) | N/A | The setback is in the land application setbacks only. | Added a new setback condition for siting temporary poultry waste storage - 200 feet from any occupied dwelling not on the permittee's property (unless the occupant of the dwelling signs a waiver of the storage site). This condition is consistent with the land application setback. This addition of this setback provides for greater protection to neighboring dwelling occupants of the storage site just as with the land application sites. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection B 3 | N/A | The specifics for determining the 100 year floodplain is not contained in the regulation. | Added clarification as to which tools are to be used to determine the floodplain when siting poultry waste storage facilities. Adding the language ensures that the permittee will know what tools must be used to make this determination. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection B | N/A | New condition. | Added a new special condition (new B 4) for the site related to managing impervious surfaces and poultry waste. Adding this condition ensures clarity with the expectations of site management. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection (new) C | N/A | The overall requirements for storage exist in the current regulation. | Added a new subsection and tagline specific to "Poultry waste transfer and utilization requirements". This change will allow for the reorganization of the conditions within the permit to facilitate a clearer understanding of the requirements. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection (new) C | N/A | Locality is specifically spelled out but county is not. | Added "county" to locality. The addition of county to the poultry waste transfer data recordkeeping will facilitate a more complete and accurate data set of poultry waste transfers that can be sent by DEQ to the Chesapeake Bay Program Office of the Environmental Protection Agency (EPA) for inclusion in the Bay model and progress runs. |
| 9VAC25-630-50 (Contents of the general permit) Part I subsection (new) C | N/A | The condition only requires that the records are maintained on site and made available to staff upon request. | Added a reporting requirement to phase in reporting by the permitted end-user or permitted broker. In the first year of the effective date of the permit-the permitted grower will submit the poultry waste transfer records upon the request of the department, in a format and method determined by the department. In the second year of the effective date of the permit-the permitted grower will submit the poultry waste transfer records, annually, records for the preceding state fiscal year (July 1 through June 30) no later than September 15. The addition of this requirement ensures that the agency will receive the transfer records annually to facilitate the submittal of the records by DEQ to the Chesapeake Bay Office of the EPA. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
|---|-----------------------------------|--|--|
| 9VAC25-630-50 (Contents of the general permit) Part III subsection (new) C | N/A | These conditions exist in the regulation. | Corrected the citations in C 4 and C 7 a because the conditions was moved to the new subsection C. The changes will ensure the requirements are understandable. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection (new) C | N/A | These conditions exist in the regulation. | Corrected the citation in C 8 that changed due to the recodification of the Nutrient Management Training and Certification Regulations administered by the Department of Conservation and Recreation. This change will ensure the requirements are accurate and understandable. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection (new) C | N/A | These conditions exist in the regulation. | Corrected the citation in C 9 that changed due to the recodification of the Nutrient Management Training and Certification Regulations administered by the Department of Conservation and Recreation. This change will ensure the requirements are accurate and understandable. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection (new) C | N/A | The requirement to report unusual or extraordinary discharges is a condition found in Part II H of the permit. | Added a new condition C 11 to clarify requirements in cases of waste storage emergencies such as fire or flood. The new condition provides criteria for the land application of poultry waste outside of the land application schedule found in the nutrient management plan so long as land application information is documented and the Department is notified. This condition provides permittees with clear requirements related to waste storage and land application when the permittee is faced with an emergency. |
| 9VAC25-630-50 (Contents of the general permit) Part III subsection (new) D | N/A | These conditions exist in the regulation. | Added a new subsection and tagline specific to "Other special conditions". The language in the conditions moved to this new subsection remain unchanged. This change will allow for the reorganization of the conditions within the permit to facilitate a clearer understanding of the requirements. |
| 9VAC25-630-60 (Tracking and accounting requirements for poultry waste brokers) Subsection A | N/A | The existing requirement is clarified. | Amended subsection A to clarify that the form for broker registration is provided by the department. Amending this language provides clarity for where the form originates. |
| 9VAC25-630-60 (Tracking and accounting requirements for poultry waste brokers) Subsection C | N/A | Locality is specifically spelled out but county is not. | Added "county" to locality. The addition of county to the poultry waste transfer data recordkeeping will facilitate a more complete and accurate data set of poultry waste transfers that can be sent by DEQ to the Chesapeake Bay Program Office of the Environmental Protection Agency (EPA) for inclusion in the Bay model and progress runs. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
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| 9VAC25-630-60 (Tracking and accounting requirements for poultry waste brokers) Subsection C | N/A | This is an existing condition. | Corrected typo in C 2 f. Correcting this typo will not change the requirements for the broker; only clarify the language. |
| 9VAC25-630-60 (Tracking and accounting requirements for poultry waste brokers) Subsection D | N/A | This is an existing condition. | Amended the dates for recordkeeping and reporting. Added the requirements to the items required to be reported annually. The change to recordkeeping and reporting timeframes of the poultry waste transfer data from the broker will facilitate a more complete and accurate data set that can be sent by DEQ to the Chesapeake Bay Program Office of the Environmental Protection Agency (EPA) for inclusion in the Bay model and progress runs. |
| 9VAC25-630-60 (Tracking and accounting requirements for poultry waste brokers) Subsection E | N/A | The recordkeeping item exists in the section; it is not explicitly required to report the item separately. | Added language related to original sources of commingled poultry waste. The added language will facilitate better tracking of poultry waste transfers which will provide for a more complete and accurate data set that can be sent by DEQ to the Chesapeake Bay Office of EPA. |
| 9VAC25-630-70 (Tracking and accounting requirements for poultry waste end-users) Subsection A | N/A | Locality is specifically spelled out but county is not. | Added “county” to locality in subsection A 1 b. The addition of county to the poultry waste transfer data recordkeeping will facilitate a more complete and accurate data set of poultry waste transfers that can be sent by DEQ to the Chesapeake Bay Program Office of the Environmental Protection Agency (EPA) for inclusion in the Bay model and progress runs. |
| 9VAC25-630-70 (Tracking and accounting requirements for poultry waste end-users) Subsection A | N/A | Reporting requirement is not in the current regulation. | Added phased in reporting for waste transfer & land application records which are required to be maintained by the current regulation. First and second year send to DEQ annually upon request of DEQ. 3rd year – submit records for preceding state fiscal year, no later September 15. |
| 9VAC25-630-80 (Utilization and storage requirements for transferred poultry waste) Subsection B | N/A | Amended condition | Added “of” to the condition in two places to correct the sentence structure. Amending this language clarifies the condition. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
|---|-----------------------------------|---|---|
| 9VAC25-630-80 (Utilization and storage requirements for transferred poultry waste) Subsection B | N/A | Definition exists in current regulation | Removed definition of seasonal high water table because it was added to the definition section of the regulation. |
| 9VAC25-630-80 (Utilization and storage requirements for transferred poultry waste) Subsection B | N/A | The setback is in the land application setbacks only. | Added a new setback condition for siting temporary poultry waste storage in subsection <i>B 1 d (2)</i> - 200 feet from any occupied dwelling not on the non-permitted end-user's or non-permitted broker's property (unless the occupant of the dwelling signs a waiver of the storage site). This condition is consistent with the land application setback. This addition of this setback provides for greater protection to neighboring dwelling occupants of the storage site just as with the land application sites. |
| 9VAC25-630-80 (Utilization and storage requirements for transferred poultry waste) Subsection B | N/A | The specifics for determining the 100 year floodplain is not contained in the regulation. | Added clarification as to which tools are to be used to determine the floodplain when siting poultry waste storage facilities. Adding the language ensures that the permittee will know what tools must be used to make this determination. |
| 9VAC25-630-80 (Utilization and storage requirements for transferred poultry waste) Subsection C | N/A | Existing condition. | Amended language in subsection C to clarify the requirements and make the threshold consistent for a better understanding of the regulatory requirements. This was supposed to be corrected during the last regulatory action based on the TAC and staff decision to keep the 10 ton threshold. This amendment will make the regulation consistent and easier to understand and comply with for the applicable entities. |
| 9VAC25-630-80 (Utilization and storage requirements for transferred poultry waste) Subsection C | N/A | These are existing conditions. | Corrected the citation in <i>C 1 c (2)</i> , <i>C 1 c (3)</i> and <i>C 2</i> due to the recodification of the Nutrient Management Training and Certification Regulations administered by the Department of Conservation and Recreation. This change will ensure the requirements are accurate and understandable. |

