



Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-630 [If more than one chapter is affected by action, please indicate a primary action chapter number and secondary action chapter numbers and identify the Primary chapter.]
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
Final agency action date	12/9/2020
Date this document prepared	10/26/2020

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

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

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.

Statement of Final Agency Action

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.

On December 9, 2020, the State Water Control Board adopted the final amendments to the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management as presented.

Legal Basis

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

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's 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

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 have been identified following the submittal of public comments on this notice.

Issues

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.

The issues that arose based on public comment received during the comment period include the list below.

- GC-1 Subject: Support
- GC-2 Subject: FOIA and Public Information Concerns
- GC-3a Subject: Litter Amendment Reporting – Supportive to Require
- GC-3b Subject: Litter Amendment Reporting - Not-Supportive to Require
- GC-4a Subject: Temporary Storage Covering Requirements - Support Current Requirements
- GC-4b Subject: Temporary Storage Covering Requirements - Support Making Revisions – Increase Number of Days to Cover
- GC-4c Subject: Temporary Storage Covering Requirements - Support Making Revisions – Decrease Number of Days to Cover
- GC-5 Subject: Permit Term Five Years Instead of Ten Years
- GC-6 Subject: Permit Should Include Random Sampling of Runoff from Poultry Houses
- GC-7 Subject: Nutrient Management Plan (NMP)
- GC-8 Subject: Industry Growth
- Gc-9 Subject: Bay Cleanup Progress & WIP III Goals
- GC-10 Subject: Soil Amendment and Recycling
- GC-11 Subject: New Proposed Reporting Requirements-Add County - Supportive to Require
- GC-12 Subject: New Proposed Reporting Requirements-All - Not-Supportive to Require
- GC-13 Subject: Water Quality

- GC-14 Subject: Technical Advisory Panel (TAC) Process
- GC-15 Subject: Ammonia Monitoring
- GC-16 Subject: Miscellaneous
- SC-1a Subject: Section 50-Part I - Permitted Poultry Grower Poultry Waste Transfer Reporting – Supportive to Require
- SC-1b Subject: Section 50-Part I - Permitted Poultry Grower Poultry Waste Transfer Reporting – Not-Supportive to Require
- SC-1c Subject: Section 50-Part I - Permitted Poultry Grower Poultry Waste Transfer Reporting – Not-Supportive as Written – Purpose Change
- SC-2 Subject: Section 50-Part I – Contents of General Permit – Permittee Storage Requirements
- SC-3 subject: Section 50-Part III – Permitted Poultry Waste Broker and End-Users Poultry Waste Transfer Reporting – Not-Supportive to Require
- SC-4a Subject: Section 60 - Tracking and Accounting Requirements for Poultry Waste Brokers - Supportive
- SC-4b Subject: Section 60 - Tracking and Accounting Requirements for Poultry Waste Brokers – Supportive with Changes
- SC-5a Subject: Section 70 - Poultry Waste End-User Reporting - Supportive
- SC-5b Subject: Section 70 - Poultry Waste End-User Reporting - Not-Supportive
- SC-6 Subject: Section 80 – Utilization and Storage Requirements for Transferred Poultry Waste – Supportive
- SC-7a Subject: Section 90 – Commercial Poultry Processor Activities – Supportive
- SC-7b Subject: Section 90 – Commercial Poultry Processor Activities - Not-Supportive

Further details specific to these issues can be found in the public comment section of this document.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to the previously reported information pertaining to requirements more restrictive than Federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

There are no changes to the previously reported information pertaining to other state agencies.

Localities Particularly Affected

There are no changes to the previously reported information pertaining to localities particularly affected.

Other Entities Particularly Affected

The addition of new reporting requirements will affect the permitted poultry growers, poultry waste end-users and poultry waste brokers. The addition of a new section to the regulation will affect the commercial poultry processors operating in the Commonwealth.

For purposes of "Locality Particularly Affected" under the Board's statutes

There is no locality particularly affected under the Board's statutes.

Public Comment

Summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. Ensure to include all comments submitted: including any 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.

This permit regulation continues to be needed to cover the nearly 1000 permitted poultry operations across the Commonwealth. A total of 113 farmers submitted comments during the public comment period, these farmers represent small business entities which own and operate farms. These small farm owners stated they had concerns that the new reporting requirements will cause financial burdens, to include an increase in operating costs and a loss in profit from the sale of poultry litter with no environmental benefit. The proposed regulation was published for public comment on August 3, 2020. Two public hearings were held on September 14 and 16, 2020. The comment period closed on October 2, 2020. During the comment period, 634 persons commented on the proposed regulation.

Of the 634 commenters, 500 of the commenters responded as a part of a Chesapeake Bay Foundation (CBF) Action Alert. 486 of the respondents submitted the following identical comments: (i) requested that producers be required to report to DEQ on the type and amount of litter additives used; (ii) thanked DEQ for requiring reporting by end users; and (iii) thanked DEQ for maintaining the requirement for poultry litter to be covered within 14 days. Fourteen respondents were not identical to the CBF alert. Twelve respondents requested that producers be required to report to DEQ on the type and amount of litter additives used; 10 thanked DEQ for requiring reporting by end users; and 10 thanked DEQ for maintaining the requirement for poultry litter to be covered within 14 days. All comments are included in the preceding sections.

Of the 634 commenters, 48 of the commenters responded as a part of a Virginia Farm Bureau Action Alert. The comments received under the Virginia Farm Bureau action alert: (i) opposed to the proposed end-user reporting requirements; (ii) opposed to new reporting requirements for permitted poultry growers; and (iii) requested that DEQ continue to reject a reporting requirement for use of litter amendments.

In addition to the action alerts, there were comments received from another 86 commenters. Of the 86 other commenters, there were 65 farmers, eight agricultural organizations, four persons from three environmental organizations, two Soil and Water Conservation Districts (SWCDs), four commercial poultry integrators and three other citizens.

A total of 113 farmers submitted comments during the public comment period. Ten commenters had concerns related to public information and FOIA implications for the records required by the proposed reporting requirements. There were 86 farmers and agricultural organizations supported DEQ in not adding the litter amendment reporting to the proposed amendments. 87 farmers, integrators, SWCDs and agricultural organizations were not supportive in requiring permitted poultry grower reporting waste transfer records.

There were 123 farmers, integrators, SWCDs and agricultural organizations that were not supportive in requiring end-users to report waste transfer records and land application records. These comments include concern that a new reporting requirement for the non-permitted end-user could have negative financial impacts on the poultry waste end-users, the permitted poultry growers, and poultry waste brokers. Commenters specified that they expect there may be a significant reduction in the beneficial use of poultry waste, by persons other than the grower, based on the new reporting requirements. Their concern included a reduction in the transfers of poultry waste to end-users resulting in a loss of income to the poultry grower and possibly poultry waste brokers from the sale of the poultry waste across the

Commonwealth and causing the poultry waste to remain on the poultry grower's farm longer, prolonging storage times. Commenters' concern with prolonged storage of the poultry waste on the farm is that not all poultry growers have permanent poultry waste storage, which means the poultry will have to remain outside of the growing houses and not under a roofed structure. While there are strict requirements for proper storage of poultry waste outside of the growing houses, most poultry growers have a limited area at the production site to store excess poultry waste. The regulatory site limitation would affect the ability to locate appropriate on-farm poultry waste storage sites if difficulty in transferring poultry waste arose. The following are the comments received along with the Department's response to the comments.

General Comments (GC)

GC-1 Subject: Support

COMMENT: Tyson Farms, Inc. ("Tyson") is a part of Tyson Foods, Inc., one of the largest protein companies in the world and has independent farmers that raise poultry across Virginia and are covered under the VPA General Permit for Poultry Waste Management. Tyson thanks you for the opportunity to comment on the proposal to renew the VPA General Permit for Poultry Waste Management program for another ten years. Tyson supports much of the proposal...

COMMENTER: Kendra Jones, Tyson Farms, Inc.

COMMENT: I am writing on behalf of Virginia Poultry Federation (VPF) to comment on the referenced regulatory action. VPF is a statewide trade association representing all sectors of the poultry industry. Virginia's largest agricultural sector, the poultry industry contributes about \$13 billion annually to the Virginia economy; supports the livelihood of nearly 1,100 family farms; and employs more than 15,000 people. I have had the privilege of representing VPF on all three of the technical advisory committees (TACs) for this regulatory program since it began 20 years ago. VPF appreciates the opportunity to have been involved in the development of the program and reissuance of the permit every ten years. We support much of what DEQ is proposing.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

COMMENT: I support strong legislation to control poultry litter in Virginia. That litter produces excess nutrients that ends in the Chesapeake Bay where it has adverse affect on the creatures that live in the Bay and diminishes catch of our important seafood industry a driver of economic life in many communities.

COMMENTER: Walter Zadan

COMMENT: I am very concerned about protecting our water and air quality. These are vital to our life! Also, considering the current pandemic, I think it's extremely important that we pay attention to the interface between animals and humans. So, thank you for what you have been doing already to help.

COMMENTER: Victoria Hook

RESPONSE: DEQ acknowledges the support. *No changes are being proposed based on these comments.*

GC-2 Subject: FOIA and Public Information Concerns

COMMENT: DPI is also concerned about the information being supplied to DEQ becoming subject to Freedom of Information Act (FOIA) requests from advocacy organizations and rival producers. This aspect of end-user reporting was not discussed or brought up during TAC discussions. There is a clear exemption from FOIA of nutrient management plans and other proprietary information collected by DCR. This is not the same of information requested by DEQ. We have already had instances this past year of advocacy organizations requesting information and distorting, misrepresenting and misusing the information to advance their agenda. This provides yet another disincentive for end-users and will encourage other forms of fertilizer use.

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: As such, the TAC did not discuss data privacy concerns resulting from DEQ's mass collection of reported transfer information which represents poultry growers' private and proprietary customer lists. We are concerned that once DEQ has assembled this proprietary information it will not be protected from Freedom of Information Act (FOIA) and be available to the public, including both persons interested in disrupting poultry waste transfers or harassing end-users, as well as poultry litter brokers and other poultry growers competing for poultry waste end-user clients. The agricultural industry, law enforcement, national security and intelligence communities are increasingly concerned about terrorism and other attacks against agriculture, related biosecurity and cybersecurity, and associated risks to national security. Intentional and

unintentional data releases and data theft threaten the privacy of confidential data which can and has been used against an individual or group of farms. Platforms already exist to collect and publish confidential information belonging to individual farms for sale or distribution for any third-party use. In addition, DEQ did not present the TAC any format or method for growers to report their information annually. In many rural communities, it is not so easy to simply hit send on an email or stick a stamp on an envelope. We are concerned the format and method eventually selected by DEQ may prove burdensome for individuals with limited internet access due to limited internet provider capacity, or no internet access due to religious beliefs, income level or comfort with technology. Mailing printed copies is a low-tech method of reporting the information but will prove time consuming for both growers without copier access and DEQ which will be required to enter the data into some digital framework yet to be designed and tested. We also have concerns that under the Freedom of Information Act (FOIA), end-user data would be available to the general public. The number of end-user farms affected by this mass data collection will easily surpass the number of permitted poultry farms. As end-user reporting was not included in any draft proposal or language during the TAC meetings, this FOIA issue was not discussed, and the possibility of private business information being available to advocacy groups, competing farmers, and others, will most certainly deter producers from utilizing poultry waste. Again, DEQ did not present the TAC any format or method for growers to report their information annually. Also, the agricultural industry, law enforcement, national security and intelligence communities are increasingly concerned about terrorism and other attacks against agriculture, related biosecurity and cybersecurity, and associated risks to national security. Intentional and unintentional data releases and data theft threaten the privacy of confidential data which can and has been used against an individual or group of farms. Platforms already exist to collect and publish confidential information belonging to individual farms for sale or distribution for any third-party use.

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: During the public hearings on this regulation, testimony from some environmental groups seemed to dismiss as silly the notion that farmers would have any problem filing an annual report with DEQ. They obviously have not walked in farmers' shoes. A member of VPF, who is a veteran litter broker, surveyed his customers, and only one said they would continue to use litter with such a requirement. Farmers tend to consider agronomic inputs as proprietary, and thankfully nutrient management plan information held by DCR is exempt from the Freedom of Information Act (FOIA). Unfortunately, such protections are not afforded to plans in possession of DEQ that are associated with VPA regulations. We, therefore, have concerns that under FOIA, end-user data would be available to the general public. As end-user reporting was not included in any draft proposal or language during the TAC meetings, this FOIA issue was not discussed, and the possibility of private business information being available to advocacy groups, competing farmers, and others, will most certainly deter producers from utilizing poultry litter.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

COMMENT: • Potential end-users are very concerned about some advocacy groups desire to obtain such information via a FOIA request and use it to distort, harass, or otherwise dis-incent them from using poultry litter as a source of locally-produced, slow-release, organic fertilizer;...

COMMENTERS: Kurt H. Fuchs, Senior Vice President, Government Affairs, MidAtlantic Farm Credit

Katie Frazier, Chief External Affairs and Marketing Officer, Farm Credit of the Virginias

Jim Belfield, Chief Information Officer, Colonial Farm Credit

COMMENT: I am also concerned about my personal information as well as information about my operation becoming public information.

COMMENTER: Nicholas Moody, Dinwiddie County Farmer

COMMENT: End-user reporting. The general public has a very limited understanding of soil and crop fertility needs. They don't understand the benefits gained by using litter on the land, such as increased soil health, biological activity, soil organic matter, water infiltration, etc. I am opposed to the general public accessing such records.

COMMENTER: Junior Beachy, Staunton

COMMENT: We are also concerned about the information being supplied to DEQ becoming subject to Freedom of Information Act (FOIA) requests from advocacy organizations and rival producers. This aspect of end-user reporting was not discussed or brought up during TAC discussions. There is a clear exemption from FOIA of nutrient management plans and other proprietary information collected by the Department of Conservation and Recreation. No such exemption exists for information submitted as a requirement of the permit for DEQ. We have already had instances this past year of advocacy organizations requesting information and distorting, misrepresenting and misusing the information to advance their agenda and the Council is concerned this practice will continue and expand if the Board includes this reporting requirement. This will provide yet another disincentive for end-users to utilize other forms of fertilizer.

COMMENTER: Kyle Shreve - Virginia Agribusiness Council

RESPONSE: DEQ acknowledges these comments and understands that one of the reasons for the opposition to the new proposed reporting requirements is due to the concern that the information to be reported under the new proposed regulations will be subject to the Freedom of Information Act (FOIA). At this time, there are no laws or regulations that exempt the reported data from the requirements of the FOIA.

The Freedom of Information Act also addresses Nutrient Management Plans. Specifically, Va. Code 2.2-3705.6(25) excludes from mandatory disclosure "Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action." Still, such records may be disclosed by the custodian in his discretion. Even so, this exclusion only applies to information of a proprietary nature (which could include a Nutrient Management Plan) submitted to DCR, DEQ, or VDACS pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9 which is not the case when someone is seeking coverage under the Poultry Waste Management Regulations.

After analyzing the comments and determining what information the department needs to ensure compliance with the regulation by the end-user and what is necessary for receiving credit in the Bay model through the reporting of poultry waste transfer data to the Chesapeake Bay Office of the EPA. Staff determined that a better option to reporting all land application records and supporting documents (as previously required in the proposed language) by the end-user would be to instead require the end-user to report (in a phased in reporting timeframe): poultry waste transfer records; the method they used to determine the land application rate; and the county where the waste is being utilized.

This alternative strikes a balance for obtaining the information related to poultry waste transactions and a subset of important land application information, as expressed by two of the TAC members, while reducing the reporting burden and the concerns related to the release of private and personally identifying information contained in the specific land application records and supporting documents. This option will provide the department with the necessary information in a timely manner while not compromising the privacy and personal identifying information that is protected by the Department of Conservation and Recreation through exemptions in the Freedom of Information Act, and protected by Federal branches of the United States Department of Agriculture. Furthermore, this revision makes the end-user reporting requirements more consistent with the proposed permitted grower and registered poultry waste broker reporting requirements. As with the permitted grower, the end-user land application records can be reviewed by DEQ staff to ensure compliance without taking custody of the records.

The following changes are being proposed based on these comments. Section 70, Tracking and Accounting Requirements for End-Users is being revised to report the following items to the Department in a phased in timeframe:

- 1. poultry waste transfer records,***
- 2. the method the end-user used to determine the land application rate, and***
- 3. the county where the waste is being utilized.***

GC-3a Subject: Litter Amendment Reporting – Supportive to Require

COMMENT: I ask that producers be required to report to DEQ on the type and amount of litter additives used. Ammonia pollution from poultry houses poses a significant threat to local waters and the Chesapeake Bay. These additives have substantive influence upon the stability of nitrogen within poultry litter and have the potential to influence air and water pollution. Tracking the additives used by producers is fully consistent with the intent of this permit and represents a critical first step to addressing this issue that has minimal burden to producers.

COMMENTERS: Respondents to Chesapeake Bay Foundation Alert (names listed in Table B and Table C)

COMMENT: The permit should require reporting of litter amendments as a reasonable, non-burdensome first step in addressing deleterious nutrient runoff and emissions from poultry facilities. Virginia DEQ currently has the expertise and the authority to add this requirement.

a. Requiring litter additive reporting offers opportunities to enhance nutrient management to prevent runoff

DEQ should require reporting of litter additives for several reasons. First, understanding the content of litter additives will help prevent runoff-related nutrient losses via nutrient management planning. These relationships have been documented several times in the peer-reviewed scientific literature. Here, we provide several examples of that documentation. A peer-reviewed study from Virginia Tech in 2006 documented the influence of amendments (alum) to chicken litter and stated: “In conclusion, the results of this study show that the use of ATPL [Alum Treated Poultry Litter] can reduce runoff P and soil test P when using poultry litter as a nutrient source for corn production without significant changes in production management strategies.” Guo et al. 2006 suggested litter additives have the capacity to prevent excessive phosphorus runoff losses from soils with high test phosphorus levels.⁴ A 2011 study found litter amendments consistently reduced nitrogen losses compared to litter without amendments, and thus improved the economic value of the commodity and reduced the environmental impact.⁵ A 2010 study from the Delmarva Peninsula, which considered long-term effects of additives on nutrient availability in litter, found clear differences in nutrient content over a three-year period. The authors consider application rates that are dependent upon additives and their influence upon nutrient availability. They go on to suggest, “Alum amendments significantly reduced P leaching from field-weathered poultry litter in comparison with non-amended poultry litter.” Sisatani et al. 2006 concluded that, “alum treatment was effective in reducing the concentration of NH₄ and all the analyzed forms of P in runoff water from fescue plots fertilized with the treated litter.” These studies show that understanding of litter additives can significantly guide nutrient management for water quality protection and economic benefits. For example, this information could help nutrient management planners reduce producer costs by prescribing specific application rates based upon litter treatments. Without a permit requirement to report litter additives, there is no clear path for a nutrient management planner to obtain this information. At a minimum, therefore, amending this permit to require submission of relevant additive information would assist DEQ and the Department of Conservation and Recreation (DCR)—now and going forward—in carrying out their responsibilities to protect water quality while ensuring a thriving poultry industry. In this connection, adequate protections of producer privacy and “trade secrets” could certainly be devised.

b. Knowledge of these additives is relevant to environmental catastrophe, emergency management and public health

DEQ, in its role as staff to the State Water Control Board, is responsible for assessing and reducing the introduction of toxic substances into state waterways. Yet we understand that numerous types of litter additives are being used to control ammonia across the state in a manner and to a degree that is currently unknown to Virginia regulators and litter end-users. Several studies have considered the potential for toxicity arising from additives; while toxicity is uncommon, it has been suspected to be possible, posing a potential threat to waterways. To our knowledge, neither DEQ—nor DCR, despite its oversight role for nutrient management planning—has an approved list of additives that will be protective of water quality. Further, some additives have a propensity to catch fire. While such products have specific Material Safety Data Sheets (MSDS) and a clear statement of content would be beneficial to emergency management, there is no obligation to provide that information to end-user recipients. Additives have also been shown

to influence salmonella levels in the litter as well as horizontal transmission between chickens. In these circumstances, requiring reporting on the use and type their poultry operations and protect Virginia waters. c. Addressing ammonia air emissions We asked DEQ in our initial comments from 2018 and throughout this process to address ammonia emissions from poultry through appropriate amendments to this proposed general permit reissuance. We raised concerns about direct ammonia emissions from poultry facilities, its subsequent deposition and transport to public waters, and in managing the stockpiling of litter. DEQ responded by declining all recommendations on ammonia management: The proposed regulation does not include the requirement to report litter amendments for two reasons: 1) the lack of research data related to litter amendments and their effectiveness on ammonia volatilization on waste stored outside and 2) since the proposal does not include an extension of uncovered temporary storage, there is no need to require the reporting of litter amendment use. DEQ's response to the recommendation that reporting of litter additives be required is wholly inadequate and does not respond to our broad concerns related to ammonia. Here, we describe the problems associated with ammonia and our recommendations for moving forward. i. Scientific evidence that ammonia emissions are a substantive source of nitrogen to estuarine waters and problematic for aquatic life Agricultural emissions of ammonia have been shown to be a substantial and increasing source of nitrogen pollution that exacerbates eutrophication of estuarine and degradation of freshwater systems. Of particular concern in this and other regions across the country are air emissions of ammonia from poultry facilities that represent a virtually unaddressed pollution source. The emissions have been documented by numerous peer reviewed studies, most recently by Gilbert 2020 who estimates that across the nation, "based on the animal inventory of 2019, a total of 4,500,000 megatons year of NH₃ were emitted. Of this, broilers and turkeys made the largest contribution." Strikingly, the study suggests that this level of emissions and associated deposition exceeds wastewater contributions across the country, predicting alarming results worldwide: "a near-term future with reductions in nutrient and greenhouse gas emissions by the U.S. farming industry is bleak, and the negative consequences will be felt worldwide for the foreseeable future." Notably, ammonia emissions, which are largely from agricultural production, have emerged as the largest source of nitrogen deposition to the Bay and are expected to remain larger than power plant and vehicle emissions based on historic trends.¹⁸ Recent studies suggest that across the Chesapeake Bay watershed, ammonia emissions from poultry production likely represents a substantive source to Bay waters, particularly in the absence of litter amendments. A study from 2011, co-authored by the United States Department of Agriculture, describes litter amendments "as essential to the future of sustainable poultry production," and describes multi-faceted benefits to amendments. The use of efficient, cost-effective litter amendments to maximum agronomic, environmental and financial benefits is essential for the future of sustainable poultry production.... Poultry use less than 30% of the N included in their feed; the remainder is excreted in manure and urine. Failure to re-capture this N lowers the efficiency of the livestock/crop production process and reduces the value of litter as a commodity. In this study, litter amendments consistently reduced N loss as compared to no amendment. Well-documented evidence that poultry production causes ammonia emissions is not new, even within the Chesapeake region. Boyer et al. 2002, which has been cited by over 200 other peer-reviewed studies, includes a broad review of nitrogen sources across the eastern United States including portions of the Chesapeake Bay watershed within Virginia. They summarize papers documenting emissions by animal category from 1984 to 1998. Siefert et al. 2004 characterized ammonia emissions from a commercial chicken house on the Delmarva Peninsula and concluded: When compared with the current estimates of total atmospheric N deposition (nitrate + NH_x) to the Delaware (34 x 10⁶ kg of N yr⁻¹) and Chesapeake Bay (177 x 10⁶ kg of N yr⁻¹) watersheds (1) and assuming a sizable fraction of the local emissions are deposited locally (NOTE: See Baker et al. 2020 below), NH₃ emissions from poultry operations on just the Delmarva Peninsula would represent a significant additional contribution. Baker et al. 2020 recently modeled emissions and deposition from poultry production in Maryland, under the assumption that litter amendments are not used (because there was no access to amendment application data). The results suggested the total ammonia nitrogen emissions from more than 600 AFOs in Maryland would correspond to 16,914 tons or 33.8 million pounds per year. These emissions correspond to deposition estimates of 12,220 tons or 24.4 million pounds per year. This modeling suggests that 30 percent of emissions were deposited

within 500 meters of their sources and 70 percent was deposited within 50 kilometers (31 miles). The local deposition of these emissions is important and suggests local and downstream water quality is likely to be degraded as a result of this source of emissions. A recent analysis from the Chesapeake Bay Program suggests 11 percent of ammonia emissions in Maryland are delivered to the Chesapeake Bay. Applying such a factor to these estimates suggests that these facilities had the potential to deliver 3.8 million pounds of nitrogen to the Bay every year from Maryland which corresponds to 17 percent of agricultural loads in the state. These estimates are not directly applicable to Virginia, of course, but would suggest ammonia emissions from poultry houses in Virginia are contributing substantial amounts of nitrogen to waterways. Unfortunately, the agency knows little about how or if these emissions are managed in any meaningful way. Not only does ammonia represent a source of nitrogen pollution that degrades the Chesapeake Bay, but it is also toxic to freshwater mussels which represent the most sensitive class of organisms in Virginia and the United States at large. DEQ recognizes this sensitivity; because of it, DEQ recently adopted new ammonia criteria and, in the process, determined that freshwater mussel habitat is ubiquitous across the freshwaters of Virginia. Thus, deposition of ammonia pollution is likely to degrade sensitive aquatic life in freshwater in addition to exacerbating eutrophication. Ammonia is a pressing issue across the Commonwealth; Virginia must take steps to address emissions and deposition. The problems associated with ammonia emissions have been clearly documented by the scientific literature with mounting evidence and documentation over the past four decades. Still, DEQ has yet to address these problems in any substantive way.

ii. The role of litter additives in controlling air emissions Litter additives are used by growers to manage ammonia air concentrations within the houses in order to protect bird health and this has environmental benefits by reducing ammonia emissions from houses. While improving the effectiveness of litter additives remains an area of emerging research, these methods have been verified by the peer review literature for a quarter of a century. Moore et al. 1996 which has been cited by over 120 other peer-review papers, documented these effects suggesting that “the results of this research indicate that alum $[Al_2(SO_4)_3 \cdot 18H_2O]$, ferrous sulfate $(FeSO_4 \cdot 7H_2O)$, and phosphoric acid (H_3PO_4) dramatically reduce ammonia volatilization from litter.” Several studies have followed up on Moore et al. 1996. The Chesapeake Bay Partnership has previously established efficiencies associated with this treatment. Currently, these efficiencies are still under review but the Chesapeake Bay Program Best Management Practice Reference Guide suggests these “will be available in future editions.” Maryland has set a goal to achieve litter treatment at 75 percent of facilities in their Phase III Watershed Implementation Plan to achieve nutrient reductions. Delaware has set a goal of achieving litter Amendments on 7,269 acres. In these circumstances, these solutions are not novel and should be considered and evaluated as a part of management efforts. This documentation shows (1) there is scientific evidence that litter amendments reduce air emissions, (2) the Chesapeake Bay Partnership is working to establish efficiencies related to these additives, and (3) partner states are already pursuing implementation related to this practice. This permit reissuance, which will extend to 2030, should at a minimum, evaluate the current use of this practice.

iii. DEQ’s authority on this issue We are not aware of any action DEQ has taken to address ammonia emissions from poultry houses, despite the fact that nitrogen deposition from such emissions degrades water quality. The agency has no records on type or use of litter amendments. While DEQ has suggested it does not have authority to address ammonia issues within this water permit, we respectfully disagree, for the reasons set out below. DEQ’s authority, acting for the Board, is sufficiently ample to require poultry operators to submit to DEQ data regarding litter additives. Indeed, the agency is tasked with taking “all appropriate steps to prevent [water] quality alteration contrary to the public interest or to standards or policies thus established [by the Board],” including conducting “investigations, studies, and research to discover methods for maintaining water quality.” Further, while the underlying statute identifies several matters to be included in a regulatory program governing the “storage, treatment and management of poultry waste,” it also clarified that those matters are only the “minimum” possible steps. Thus, the proposed requirement for poultry operators to provide data on litter additives to allow consideration and development of new strategies to reduce nutrients in poultry waste falls directly within the ambit of that statute.

iv. Other means of obtaining litter additive inventory There were suggestions during the technical advisory committee process that this data could be collected through other mechanisms. While we are open to other

considerations, there are broad questions as to how and even if this data could be collected outside of a regulatory framework. First, it is unclear that any other entity would have a comprehensive list of producers across the Commonwealth. Second, the duty to respond is critical to developing a comprehensive and accurate set of responses. Finally, the concept of industry-collected data has been discussed for several years and yet there is still no product to show for it at the time of writing this letter. For those reasons, we urge DEQ and the Board to include this simple reporting requirement, which can be crafted in a manner both to protect producers' interests in confidentiality and also to be minimally burdensome.

COMMENTERS: Peggy Sanner, VA Executive Director, Chesapeake Bay Foundation

Joseph Wood, VA Senior Scientist, Chesapeake Bay Foundation

Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network

COMMENT: I am writing to you regarding the poultry VPA permit, We live on one planet and must protect the long-term stability of our clean air, water, and land. PLEASE make sure that poultry producers are required to report to DEQ on the type and amount of litter additives used. We must know - and monitor - what is going into our water and air. In addition, the ammonia pollution from poultry houses poses a significant threat to our local waters and the Chesapeake Bay. We fish and swim in these waters. We raise marine food in these waters. It is essential that we continue to keep our waterways clean. Our own future and the future of our descendants depend on what we do NOW to keep our beautiful land and waterways clean and healthy. Thank you for acting to maintain the health of our country.

COMMENTER: Virginia Masterson

COMMENT: Require the reporting of litter amendments that might affect ammonia emissions. In conjunction with ammonia monitoring, this would allow DEQ to quantify the degree of ammonia reduction that litter amendments achieve.

COMMENTER: Abel Russ, Senior Attorney, Environmental Integrity Project

COMMENT: Require litter additive reporting

COMMENTER: Frank Filipy

COMMENT: Local waters in Virginia and the fish and wildlife and environmental health of the Chesapeake Bay are significantly threatened by ammonia pollution from poultry houses. As a lifelong VA resident, I urge the DEQ to add reporting requirement to the poultry VPA permit that poultry producers (end users) be required to report to DEQ on the type and amount of litter additives used.

COMMENTER: Martha Ellett

COMMENT: I still believe that the reporting of the Litter Amendments is an easy way to gain more knowledge of the use in our industry. We can also use the information as added reporting to the Bay Model now and in the future. Adding an item to our yearly report that asks if amendments are used and at what quantity would allow us to gather this information rather effectively. Once a way is figured out how to verify the information to Bay Model standards we could begin to get credit for this and many of the other conservation practices that our Poultry community is doing.

COMMENTER: Kevin Dunn, Poultry Grower in Buckingham County

RESPONSE: Litter amendments are widely used by the poultry industry for bird health and welfare to suppress ammonia releases while the birds are confined in the growing houses. There is a lack of research data related litter amendments and their effectiveness on ammonia volatilization on waste stored outside. The regulation does not include the requirement to report litter amendments nor does it require the use of these amendments. The appropriate rate and timing of litter amendments to achieve desired results depends upon a number of variables, thus reporting "yes" or "no" would provide little useful information. Collection and use of appropriate data would be more suited to research.

A research project is currently underway to capture details related to litter amendments for the Chesapeake Bay Region of Virginia. The Chesapeake Bay Commercial Poultry Production Research Project is being conducted by Virginia Polytechnic Institute and State University in cooperation with the commercial poultry industry. According to the research project handout, "The Virginia Tech research initiative replaces or supplements other sources of national-scale data for more accurate representation of county, state, and regional-scale poultry production and

management systems for a variety of purposes, including more accurately informing decision support modeling tools, nutrient management planning, and engineering or designing improved and cost effective best management practices.”

As required by the regulation and general permit, the nutrient content of the litter is measured and reported through the laboratory analysis.

The State Water Control Law, specifically Section 62.1-44.17:1.1 of the Code of Virginia authorizes the State Water Control Board to develop a regulatory program known as the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management 9VAC25-630-10 et seq. Section 62.1-44.17:1.1 of the Code of Virginia requires the development and implementation of nutrient management plans for any person owning or operating a confined poultry feeding operation; provides for waste tracking and accounting; and ensures proper storage of waste consistent with the terms and provisions of a nutrient management plan. There are no provisions included in Section 62.1-44.17:1.1 of the Code of Virginia to authorize the State Water Control Board to include ammonia emission monitoring or other conditions related to ammonia air emissions in 9VAC25-630-10 et seq. **No changes are being proposed based on this comment.**

GC-3b Subject: Litter Amendment Reporting - Not-Supportive to Require

COMMENT: Two TAC members have recommended requiring permitted poultry growers report their usage of litter amendments annually. Poultry litter amendments are various products used to promote used to safeguard flock health and welfare suppressing ammonia levels in production facilities. The proponents wish to capture data on the extent of litter amendment use and its implications on ammonia emissions within the environment. There is no research data related to litter amendments and their effectiveness on ammonia volatilization on waste stored outside. One of the proponents, the Chesapeake Bay Foundation (CBF), recently commented about the shortcomings of its commissioned study, “Modeling and measurements of ammonia from poultry operations: Their emissions, transport, and deposition in the Chesapeake Bay” published March 2020 in Science of the Total Environment. In its own December 5, 2019 press release, CBF noted, “The study does have some limitations. The model didn’t account for litter amendments or other practices to reduce ammonia emissions that are in use, but the extent of which is unknown. [emphasis added]”. We are concerned about extending this regulation beyond its legislative authority to regulate air emissions. Furthermore, any amount of ammonia that may be temporarily sequestered by litter amendment use is subject to varying degrees of potential atmospheric loss based on the type and timing of incorporating the poultry waste into the soil upon application, crop type, organic matter, soil and atmospheric temperatures and humidity. management plans in force among permittees. It is highly likely poultry litter is broadcast and not incorporated in these pastures and fields.

We strongly oppose mandatory reporting of poultry litter amendment data. This state regulation should not be used for the sole purpose of generating raw data for private or public research. The poultry industry has expressed its willingness to assist the Chesapeake Bay Commission in conducting research into secondary benefits that may be associated with litter amendment use across the entire Bay region, not just Virginia.

COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation

Frank Baber, Cumberland County Poultry Grower

COMMENT: Two TAC members recommended that DEQ require permitted growers to report their use of litter amendments, which are products used to safeguard the health and welfare of poultry flocks by suppressing ammonia levels within poultry growing houses. DEQ staff stated in its report to the State Water Control Board that it did not include a reporting requirement in the proposed regulation for two reasons:

“1) the lack of research data related to litter amendments and their effectiveness on ammonia volatilization on waste stored outside and 2) since the proposal does not include an extension of uncovered temporary storage, there is no need to require the reporting of litter amendment use.”

VPF agrees with the DEQ staff on this matter and strongly opposes a reporting requirement.

These products are used primarily to create a beneficial environment for growing poultry. They are also marketed for certain properties related to improved nutrient management, such as binding ammonia to increase litter’s nitrogen fertilizer value. Mandating reporting of the use of

primarily animal welfare products in a VPA permit, presumably for greater knowledge of how the products could potentially help Virginia with Chesapeake Bay restoration goals, is beyond the proper scope of the VPA program. A better approach would be for the Chesapeake Bay Program, through its Agriculture Working Group, to investigate this in collaboration with university researchers, industry, and the environmental community.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

COMMENT: Tyson believes DEQ should continue to avoid the creation of a reporting requirement for growers' use of litter amendment products intended for maintaining an optimal environment for bird health. The potential water quality benefits of these products should be researched by independent groups such as the Chesapeake Bay Program in collaboration with university researchers, industry, and the environmental community.

COMMENTER: Kendra Jones, Tyson Farms, Inc.

COMMENT: DPI thanks DEQ for not including reporting from growers of the use of litter amendments and we oppose this from being added. The discussion of litter amendments was not even brought to the attention of the TAC participants until the last TAC meeting, which was an additional meeting that was requested by a small number of TAC members to discuss the litter storage research. It was stated in the minutes that only two out of 15 of the TAC members had recommended that growers report the use of litter amendments. Litter amendments are used for poultry health and is an animal husbandry best management practice (BMP), not a nutrient management BMP and there is not enough research to identify the benefit of having that data for nutrient and water quality concerns, which is the premise of the permit.

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: Please continue to reject a reporting requirement for use of litter amendments. There is no clear benefit to this added burden, and a better approach to understanding the potential water quality benefits of these products is for the Chesapeake Bay Program to investigate this in collaboration with university researchers, industry, and the environmental community.

COMMENTERS: Respondents to Farm Bureau Action Alert (Table A)

Tom Hall

Bruce Stanger, Montgomery County Cattle Farmer

Marty Potts, Purcellville

COMMENT: Finally, we encourage DEQ to continue to reject a reporting requirement for growers' use of litter amendment products intended for maintaining an optimal environment for bird health. A better approach to understanding the potential water quality benefits of these products is for the Chesapeake Bay Program to investigate this in collaboration with university researchers, industry, and the environmental community.

COMMENTER: Kevin Craun, Chairman, Shenandoah Valley Soil and Water Conservation District Board

COMMENT: The TAC also discussed the reporting of litter amendments or additives by poultry growers. Litter amendments are critical for the health and safety of birds, but there is not enough data to require them as a part of a permit whose purpose is water quality. VAC opposes any amendment to the permit that would require litter amendment reporting. DEQ staff has acknowledged in their report to the board that there is a lack of research related to their effectiveness on ammonia volatilization on waste stored outside and the Council agrees.

COMMENTER: Kyle Shreve - Virginia Agribusiness Council

COMMENT: Finally, I ask that DEQ continue to reject a reporting requirement for producers using manure amendment products that should help maintain a better in-house environment for our birds.

COMMENTER: Rodney Wagner, Green Valley Poultry Farm, Washington County Poultry Grower

COMMENT: As far as the reporting of litter amendments is concerned, it's my understanding that some of the environmental groups are looking for a backdoor way to eventually force us to use the amendments for the purpose of nutrient control instead of bird health. It is also my understanding that there needs to be far more research done on this to find out what effects the amendments actually have in that area. Dr. Mark Reiter at the Painter AREC would be an excellent choice for the research, but that's just my opinion.

COMMENTER: Dave Lovell, Old Mill Farms, Accomack County Farmer

COMMENT: I understand that DEQ is also considering that farmers report use of litter amendments. Wouldn't more scientific research help insure that something of this nature is necessary?

COMMENTER: Bud Schultz, Rockingham County Poultry Grower

COMMENT: I urge DEQ to continue to reject a reporting requirement for use of litter amendments. I believe a better approach to understanding the potential water quality benefits of these products is for the Chesapeake Bay Program to investigate this in collaboration with university researchers, industry and the environmental community.

COMMENTER: Ronnie Matthews, Accomack County Poultry Grower

COMMENT: Finally, I ask that DEQ continue to reject a reporting requirement for growers' use of litter amendment products intended for maintaining an optimal environment for bird health. A better approach to understanding the potential water quality benefits of these products is for the Chesapeake Bay Program to investigate this in collaboration with university researchers, industry, and the environmental community.

COMMENTERS: Wayne Merrill, Fox Creek Farm, Inc. Orange County Farmer

Ernest Ambler, Amber-rillo Farm Inc., Augusta County Poultry Grower

Jeffrey E. Thomas, Blue Rock Farm, Inc. Page County Poultry Grower

Rob Preston, Preston Hills Farm, Rockingham County Poultry Grower

JT Anderson, Pineview Farm, Goochland County Poultry Grower

Kate Anderson, Pineview Farm, Goochland County Poultry Grower

Thomas Thacker, Augusta County Poultry Grower

Vincent A. Wolford, Rockingham County Poultry Grower

Brett Washington, Washington Farms, Inc. Louisa County Poultry Grower

Chris Turner, Carlton Turner Poultry, Page County Poultry Grower

Sandra K. Rumer, Smokey Valley Farm, Inc. Rockingham County Poultry Grower

David Beery, Rockingham County Poultry Grower

Myron Reedy, Reedy Farms, LLC., Rockingham County Poultry Grower

Joseph Turner, Page County Poultry Grower

Forest N. Atwood, Pass Run, Page County Poultry Grower

Rex A. Sours, Rex Sours, LLC., Page County Poultry Grower

Anna Housden, Living Country Farm, LLC., Page County Poultry Grower

Michael Scott Housden, Page County Poultry Grower

Vicki Dinges, Page County Poultry Grower

Russel J. Wenger, Augusta County Poultry Grower

Kimviet Ngo, Accomack County Poultry Grower

Tri Nguyen, Accomack County Poultry Grower

Dustin Wenger, Rockingham County Poultry Grower

Kathy Kagey, V&K Farms, Shenandoah County Poultry Grower

VLD Kagey, V&K Farms, Shenandoah County Poultry Grower

COMMENT: Please reject a reporting requirement for use of litter amendments. A suggestion would be for the Chesapeake Bay Program to investigate this in collaboration with university researchers, industry, and the environmental community.

COMMENTERS: Geri Maloney, Rockingham County Farmer

Kerry Maloney, Rockingham County Farmers

COMMENT: Also, please continue to reject reporting requirements for use of litter amendments. A better approach to this might be to investigate this in collaboration with university researchers, industry and the environmental community !!!

COMMENTER: Gerald Wenger, Hillside Poultry, LLC, Rockingham County Poultry Grower

COMMENT: I also am opposed to the reporting requirement for litter amendments or ammonia controls in poultry houses.

COMMENTER: Lareth L. May, May Poultry Farm, Rockingham County

COMMENT: I ask the DEQ to continue to reject a reporting requirement for the use of litter amendments. The Chesapeake Bay Program would be better served to collaborate with university researchers, industry and the environmental community.

COMMENTER: Chip Turlington, Turlington Farms Inc., Chancetown, on Virginia's Eastern Shore

COMMENT: Use of litter amendments, most of which are designed to control ammonia, also bind phosphorus and thus help with water quality. These products are largely required by our integrators. I have been raising poultry for almost 35 years, and find that most growers are good stewards of our environment.

COMMENTER: Philip Bowman, Shenandoah County Poultry Grower

COMMENT: If further studies need to be done to find if litter amending is having an impact on the water quality of the Chesapeake Bay, then a cooperative effort can be done utilizing the resources of college agricultural and environmental programs, industry organizations, and environmental organizations. Farmers are generally good stewards of the environment so imposing regulatory requirements that have little, if any, justification does not promote progress in today's economy. Also, more reporting may mean bigger government which ends up placing a greater tax burden on Virginia taxpayers.

COMMENTER: Richard Newell

COMMENT: Lastly, asking growers to report their usage of litter amendment products within the poultry houses has nothing to do with the Chesapeake Bay program — which is why the permitting process was established. I ask DEQ to continue to reject the reporting requirement for the use of these products. If the Chesapeake Bay Program is interested in the how these products may affect water quality, it would benefit them to work directly with university research programs to attain this information.

COMMENTER: Gloria Long, George's Inc.

RESPONSE: DEQ acknowledges the support. ***No changes are being proposed based on these comments.***

GC-4a Subject: Temporary Storage Covering Requirements - Support Current Requirements

COMMENT: Thank you for maintaining the requirement for poultry litter to be covered within 14 days. Uncovered piles represent a risk to waterways, especially during heavy precipitation events.

COMMENTERS: Respondents to Chesapeake Bay Foundation Alert (names listed in Table B and E)

COMMENT: Not only that, such piles emit terrible odors. We have definitely noticed an improvement over the years and attribute that to the 14-day cover requirement.

COMMENTER: Joy Loving

RESPONSE: DEQ acknowledges the support. ***No changes are being proposed based on these comments.***

GC-4b Subject: Temporary Storage Covering Requirements - Support Making Revisions – Increase Number of Days to Cover

COMMENT: One commenter suggested requiring the covering of all temporary poultry waste storage within 24 hours of delivery to the site instead of the current 14-day limit except when litter is being added to or removed from the litter pile.

We oppose mandatory covering of temporary storage piles within 24 hours. Virginia's 14-day limit is the most stringent among states in the Chesapeake Bay region. In fact, we would support extending the current 14-day limit to 30 days provided the pile is properly shaped and monitored as discussed by the TAC.

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: Finally, while we appreciate the maintenance of the 14-day period for temporary uncovered litter storage, a study reviewed by the TAC from the University of Delaware showed that a longer period is sustainable without any negative environmental impact. While the litter remains uncovered, the outer layer of the litter hardens to prevent leeching of nutrients as long as the litter pile is properly shaped. The Council supports aligning the time period closer to that of Maryland and Delaware, both of which have at least a 90 or longer period of time for uncovered, temporary storage. The Council supports increasing the amount of time litter can temporarily remain uncovered at the field of application from 14 to 30 days.

COMMENTER: Kyle Shreve - Virginia Agribusiness Council

RESPONSE: DEQ acknowledges the support for maintaining the requirement to cover litter that is stored outside, not under roof within 14-days. We understand that there is research that supports a longer period of time to be uncovered and that other states allow an extended timeframe uncovered. However, the agency did not propose changes to the temporary storage requirements because there is not enough information available to determine if changing the requirement would be more or less protective. There is a lack of research data related to typical field-size waste piles, and it is uncertain as to how safe it is to extend the length of time for poultry waste to be uncovered. **No changes are being proposed based on these comments.**

COMMENT: Lastly, we are concerned that the proposal does not alter the 14-day period for temporary field storage of litter and would ask the Department to consider lengthening that timeframe. A University of Delaware study reviewed by the TAC showed a longer timeframe is possible to accomplish without any negative environmental impacts as long as the pile is properly shaped. Extending the timeframe will bring Virginia closer in-line with Maryland and Delaware's temporary field storage requirements and potentially increase the number of producers willing to utilize poultry litter.