| Current Section Number | New Section Number, if applicable | Current Requirements | Change, intent, rationale, and likely impact of new requirements |
|---|--|--|---|
| 9VAC25-630-80 (Utilization and storage requirements for transferred poultry waste) Subsection C | N/A | This is a new condition. | Added a new condition (C 4) to clarify requirements in cases of waste storage emergencies such as fire or flood. The new condition provides criteria for the land application of poultry waste outside of the land application schedule found in the nutrient management plan so long as land application information is documented and the Department is notified. This condition provides permittees with clear requirements related to waste storage and land application when the permittee is faced with an emergency. |
| 9VAC25-630-80 (Utilization and storage requirements for transferred poultry waste) Subsection E | N/A | The current section refers to the water quality standards regulation but does not cite the regulation. | Added the citation for the specific water quality standards regulation and amended condition language to make it consistent with other regulations. |
| N/A | 9VAC25-630-90. Commercial poultry processor activities | Currently, the regulation does not outline any specific requirements to be followed by the commercial poultry processor. | Added a new section with language related to the commercial poultry processor activities. Added the new section to address activities performed by the commercial poultry processor on the contract grower's farm. Adding this section will provide accountability for activities that are performed by a commercial poultry processor. |
| FORMS (9VAC25-630) | N/A | The current effective forms are consistent with the current regulation. | Revised forms and Poultry Litter Fact Sheet to be consistent with the changes made to 9VAC25-630-40, 9VAC25-630-70 and 9VAC25-630-80. Revising the registration statements and the Poultry Litter Fact Sheet will provide forms consistent with the changes made to sections previously mentioned. |

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please 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.

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