**COMMENTERS: Kurt H. Fuchs, Senior Vice President, Government Affairs,
MidAtlantic Farm Credit
Katie Frazier, Chief External Affairs and Marketing Officer, Farm Credit of the
Virginias**

Jim Belfield, Chief Information Officer, Colonial Farm Credit

COMMENT: Litter stored on piles outdoors. When statements are given in opposition to storing litter uncovered in outside piles, statements are given such as these: To avoid possible nutrient runoff or to avoid the possibilities of nutrient runoff. No statistical evidence is provided to show studies proving that this is actual fact. I have attached a copy of the results of a study that was done on this issue. It is pointless and a waste of time and money to attempt to cover litter piles with plastic because of issues with wind events. Litter piles that have steep sides and a nice rounded peak at the top form a crust and do a great job of shedding rainwater.

COMMENTER: Junior Beachy, Staunton

COMMENT: DPI was very disappointed to see that DEQ did not add to the draft a proposal to extend the timeframe for uncovered litter from 14 days to 30 days. Once again, this was a topic that was discussed at length during the TAC meetings, including sharing research both for and opposed to this extension. DEQ had even drafted proposed language which would have allowed for 30 days, while still requiring compliance measures like visual inspections and additional record-keeping. While DPI appreciates the permit maintaining the 14-day window for litter to be stored without cover, we are disappointed that the timeline was not extended. The Binford study, conducted at the University of Delaware and currently the only year-long, field-trial research study (not a short-term, small research plot), shows there is minimal concern for nutrient runoff if properly field staged and actually shows more concerns for covering. This study has been noted in other states that allow for longer field staging, including Delaware and Maryland, that allow for a minimum of 90 days up to several months. Properly field-staged chicken litter will create a crust that not only prevents run-off, but likely minimizes any ammonia release. Again, this is in direct conflict with policies incentivizing farmers to use this locally sourced, organic fertilizer by making it more difficult.

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: During the TAC meetings, there was discussion of a staff drafted proposal to provide an additional option for temporary storage of poultry waste. The additional option extended the current 14-day limit to 30 days for uncovered litter stockpiles so long as specific management, siting requirements, and compliance measures like visual inspections and recordkeeping were completed by the regulated entity.

The staff proposal does not contain the additional option and retains the 14-day limitation for uncovered outdoor litter storage, despite a presentation from Bud Malone of University of Delaware (retired) on research showing properly stacked, uncovered litter piles have minimal environmental impact. VPF is supportive of the additional option. However, under no circumstances, should DEQ reduce the limitation below 14 days, which is far more restrictive than Maryland and Delaware, both of which are guided by the aforementioned studies and allow for a

minimum of 90 days up to several months. Properly field-staged litter will create a crust that not only prevents run-off, but will likely also minimize any ammonia release.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

RESPONSE: We understand that there is research that supports a longer period of time to be uncovered and that other states allow an extended timeframe uncovered. However, the agency did not propose changes to the temporary storage requirements due because there is not enough information available to determine if changing the requirement would be more or less protective. There is a lack of research data related to typical field-size waste piles, and it is uncertain as to how safe it is to extend the length of time for poultry waste to be uncovered. **No changes are being proposed based on these comments.**

GC-4c Subject: Temporary Storage Covering Requirements - Support Making Revisions – Decrease Number of Days to Cover

COMMENT: Change outside storage of poultry litter from 14 days to 24 hours. The 14 day allowance as caused more confusion and waste of state resources. A simple requirement that poultry litter stored outside meaning not in the poultry house or litter shed shall be covered at all times. The exception would be if the pile is being added to or subtracted from.

COMMENTER: Tad Williams

COMMENT: Dear board members, I am forwarding you this response I received from the Director of the DEQ Valley Regional Office so you see for yourself what a cat and mouse game and waste of DEQ staff resources the 14-day requirement for covering stockpiled poultry waste has become. The board will be taking up the renewal of these regulations before the end of the year. The board should adopt a 24-hour requirement for covering or removing poultry waste when it is stockpiled outside. It will provide certainty for the farmer and save precious staff resources. Contact me if you have questions.

EMAIL response from Ms. Owens to Tad Williams: Subject: Re: Fw: FOIA for PC 295615 uncovered litter piles

Dear Mr. Williams: Thank you for your patience respecting a response to your email of September 9. You identified several issues, the details of which took several days to compile. Hopefully the information below is helpful. Your inquiry led staff to research the complaints received related to the site in question. Through this research, staff discovered that documentation of the 2020 uncovered litter pile complaint was incomplete and inaccurate in the Agency's Pollution Response Program (PReP) database. The PReP database is used to document and track pollution complaints across the Commonwealth. Regrettably, this has caused confusion, and DEQ staff will be correcting the information in the PReP database for completeness and clarity, the substance of which is as follows: The initial complaint was filed in 2019. DEQ received a complaint of uncovered litter piles at this site on Friday, February 22, 2019. The following week, staff made several unsuccessful attempts to contact the farmer to discuss the complaint. Failing to reach the farmer, staff left a telephone message, sent the farmer a letter, and ultimately scheduled an inspection to investigate the uncovered litter pile allegation. A March 4, 2019 site inspection confirmed the presence of uncovered litter. The inspector observed and determined that the location of the storage site was consistent with the requirements outlined in the Poultry Litter Use and Storage Fact Sheet related to the location and siting conditions of storage and thereby in compliance with the requirements for storage location found in section 80 of 9VAC25-630. Regulatory agencies are limited to initiating compliance deadlines after they have observed the triggering condition such as, in this case, the presence of uncovered litter. Based on the March 4, 2019 site inspection and the observation of uncovered litter, DEQ required the farmer to remove or cover the litter by March 18, 2020. A site inspection conducted on March 15, 2019 revealed that 90% of the existing pile had been covered. During this site inspection, staff also observed that new litter had been placed at the site in a new pile. A follow-up inspection conducted on March 18, 2019, confirmed that the original pile (observed by DEQ staff on March 4, 2020) had been land-applied. The farmer and site were determined to be in compliance with the 14-day cover requirement deadline of March 18th, established by DEQ staff observation on March 4, 2019. On March 20, 2019, DEQ conducted another site inspection and confirmed that all of the poultry litter had been removed from the site. The complaint investigation

(filed on February 22, 2019) was then closed by staff since the farmer was deemed in compliance with the regulations related to poultry storage. A second complaint related to this same site was received on June 23, 2020. DEQ conducted a site inspection and investigation on June 25, 2020 that confirmed the presence of an uncovered litter pile. Staff spoke with the farmer and informed him that the litter pile must either be covered within 14-days or removed from the site. Due to staffing limitations related to COVID-19, staff was unable to conduct a follow-up visit until July 16, 2020. This inspection revealed that much of the litter observed on June 25, 2020 had been removed (more specifically it was land applied) and what remained had been covered thus resolving the complaint filed on June 23, 2020. This is the fact that was found to be inaccurately documented in the PReP database. During the July 16, 2020 site visit, staff also observed new litter piles on the site, resulting in new exposures and, therefore, new requirements and deadlines to cover the piles by July 30, 2020. Staff conducted a site visit on August 6, 2020 and confirmed that all litter on the site had either been land applied or covered. The complaint investigation (filed on June 23, 2020) was then closed by staff since the farmer was deemed in compliance with the regulations related to poultry storage. Consultation with the Department's Office of Agricultural and Land Application Programs affirmed that staff application of the 14-day covering requirement was consistent with agency guidance. DEQ continues to commit considerable resources to inspection of, and compliance action with, Virginia producers. Thank you for supporting those efforts.
Kindest regards -- Amy Owens

EMAIL to Ms. Owens from Tad Williams:

Dear Ms. Thatcher Owens, I am hoping you can help me understand DEQ's enforcement protocols for uncovered litter piles. I have attached and forwarded documents that I requested from DEQ for complaint #295615. This involved an uncovered litter pile at Meems Bottom in Shenandoah County. DEQ received the complaint on 6/23/20 and investigated and confirmed an uncovered litter pile on 6/25/20. The pile remained uncovered until 7/16/20 when DEQ received complaint #295868 that the litter pile was still uncovered. According to the complaint log the pile remained uncovered until at least 8/6/20. As you are aware 9VAC25-630-80.B.1.a. requires that poultry litter that is stockpiled outside for more than 14 days shall be covered to protect it from precipitation and wind. I have several questions. Why did DEQ give this individual more than 40 days to cover their uncovered litter pile when the regulation requires coverage after 14 days? Why was no enforcement action taken by DEQ when non-compliance was observed on 7/16/20 after receiving the second complaint on the exact same pile? Why is the complaint document and photos of the uncovered litter pile lack details as to why DEQ did not take any action, dates on pictures for when those observations were made, and memos documenting site visits or details on conversations with the complainant? This same site received a complaint on 2/22/19 (#197195) for having an uncovered litter pile. The complainant at that time was given nearly 30 days to comply with the coverage requirement after 14 days. This site has a history of non-compliance. Why has no enforcement action been taken? If there exists letters of non-compliance, warning letters, or notices of violation issued by DEQ for this site I would welcome them to dissuade me from assuming DEQ does not care about uncovered litter piles. Thanks for your response to this information request.

COMMENTER: Tad Williams

RESPONSE: DEQ appreciates the comments and concerns related to poultry waste storage and DEQ resources. DEQ staff responded to this complaint and question with further clarification and the description of the actual events and follow-up inspections made by DEQ staff in response to the complaint. Staff further described internal procedures related to this and similar complaints. While staff resources are always a concern, it is imperative that DEQ staff verify the legitimacy and extent of each complaint that is received prior to making any compliance determinations. The procedure to investigate complaints begins once the complaint is received. Because DEQ staff must verify the complaint and make at least one site visit, this process does take time to complete. The handling of this complaint investigation with relation to the 14-day covering requirement was consistent with agency guidance, designed to ensure that the regulated

community complies with the laws, regulation and permits that DEQ administers. DEQ staff investigation procedures would not change based on the requirement for the number of days to cover the poultry waste. **No changes are being proposed based on this comment.**

COMMENT: Temporary stockpiles should be covered as soon as possible to minimize runoff, leaching and emissions. Further, the site of temporary stockpiles should be rotated to avoid groundwater buildup of pollutants. The technical advisory committee focused a significant amount of time evaluating whether current cover requirements should be extended. This suggestion largely stemmed from a workshop synthesis report from 2004. This study suggested that uncovered piles have the potential to have similar leaching losses to covered piles; it is also worth noting that even in this study, ammonia concentrations below the covered piles was in fact lower (although not statistically significantly different) than uncovered piles. Binford et al. "The average amount of inorganic N in the soil under the four poly covered piles was 13 lbs, while the average under the no-cover pile was 16 lbs. Because there was no significant difference in amounts of N found in the underlying soil between the poly covered and no-cover piles, this suggests that N is moving from the litter into the soil as ammonia." This work has never been published in a peer-reviewed journal, to our knowledge. One co-author, Mr. Malone, who presented to the technical advisory committee, suggested the reason for not achieving peer-review was that "it would be difficult to publish work like this in a peer reviewed journal." We are unclear why that is the case, given there are several peer-reviewed studies on this subject and these results contrast to what is in the scientific literature. Thus, the lack of technical peer review raises critical questions about utilizing this study as the basis to eliminate a protective measure. In order to evaluate these questions, we performed a review of the scientific literature on the subject of cover for stockpiles. Very few studies consider implications within a 14-day period; however, several studies have considered long-term implications of uncovered piles. These results indicate that several factors play an important role in both leaching and runoff losses from piles, including rainfall, soil type, temperature, climate, moisture, and other chemical and biological factors. Over long periods of time, several studies demonstrate substantial leaching and runoff losses from uncovered piles, and in many cases, these are greater than for covered piles. Therefore, while these results do not directly consider the timescale of 14 days, they do provide some important insights. First, the studies suggest it is clearly possible for various pollutants to leach into the ground and runoff into surface water, and these risks are elevated at longer time scales. Second, these losses are highly variable based on conditions that are not fully understood. Finally, the effect of cover on mitigating these losses is also variable with some instances of tremendous benefit and some instances of minimal benefit. From these points, it is clearly inappropriate to rely on a single study (Binford et al.) to conclude that a covered stockpile does not provide enhanced protection to groundwater and surface water. While covered piles do not necessarily eliminate or reduce leaching and runoff in every situation, they are highly likely to reduce runoff risk at large. For instance, during intense and unexpected rain or storm events a covered pile is at a reduced risk. An additional factor influencing the impact of these piles is their role in ammonia air emissions. Covered piles produce substantially lower ammonia emissions (and thus retain higher nitrogen content) than uncovered piles. Several peer-reviewed studies around the globe have recommended covering stockpiles to reduce ammonia emissions. Shah et al. 2013 suggested tarp treatment produced emission rates 45 percent lower than uncovered treatments. Sagoo et al. 2007 estimated plastic-covered treatments lost less than five percent, whereas other treatments had losses of 12 to 16 percent. They go on to say, "These measurements provide a good example of 'N pollution swapping' (i.e. an NH₃ reduction strategy increasing NO₃ leaching losses) and highlight the need to develop integrated manure management strategies that consider all N loss routes and forms." Priekulis et al. 2018 suggested covering stockpiles with plastic ranked as the most effective manure storage measure for reducing ammonia emissions from poultry litter with up to a 60 percent reduction expected. Miles et al. 2012 suggested, "Practical applications to reduce NH₃ emissions on the farm may include covering litter stockpiles to reduce wind flow over them." There is ultimately some question as to what proportion of these emissions is lost even following spreading, but retaining nitrogen in litter for as long as possible provides the greatest chance for plant uptake. We consulted authors of some of these studies and used the literature values to make approximate comparisons between nitrogen losses from leachate, runoff and emissions. Further, we estimated the proportion of emissions which are likely

to be delivered to the Chesapeake Bay by referencing a recent Chesapeake Bay Program modeling effort. Our results suggested that the potential loss from air emissions from a stockpile are 2-3 orders of magnitude greater than runoff and leaching losses. We requested DEQ reach out to these experts and we provided contact information; to our knowledge, however, DEQ never acted on that suggestion. An additional finding through this literature review was the recommendation that stockpiles kept in the same place year after year (regardless of cover) can lead to the build-up of contaminants in groundwater. Liu et al. 2015 specifically suggests, "New regulations should require that poultry litter stacks are relocated to a new area each year." We encourage the agency to include protections to avoid site reuse that can lead to groundwater contamination. Finally, we note here that DEQ's failure to holistically consider ammonia emissions' impacts from poultry production litter as a part of its management strategy that would have led to decisions that ignore the largest potential source of pollution and, ultimately would have had significant implications that were not even considered. As of December 2020, DEQ had proposed to roll back the cover requirement without, apparently, even considering implications for ammonia emissions. In the future, DEQ should always consider implications of management decisions upon air impacts to water, in addition to runoff and leaching. In conclusion, it would not be protective of groundwater or surface water (due to runoff, leaching, and emissions) to rollback the current 14-day requirement for covering temporary stockpiles. Further DEQ should consider 24-hour covering requirements and site rotation to minimize impacts to water resources.

COMMENTERS: Peggy Sanner, VA Executive Director, Chesapeake Bay Foundation

Joseph Wood, VA Senior Scientist, Chesapeake Bay Foundation

Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network

COMMENT: Require temporary stockpiles be covered as soon as possible and 24/7 to minimize runoff, leaching and emissions

COMMENTER: Frank Filipy

RESPONSE: The agency believes that the current 14-day cover requirement along with the existing siting conditions provides appropriate and sufficient protection to the environment. DEQ staff has reviewed numerous research papers related to covering waste piles; unfortunately, the vast majority of the research is deficient when it comes to typical field size piles. During the regulatory process, the Department sought assistance through Stakeholders participating on a Technical Advisory Committee (TAC). Several TAC members recommended that staff consider amending the waste storage requirements to provide more flexibility for the grower and end-user. The members of the TAC considered a staff drafted proposal that provided an additional option for the temporary storage of poultry waste. The additional option allowed for a slight extension of time without a cover so long as the specific management, siting requirements and compliance measures like visual inspections and recordkeeping were completed by the regulated entity. While the majority of the TAC members supported the amendments to include the additional inspections and recordkeeping, two members stated that they would support the draft temporary storage amendments only if DEQ required permitted poultry growers to report litter amendments. After much discussion and deliberation, the proposal does not include the additional option for the temporary storage of poultry waste because there is not enough information available to determine if changing the requirement would be more or less protective. There is a lack of research data related to typical field-size waste piles, and it is uncertain as to how safe it is to extend the length of time for poultry waste to be uncovered. **No changes are being proposed based on these comments.**

GC-5 Subject: Permit Term Five Years Instead of Ten Years

COMMENT: Due to the slow progress in meeting these goals, and the significant growth of the poultry industry on the peninsula, I think the permit should not be granted for ten years. The revised permit should include a review and chance to make changes as more is learned about the significance of ammonia deposition from the poultry houses. The permit should be reopened in a minimum of five years, specifically for review on the impact of ammonia. As a precursor to reopening the permit in five years, the permit should also include the reporting on the type and amount of litter additives aimed at reducing ammonia.

COMMENTER: Joseph Valentine, Onancock, VA

RESPONSE: In accordance with 5a of Section 62.1-44.15 of the Code of Virginia, the term of a Virginia Pollution Abatement (VPA) permit shall not exceed 10 years, except that the term of a VPA permit for confined animal feeding operations shall be 10 years. Thus, the agency does not have the authority to reduce the term of this VPA permit through this regulatory action. **No changes are being proposed based on this comment.**

GC-6 Subject: Permit Should Include Random Sampling of Runoff from Poultry Houses

COMMENT: The permit should also require random sampling of runoff from the poultry houses. As we experience climate change and have more and more storms that exceed the outdated 100 year benchmarks, this is an important step to make sure these regulations are truly effective. These random samplings should be done by the DEQ and be tied to exceptional storms as well as ordinary rainfall events. The samples should be evaluated for nitrogen and phosphorus in a laboratory.

COMMENTER: Joseph Valentine, Onancock, VA

RESPONSE: The Virginia Pollution Abatement (VPA) permit program does not cover poultry operations that have point source discharges. The general permit contains specific conditions that address nutrient utilization and appropriate storage of poultry waste which, when implemented, prevent nutrient loss from the production area. It is extremely difficult to isolate the contributions of poultry waste management activities from other non-point sources (e.g. wildlife) through sampling that is not closely controlled in a research environment.

Further conditions were added to the general permit language during this regulatory action to address areas in the production area where nutrients could come into contact with storm water. The agency believes that these additional conditions will further clarify to the permittee how to properly manage the production area to prevent the loss of nutrients during storm events of any size.

The permit also addresses agricultural storm water. In accordance with 9VAC25-630-10 Agricultural storm water discharge" means a precipitation-related discharge of manure, litter, or process wastewater that has been applied on land areas under the control of an animal feeding operation or under the control of a poultry waste end-user or poultry waste broker in accordance with a nutrient management plan approved by the Virginia Department of Conservation and Recreation and in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater. DEQ conducts ambient water quality monitoring in watersheds around animal feeding operations (AFOs) across the state, and also conducts sampling associated with regulated entities when non-compliance is suspected. DEQ has also conducted focused water quality studies related to poultry farms. Anytime DEQ conducts water quality sampling, the sample is analyzed for Nitrogen and Phosphorus among other constituents. The permit regulation contains the requirements for the permitted and regulated entities. It does not specify requirements for the regulating authority.

No changes are being proposed based on this comment.

GC-7 Subject: Nutrient Management Plan (NMP)

COMMENT: As a taxpayer who is subsidizing the poultry industry by paying for the removal of excess waste, this permit should require that Nutrient Management Plans be submitted by all producers and users of the litter and that these plans should be made public. It is crucial knowing where and how the litter is being used and assuring that it is all accounted for. Currently, this data is kept under wraps by the departments that receive it. If the industry is going to be subsidized by the taxpayers, we should have access to this information. The permit should also define the specificity of the Nutrient Management Plans so it can be determined who received it, how much was received, where it was applied, and when it was plowed under. I have seen local farms that have applied the litter and not plowed it under for several weeks, all the while, the field was draining directly into the local creek.

COMMENTER: Joseph Valentine, Onancock, VA

COMMENT: Require NMPs for all poultry waste end-users. This would help to ensure that poultry waste is applied with sufficient attention to soil nutrient balances, and it would create a consistent poultry waste application framework for all land applications, whether they happen at the source or on offsite cropland.

COMMENTER: Abel Russ, Senior Attorney, Environmental Integrity Project

RESPONSE: In accordance with section 9VAC25-630-10 et. seq., all permitted entities are required to submit and implement a nutrient management plan (NMP). Other non-permitted poultry waste users (end-users) are required to follow the technical requirements found in section 70 and 80 of 9VAC25-630. These technical regulations specify the establishment of the land application rate, by one of four options which includes an NMP, soil test recommendations, a standard rate of 1.5 tons/ acre only once every three years, or by using the Phosphorus crop removal method. In the majority of cases, the options alternative to an NMP would prescribe nutrient application rates that would be less than those that could be prescribed in an NMP. Each of these options are agronomically and environmentally sound options that ensure appropriate land application rates. **No changes are being proposed based on this comment.**

COMMENT: Nutrient management plans should be required for all end users of poultry litter. Without this requirement it is unlikely that Virginia will ever meet the Chesapeake Bay Watershed implementation nutrient reduction requirements.

COMMENTS: Tad Williams

RESPONSE: DEQ is working with the EPA Chesapeake Bay Program office to receive credit for each of the current four options used to obtain the land application rate. DEQ will continue to pursue Bay model credit using the current options. **No changes are being proposed based on this comment.**

COMMENT: One commenter suggested requiring all poultry waste end-users obtain a nutrient management plan. We entirely disagree with requiring end-users to obtain a nutrient management plan as a condition of utilizing poultry waste. Such a requirement is unnecessary and will severely hamper efforts to transport poultry waste and utilize off-site of poultry farms. Virginia's Poultry Litter Transport Program already requires a nutrient management plan as condition of applying for financial assistance. Some end-users forego requesting this assistance due to experienced delays in receiving nutrient management planning assistance. Virginia lacks the number of certified nutrient management planners necessary to meet the suggested plan requirement.

**COMMENTS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: I currently have a Nutrient management plan on my operation and this would cause unnecessary redundancy.

COMMENTS: Nicholas Moody, Dinwiddie County Farmer

RESPONSE: DEQ acknowledges that reporting the land application information will be redundant if an end-user has as NMP. DEQ will ensure that the agency does not report end-user NMP records to the Chesapeake Bay Program in a manner redundant of those accounted for in the DCR NMP data. **No changes are being proposed based on this comment.**

COMMENT: Requiring all end users to have a nutrient management plan and annual reporting will discourage the use of litter application on a local basis, thus creating a huge transportation issue in an attempt to transport litter outside of the watershed area. Omitting the use of litter on crops and grasslands could result in thinner stands of grass and poorer crop growth, thus resulting in more water runoff in heavy rain events. I am also opposed to this proposal. Litter is expensive. A farm requires incredibly intensive good management practices to stay in production; therefore, the end user is not prone to apply litter at higher rates than needed for maintaining good soil and crop health.

COMMENTS: Junior Beachy, Staunton

RESPONSE: DEQ is not proposing to require all end-users to obtain and implement an NMP. Currently, the regulation requires that non-permitted poultry waste end-users are required to follow the technical requirements found in section 70 and 80 of 9VAC25-630. These technical regulations specify the establishment of the land application rate, by one of four options which includes an NMP, soil test recommendations, a standard rate of 1.5 tons/ acre only once every three years, or by using the Phosphorus crop removal method. Each of these options are agronomically and environmentally sound options that ensure appropriate land application rates. **No changes are being proposed based on this comment.**

COMMENT: Prohibit the land application of poultry waste to soils above a certain threshold (e.g., 55 ppm) to ensure that poultry waste is not added to soils that already have sufficient nutrients to meet crop need.

COMMENTER: Abel Russ, Senior Attorney, Environmental Integrity Project

RESPONSE: The Department of Conservation and Recreation (DCR) has the authority over the regulations that govern nutrient management plan (NMP) requirements. The DEQ regulations covering Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs) require the owner of the AFOs and CAFOs to obtain and implement an NMP. The NMP regulations already establish an environmental threshold above which phosphorus may not be land applied. The requirements related to the use of the P-Index are not within the scope of § 62.1-44.17:1.1. of the Code of Virginia.

The end-users of poultry litter that land apply litter are governed by the technical requirements found in section 80 of 9VAC25-630. The technical regulations specify the establishment of the land application rate, by one of four options which includes an NMP, soil test recommendations, a standard rate of 1.5 tons/ acre only once every three years, or by using the Phosphorus crop removal. These technical regulations already specify the same environmental threshold found in the DCR regulations for Phosphorus when using the Phosphorus crop removal land application rate. Each of the four options are agronomically and environmentally sound options that ensure appropriate land application rates. **No changes are being proposed based on this comment.**

GC-8 Subject: Industry Growth

COMMENT: I live in Accomack county where we have seen tremendous growth in poultry operations in the last few years. As a result, I am very concerned about the impact of the poultry business on the bay.

COMMENTER: Joseph Valentine, Onancock, VA

COMMENT: Myth of a Rapidly Expanding Poultry Industry in Virginia
Advocates of greater regulation of the poultry industry often state that such is needed because they say the industry is rapidly expanding in Virginia. We would like to provide some historical perspective and additional facts about the industry. Much of Virginia's poultry production is in the Shenandoah Valley, but Central and Southside Virginia and the Eastern Shore also have significant production. The top five poultry counties, according to VPF farm surveying, are Rockingham (508 farms), Augusta (141 farms), Page (115 farms), Accomack (87 farms), Shenandoah (69 farms), and Amelia (22 farms). According to the survey, Virginia has 1,075 poultry farms. Comparatively, our 2003 survey indicated a total of 1,242 farms and the following number of farms per the aforementioned counties: Rockingham (515), Page (173), Augusta (128), Accomack (85), Shenandoah (82), and Amelia (37). Only Augusta and Accomack saw any increase. Some have significantly decreased. Furthermore, bird production numbers are also noteworthy. According to the USDA National Agricultural Statistics Service, Virginia produced 271.5 million broiler chickens in 2001. That figure fell to 240.5 million in 2012 due to adverse economic conditions. Chicken production recovered nicely to 269.1 million by 2016 and to a record 281.3 million last year, which is probably approaching existing plant capacity and certainly not a substantial increase from 20 years ago. Turkey production in Virginia has declined from 24 million in 2001 to 16 million in 2019. Bird weights have generally increased somewhat over the years for both chickens and turkeys. Since 2001, Virginia broiler production by number of head has grown 3.6% compared to 9.4% growth nationally. Virginia and U.S. live-weight production has increased at 31% and 33%, respectively. In 2001, Virginia was ranked 8th in U.S. broiler production and now ranks 10th. Since 2001, Virginia turkey production by number of head raised has plummeted 33%, while U.S. production fell 16%. Virginia was ranked 4th in US turkey production in 2001 and now ranks 6th. Poultry farms have become fewer but somewhat larger as some remaining farms add poultry houses. Today's broiler chicken barns are typically 624X63 feet and house 40-60,000 birds. Twenty years ago the typical broiler house was 400X40 feet and house 25,000 birds. This trend of fewer participants but bigger operations is typical of most agricultural commodities, yet in most cases the operations remain family owned and operated. Today's operations are also designed and operated with more environmental controls to protect our natural resources. To summarize, Virginia is fortunate that some aspects of its poultry industry have grown, albeit modestly, over the past twenty some years. The growth in the past ten years in broilers has basically brought the number of head raised in line with and slightly

ahead of 20 years earlier. Turkey production has declined. The number of poultry farms has declined. Bird weights have increased over the years. Poultry house construction in recent years has largely replaced outdated facilities, and the new houses have better environmental controls than those built previously. The data over the past two decades do not indicate substantial growth, and plant capacity and economic conditions do not indicate significant expansion in coming years.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

COMMENT: DPI's last comments are centered around the myth that there has been and will continue to be a significant growth in the chicken industry during this 10-year permit. Since 1955, DPI has been collecting data directly from its chicken company members to better understand the impact of the chicken community within Delmarva. While this information is not specific to just Virginia, we believe it is a good representation of the industry as a whole. In 2019, there were 609 million chickens processed, which is only a .4% increase from 20 years ago and not the peak, which was 623 million birds in 1995, with a significant decline in 2010 to 559 million, when the cost of feed reached record highs and the country was in a recession. While the number of birds raised is seeing a slight increase, this is being done more efficiently with fewer farmers (47% fewer) and fewer chicken houses (12% fewer) than 20 years ago. And any new farms built within the past decade are being constructed to the highest levels of environmental standards. Due to technological advancements, such as better nutrition, better housing, better litter management, you are seeing an increase in the pounds produced as well. But much of that is also due to increased feed efficiency, which means that what the birds are eating directly equates to the amount of meat produced – and less waste coming out of the bird. One of the most important factors to the increase in number of birds that are raised on the Delmarva is the amount of birds that can be processed within the processing facilities. The newest processing facility on the Delmarva is in Accomack County, and was built nearly 45 years ago. While upgrades and automation can help increase the number of birds processed in a facility, it will never have substantial increases like a new facility. And currently DPI is not aware of any discussions in building a new facility on the Delmarva, which would likely take a minimum of five years to come online if there was.

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: Proponents of increasing compliance requirements associated with this regulation and general permit have regularly overstated the growth of Virginia's poultry industry as one justification. Virginia's poultry industry is not rapidly expanding. During the implementation of 9VAC25-630, Virginia's broiler industry grew 3.6% from 271.5 million birds in 2001 to 281.3 million in 2019 compared to 9.4% growth nationally. In fact, Virginia's rank among US broiler producing states fell from 8th to 10th since 2001. Broiler production increased 12.3% during the last ten years after falling significantly to 240.8 million in 2009 due to the economic fallout of the Great Recession on sales and a Chinese ban on poultry imports from the US. Three quarters of this growth during the last decade was regrowth. Modern technology and more efficient production methods have resulted in new larger housing replacing smaller old production facilities. The COVID-19 pandemic is limiting broiler production in 2020 as a result of mitigation measures disrupting traditional wholesale and retail supply chains. It is unclear what long-term impacts will result for the broiler industry. Virginia and US turkey production have experienced significant decline over the last 20 years. Virginia's broiler industry fell 33% from 24 million birds in 2001 to 16 million in 2019 compared to a 16% decline nationally. Virginia's rank among US turkey producing states fell from 4th to 6th since 2001. DEQ estimates Virginia turkey production will total 16.15 million in 2025. If turkey production continues to decline, Virginia production could fall below 15 million by 2025. COVID-19 is also affecting turkey production and markets in 2020 adding further uncertainty to this industry's future.

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: Proponents of such additional reporting requirements have vastly overstated the growth of the poultry industry to justify inclusion of such requirements. The poultry is not rapidly expanding as suggested by certain advocacy groups. The industry has experienced success in regaining losses experienced around 10 years ago. In 2001, Virginia produced 271.5 million

broiler chickens. Last year, Virginia set a record of 281.3 million broilers, only a slight increase from 20 years ago. Turkey production has declined from 24 million turkeys in 2001 to 16 million in 2019. These numbers reflect an industry that is an economic success story for Virginia's agricultural sector. It does not reflect a need to increase the regulatory burden on sectors of the poultry supply chain unless there is a significant threat or environmental hazard. At this time, there is no evidence that such a threat exists.

COMMENTER: Kyle Shreve, Executive Director, Virginia Agribusiness Council

RESPONSE: DEQ acknowledges these comments. *No changes are being proposed based on these comments.*

Gc-9 Subject: Bay Cleanup Progress & WIP III Goals

COMMENT: Over the last 20 years I have been observing the bay and I am disappointed in how slow the progress has been to meet the goals of the Clean Water Act. I believe that the poultry operations have been a significant detriment to these goals and we need better management of poultry litter.

COMMENTER: Joseph Valentine, Onancock, VA

COMMENT: Poultry production represents the largest sector of Virginia's largest industry, agriculture, and this sector has shown consistent growth over the past 30 years. USDA's National Agricultural Statistics Surveys indicates that from 1985 to 2019, Virginia's poultry production has steadily increased. There have been periods of slight decline and accelerated growth, but on average, animal units have increased by three percent per year since 1985. In 2017, Virginia produced over \$700 million in poultry products. In the Shenandoah Valley alone, agriculture raises 159 million chickens and 16 million turkeys in just four counties. Manure from these chickens and turkeys is spread on surrounding farmland as fertilizer but contains far more phosphorus than crops need for growth. The proportional importance of poultry, relative to livestock also continues to grow, as poultry makes up approximately 75 percent of animal units in Virginia's portion of the Chesapeake Bay watershed, up substantially from 54 percent in 1985.¹ Consequently, the number of animals covered by this VPA general permit has also been growing, as evident by the nearly 13 percent increase from 2010-2016. Poultry growth clearly plays a significant role in Virginia's agricultural businesses and economy, but it also presents challenges in meeting the Commonwealth's commitments to improve water quality and, specifically, to reduce nutrient and sediment delivered to the Chesapeake Bay. Keeping in mind the 2025 date for the achievement of the Chesapeake Bay TMDL and the Phase III Watershed Implementation Plan, our initial comments from October 2018 considered the implications of this growth on pollutant loading rates to the Chesapeake Bay. These results suggest that, while progress in reducing pollutant loads from poultry operations has been made since the initial issuance of this general permit approximately 20 years ago, much of this progress has been offset by growth. It should be noted that our estimates of pollutant loading to waterways from these facilities do not take into account nitrogen loadings from poultry-related ammonia emissions—a significant and wholly unaddressed source. These impacts are also directly relevant to local water quality in the Potomac River watershed, particularly the Shenandoah River, where nitrogen levels are elevated and recurring filamentous and benthic algal blooms are deleterious to recreational uses and the river's ecological health. Virginia's Agricultural Programs have made substantial progress towards addressing pollution reduction goals, but ultimately these reductions have not occurred at a pace that is consistent with the state's commitments. This is in part because some of the sector's progress has been offset by growth in animal units, which is primarily driven by poultry. According to CAST estimates, nutrient reductions from agriculture need to accelerate five-fold in order to achieve our goals, and, if our current rate of implementation is maintained, these goals would not be achieved until 2046. Thus, there is a critical need to pursue additional nutrient reductions through this permit. Given the scale and continued growth of poultry production in Virginia, the Commonwealth must ensure it has and will enforce a clear plan that will effectively address pollutant loads from this sector. The reissuance of this 10-year permit should represent a significant step in restoring our waterways. The following comments set out our thoughts on how this permit should be amended to protect water quality in the Potomac River watershed, where the majority of poultry production in Virginia occurs, and also to ensure implementation of the pollution management steps Virginia and its neighboring states are committed to delivering by 2025.

COMMENTERS: Peggy Sanner, VA Executive Director, Chesapeake Bay Foundation
Joseph Wood, VA Senior Scientist, Chesapeake Bay Foundation
Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network

RESPONSE: DEQ believes that the proposed regulation and general permit is protective of State Waters, both surface and ground. The strict conditions that regulate storage and nutrient management ensure that the nutrients that are in poultry litter are managed and utilized to prevent runoff and leaching. DEQ accounts for growth of the industry in the WIP, based on actual animal numbers and industry information. Current analyses conducted for WIP development do not require changes to the general permit regulations to meet WIP goals. ***No changes are being proposed based on these comments.***

COMMENT: Another downside to regulating the end user is that the proposed regulation will hinder Va's ability to meet its goal for litter transport in the Chesapeake Bay cleanup plan. I am urging you to reconsider and not require the poultry litter end user to report litter applications. Farmers are not wasteful spenders and are conscious about using their resources in a responsible manner.

COMMENTER: Craig Bailey, Greenmount Heritage LLC

COMMENT: We are extremely disappointed that this end-user reporting requirement was added last minute to the proposed rule outside of the public participation process. This requirement is unnecessary for reporting water quality improvement progress to the Bay program as stated by DEQ staff during TAC meetings. This ill-conceived requirement is regressive and counterintuitive to other state efforts to promote the safe transportation and use of poultry litter away from poultry farms and will disrupt established poultry litter markets and infrastructure and strand poultry litter on poultry farms that rely on end-users. This requirement will roll back two decades of work by the state and industry to promote third party poultry litter utilization, obligating over \$610,000 since FY2008. The poultry industry and state provided over \$290,000 for transport incentives this year alone. Based on conversations with growers, brokers and end-users, the Commonwealth can expect to see poultry litter transport come to an essential halt in 2021. According to the Department of Conservation and Recreation (DCR), 90 percent of poultry waste generated by permitted poultry growers under current nutrient management plans is transferred off-site. Virginia's Chesapeake Bay TMDL Phase III Watershed Implementation Plan (August 23, 2019) (WIP 3) includes an initiative expanding poultry litter transport in the Chesapeake Bay with DCR's Poultry Litter Transport Program from 5,000 – 6,000 tons per year up to 89,000 tons per year. Program participants are required to obtain certified nutrient management plans as a condition of applying for the program's financial incentives, without any guarantee of financial assistance. The plan requirement already hinders program participation due to a lack of readily available certified planners and perceived administrative burden by first-time and infrequent poultry litter end-users. Under this program, will DCR or DEQ report any remaining nutrient management plan implementation? WIP 3 includes another initiative to improve poultry litter accounting where "DEQ will consider options with input from a TAC, to provide more accurate accounting of progress towards WIP goals associated with poultry litter transport and utilization." As previously stated, various options were discussed and included (location data, report timing, record reporting). No other reporting options were discussed by the TAC beyond current data collection methods and a suggestion for mandatory end-user reporting. There is another WIP 3 initiative, enhance coordination among state agencies assisting farmers. This proposed requirement fails to recognize its anticipated negative impacts on farmers, other state agencies efforts and Chesapeake Bay clean-up efforts related to agriculture. The purpose of the WIP 3 initiative for improved litter transport accounting is "to provide more accurate accounting of progress towards WIP goals associated with poultry litter transport and utilization" and "may offer the opportunity to verify end-user implementation of NM practices." End-users are provided four progressively flexible options for determining poultry waste land application rates, a standard rate, phosphorus removal rate, soil test rate, or NMP rate. To our knowledge, a nutrient management plan is the only option recognized as a BMP by the Bay Program model. DCR already tracks and reports NMP data for the Bay Program model. How will Virginia track WIP implementation progress by collecting data on the three more restrictive land application rates that are not recognized as

BMPs? How will Virginia track WIP implementation for poultry waste exported outside the state? Also, poultry waste production and poultry waste utilization will not occur in a 1:1 ratio during any 12 -month period. How will DEQ account for differences in balancing production with utilization?

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: Virginia's Chesapeake Bay TMDL Phase III Watershed Implementation Plan (Phase III WIP) calls for the annual transfer of up to 89,000 tons of poultry litter from Rockingham, Page, and Accomack Counties to other localities that can appropriately utilize the litter. The proposed reporting holds back Virginia's Phase III WIP by hindering transfer of litter from surplus counties to localities that can utilize this product. And it does not support the efforts by the General Assembly in appropriating significant state funds for the Department of Conservation and Recreation's (DCR's) litter transport incentive program. The reporting requirement creates a disincentive to use litter and hinders fulfillment of WIP goals through the DCR program.

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: One commenter suggested end-user reporting is in WIP3, DEQ must do it. It is crucial to note that in WIP 3, end-user reporting is simply offered as an option to consider, and even more importantly, the plan clarifies, "In its evaluation, DEQ will consider ways to reduce the possibility that regulatory requirements would discourage end-users from using poultry litter in areas that could benefit due to soil phosphorus needs or other factors". As previously mentioned, WIP 3 lays out an ambitious strategy to expand poultry litter transport in the Chesapeake Bay. The poultry industry is committed to being part of this solution, but it is extremely difficult to sell farmers on participation when the regulatory requirements continue to increase.

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: Virginia's Phase III Watershed Implementation Plan (WIP) has made poultry litter transport a priority. In fact, the WIP specifically asked the TAC to consider the impact end-user requirements would have on the litter market. Since FY2008, the Poultry Litter Transport Program has spent over \$600,000 to incentivize litter transport. The WIP calls for increasing litter transport to 89,000 tons per year. The General Assembly has emphasized this as well, setting aside \$750,000 in this year's budget for poultry litter transport and resource management plans. This fiscal year, DCR has already obligated \$292,000 between state and industry resources for a total of 21,000 tons of litter being moved. End-user reporting risks erasing any gains we may have had with the program. These reasons are why a majority of TAC members decided not endorse this proposal and the Council is disappointed the Administration chose to include it in their recommendation. It was stated during the open hearings conducted by DEQ that the TAC process is not a voting body. However, it is an advisory body whose members are vetted for their knowledge and give their time and expertise to advise the Department as well as the Board as to the effects of the recommended policy. To completely disregard the vast majority of TAC participants' opinion undermines the TAC process, as well as the WIP.

COMMENTER: Kyle Shreve - Virginia Agribusiness Council

RESPONSE: DEQ acknowledges these comments and understands that there is opposition to the new proposed reporting requirements. It is not the agency's intent for the end-user reporting requirements to negatively affect the DCR Poultry Litter Transport Program. After analyzing the comments and determining what information the department needs to ensure compliance with the regulation and what is necessary for receiving credit in the Bay model through the reporting of poultry waste transfer data to the Chesapeake Bay Office of the EPA. Staff determined that a better option to reporting all land application records and supporting documents (as previously required in the proposed language) would be to instead require the end-user to report (in a phased in reporting timeframe): poultry waste transfer records; the method they used to determine the land application rate; and the county where the waste is being utilized. This alternative strikes a balance for obtaining the information related to poultry waste transactions and a subset of important land application information while reducing the reporting burden and the concerns related to the release of private and personally identifying information contained in the specific land application records and supporting documents. This option will

provide the department with the necessary information in a timely manner while not compromising the privacy and personal identifying information that is protected by the Department of Conservation and Recreation through exemptions in the Freedom of Information Act, and protected by Federal branches of the United States Department of Agriculture. Furthermore, this revision makes the end-user reporting requirements more consistent with the proposed permitted grower and registered poultry waste broker reporting requirements. As with the permitted grower, the end-user land application records can be reviewed by DEQ staff to ensure compliance without taking custody of the records.

The following changes are being proposed based on these comments. Section 70, Tracking and Accounting Requirements for End-Users is being revised to report the following items to the Department in a phased in timeframe:

- 1. poultry waste transfer records,***
- 2. the method the end-user used to determine the land application rate, and***
- 3. the county where the waste is being utilized.***

GC-10 Subject: Soil Amendment and Recycling

COMMENT: For decades farmers in our District have improved their soils through the use of imported poultry litter as a soil amendment. In the past 15 years, the transfer of poultry litter to farmland even further from the Shenandoah watershed has increased noticeably. This trend has allowed farmers in these localities to economically improve the health and productivity of their soils while removing excess nutrients from localities where poultry production is intensive.

COMMENTER: Tom Stanley, Director, Natural Bridge Soil and Water Conservation District Board

COMMENT: I have a family farm located in Clarke County. I have been using poultry litter as a soil amendment successfully and responsibly for more than 20 years in both corn and grass production. I have always followed Va. Tech Extension's recommendations based on soil testing.

COMMENTER: Bryan Conrad

COMMENT: I have a family farm located in Warren County. As a Virginia farmer. I am not a large user of litter, but it needs to still be one of my options to maintain production.

COMMENTER: Marvin Pence, Family Farm in Warren County

COMMENT: I have a family farm located in Washington County. While I do not personally use this program, my deceased father has in the far distant past and found it a worthwhile means of utilizing what is otherwise considered waste to make his land more productive.

COMMENTER: Joyce Millsap, Family Farm in Washington County

COMMENT: I have a family farm located in Brunswick County. From time to time I use chicken litter on my hay and pasture. I see this is being environmentally friendly because the nutrients are being used to grow food and the waste does not go into a landfill. They are being recycled.

COMMENTER: Ronald Wilson, Brunswick County Farmer

COMMENT: We have found chicken litter to be a very affordable fertilizer.

COMMENTER: Emily Edmondson, Tazewell County Farmer

COMMENT: In addition to nutrients, the organic matter of the litter needs to be used in areas to improve the soil.

COMMENTER: Paul Beyer, Fluvanna County

COMMENT: In addition to nutrients, the organic matter of the litter needs to be used in areas to improve the soil.

COMMENTER: Carol L. Turner, S&C Poultry Inc., Rockingham County

COMMENT: Poultry Waste is beneficial when used to enrich our soils in the mountain regions to make them productive for pasture and for growing hay.

COMMENTER: John Quantz, Alleghany County Farmer

COMMENT: My name is Richard Baltimore and I have a working family cattle farm located in Cumberland County. As a steward of my land and water resources, I regularly take soil/water samples and utilize litter for fertilization and soil amendment where it would be appropriate and beneficial, and can be safely applied.

COMMENTER: Richard Baltimore, Cumberland Cattle Farmer

COMMENT: I have a family farm located in Alleghany County. I have used this product on fields that are not close to any water source in an effort to achieve the nutrient benefits but to also build up the soil.

COMMENTER: Wendell Jones, Allegany County Farmer

COMMENT: I have a family farm located in Rockingham County. We annually use poultry litter from neighboring farms as fertilizer on our fields.

COMMENTER: Paula Craun, Rockingham County Farmer

RESPONSE: DEQ acknowledges these comments and agrees that poultry litter can be a beneficial organic soil amendment when used in accordance with the regulations. ***No changes are being proposed based on these comments.***

GC-11 **Subject: New Proposed Reporting Requirements-Add County - Supportive to Require**

COMMENT: The TAC did reach consensus in adding a requirement that poultry waste transfer records include the destination locality for the waste. During the second TAC meeting, DEQ staff stated identification of the county or locality where poultry waste would be utilized by end-users would be beneficial to refining DEQ's existing data reporting to the Bay program. We support this new requirement.

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: Proposed change: Add "county" as a new item to the poultry waste transfer data recordkeeping. VPF comment: During the TAC process, DEQ staff stated identification of the county or locality where poultry waste is utilized by end-users would be beneficial to refining DEQ's existing data reporting to the Bay program. We support this new requirement.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

RESPONSE: DEQ acknowledges the support. ***No changes are being proposed based on these comments.***

GC-12 **Subject: New Proposed Reporting Requirements-All - Not-Supportive to Require**

COMMENT: In conclusion, we oppose the new annual reporting requirements proposed for poultry growers and poultry waste end-users. We also oppose any effort to require reporting of poultry litter amendment use.

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: I, Mary Jane Martin, am a smaller scale commercial poultry grower from Weyers Cave, VA, where I have farmed responsibly for sixteen years. I have done my best to be a good steward of the environment, following all local, state, and federal regulations, as well as the laws of common decency. It is not easy to keep any type of agriculturally based business profitable, as there are numerous vulnerabilities, many of which are unpredictable and/or beyond our span of control. Government regulations, based and developed primarily on the "demands" of interest groups, should not be yet one more threat to our livelihood and existence.

Adopting this new regulation will take us from a situation in which poultry litter is an asset to the grower, the end-user, and the environment, to one in which litter is not worth the hassle to the end-user, a fiscal liability to the grower, and a dual threat to the environment. It makes special interest groups and government bodies feel good to be able to point to a new regulation and say, "Look, I did something to help the [fill in the blank]." But, if that "something" is lacking scientific evidence of efficacy, is superfluous, and totally useless, it is simply grandstanding and pandering. In this case, in addition to being all of those things, it will actually cause more of the damage it is trying to mitigate.

For the good of the citizens of the Commonwealth of Virginia and the environment, I respectfully request that the DEQ not adopt this new and damaging regulation as a VPA General Permit for Poultry Waste requirement.

COMMENTER: Mary Jane Martin, Augusta County Poultry Grower

COMMENT: Virginia Farm Bureau Federation (VFBB) takes this opportunity to submit comment pertaining to the Department of Environmental Quality's (DEQ) proposed changes to 9VAC25-630 the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management. VFBB is the largest farm membership organization in Virginia. We represent nearly 30,000 farmers across the entire state, many of whom are poultry growers, poultry litter brokers and poultry waste end-users. VFBB appreciates the opportunity to participate on the Technical Advisory Committee (TAC) DEQ named to provide input into its review of this regulation and

general permit. As stated previously during the Notice of Intended Regulatory Action phase of this review, we believe no substantive changes to the regulation and general permit are necessary to maintain water quality improvements attributed to this program.

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: I appreciate the opportunity to offer comments on the changes proposed to the Virginia Pollution Abatement Regulation on behalf of the Virginia Agribusiness Council, a trade association representing the agriculture and forestry industries. I was honored to have been asked to serve as a member of the Department of Environmental Quality's Technical Advisory Committee (TAC) on poultry litter waste management. While there are positive aspects of the proposed permit, the Council is opposed to new end-user reporting requirements contained in the submission by the Department. We are also opposed to any amendment to the permit requiring litter amendment reporting by growers.

COMMENTER: Kyle Shreve - Virginia Agribusiness Council

COMMENT: Farmers are committed to being strong environmental stewards, but imposing regulatory requirements without any real justification is not the way to achieve progress. I strongly urge you to reject these new proposed reporting requirements.

**COMMENTERS: Respondents to Farm Bureau Action Alert (Table A)
Bruce Stanger, Montgomery County Cattle Farmer**

COMMENT: Farmers are committed to being strong environmental stewards, common sense DEQ reporting requirements are essential to building the public trust. However reporting requirements should only cover the basics of the public's right to know.

COMMENTER: Tom Hall

COMMENT: The Shenandoah Valley Soil and Water Conservation District (SVSWCD) works closely with poultry producers in Rockingham and Page Counties to provide technical and financial support for best management practices including practices that help producers address waste management on their operations. Many of the producers we support are covered under the VPA General Permit. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. The SVSWCD is committed to supporting sound environmental stewardship that protects water quality in a practical and cost-effective manner. We are concerned that these requirements could be detrimental to our attempts to clean up the Chesapeake Bay and ask that the Department and State Water Control Board approve a regulation without these new burdensome requirements that upend the reasonable balance that has made this program a success for water quality protection.

COMMENTER: Kevin Craun, Chairman, Shenandoah Valley Soil and Water Conservation District Board

COMMENT: I am writing in response to the VPA General Permit for Poultry Waste proposal. My name is Kimberly Croft and I am President of Big Oak Farms in Stanley, VA. We, as poultry growers and farmers, are concerned about the environment. Our livelihood depends on it. We feel that the present reporting system is adequate and more would just be more cumbersome to the local farmer. Thanks for listening.

COMMENTER: Kimberly Croft, President, Big Oak Farms, Page County

COMMENT: I am opposed to adding more red tape to nutrient applications. It's almost to the point of needing a full time person to keep up with all the paperwork. Please keep in mind that nutrient are too valuable to over-apply.

COMMENTER: James Messick, Fauquier County Farmer

COMMENT: Our farm is committed to sound environment stewardship that protects water quality in a practical and cost-effective manner. We ask that the department and State Water Control Board approve a regulation without these new burdensome requirements that upend the reasonable balance that has made this program a success for water quality protection. Thank you.

COMMENTER: Rodney Wagner, Green Valley Poultry Farm, Washington County Poultry Grower

COMMENT: My farm is committed to sound environmental stewardship that protects water quality in a practical and cost-effective manner. We ask that the department and State Water

Control Board approve a regulation without these new burdensome requirements that upend the reasonable balance that has made this program a success for water quality protection.

COMMENTERS: Wayne Merrill, Fox Creek Farm, Inc. Orange County Farmer
Ernest Ambler, Amber-rillo Farm Inc., Augusta County Poultry Grower
Jeffrey E. Thomas, Blue Rock Farm, Inc. Page County Poultry Grower
Rob Preston, Preston Hills Farm, Rockingham County Poultry Grower
JT Anderson, Pineview Farm, Goochland County Poultry Grower
Kate Anderson, Pineview Farm, Goochland County Poultry Grower
Thomas Thacker, Augusta County Poultry Grower
Vincent A. Wolford, Rockingham County Poultry Grower
Brett Washington, Washington Farms, Inc. Louisa County Poultry Grower
Chris Turner, Carlton Turner Poultry, Page County Poultry Grower
Sandra K. Rumer, Smokey Valley Farm, Inc. Rockingham County Poultry Grower
David Beery, Rockingham County Poultry Grower
Joseph Turner, Page County Poultry Grower
Forest N. Atwood, Pass Run, Page County Poultry Grower
Myron Reedy, Reedy Farms, LLC., Rockingham County Poultry Grower
Rex A. Sours, Rex Sours, LLC., Page County Poultry Grower
Anna Housden, Living Country Farm, LLC., Page County Poultry Grower
Michael Scott Housden, Page County Poultry Grower
Vicki Dinges, Page County Poultry Grower
Russel J. Wenger, Augusta County Poultry Grower
Kimviet Ngo, Accomack County Poultry Grower
Tri Nguyen, Accomack County Poultry Grower
Dustin Wenger, Rockingham County Poultry Grower
Kathy Kagey, V&K Farms, Shenandoah County Poultry Grower
VLD Kagey, V&K Farms, Shenandoah County Poultry Grower

COMMENT: I have a family farm located in (Fauquier). As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. We do not want additional regulations that do nothing but increase the cost of doing business.

COMMENTER: Lewis Ray, Fauquier County Farmer

COMMENT: Please allow us to continue to operate under the current regulations and permits and inspection requirements. Further government intrusions will not be helpful. Thank you for your consideration.

COMMENTER: Lareth L. May, May Poultry Farm, Rockingham County

COMMENT: As a Virginia resident, I am writing to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. Additional reporting requirements have the potential to set a precedent that could affect all Virginia producers utilizing crop nutrients in the future. Please reject these proposed reporting requirements.

COMMENTER: Richard Newell

COMMENT: We are committed to sound environmental stewardship that protects water quality in a practical manner. Please approve a regulation without these new burdensome requirements that could in fact create more water quality issues!!! Thank you.

COMMENTER: Gerald Wenger, Hillside Poultry, LLC, Rockingham County Poultry Grower

COMMENT: I am against any new regulations concerning poultry waste. We on the Delmarva are doing our part. Until New York and Pennsylvania do their part, I am not in favor of doing anything.

COMMENTER: Brantley T. Onley, Accomack County

COMMENT: I have a family farm located in Spotsylvania County. I am not a poultry farmer however I would not want to be required to adhere to these types of mandates if they were being imposed on me as a beef farmer.

COMMENTER: Nancy Biscoe, Spotsylvania County Cattle Farmer

COMMENT: I've raised poultry for over 30 years. I Give, No Charge my poultry litter to my neighbor, have for over 30 years! He's got four farms he can't even begin to cover all of his fields!! DEQ already know this information, Leave it alone!!! Keep fooling around and you are going to lose these END USERS!! Hell my Nitrogen level isn't but like 34%. So leave these people alone, For whatever its worth we're both in our late 60's so it would be pretty easy to sell to developer's! Thanks! Have a good day!

COMMENTER: Dennis Wilkins, Rockingham County Farmer

COMMENT: Even though 90% of my farming operation is located outside of the Chesapeake bay watershed, this regulation would greatly affect my operation with unnecessary burdens.

COMMENTER: Nicholas Moody, Dinwiddie County Farmer

COMMENT: I have a family farm located in Nottoway County. I'm sick and tired of extra regulations on this type of thing when it is already able to be captured elsewhere.

COMMENTER: Billy Borum, Nottoway County

COMMENT: Remember most of the farmers are mostly small operations often only the farmer himself. These added reporting requirements on a one operation are onerous at least.

COMMENTER: Wendell Jones, Allegany County Farmer

COMMENT: Tyson believes it is important that everyone works together to protect water quality in a practical and cost-effective manner. This is a part of being good stewards of the environment. Tyson would ask the department and State Water Control Board approve a regulation without these new burdensome requirements and impact the balance that has made this program a success for water quality protection. Thank you for your time and attention to our comments on this issue.

COMMENTER: Kendra Jones, Tyson Farms, Inc.

COMMENT: I have a family farm located in Powhatan as well as farmland in Buckingham. At this time, I have not utilized poultry litter, but I believe the proposed new regulations are onerous and without any proven benefit.

COMMENTER: Barbara Person, Family Farm in Powhatan and Buckingham, VA

COMMENT: I have a family farm located in Rockbridge COUNTY. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. I use poultry litter to improve my hay lands. I am concerned that additional regulations will decrease the application of litter. This will contribute towards more manufactured fertilization and greater water pollution potential (both chemical nutrient run-off and litter disposal problems)

COMMENTER: William Braford, Family Farm in Rockbridge County

COMMENT: I have a family farm located in Accomack County. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. We already supply this information on annual report.

COMMENTER: Fred Holland, Permitted Poultry Grower in Accomack County

COMMENT: As a producer, grower and concerned citizen of Virginia's beautiful and naturally rich Eastern Shore, I urge the DEQ to reject the proposed amendments.

COMMENTER: Chip Turlington, Turlington Farms Inc., Chancetown, on Virginia's Eastern Shore

RESPONSE: DEQ acknowledges these comments and understands that there is opposition to the new proposed reporting requirements. § 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from permittees and end-users on a yearly basis via another method. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from end-users and permitted growers and facilitate DEQ's reporting to EPA for credit in the Bay model. These improvements to the regulations demonstrate Virginia's commitment to improving the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III.

After analyzing the comments and determining what information the department needs to ensure compliance with the regulation and what is necessary for receiving credit in the Bay model through the reporting of poultry waste transfer data to the Chesapeake Bay Office of the EPA. Staff determined that a better option to reporting all land application records and supporting documents (as previously required in the proposed language) would be to instead require the end-user to report (in a phased in reporting timeframe): poultry waste transfer records; the method they used to determine the land application rate; and the county where the waste is being utilized.

This alternative strikes a balance for obtaining the information related to poultry waste transactions and a subset of important land application information while reducing the reporting burden and the concerns related to the release of private and personally identifying information contained in the specific land application records and supporting documents. This option will provide the department with the necessary information in a timely manner while not compromising the privacy and personal identifying information that is protected by the Department of Conservation and Recreation through exemptions in the Freedom of Information Act, and protected by Federal branches of the United States Department of Agriculture.

The following changes are being proposed based on these comments. Section 70, Tracking and Accounting Requirements for End-Users is being revised to report the following items to the Department in a phased in timeframe:

- 1. poultry waste transfer records,***
- 2. the method the end-user used to determine the land application rate, and***
- 3. the county where the waste is being utilized.***

GC-13 Subject: Water Quality

COMMENT: I am writing about the poultry VPA permit. I live in Rockingham County and my nearest neighbor has large turkey buildings. Both our properties border and run uphill from the Middle and North Rivers. Any fertilizer, including poultry litter, that sits on my neighbor's fields either seeps below ground into aquifers located in karst terrain or flows downhill to the river and on to the Chesapeake Bay. My water supply is from our well which taps into those aquifers. Water quality in Rockingham County is an ongoing problem. Thanks to the VA Tech Extension Service testing program, we are able to identify and quantify what's in our water that isn't safe. Currently we must use 4 filtering systems to have potable water.

COMMENTER: Joy Loving

COMMENT: I live on the South Fork of the Shenandoah River in Page County. I share the Shenandoah Valley with 175 million chickens and turkeys. I have been recreating on the South Fork of the Shenandoah River for over 50 years. In the last twenty years I have observed multiple smallmouth bass die offs and a significant decrease in water quality. The South Fork of the Shenandoah is experiencing excessive nutrient load, much of which is caused by current poultry waste management practices and as a result the South Fork of the Shenandoah is plagued with blue green algae. The blue green algae is always there visible, lurking on the river bottom. In the summertime as days lengthen and air and water temperatures increase the growth of blue green algae can be explosive. Long stringing masses of blue green algae interfering with recreational activities such as canoeing and fishing. Algal mats floating down the river and lodging on rocks, limbs and the riverbank. Sometimes the ammonia like odor is overwhelming. You can feel it in your eyes, smell it in your nose and taste it in your mouth. The blue green algae chokes out desirable aquatic plants such as stargrass and wild celery which serve as habitat and nursery for many species of fish and aquatic insects. The current management of poultry litter in the Shenandoah Valley needs improvement.

COMMENTER: Frank Filipy

COMMENT: Stronger permits for poultry operations protect both air and water quality.

COMMENTER: Jan Dillard

COMMENT: I currently live in the Shenandoah Valley and also own property (a native) and live part time on Virginia's Eastern Shore. I have lived in and around poultry operations all of my life. I have seen firsthand the degradation of local waters by poultry producers.

COMMENTER: Jane Smith

COMMENT: The poultry industry has grown dramatically on the Eastern Shore of Virginia and in the Shenandoah Valley in the past decade as has the waste the birds produce. This litter leads to increased pollution risks for waterways as well as ammonia air emissions that are overtaking both car emissions and power plants as the largest air source of nitrogen deposits to the Bay. The State Water Control Board must take steps necessary to protect Virginia's air and waterways with a stronger poultry permit. I support a stronger poultry permit to protect our air and water while still expanding the positive economic impact of poultry producers in our state.

COMMENTER: Catherine Lukaszewicz,

RESPONSE: DEQ believes that the proposed regulation and general permit is protective of State Waters, both surface and ground. The strict conditions that regulate storage and nutrient management ensure that the nutrients that are in poultry litter are managed and utilized to prevent runoff and leaching. **No changes are being proposed based on these comments.**

GC-14 Subject: Technical Advisory Panel (TAC) Process

COMMENT: This was my first time participating on the Virginia Technical Advisory Committee (TAC) that was formed in February of 2019 to review this regulation. I appreciate that opportunity, but we are very concerned with the TAC process, several proposed changes, recommendations that were not added, recommendations that should not be added and the myth of substantial growth in the chicken community. In working in other states, I was very impressed by this method to solicit feedback from stakeholders. As I understand it, anyone could volunteer to be part of the TAC, and there was an internal process within DEQ to be sure that a representative mix of stakeholders was included, from farmers, growers, state agencies, NGOs and trade associations. I attended three out of four meetings, including the special meeting that was called after the members thought the TAC had been concluded, driving seven hours round trip to the Richmond area. The DEQ staff were very professional and prepared, taking detailed minutes and sharing information well ahead of time for review. The meetings were also well conducted, allowing all participants to be engaged and share thoughts and allowed DEQ to gauge the general recommendations from the participants. Therefore, I was extremely disappointed when the draft regulations were presented and the changes that the majority of TAC members agreed on were not included, and that new proposals were added by the Administration that were agreed were not needed. I have to question the purpose of having a TAC when the recommendations and suggestions by key stakeholders and were clearly noted in the minutes, were not accepted?

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: Thank you for the opportunity to be a TAC participant. We appreciate this opportunity to provide this and previous comments on the proposed regulation and general permit. We look forward to your consideration.

COMMENTER: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation

COMMENT: Problems with TAC Process - During this public comment period, it has been said that the TAC is simply an advisory committee, and the majority opinion does not guarantee an outcome; however, to ensure a high level of participation and productive discourse, stakeholders must have confidence in the TAC process. Candidates nominated from the both public and private sector for the TAC were vetted for their knowledge and expertise before being approved by DEQ staff and management for TAC membership. Ignoring TAC recommendations and responses disregards the public value of the TAC process.

COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation

Frank Barber, Cumberland County Poultry Grower

COMMENT: While we are apprehensive about several aspects of the proposal, we have a major concern about the end-user reporting requirement. Our comments will address this and other substantive changes as well as some issues not included in the proposal but discussed by the TAC. At the outset, we would like to express a concern about the TAC process. Overall, the Department of Environmental Quality (DEQ) staff managed the process professionally and efficiently. However, concerning an end-user reporting requirement, the vast majority of the TAC was opposed and it seemed during the TAC meetings that DEQ was going to pursue technological solutions to allow the capture of data through growers and poultry litter brokers rather than a method harmful to the transfer of litter and Chesapeake Bay restoration goals.

Given the prevailing sentiment of the TAC and no apparent desire for end-user reporting among DEQ staff, we question the sudden appearance of an end-user reporting requirement.

COMMENTS: Hobey Bauhan, President, Virginia Poultry Federation

RESPONSE: DEQ appreciates the time and valuable input provided by the Technical Advisory Committee (TAC) during this process. The TAC was formed to assist the Department in the development of a proposed regulation while balancing the concerns of all those interested in this regulation. The role of a TAC is advisory only. The group's primary responsibility was to collaboratively contribute to a regulation that is in the best interests of the Commonwealth, as a whole. The group's goal was to reach a consensus on a proposed regulation and make recommendations to the Department and Board.

In this regulatory and public policy area, consensus is defined as a willingness of each member of a group to be able to say that he or she can live with the decisions reached and will not actively work against them outside of the process. This is not to say that everyone will be completely satisfied by the results of the process. It is necessary; however, that each participant comes prepared to negotiate in good faith around complex and sensitive issues. And because the group represents many different interests, all members should expect to compromise in order to accomplish the group's mission. Voting, per se, is contrary to a consensus-based process, but during this process members were asked to demonstrate their strength of feeling for or against a particular idea, and were asked to help set priorities during the course of the process.

There were multiple issues regarding which the TAC did not reach consensus, and in these cases the Department staff presented the differing opinions to Department management for a recommendation, and ultimately to the State Water Control Board for their consideration. DEQ staff believes that while there may be frustration at the end of this process, the advisory groups are essential to the development process of proposed regulations. **No changes are being proposed based on these comments.**

GC-15 Subject: Ammonia Monitoring

COMMENT: Require ammonia monitoring at large concentrated poultry operations to provide a better sense of how much ammonia is emitted by these sources. This would help characterize the nitrogen load attributable to the deposition of local ammonia emissions.

COMMENTS: Abel Russ, Senior Attorney, Environmental Integrity Project

RESPONSE: The State Water Control Law, specifically Section 62.1-44.17:1.1 of the Code of Virginia authorizes the State Water Control Board to develop a regulatory program known as the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management 9VAC25-630-10 et seq. Section 62.1-44.17:1.1 of the Code of Virginia requires the development and implementation of nutrient management plans for any person owning or operating a confined poultry feeding operation; provides for waste tracking and accounting; and ensures proper storage of waste consistent with the terms and provisions of a nutrient management plan. There are no provisions included in Section 62.1-44.17:1.1 of the Code of Virginia to authorize the State Water Control Board to include ammonia emission monitoring or other conditions related to ammonia air emissions in 9VAC25-630-10 et seq. **No changes are being proposed based on this comment.**

GC-16 Subject: Miscellaneous

COMMENT: Chicken droppings = salmonella. Improper disposal safety means DANGEROUS water pollution!

COMMENTS: Elaine Fischer

COMMENT: We ALL need Clean Air and Clean Water!

COMMENTS: Elaine Becker

COMMENT: Regarding the poultry VPA permit, As the environment and natural resources deteriorate, per scientific reporting, we are realizing we have an obligation to actively and continuously exercise stewardship so environmental quality of the U.S., and the entire planet for that matter, is sustained for future generations. Let us employ all reasonable means toward comprehensive environmental stewardship.

COMMENTS: Alan Partin

COMMENT: I have a family farm located in Spotsylvania County. I am the second of four generations to farm our land. Dad started farming in the mid 40's. We started out as a dairy farm and have transitioned to an on farm market featuring produce that we grow on our farm.

COMMENTER: Wayne Miller, Family Farm in Spotsylvania County

COMMENT: Also would like to thank the local DEQ for their workability to this present time !!

COMMENTER: Gerald Wenger, Hillside Poultry, LLC, Rockingham County Poultry Grower

COMMENT: I live in Cartersville and grow for Hendrix ISA. After much thought I support Virginia Farm Bureau's response to the proposed rule changes. Their committee has put in a lot of time, effort and thought to the changes.

COMMENTER: Frank Baber, Cumberland County Poultry Grower

COMMENT: We are a small family farm in Rockingham County and have been raising poultry for 41 years. We raised our 4 children here and are now sharing farming responsibilities with our grandchildren. We value working the land and providing an excellent organic product to the public. Being responsible farmers, which includes caring for our environment, is our highest priority.

**COMMENTER: Kerry Maloney, Rockingham County Farmer
Geri Maloney, Rockingham County Farmer**

COMMENT: To protect and improve the environment for all Virginians' is the mission statement of Virginia's DEQ. It is hard, therefore, to understand what has been permitted on the Eastern Shore. We fear, not only for the Bay, but our ground water, air, property values, health and economic opportunities. I wrote our local Accomack County board in 2/14 of these concerns after doing some research and given some lay experience over decades with wetlands. So, I'll let the rest of this pre-crafted response play, but the only way I know of to 'handle' the excess amount of manure, is to produce less and to do away with industrialized meat production in favor of a sustainable method asap.

COMMENTER: Ann Violi

RESPONSE: DEQ acknowledges these comments. ***No changes are being proposed based on these comments.***

COMMENT: I am not a poultry producer. I have been a produce grower for 35 years. Regulations are the new normal in the farming food production community. In the produce business we have to keep records of everything we do right down to how many times we sanitize field knives during the day. We are required to have a USDA inspection of the farm and records annually and periodically through the season at about \$900 per annual inspection. The impact of the poultry CAFOs on the Eastern Shore is great and to my understanding the Seaside of the Shore is not affected by the Chesapeake Bay program, hence it is more unregulated. I don't see any good reason why poultry manure handlers should not be required to keep the best possible records and inspections of the manure spreading process. Self regulation is not adequate.

COMMENTER: John Johnston, Pickpenny Produce, LLC, Accomack County

RESPONSE: This regulation and general permit contains strict conditions and requirements for all poultry operations across the state. These conditions and requirements do not change based on the location of the operation, poultry waste end-user or poultry waste broker, no matter if the operation or entity is located in the Chesapeake Bay watershed or outside of it. Since 2000, the current regulations have included requirements for detailed recordkeeping related to poultry waste transfers and the land application of poultry waste and the recordkeeping and reporting of the detailed records by poultry waste brokers. The proposed regulation and general permit includes the reporting of the detailed records by the owners of permitted poultry operations and poultry waste end-users and poultry waste brokers. ***No changes are being proposed based on this comment.***

COMMENT: We are concerned about an ongoing lack of transparency with respect to the ultimate destination and application rate of most Virginia poultry waste, and we are also concerned about ongoing over-application of phosphorus. As you may know, our organization periodically writes reports on poultry waste management problems in Virginia. In 2017 we released a report entitled "Water Pollution from Livestock in the Shenandoah Valley" (hereinafter "2017 report," attached). Earlier this year we released a report entitled "Poultry and Manure Production on Virginia's Eastern Shore" (hereinafter "2020 report," attached). Our 2017 report included several observations and conclusions with direct bearing on the VPA permit: Based on these observations, we recommended the following (among other things):

1. The state should require NMPs for all farms that spread poultry waste.

2. Soil nutrient concentrations should be sampled every year.
3. Phosphorus applications should be prohibited at a lower threshold; for example, manure and litter applications could be prohibited on soils with more than 55 ppm phosphorus.
4. The state should require annual reporting of manure applications and crop yields.

COMMENTER: Abel Russ, Senior Attorney, Environmental Integrity Project

RESPONSE:

1. In accordance with section 9VAC25-630-10 et. seq., all permitted entities are required to submit and implement a nutrient management plan (NMP). Other non-permitted poultry waste users (end-users) are required to follow the technical requirements found in section 70 and 80 of 9VAC25-630. These technical regulations specify the establishment of the land application rate, by one of four options which includes an NMP, soil test recommendations, a standard rate of 1.5 tons/ acre only once every three years, or by using the Phosphorus crop removal method. In the majority of cases, the options alternative to an NMP would prescribe nutrient application rates that would be less than those that could be prescribed in an NMP. Each of these options are agronomically and environmentally sound options that ensure appropriate land application rates.
2. The permit requires that soil sampling and analysis at land application sites be completed once every three years. The permit also provides for additional monitoring if the nutrient management plan requires a greater frequency of soils analysis. The frequency of once per three years is based on sound agronomic practices that are typical for land application of organic sources of nutrients. Organic sources provide a slow release of nutrients over time and typically, the nutrient content does not change dramatically between years one, two and three.
3. The Department of Conservation and Recreation (DCR) has the authority over the regulations that govern nutrient management plan (NMP) requirements. The DEQ regulations covering Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs) require the owner of the AFOs and CAFOs to obtain and implement an NMP. The NMP regulations already establish an environmental threshold above which phosphorus may not be land applied. The requirements related to the use of the P-Index are not within the scope of § 62.1-44.17:1.1. of the Code of Virginia.
The end-users of poultry litter that land apply litter are governed by the technical requirements found in section 80 of 9VAC25-630. The technical regulations specify the establishment of the land application rate, by one of four options which includes an NMP, soil test recommendations, a standard rate of 1.5 tons/ acre only once every three years, or by using the Phosphorus crop removal. These technical regulations already specify the same environmental threshold found in the DCR regulations for Phosphorus when using the Phosphorus crop removal land application rate. Each of the four options are agronomically and environmentally sound options that ensure appropriate land application rates.
4. The current permit requires the permitted entities to maintain recordkeeping related to land application and crop yields. DEQ inspectors inspect these records during each inspection. The proposed regulation requires that all poultry waste end-users report the land application records annually. Additionally, the regulation already provides that DEQ staff can request these records at any time.

No changes are being proposed based on these comments.

COMMENT: Our 2020 report focused on Virginia’s Eastern Shore, and came to similar conclusions:

- Most poultry operations in Accomack County export their poultry waste.
- Most of the exported poultry waste stays in Accomack County.
- Accomack County poultry operations generate much more phosphorus than local crops – frequently growing on soils that are already saturated with phosphorus – can take up, meaning that phosphorus is being over-applied in Accomack County.

COMMENTER: Abel Russ, Senior Attorney, Environmental Integrity Project

RESPONSE:

- There are currently 84 permitted poultry operations in Accomack County and two (2) permitted poultry operations in Northampton County. In both counties, several of the registered farms are

no longer raising birds and do not intend to in the future. There are no new DEQ permit applications for new facilities for either of the counties on the Eastern Shore.

- EIP reported that there were 83 farms permitted in Accomack County.
- EIP reported that there are another 19 houses permitted by the Accomack Planning Commission not yet built.
- In Accomack County, 79 of the 84 permitted operations transfer their poultry waste off-site and five (5) permitted poultry operations land apply more than 5,515 tons of their poultry waste on more than 12,578 acres.
- EIP reported that only one farm applies manure to its own fields.
- The 86 permitted farms on the Eastern Shore generate approximately 133,017 tons of poultry waste. The NMPs are written as transfer plans which would mean that approximately 127,501 tons of waste is available to transport off-site. Changes in waste management over the last couple of years has led to more poultry waste being reconditioned and reused inside the poultry growing houses. This means that the poultry waste is used for longer periods of time in the growing houses and results in less poultry waste being produced and removed from the growing houses and less waste being transported off the farm of generation.
- EIP reported that 137,000 tons is produced in Accomack County alone.
- According to DEQ records of poultry waste transfer records obtained during inspections, between January 1, 2017 and December 31, 2019 there was a total of 61,167 tons of poultry waste transferred from the permitted farms on Virginia’s Eastern Shore. During this period, poultry waste has been transported to other farms in Accomack, Northampton, and out of state to Delaware, Maryland and Pennsylvania.

Receiving Location	Generation Location	Total	Percent of Total Waste Transferred
Accomack	Accomack	36,665	60.4
	Northampton	309	
Northampton	Accomack	4,679	8.4
	Northampton	510	
Maryland, Delaware, Pennsylvania	Accomack	19,004	31.1
Total Transferred – Eastern Shore Farms (January 1, 2017-December 31, 2019)		61,167	

- EIP states that the majority of the generated waste is moved to other farms in Accomack County.
- EIP states that less than half of one percent (about 600 tons) was exported to Northampton County. In fact, 4679 tons were exported from Accomack to Northampton.
- In contrast to the remarks made in the EIP report, poultry waste was not transferred to Fairfax, Virginia or North Carolina.

No changes are being proposed based on these comments.

COMMENT: Include more explicit enforcement mechanisms to incentivize compliance, level the playing field, and achieve the environmental protection goals of the permit.

COMMENTER: Abel Russ, Senior Attorney, Environmental Integrity Project

RESPONSE: The agency procedures for compliance and enforcement of permit requirements are outlined in agency guidance; these procedures are not included in permit regulations. ***No changes are being proposed based on this comment.***

Specific Section Comments (SC)

SC-1a Subject: Section 50-Part I - Permitted Poultry Grower Poultry Waste Transfer Reporting – Supportive to Require

COMMENT: Regarding the annual reporting by growers, I think that's actually a good idea. In all honesty the way it works now is that when Kevin, our local DEQ rep calls me and says it's inspection time I scramble and call the farmer who got my manure and he digs the info out of the pile on his desk of how many tons were spread where and when and we get together and fill out the paperwork usually a day or two before I have to meet with Kevin. We're in a constant state of triage on the farm, taking care of who or whatever is screaming the loudest at any given moment. If the reporting was due at a specific time each year it would force us to keep up with it better. I would suggest that the reporting date be around April 1st. Many farmers have to file taxes by March 1st so it would be extremely hard to get it done by March 1st but with taxes out of the way it wouldn't be too hard to get it done before April 1st and the beginning of planting season at which time the desk becomes something you just toss stuff on for a couple of months until the "real" work slows down enough to let you get back to it.

COMMENTER: Dave Lovell, Old Mill Farms, Accomack County Farmer

COMMENT: I am now just as I was during the meeting a big advocate of requiring we as growers to report yearly our litter application and transport records. The Covid crisis has shown it's not too difficult to relay that info to DEQ. Normally I have a yearly visit from my friendly neighborhood DEQ employee but this year we did it electronically with no issues. Unlike other comments I've heard we Poultry Farmers are a pretty intelligent bunch, we run houses that are controlled with computer systems so I believe we are very capable of reporting the actions we take. Yearly reporting would allow us to better report to the bay model the progress we as growers and the state are achieving.

COMMENTER: Kevin Dunn, Poultry Grower in Buckingham County

RESPONSE: DEQ acknowledges the support. *No changes are being proposed based on this comment.*

SC-1b Subject: Section 50-Part I - Permitted Poultry Grower Poultry Waste Transfer Reporting – Not-Supportive to Require

COMMENT: I have a family farm located in Nottoway County. Our way of reporting has worked for many years. Changing it could lead to abuses. Leave it alone.

COMMENTER: Edward Mullins

COMMENT: I am also opposed to new reporting requirements for permitted poultry growers. DEQ already has the ability to capture this information during farm inspections.

**COMMENTERS: Respondents to Farm Bureau Action Alert (Table A)
Bruce Stanger, Montgomery County Cattle Farmer**

COMMENT: I am also opposed to new reporting requirements for permitted poultry growers. DEQ already has the ability to capture this information during farm inspections. There is no need to further burden producers with costs that could drive up the cost of food to the consumer.

COMMENTER: Richard Newell

COMMENT: Under Part I. C. Poultry waste transfer and utilization requirements, we oppose the following:

3. Transfer records reporting requirements. The grower shall submit the records required by Part I C 1 in accordance with the timing outlined in Part I C 3 a and b.

a. Beginning (insert the date one year after the effective date of this permit), upon request by the department, the grower shall submit the records in a format and method determined by the department.

b. Beginning (insert the date two years after the effective date of this permit), the grower shall submit to the department, annually, the records for the preceding state fiscal year (July 1 through June 30) no later than September 15.

DEQ currently has authority to review records mentioned above and collect information from the records during inspection of permitted poultry grower operations. DEQ currently has authority to request permitted poultry growers provide this information in a format and time period stipulated by DEQ and has had the ability to do so for the past 20 years. It is evident that this has been effective, as this request method has been used previously by DEQ during avian disease

outbreaks to access the information while observing enhanced state and industry biosecurity measures. Contrarily, DEQ lacks the resources and mechanisms necessary to facilitate grower reporting, and we believe the agency can adjust its current data collection timeframe to improve its timeliness of data reporting to the Chesapeake Bay Program. For these reasons the TAC did not reach a consensus recommending poultry growers submit transfer records. As such, the TAC did not discuss data privacy concerns resulting from DEQ's mass collection of reported transfer information which represents poultry growers' private and proprietary customer lists. We are concerned that once DEQ has assembled this proprietary information it will not be protected from Freedom of Information Act (FOIA) and be available to the public, including both persons interested in disrupting poultry waste transfers or harassing end-users, as well as poultry litter brokers and other poultry growers competing for poultry waste end-user clients. The agricultural industry, law enforcement, national security and intelligence communities are increasingly concerned about terrorism and other attacks against agriculture, related biosecurity and cybersecurity, and associated risks to national security. Intentional and unintentional data releases and data theft threaten the privacy of confidential data which can and has been used against an individual or group of farms. Platforms already exist to collect and publish confidential information belonging to individual farms for sale or distribution for any third-party use. In addition, DEQ did not present the TAC any format or method for growers to report their information annually. In many rural communities, it is not so easy to simply hit send on an email or stick a stamp on an envelope. We are concerned the format and method eventually selected by DEQ may prove burdensome for individuals with limited internet access due to limited internet provider capacity, or no internet access due to religious beliefs, income level or comfort with technology. Mailing printed copies is a low-tech method of reporting the information but will prove time consuming for both growers without copier access and DEQ which will be required to enter the data into some digital framework yet to be designed and tested.

COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation

Frank Baber, Cumberland County Poultry Grower

COMMENT: I am currently a poultry farmer in Mecklenburg County, VA and a user of poultry litter. I believe that the proposed changes to the DEQ requirements and to the VPA General Permit for Poultry Waste and unnecessary and will be detrimental to me and to the poultry industry. Poultry growers already submit their records of litter removal and distribution to the DEQ during their annual visit and I feel that it is redundant to have to submit is again, We also have a nutrient management plan that we follow so we use our litter properly. This can all be tracked with information that is given to the DEQ now. I use my poultry litter and if I was not able to do so the cost of chemical fertilizer would put me out of business and with these new proposals I might also have a hard time getting rid of the litter from my poultry farm which would be another problem for me. I have been a farmer for many years and believe in doing what is right but having so many rules and impossible to follow regulations I believe it will be impossible for farmers to keep growing food for our people to eat. Thanks for your attention to this matter.

COMMENTER: Tracey Inge, Mecklenburg County Poultry Grower

COMMENT: The requirement of sending in additional paperwork to an agency that does not have the administrative staffing support to properly utilize the data, is not good for growers or DEQ. DPI opposes the additional reporting by growers of waste transfer records annually. DEQ currently collects that information during inspections and we would encourage the agency to continue this method.

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: We also oppose the new litter transfer reporting requirements for permitted poultry growers as we feel that DEQ can more effectively capture this information during farm inspections as they have been doing.

COMMENTER: Kevin Craun, Chairman, Shenandoah Valley Soil and Water Conservation District Board

COMMENT: I also oppose the new litter transfer requirements for permitted poultry operations because DEQ can more effectively get this information during DEQ farm inspections.

COMMENTERS: Rodney Wagner, Green Valley Poultry Farm, Washington County Poultry Grower

Wayne Merrill, Fox Creek Farm, Inc. Orange County Farmer
Ernest Ambler, Amber-rillo Farm Inc., Augusta County Poultry Grower
Jeffrey E. Thomas, Blue Rock Farm, Inc. Page County Poultry Grower
Rob Preston, Preston Hills Farm, Rockingham County Poultry Grower
JT Anderson, Pineview Farm, Goochland County Poultry Grower
Kate Anderson, Pineview Farm, Goochland County Poultry Grower
Thomas Thacker, Augusta County Poultry Grower
Vincent A. Wolford, Rockingham County Poultry Grower
Brett Washington, Washington Farms, Inc. Louisa County Poultry Grower
Chris Turner, Carlton Turner Poultry, Page County Poultry Grower
Sandra K. Rumer, Smokey Valley Farm, Inc. Rockingham County Poultry Grower
David Beery, Rockingham County Poultry Grower
Joseph Turner, Page County Poultry Grower
Forest N. Atwood, Pass Run, Page County Poultry Grower
Myron Reedy, Reedy Farms, LLC., Rockingham County Poultry Grower
Rex A. Sours, Rex Sours, LLC., Page County Poultry Grower
Anna Housden, Living Country Farm, LLC., Page County Poultry Grower
Michael Scott Housden, Page County Poultry Grower
Vicki Dinges, Page County Poultry Grower
Russel J. Wenger, Augusta County Poultry Grower
Tri Nguyen, Accomack County Poultry Grower
Kimviet Ngo, Accomack County Poultry Grower
Dustin Wenger, Rockingham County Poultry Grower
Kathy Kagey, V&K Farms, Shenandoah County Poultry Grower
VLD Kagey, V&K Farms, Shenandoah County Poultry Grower

COMMENT: Tyson also opposes the new litter transfer reporting requirements for permitted poultry growers. There are many more effective ways for DEQ to capture this information. One such way would be for DEQ to seek this information during farm inspections.

COMMENTER: Kendra Jones, Tyson Farms, Inc.

COMMENT: Reporting is already done for our farms. There is no logical reason for additional reporting or fines for not meeting new unnecessary requirements.

COMMENTER: Bud Schultz, Rockingham County Poultry Grower

COMMENT: Asking every permitted poultry grower to submit their transfer records annually to DEQ relates to more work for DEQ. Someone will need to receive, tally, and verify the documents. It is also one more due date for farmers to remember. The current method of collecting these records during inspections is working and should continue. Farmers know what is needed for the inspection and have it ready at that time.

COMMENTER: Gloria Long, George's Inc.

COMMENT: I also oppose the new reporting requirements for permitted poultry growers as they are duplicative. This information is already captured by DEQ during farm inspections.

COMMENTER: Chip Turlington, Turlington Farms Inc., Chancetown, on Virginia's Eastern Shore

COMMENT: Just wanted to drop a brief comment regarding the proposal for the VPA General Permit for Poultry Waste: I would urge anyone involved in moving the proposal forward to consider that most, if not all of the reporting requirements are already being obtained during a DEQ inspection of a given farm. Putting additional reporting requirements on the farmer and/or litter-end use would not only add further paperwork, but could also have negative effects on an already-struggling litter market. Thanks for your time and consideration.

COMMENTER: Daryn Martin, Rockingham County

COMMENT: Second, I oppose new reporting requirements for permitted poultry growers. We are already required to provide DEQ with detailed information yearly as to the tons of litter spread, the farm to whom it was sold, and the watershed that surrounds it.

COMMENTER: Glen Landis, Cumberland Poultry Grower

COMMENT: I am also opposed to new reporting requirements for permitted poultry growers. DEQ already has the ability to capture this information during farm [inspections].

COMMENTER: Harry Miller, Brunswick County Farmer

COMMENT: We also feel that increased unnecessary regulations would hinder our ability to get rid of our litter and for our end-users to be able to use it as an affordable and safe fertilizer for their needs. Poultry litter is already analyzed and tested so users can only put down a certain amount on their land and more regulations would just make it that more difficult for everyone. Farmers need affordable fertilizers and poultry litter is a good option for them. They do not use it needlessly and are concerned about keeping our water clean and our land in good shape. If we didn't have a market for our litter how would we be able to raise poultry for everyone to have food. Poultry litter is a by-product of a much need food industry and must be used responsibly the way farmers are currently using it. All the farmers I know that use it are much more responsible about it than some that use chemicals and chemical fertilizers on their land. Thank you for your attention on this matter.

**COMMENTERS: Roxie Johnson, Poultry Grower, Lunenburg County
Trent Johnson, Poultry Grower, Lunenburg County**

COMMENT: I am against new reporting requirements for permitted poultry growers. DEQ already captures this information during their inspections of my farm.

COMMENTER: Ronnie Matthews, Accomack County Poultry Grower

RESPONSE: DEQ acknowledges these comments and understands that there is opposition to the new proposed reporting requirements. § 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from 957 permitted growers during site inspections on a yearly basis to ensure credit can be received in the Bay model each year. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from the permitted grower and facilitate DEQ's reporting to EPA for credit in the Bay model. These improvements to the regulations demonstrate Virginia's commitment to improving the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III. **No changes are being proposed based on these comments.**

SC-1c Subject: Section 50-Part I - Permitted Poultry Grower Poultry Waste Transfer Reporting – Not-Supportive as Written – Purpose Change

COMMENT: Proposed change: Adds a new requirement for poultry growers to report waste transfer records annually to DEQ. Specifically, in the first year after the effective date of the general permit (2021), growers must report transfer records upon request by DEQ in a format and method determined by the agency. Beginning in the second year (2022), growers must report transfer records for the prior state fiscal year (July-June) by September 15 annually. Currently, DEQ collects transfer records from growers during inspections.

VPF comment: VPF opposes the new reporting requirement as proposed because it could be burdensome for growers to compile and submit these records by a set date annually. We prefer the current method of DEQ collecting the information during inspections and encourage the agency to continue this method or, at most, to consider the following language:

b. Beginning the second year after the effective date of this permit, the grower shall submit to the department, annually, if requested by the department by August 1, the records for the preceding state fiscal year (July 1 through June 30) no later than September 15.

This modest amendment to the DEQ-proposed language would at least ensure that the department provides growers with a reminder of the annual deadline. If the farmers, who do not have a lot of, if any, administrative staffing support, are expected to comply with an annual reporting deadline, the department should not have a problem with having its own annual deadline to remind the farmers of theirs.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

COMMENT: Additionally, we do not support the new annual reporting requirement for permitted poultry growers as written. DEQ already has the ability to request this information whenever they conduct an inspection of the farm. However, we would support amended language previously submitted by the Virginia Poultry Federation that allows for proper notification from the Department to growers that an annual deadline is forthcoming.

**COMMENTERS: Kurt H. Fuchs, Senior Vice President, Government Affairs,
MidAtlantic Farm Credit**

Katie Frazier, Chief External Affairs and Marketing Officer, Farm Credit of the Virginias

Jim Belfield, Chief Information Officer, Colonial Farm Credit

COMMENT: The Council also opposes annual reporting requirements as proposed because it adds unnecessary and untimely requirements that will burden growers. DEQ currently has the authority to request the information during inspections which sufficiently allows the Department to fulfill their obligations without a change in the language. If the Board wishes to move forward with such a change, the Council supports the amendment submitted by the Virginia Poultry Federation to allow proper notification from the Department to growers that the annual deadline is approaching:

b. Beginning the second year after the effective date of this permit, the grower shall submit to the department, annually, if requested by the department by August 1, the records for the preceding state fiscal year (July 1 through June 30) no later than September 15.

COMMENTER: Kyle Shreve - Virginia Agribusiness Council

RESPONSE: DEQ acknowledges these comments and understands that there is opposition to the new proposed reporting requirements. § 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from 957 permittees during site inspections on a yearly basis to ensure credit can be received in the Bay model each year. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from the permitted grower and facilitate DEQ's reporting to EPA for credit in the Bay model. These improvements to the regulations demonstrate Virginia's commitment to improving the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III. The permit regulation contains the requirements for the permitted and regulated entities not the regulating authority. DEQ intends to educate all the permittees of the new requirements to include the new reporting deadlines; we also plan to remind the permittees of the deadline closer to the date. **No changes are being proposed based on this comment.**

SC-2 Subject: Section 50-Part I – Contents of General Permit – Permittee Storage Requirements

COMMENT: Under Part I. B. and Part III. B. Site design, storage and operation requirements, we acknowledge the new requirement that storage sites where poultry waste not stored under a roof must be located at least 200 feet from any occupied dwellings not on the permittee's property, unless the occupant of the dwelling signs a waiver of the storage site. This new requirement conforms with the long-standing requirement prohibiting the land application of poultry waste within 200 feet of occupied dwellings not on the permittee's property.

Also, under Part I. B. and Part III. B., we support the clarification of floodplain identification and delineation provided by this addition, For the purposes of determining the 100-year floodplain, a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), a FEMA Letter of Map Amendment (LOMA), or a FEMA Letter of Map Revision (LOMR) shall be used. Under Part I. C. 9. and Part III. C. 11., we support the emergency procedures clarification in the following: In cases where poultry waste storage is threatened by emergencies such as fire or flood or where these conditions are imminent, poultry waste can be land applied outside of the spreading schedule outlined in the grower's NMP. If this occurs, the poultry grower shall document the land application information in accordance with Part I C 11 and notify the department in accordance with Part II H.

COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation

Frank Baber, Cumberland County Poultry Grower

COMMENT: Proposed change: Adds a restriction for poultry waste that is not stored under roof, that the storage site must be 200 feet from any occupied dwellings not on the permittee's or end-user's property (unless the occupant of the dwelling signs a waiver of the storage site.) VPF comment: VPF does not object to this new restriction.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

COMMENT: In conclusion, we believe there are aspects of the updates to the permit proposed by the Department that the Council believes is beneficial. We do not oppose broker reporting requirements, a new restriction on storage sites being 200 feet from occupied dwellings or the clarification of floodplain identification and delineation included in Part I.B and Part III.B.

COMMENTER: Kyle Shreve, Executive Director, Virginia Agribusiness Council

RESPONSE: DEQ appreciates your support. *No changes are being proposed based on these comments.*

SC-3 Subject: Section 50-Part III – Permitted Poultry Waste Broker and End-Users Poultry Waste Transfer Reporting – Not-Supportive to Require

COMMENT: Under Part III. C. Poultry waste transfer and utilization requirements, we oppose the following: 5. Transfer records reporting requirements. The end-users and brokers shall submit the records required by Part III C 3 in accordance with the timing outlined in Part III C 5 a and 5 b.

a. Beginning (insert the date one year after the effective date of this permit), upon request by the department, the end-users and brokers shall submit the records in a format and method determined by the department.

b. Beginning (insert the date two years after the effective date of this permit), the end-users and brokers shall submit to the department, annually, the records for the preceding state fiscal year (July 1 through June 30) no later than September 15.

We oppose this new requirement for the reasons stated above relative to Part I. C. 3.

DEQ currently has authority to review records mentioned above and collect information from the records during inspection of permitted poultry grower operations. DEQ currently has authority to request permitted poultry growers provide this information in a format and time period stipulated by DEQ and has had the ability to do so for the past 20 years. It is evident that this has been effective, as this request method has been used previously by DEQ during avian disease outbreaks to access the information while observing enhanced state and industry biosecurity measures. Contrarily, DEQ lacks the resources and mechanisms necessary to facilitate grower reporting, and we believe the agency can adjust its current data collection timeframe to improve its timeliness of data reporting to the Chesapeake Bay Program. For these reasons the TAC did not reach a consensus recommending poultry growers submit transfer records. As such, the TAC did not discuss data privacy concerns resulting from DEQ's mass collection of reported transfer information which represents poultry growers' private and proprietary customer lists. We are concerned that once DEQ has assembled this proprietary information it will not be protected from Freedom of Information Act (FOIA) and be available to the public, including both persons interested in disrupting poultry waste transfers or harassing end-users, as well as poultry litter brokers and other poultry growers competing for poultry waste end-user clients. The agricultural industry, law enforcement, national security and intelligence communities are increasingly concerned about terrorism and other attacks against agriculture, related biosecurity and cybersecurity, and associated risks to national security. Intentional and unintentional data releases and data theft threaten the privacy of confidential data which can and has been used against an individual or group of farms. Platforms already exist to collect and publish confidential information belonging to individual farms for sale or distribution for any third-party use. In addition, DEQ did not present the TAC any format or method for growers to report their information annually. In many rural communities, it is not so easy to simply hit send on an email or stick a stamp on an envelope. We are concerned the format and method eventually selected by DEQ may prove burdensome for individuals with limited internet access due to limited internet provider capacity, or no internet access due to religious beliefs, income level or comfort with technology. Mailing printed copies is a low-tech method of reporting the information but will prove time consuming for both growers without copier access and DEQ which will be required to enter the data into some digital framework yet to be designed and tested.

COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation

Frank Baber, Cumberland County Poultry Grower

RESPONSE: DEQ acknowledges these comments and understands that there is opposition to the new proposed reporting requirements. § 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit

each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from all permittees during site inspections on a yearly basis to ensure credit can be received in the Bay model each year. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from the permittee and facilitate DEQ's reporting to EPA for credit in the Bay model. This addition also makes the permitted entity reporting requirements consistent throughout the permit. These improvements to the regulations demonstrate Virginia's commitment to improving the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III. **No changes are being proposed based on these comments.**

SC-4a Subject: Section 60 - Tracking and Accounting Requirements for Poultry Waste Brokers - Supportive

COMMENT: Under D, we support the recommendation changing the annual deadline for existing record reporting from February 15 to September 15. Based on Bay program reporting information presented by DEQ, this change should increase the accuracy of data reported by DEQ for credit in the Bay program model with no significant impact on brokers.

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

RESPONSE: DEQ appreciates your support. **No changes are being proposed based on this comment.**

SC-4b Subject: Section 60 - Tracking and Accounting Requirements for Poultry Waste Brokers – Supportive with Changes

COMMENT: Proposed change: Changes the poultry waste broker reporting deadline from February 15 to September 15 annually.

VPF comment: VPF has no objection to this change. However, we would recommend the same language as in our prior comment giving DEQ a deadline to remind brokers of their annual report.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

COMMENT: The Council believes there is more litter moving than what is being tracked and we heard during the TAC process that changing what is reported by brokers can help with this problem. This is why we support the requirement in Part III, Section C to add the County of origin and destination to the Broker forms and reporting to accomplish that task. This should help solve the problem of under reporting of litter for the Bay model without overly burdening producers or harming the litter market. The Council does support similar notification language for the Department to notify brokers of the upcoming deadline consistent with the above suggested amendment.

COMMENTER: Kyle Shreve, Executive Director, Virginia Agribusiness Council

RESPONSE: DEQ acknowledges these comments. The reporting requirements have always been a part of the regulation. While the deadline and timeframe is changing, the brokers have always had a requirement to report these records to DEQ. DEQ intends to educate the brokers of the new requirements once the regulation is finalized which will include the new reporting timeframe and deadline; we also plan to remind the brokers of the deadline closer to the date. **No changes are being proposed based on this comment.**

SC-5a Subject: Section 70 - Poultry Waste End-User Reporting - Supportive

COMMENT: Thank you for including reporting requirement for end users. Ensuring this data is being provided to DEQ is essential to improving our ability to sustainably manage poultry waste across the Commonwealth.

COMMENTER: Respondents to Chesapeake Bay Foundation Action Alert (names listed in Table B and Table D)

COMMENT: Require end user records to be reported to DEQ

COMMENTER: Frank Filipy

COMMENT: I am an agronomist and I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management. I support the proposed end-user reporting requirements I believe they are essential to Virginia's Chesapeake Bay restoration plan. The public needs assurance that farmers are handling poultry waste responsibly

COMMENTER: Tom Hall

COMMENT: Require poultry litter end-users to report poultry waste implementation records to DEQ so that DEQ can better track compliance and landscape-scale nutrient balances.

COMMENTER: Abel Russ, Senior Attorney, Environmental Integrity Project

RESPONSE: DEQ acknowledges the support. No changes are being proposed based on this comment.

COMMENT: End-user records should be required to be reported to the agency

In August 2019, Virginia issued its Final Phase III Watershed Implementation Plan to achieve nutrient reductions to restore the Chesapeake Bay by 2025. In this plan, the agency committed to improving poultry litter transport accounting through its Initiative 30, specifically citing the need to verify end-user implementation of nutrient management practices. Currently, these records are required to be maintained by the end user but are not required to be reported to the agency, although the agency currently has the authority in the permit to ask for them. Further, our understanding is that DEQ has not requested this information in any comprehensive or regular manner. DEQ explained in the TAC process that it intends to collect this information using a tool that has been under development since 2007. It is unclear why it has taken so long to develop this tool and why the tool should even be considered necessary, given that records could be sent via regular mail or even email. In the absence of required reporting by end-users of litter, there are serious questions as to whether DEQ can verify that end-users are following the regulatory requirements of this permit and indeed, whether or not there are additional obligations under the Clean Water Act.³⁵

Access to this data for the agency and aggregate access to the public and external agencies has significant value on many levels, beginning with improving the ability to verify that end users are following the current requirements (e.g. litter application and stockpile covering requirements) and improving understanding of trends in litter transport.

Some stakeholders have suggested that this requirement would be overly burdensome and would be 'detrimental' to the poultry industry. Given that these records are currently required to be kept under the current regulation and that DEQ already has the authority to request these records at any time, we strongly disagree that any meaningful burden could be found beyond sending an email or a letter by mail on an annual basis.

We acknowledge there are likely end users receiving litter who do not understand their responsibility to comply with the permit— including the requirement to provide data to DEQ upon request. We further acknowledge that this change could potentially be perceived as a disincentive for those end users to receive litter. Surely, however, the answer to this situation is for the agency to do a more thorough job of educating regulated entities of the regulation, not allowing those who don't know to remain unaware of the current regulation. We fully support Watershed Implementation Plan initiatives to move poultry litter out of high-concentrated areas of Virginia but achieving these efforts shouldn't come at the expense of enforcing the requirements of this permit.

It has also been suggested that this reporting requirement will encourage the use of commercial fertilizer instead of poultry litter, the latter of which has substantive benefits over commercial fertilizer when sustainably applied. In our view the diversion to commercial fertilizer is highly unlikely because the low cost of poultry litter relative to commercial fertilizer will ultimately be the most important driver. Further, if some producers do refrain from using poultry litter, that could subsequently result in its decreased cost, which will incentivize use by other end users.

Agricultural producers are historically very savvy at pursuing low-cost alternatives. Thus, in our view, the market rates and access to poultry litter are going to dominate incentives with or without reporting requirements, and DEQ should avoid making management decisions based upon the illusion that this policy will significantly influence the litter market. Finally, poultry litter represents a waste-product generated by the poultry industry. It is not the state's responsibility to hold the market value of this waste product unharmed; rather, it is the industry's responsibility to ensure there is a sustainable—and water quality protective—outlet for that waste. In conclusion, Virginia DEQ should follow through on Virginia's Phase III Watershed Implementation Plan commitment to require end users to report records on a regular basis.

COMMENTERS: Peggy Sanner, VA Executive Director, Chesapeake Bay Foundation

Joseph Wood, VA Senior Scientist, Chesapeake Bay Foundation

Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network

RESPONSE: DEQ acknowledges the support. It is noted that the commitment made by the agency in the WIP III was to consider options during the regulatory process; the WIP did not prescribe which option(s) would be included in the regulation. As stated in the WIP III under initiative 30, which is specifically titled Improving Poultry Waste Transport Accounting.

“During the regulatory process to reissue the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management, DEQ will consider options with input from a TAC, to provide more accurate accounting of progress towards WIP goals associated with poultry litter transport and utilization. Options include using existing or modified regulatory requirements to obtain certain records from growers, brokers, and/or end users on at least an annual basis. Additional access to poultry litter transfer data would bolster accuracy of modeled effects of litter applications, and may offer the opportunity to verify end-user implementation of NM practices. In its evaluation, DEQ will consider ways to reduce the possibility that regulatory requirements would discourage end-users from using poultry litter in areas that could benefit due to soil phosphorus needs or other factors.

No changes are being proposed based on this comment.

SC-5b Subject: Section 70 - Poultry Waste End-User Reporting - Not-Supportive

COMMENT: I just want to put my two cents worth in on the new VPA Permit. I think the end user reporting requirement is simply redundant. What's the point? Since we growers already report who gets our manure, how much they get, when they got it, the nutrient analysis, the town nearest to where it was spread and the nearest body of water, what is gained by having the end user report the same information? We farmers despise paperwork with a passion and would rather work for ten hours outside in the blistering heat or the freezing cold doing what we, (somewhat arrogantly), call "real" work than spend one hour at a desk in climate controlled comfort filling out forms. It's just the way we're wired. But as a result of our wiring many of us who otherwise would be willing to start using manure or continue to use it will simply look at the fact that another pile of paperwork has to be filled out and without even really looking to see how involved it is just throw in the towel and say to heck with it and just use commercial fertilizer. I believe that this will more than totally negate what the state has done in encouraging manure transport and use, effectively shooting ourselves in the foot.

COMMENTER: Dave Lovell, Old Mill Farms, Accomack County Farmer

COMMENT: We strongly oppose the following proposed requirement and sincerely urge its removal: 4. Reporting requirements. End-users shall submit the records required by subdivisions A 1, A 2, and A 3 of this section in accordance with the timing outlined in subdivisions 4 a and 4 b of this subsection.

- a. Beginning (insert the date one year after the effective date of this regulation) and continuing through (insert the date two years after the effective date of this regulation), upon request by the department, the end-user shall submit the records in a format and method determined by the department; and
- b. Beginning (insert the date three years after the effective date of this regulation), the end-user shall submit to the department, annually, the records for the preceding state fiscal year (July 1 through June 30) no later than September 15. The TAC discussed during two or more of its meetings a suggestion to require poultry waste end-users to report their records annually to DEQ. The agency did not publicly initiate or endorse the suggestion or include draft language incorporating the suggestion in a regulatory proposal during any TAC meeting. An overwhelming majority of the TAC, consisting of both private sector and state agency personnel, did not support adding an end-user reporting requirement.

We are extremely disappointed that this end-user reporting requirement was added last minute to the proposed rule outside of the public participation process. This requirement is unnecessary for reporting water quality improvement progress to the Bay program as stated by DEQ staff during TAC meetings. This ill-conceived requirement is regressive and counterintuitive to other state efforts to promote the safe transportation and use of poultry litter away from poultry farms and will disrupt established poultry litter markets and infrastructure and strand poultry litter on poultry farms that rely on end-users. This requirement will roll back two decades of work by the state and

industry to promote third party poultry litter utilization, obligating over \$610,000 since FY2008. The poultry industry and state provided over \$290,000 for transport incentives this year alone. Based on conversations with growers, brokers and end-users, the Commonwealth can expect to see poultry litter transport come to an essential halt in 2021.

According to the Department of Conservation and Recreation (DCR), 90 percent of poultry waste generated by permitted poultry growers under current nutrient management plans is transferred off-site. Virginia's Chesapeake Bay TMDL Phase III Watershed Implementation Plan (August 23, 2019) (WIP 3) includes an initiative expanding poultry litter transport in the Chesapeake Bay with DCR's Poultry Litter Transport Program from 5,000 – 6,000 tons per year up to 89,000 tons per year. Program participants are required to obtain certified nutrient management plans as a condition of applying for the program's financial incentives, without any guarantee of financial assistance. The plan requirement already hinders program participation due to a lack of readily available certified planners and perceived administrative burden by first-time and infrequent poultry litter end-users. Under this program, will DCR or DEQ report any remaining nutrient management plan implementation? WIP 3 includes another initiative to improve poultry litter accounting where "DEQ will consider options with input from a TAC, to provide more accurate accounting of progress towards WIP goals associated with poultry litter transport and utilization." As previously stated, various options were discussed and included (location data, report timing, record reporting). No other reporting options were discussed by the TAC beyond current data collection methods and a suggestion for mandatory end-user reporting. There is another WIP 3 initiative, enhance coordination among state agencies assisting farmers. This proposed requirement fails to recognize its anticipated negative impacts on farmers, other state agencies efforts and Chesapeake Bay clean-up efforts related to agriculture. The purpose of the WIP 3 initiative for improved litter transport accounting is "to provide more accurate accounting of progress towards WIP goals associated with poultry litter transport and utilization" and "may offer the opportunity to verify end-user implementation of NM practices." End-users are provided four progressively flexible options for determining poultry waste land application rates, a standard rate, phosphorus removal rate, soil test rate, or NMP rate. To our knowledge, a nutrient management plan is the only option recognized as a BMP by the Bay Program model. DCR already tracks and reports NMP data for the Bay Program model. How will Virginia track WIP implementation progress by collecting data on the three more restrictive land application rates that are not recognized as BMPs? How will Virginia track WIP implementation for poultry waste exported outside the state? Also, poultry waste production and poultry waste utilization will not occur in a 1:1 ratio during any 12 -month period. How will DEQ account for differences in balancing production with utilization?

**COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

COMMENT: I am writing on behalf of the Delmarva Poultry Industry, Inc. (DPI), the 1,700-member trade association representing the meat-chicken growers, companies and allied businesses working in Delaware, the Eastern Shore of Maryland and Eastern Shore of Virginia. According to the 2018 Economic Impact Study conducted by John Dunham & Associates, Virginia's meat-chicken industry has an economic impact of more than \$9 billion, employing more than 13,000 people and contributing more than \$294 million in state and local taxes. On the Eastern Shore of Virginia, the two chicken processing companies are the leading employers in Accomack county and the economic impact to the Eastern Shore alone is \$1.8 billion. DPI strongly opposes the annual end-user reporting requirements. This is a contradiction to incentivizing farmers to utilize litter as an organic fertilizer; threatens the marketplace for litter, when other fertilizers do not require reporting; and is a policy conflict with the Department of Conservation and Recreation (DCR) litter transport program that received additional funding in order to help meet the Chesapeake Bay Program WIP goals. A commenter during the public hearing said it best – the more difficult you make it for farmers to use litter, the less likely they will use it. Since a large percentage of growers do not use litter on their own farms, this could result in litter not being used in the fields that need it the most. Keep in mind litter is not a waste product, but a valuable local, organic, slow-release fertilizer. What DEQ now proposes could significantly reduce demand and, consequently, the price growers can get for their litter. It could even risk

causing them to give it away or paying to have it removed from their farm. Many growers are already suffering economically due to the impact of the COVID-19 pandemic on agricultural supply chains and distribution channels, and the last thing they need now is a new and unnecessary regulatory mandate that will further reduce their farm income. This is just one of the examples where discussions and recommendations at the TAC meetings did not seem to be taken into consideration with the proposed regulations. During the 2019-20 TAC meetings, DEQ indicated it has authority under the existing regulation to obtain transfer records through growers and brokers, and that these records are sufficient to verify the destination of litter in order to report the transport data to the Bay Program. As a matter of fact, it was specifically mentioned that “in general, a regulatory requirement to provide data is a disincentive to falsify data, thus the regulatory requirement assists in verifying the validity of data.” End-user reporting was discussed at length during the July meeting and DEQ staff also pointed out that the transport data and the nutrient management practices are two separate BMPs in the Bay model. DCR tracks nutrient management practices for the model. Until a new online data collection tool is complete to allow for any data gathered to be easily summarized and utilized for both regulatory purposes as well as the Chesapeake Bay program, then farmers will be doing extra paperwork for no benefit. DEQ already has the authority it needs to collect any data and end-user reporting is not a viable solution. DPI would again like to thank DEQ for the opportunity to participate on the TAC as well as to make comments on the proposed changes to the regulations. While we support several of the proposed changes, we have major concerns with the end-user reporting which threatens the work that has been done for numerous years to incentivize the use of this valuable resource as a fertilizer and may actually put the protection of water quality in danger.

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: Proposed change: Adds a new requirement for end-users of poultry waste to report transfer and land application records annually to DEQ. VPF comment: VPF vehemently opposes an end-user reporting requirement, which could devastate poultry farmers economically without providing any meaningful water quality benefit. In 2010, the TAC grappled with the desire to regulate end-users without causing them to stop using poultry litter in favor of commercial fertilizer, which is unregulated and easier to procure than litter. The concern was that over-regulating end-users would strand litter on poultry farms and create big problems – both economic and environmental. In 2010, DEQ and Water Board struck a reasonable balance that has allowed for the economical distribution of litter through market demand, governed by environmentally protective regulatory criteria. Imposing an end-user reporting requirement threatens to upend the sensible balance struck in 2010 by jeopardizing market demand for litter. Most poultry growers sell at least a portion of their litter to brokers or end-users. According to the Department of Conservation and Recreation (DCR), 90 percent of poultry litter generated by permitted poultry growers under current nutrient management plans is transferred off-site. Sale of this product provides an important revenue stream and income to the poultry farm. The price growers receive varies from about \$8 to \$20 per ton depending on a number of factors, including those influencing market demand, such as the price of commercial fertilizer. What DEQ now proposes could significantly reduce demand and, consequently, the price growers can get for their litter. It could even risk causing them to give it away or pay to have it removed from their farm. Many growers are already suffering economically due to the impact of the Coronavirus pandemic on agricultural supply chains and distribution channels, and the last thing they need now is a new and unnecessary regulatory mandate that will further reduce their farm income. During the public hearings on this regulation, testimony from some environmental groups seemed to dismiss as silly the notion that farmers would have any problem filing an annual report with DEQ. They obviously have not walked in farmers’ shoes. A member of VPF, who is a veteran litter broker, surveyed his customers, and only one said they would continue to use litter with such a requirement. Farmers tend to consider agronomic inputs as proprietary, and thankfully nutrient management plan information held by DCR is exempt from the Freedom of Information Act (FOIA). Unfortunately, such protections are not afforded to plans in possession of DEQ that are associated with VPA regulations. In conclusion, we want to reiterate that the end-user reporting requirement threatens to change a program that is economically balanced and protective of water quality into one that could profoundly and harmfully alter the economics of poultry production without a compelling corresponding environmental benefit. This provision turns what – throughout

our industry's history – has been an asset that generates farm income, into a liability that could saddle poultry farmers with crushing costs. We implore you, on behalf of Virginia's poultry farmers, who work hard every day to make a living, produce healthy food that everyone needs during a pandemic, and protect the environment, to please remove this devastating and unnecessary mandate.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

COMMENT: The Council opposes the new end-user reporting requirements as an unnecessary burden on producers that will harm the transport market. During the TAC process, we heard from the Department of Environmental Quality that end-user reporting was not necessary for Chesapeake Bay Model tracking. There is negligible benefit to having DEQ collect this information. DEQ staff even acknowledged that the Chesapeake Bay Model tracks poultry litter transport and nutrient management separately. The Department of Conservation and Recreation already tracks nutrient management planning through the VACS program and agreements with private nutrient management planners. Given the lack of benefit, the requirement was discussed and all but two members of the TAC voiced concern and opposition, believing that end-user reporting posed too big a threat to the poultry litter market. Producers can choose other forms of fertilizer, especially given prices of commercial fertilizer continue to be low. Commercial nitrogen-based fertilizer prices are down 10% this year compared with last. This brings commercial fertilizer prices to 10-year lows.¹ (1 <https://www.agriculture.com/news/crops/fertilizer-prices-fall-to-lowest-levels-in-a-decade-economist-says>. April 2020.) The inclusion of additional requirements only adds a disincentive to using poultry litter and encourages producers to choose other forms of fertilizer which are already cheaper for them to use. This has the potential to strand litter on site at growers' facilities, the exact opposite of what the Commonwealth should be encouraging. We vehemently oppose the end-user reporting requirements as a threat to the litter market and achieving the Commonwealth's WIP III goals. The TAC process is designed to give the Department and the Board access to technical expertise so that the litter market is allowed to operate while mitigating any serious threat to water quality. These end-user requirements do not provide such threat mitigation and pose a serious obstacle in the transport of poultry litter.

COMMENTER: Kyle Shreve - Virginia Agribusiness Council

COMMENT: Tyson is opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be an economic hardship on independent farmers and provide little to no environmental benefit. As well the added regulatory burden of year-end reporting does not exist for commercial fertilizer and could strand poultry litter which would otherwise be put to beneficial use. The Virginia litter transport program was established, in part, to incentivize and facilitate the transfer of litter from high density, nutrient rich counties to nutrient deficient counties within the Chesapeake Bay Watershed. Additional regulatory hurdles do not need to be established to hinder the transfer of poultry litter within the watershed.

COMMENTER: Kendra Jones, Tyson Farms, Inc.

COMMENT: The Natural Bridge Soil and Water Conservation District is concerned about a proposed amendment to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management (9VAC25-630) that requires all poultry litter end-users to annually report all of their acquisitions and applications of poultry litter to the Virginia Department of Environmental Quality (DEQ). While we promote and support the goals of the Phase III Watershed Implementation Plan (WIP iii), as a Board we believe this amendment will be costly, redundant, and detrimental to good nutrient management in the Chesapeake watershed. The Natural Bridge Soil and Water Conservation District (NBSWCD) Board believes the proposed amendment creates a disincentive for farmers to utilize poultry litter. Most end-users of poultry litter are farmers with no prior experience of reporting their farming practices to a regulatory agency and will be highly resistant to submitting poultry litter end use records. If confronted with a reporting requirement, the NBSWCD Directors are concerned these poultry litter end-users will choose to use commercial fertilizer rather than poultry litter even though poultry litter would remain a more economical choice. Some who advocate for this change to the regulations have expressed concern that poultry litter end-users are land applying poultry litter without adequate oversight. The financial costs of acquisition, transport, and land application of poultry litter

provides ample economic incentive for the end-user to use poultry litter judiciously. Poultry litter end-users for whom the reporting requirement is too onerous will suffer higher costs and/or diminished soil health and productivity. Disincentivizing the transfer of poultry litter jeopardizes the viability of independent litter brokerage and land application service providers who have made the transfer and wise utilization of poultry litter a viable business. Further costs of the proposed amendment come in the form of time required of already limited DEQ staff to collect and catalog data. The NBSWCD Directors see negligible benefit and significant redundancy to imposing a reporting requirement on end users since virtually all the end use information is already reported to DEQ by growers and brokers. Further, the data submitted by growers and brokers is sufficient for nutrient accounting in the Chesapeake Bay model according to DEQ. We are grateful to the Technical Advisory Committee, the Chesapeake Bay Foundation, and DEQ personnel for their joint effort to forge a unified vision for a healthy and vibrant environment for all Virginians. Our SWCD pledges its support to attain the WIP iii goals and advocates programs that incentivize conservation work by our farmers. Mandatory end user reporting though, creates a disincentive for beneficial nutrient transfers and we urge it be struck from the proposed regulation update.

COMMENTER: Tom Stanley, Director, Natural Bridge Soil and Water Conservation District Board

COMMENT: While we support much of the proposal, we are strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically harmful to many local farms without any environmental benefit. We are afraid that the proposed new requirements will be counter-productive, in that end users will be less likely to take poultry litter from our Valley farmers if regulations include this reporting requirement. DCR and the Virginia Poultry Federation have been working hard to incentivize litter transport through the Transport Program and already requires participants (end users) to have a NMP and report litter usage.

COMMENTER: Kevin Craun, Chairman, Shenandoah Valley Soil and Water Conservation District Board

COMMENT: I have a beef cattle farm located in Montgomery county. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. While I don't currently use poultry litter on my operation I may in the future. We have used solids from a local waste water plant, using BMP's. I am opposed to the proposed end-user reporting requirements, as they are unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan.

COMMENTER: Bruce Stanger, Montgomery County Cattle Farmer

COMMENT: We are opposed to the end-user reporting requirements as unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Reporting is already handled by DEQ during the annual inspection of our poultry operation.

**COMMENTERS: Kerry Maloney, Rockingham County Farmer
Geri Maloney, Rockingham County Farmer**

COMMENT: I am strongly opposed to the new end-user reporting requirement. It will be harmful to the litter marker and counter-productive to the litter transport goals in the VA. Chesapeake Bay restoration plan. I'm writing you concerning the new requirement being considered for poultry litter end-users to report transfer and land applications records annually. I believe that this could negatively affect the poultry industry in this region. It could create an even larger problem pertaining to moving litter out of areas already battling high nutrient levels and into areas with a greater need !!

COMMENTER: Gerald Wenger, Hillside Poultry, LLC, Rockingham County Poultry Grower

COMMENT: While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Wayne Merrill, Fox Creek Farm, Inc., Unionville, VA

COMMENT: Good afternoon my name is Roger Reynolds I'm a poultry grower in Crewe Va. In Nottoway County permit no. Vpg270098 I'm writing you regarding opposing the end user of poultry litter being required to track the litter they are using i have already kept records and provided them to deq. With the amount of litter they received and the nearest water way i produce a lot of litter with 6 breeder houses and 4 broilers i need the end user to continue buying my litter farmer's are investing way too much money and time in their land and crops to no. 1 waste litter and no.2 apply when and where it's not needed please help me to continue to move my litter without more regulation. Thank You

COMMENTER: Roger Reynolds, Permitted Poultry Grower in Nottoway County

COMMENT: I have a family farms located in Westmoreland and King William Counties. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. Our soils can use both the nutrients and the soil amendment qualities of poultry litter which over time would actually decrease nutrient run off. In particular, the King William farm would greatly benefit from using organic fertilizer as opposed to conventional fertilizer. However, I'm also realistic enough to know that I don't have time to be filling out more forms, tracking more requests for information and generally adding to the paperwork burden that I already have.

COMMENTER: William Latane, Family Farms in Westmoreland and King William Counties

COMMENT: My name is Jeffery S Dinges and I live in Stanley VA, I oppose the end-user reporting requirements for the purpose of tracking poultry litter it is unnecessary and would be harmful to the litter market and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. These regulations could negatively affect our ability to manage our poultry waste. This information is already collected when DEQ inspects Poultry farm. I believe a better approach to understanding the potential water quality benefits of these products is for the Chesapeake Bay Program to investigate this in collaboration with university researchers, industry, and the environmental community.

COMMENTER: Jeffery S. Dinges, Page County Farmer

COMMENT: Litter end user regulation power grab. I have been in the litter business for 35 yrs. I have never had one customer that would abide by these proposed rules. Farmers can barely afford to apply what they need much less enough to worry about runoff. If the leftists go ahead with this power grab that has no useful benefit, they will kill the litter business overnight and create a multitude of new problems which seems to always be their goal. Chaos leads to more government. America is fed up. Tread carefully. Remember you work for the peoples interest.

COMMENTER: Scott Haney

COMMENT: On behalf of the three Farm Credit Associations serving Virginia (Farm Credit of the Virginias, Colonial Farm Credit, and MidAtlantic Farm Credit), we appreciate the opportunity to provide the Department with comments on the proposed changes to the Virginia Pollution Abatement Regulation. Together, Farm Credit serves over 12,414 member-owners across the Commonwealth that represent over \$2.2 billion in loans outstanding to the wide range of agricultural sectors found throughout Virginia. As cooperative lenders, we seek opportunities to support and advocate on behalf of our members, including providing constructive input on regulatory proposals that are cause for concern among our borrowers and other agricultural stakeholders.

We are opposed to newly requiring end-users of poultry litter to report their transfer and applications to DEQ. This provision appears unnecessary for purposes of tracking poultry litter, would likely damage the market for litter, and seems counter-productive to litter transport goals in Virginia's latest plans for Chesapeake Bay restoration. • The additional paperwork will cost producers time and money while providing no actual environmental benefit; • It's our understanding that this proposal was firmly dismissed by an overwhelming majority of TAC members due to fears its implementation would threaten the market for litter. There have been significant gains in litter transport as a result of increased funding and its inclusion in the sector's WIP goals, but that progress could be undone if producers choose to avoid poultry litter for their nutrient needs. Farm Credit believes that a successful, thriving poultry industry and a healthy, productive environment aren't mutually exclusive. Both can be accomplished by ensuring all

stakeholders have a seat at the table and whose concerns are considered thoughtfully from varying perspectives. We appreciate the opportunity to provide insight from ours and our customers perspectives regarding the VPA proposals and its impact on their businesses.

COMMENTERS: Kurt H. Fuchs, Senior Vice President, Government Affairs, MidAtlantic Farm Credit

Katie Frazier, Chief External Affairs and Marketing Officer, Farm Credit of the Virginias

Jim Belfield, Chief Information Officer, Colonial Farm Credit

COMMENT: I have a family farm located in Nelson County. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. I use poultry litter as an organic fertilizer for my pastures and hay fields. I am pleased to be able to use an organic source of nutrients. The proposed end user reporting is unnecessary and redundant as the poultry growers already have to report where and to whom they sold the litter to.

COMMENTER: Mark Campbell, Nelson County Farmer

COMMENT: My family owns and operates an Egg Layer Farm in Washington, County and is under the VPA General Permit for Poultry Waste Management. We want to thank you for the opportunity to comment on the proposal to renew the program for another 10 years. While we support much of the proposal, I am strongly opposed to the new end-user reporting requirement. With the cost of trucking layer manure increasing we are finding fewer end-users. Many of our past end users are just not willing to pay for the hauling of the manure. We feel that additional regs on the end user will be just another reason for that user to pick up the phone and order custom fertilizer instead of using our manure for there crops because it is simply easier and sometimes a shorter distance to haul. The requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. This mandate could be economically devastating to our farm and without environmental benefits

COMMENTER: Rodney Wagner, Green Valley Poultry Farm, Washington County Poultry Grower

COMMENT: There seems to be a miss conception that poultry litter has no value. Litter is a valuable nutrient. However, everything has a price. Endless regulations and paper work deter from the value. Farmers have been called stewards of the land by most. No one has the resources to over-apply litter nor waste money. As a poultry farmer, I am responsible to track litter off my farm. As a broker, I am responsible for tracking the litter we move. So now it is proposed to make the end user track that same litter! We must love paper and doing the same thing multiple times! I however can go to my ag store and purchase as much fertilizer I wish or can afford and no one cares no tracks it! As some point, end users are going to decide it is not worth the time and hassle. Then what will happen? Where is it proposed the litter will go? The current regulations already make it difficult to store and manage.

COMMENTER: Jacquelin P. Easter, Amelia County Permitted Poultry Grower, Registered Litter Broker, Litter End-User

COMMENT: I write as a farmer, broker, custom applicator and one who applies common sense to decision making! I ask that the requirement for end user annual reporting to DEQ be eliminated from the revisions. Reasons supporting my thoughts follow;

- 1)Info is already in place noting end user receiving litter.
- 2) Farmers are private about their business and what govt. knows about their operation. I have spoken with only one of my customers who would continue to use litter and submit the report, the others would switch to commercial fertilizer, costing more, lowering their "bottom line" and perhaps less yield.
- 3) Brokers business would probably cease, causing drivers job loss ,machinery (walking floor and belt bottom trailers ,spreader trucks) would not be needed. Jobs would be lost and economically impact people, and growers who sell litter.
- 4) litter will accumulate on growers farms causing a disastrous problem!!!
- 5) the wisest use of POULTRY LITTER is for plant growth stimulation of ag crops and grasslands' therefore strengthening plant roots, reducing runoff, erosion, and sediment to the bay.

- 6) Other venues (pelletizing, converting to oil) have been tried to use litter but have proven wise land application is the best use of this valuable resource.
- 7) Regulation are in place for wise use of POULTRY LITTER and no further regs are necessary.

Please do not include end user reporting to DEQ in the revised regulations or prepare for a huge problem?? WHAT TO DO WITH POULTRY LITTER?????

COMMENTER: Reid Mackey, Litter & Lime, LLC., Farmer, Registered Litter Broker, Custom Applicator - working in Alleghany, Augusta, Albemarle, Bath, Botetourt, Craig, Campbell, Franklin, Halifax, Nelson, Rockbridge, Roanoke, Rockingham, and Monroe, WV

COMMENT: I am opposed to the proposed end-user reporting requirements, as they are unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan.

COMMENTER: Respondents to Farm Bureau Action Alert (Table A)

COMMENT: My family farm raises turkeys in Augusta County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Ernest Ambler, Amber-rillo Farm Inc., Augusta County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Chris Turner, Carlton Turner Poultry, Page County Poultry Grower

COMMENT: My family farm raises poultry in Rockingham County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Sandra K. Rumer, Smokey Valley Farm, Inc. Rockingham County Poultry Grower

COMMENT: My family farm raises poultry in Rockingham County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: David Beery, Rockingham County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Joseph Turner, Page County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Forest N. Atwood, Pass Run, Page County Poultry Grower

COMMENT: My family farm raises poultry in Rockingham County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Myron Reedy, Reedy Farms, LLC., Rockingham County Poultry Grower

COMMENT: First, I am against the end-user reporting requirements as unnecessary for purposes of tracking poultry litter harmful to the litter market, counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. I feel strongly that this requirement could negatively affect my ability to manage poultry waste.

COMMENTER: Ronnie Matthews, Accomack County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Rex A. Sours, Rex Sours, LLC., Page County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Anna Housden, Living Country Farm, LLC., Page County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Michael Scott Housden, Page County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Vicki Dinges, Page County Poultry Grower

COMMENT: My family farm raises poultry in Augusta County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Russel J. Wenger, Augusta County Poultry Grower

COMMENT: My family farm raises poultry in Accomack County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Kimviet Ngo, Accomack County Poultry Grower

COMMENT: My family farm raises poultry in Accomack County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Tri Nguyen, Accomack County Poultry Grower

COMMENT: My family farm raises poultry in Rockingham County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Dustin Wenger, Rockingham County Poultry Grower

COMMENT: My family farm raises poultry in Shenandoah County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

**COMMENTERS: Kathy Kagey, V&K Farms, Shenandoah County Poultry Grower
VLD Kagey, V&K Farms, Shenandoah County Poultry Grower**

COMMENT: My wife and I have raised turkeys for Rocco/Cargill for 30 years. We follow a litter management plan. Most of our litter is utilized by another farmer who has more land than we do. We live near Bridgewater, Virginia and most of our litter is used by a farmer near New Hope, Virginia. He also closely follows a nutrient management plan. All farmers that we know have a strong desire to use our poultry litter in a safe and useful manner. We follow all of the guidelines to prevent poultry litter run-off and pollution of streams. Without additional end users of poultry litter it could be stockpiled on many farms and really create a hazard for the environment from run-off. Adding unnecessary regulations to end users could create problems and cost to both producers and other end users with no benefit to the environment. We feel no additional burdensome regulations are needed for handling poultry waste. This could cause detrimental harm if farmers are not able to have their litter used where it is needed and applied in the approved manner. What is to be done if a farmer cannot get rid of his excess litter?

COMMENTER: Bud Schultz, Rockingham County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the

proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Thomas Thacker, Augusta County Poultry Grower

COMMENT: My family farm raises poultry in Louisa County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Brett Washington, Washington Farms, Inc. Louisa County Poultry grower

COMMENT: There seems to be a miss conception that poultry litter has no value. Litter is a valuable nutrient. Litter is already tracked by the grower and broker it does not need to be tracked again. This would further restrict the transfer of litter.

COMMENTER: Howard J. Easter III, Amelia County Permitted Poultry Grower, Registered Litter Broker, Litter End-User

COMMENT: I am writing concerning the proposed amendments VPA General Permit for Poultry Waste. I am both a poultry grower and a poultry litter end-user growing corn, wheat and soybeans. I oppose the proposed end-user reporting requirements as they are unnecessary and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Not only would the requirements be detrimental to achieving the transport goal, but also harmful to the litter market and to agriculture in general by adding cumbersome reporting constraints to an industry already overburdened with regulations and struggling to survive. And the regulation would de-incentivize growers to responsibly manage a valuable resource. The requirements could negatively affect poultry growers' ability to manage poultry waste and hinder end-users ability to access nutrients in an economically, agronomically and environmentally sound manner. The requirements could additionally negatively impact growers' willingness to utilize poultry litter with or without incentive payments.

COMMENTER: Chip Turlington, Turlington Farms Inc., Chancetown, on Virginia's Eastern Shore

COMMENT: I have a family farm located in Campbell County. I am a recipient of cost share program and using my NMP to spread poultry liter and other nutrients to my farmland and rented. I am already reporting to one agency and I feel that multiple reports are not needed.

COMMENTER: David Cardwell, Campbell County Farmer

COMMENT: We have a family farm here in Va and am very concerned about the effect of the requirement of end users to report to DEQ. It will certainly affect being able to sell our poultry litter it is to easy to get commercial fertilizer. What will happen if we cant sell it or worse yet cant give it away? We have been decimated by covid (lack of demand) and now this? It will push commercial fertilizer, farmers will not want to deal with the extra burden of reporting. Another thing about Chicken litter it is close by where the farms are less wear and tear on the roads and less fuel consumed!

COMMENTER: Michael Nolt, VA Farmer

COMMENT: My family farm raises poultry in Rockingham County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Rob Preston, Preston Hills Farm, Rockingham County Poultry Grower

COMMENT: My family farm raises poultry in Page County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Jeffrey E. Thomas, Blue Rock Farm, Inc. Page County Poultry Grower

COMMENT: As the president of the Rockingham Farm Bureau Association Board of Directors, we are opposed to the proposed end-user reporting requirements.

COMMENTER: Lareth L. May, President, Rockingham County Farm Bureau Board

COMMENT: My family farm raises poultry and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years.

While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Vincent A. Wolford, Rockingham County Poultry Grower

COMMENT: I am opposed to the proposed end-user reporting requirements, as they are unnecessary for purposes of tracking poultry litter and harmful to the litter market.

COMMENTER: Richard Newell

COMMENT: I am writing in opposition of the end- user reporting requirements. This requirement will kill the litter market.

COMMENTER: Michael E. Easter, Amelia County Permitted Poultry Grower, Registered Litter Broker, Litter End-User

COMMENT: I am a contract turkey producer for Cargill Turkeys. My farm is located near Timberville, VA in Rockingham Co. I am covered under the general permit and I have an approved nutrient management plan. I have been subject to numerous inspections and have always been in compliance. Under my plan, I am unable to utilize much of the poultry litter produced. I do not grow crops other than hay and pasture. Therefore, I sell (or give away) 90-95% of the litter produced. Most is moved out of Rockingham Co. to other parts of VA through poultry litter brokers to crop producers who can use it. Some has been hauled 150-200 miles. During the last 30 years the market and demand for litter has been up and down. To make matters worse, my litter broker-Mr. Mark Deavers was killed in a trucking accident on I-81 in March. He moved thousands of tons out of Rockingham Co, to other parts of VA. His loss will make it more difficult to move litter. I fear that the proposed reporting requirement by end-users will cause those producers to move away from litter to commercial fertilizer. I stand opposed to the proposal. The proposal provides little benefit to the clean-up of the Bay and in the end could cause problems by hindering the transfer and demand for litter.

COMMENTER: Lareth L. May, May Poultry Farm, Rockingham County

COMMENT: My family farm raises poultry in Goochland County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

**COMMENTERS: JT Anderson, Pineview Farm, Goochland County Poultry Growers
Kate Anderson, Pineview Farm, Goochland County Poultry Growers**

COMMENT: My name is Craig Bailey and I am the owner of Greenmount Heritage LLC, a turkey operation on contract with Virginia Poultry Growers Cooperative, Inc. I have been raising poultry on my farm for over 33 years and have seen numerous changes in the poultry industry in Va. I am opposed to the new reporting requirements for poultry litter end users. These requirements

will bring harm to the poultry litter market and thus hurt the poultry farmer economically by lowering the demand for litter.

COMMENTER: Craig Bailey, Greenmount Heritage LLC

COMMENT: I am writing to voice my opposition to the new reporting requirement for poultry end-users because it will harm the market for poultry litter, hurt poultry growers economically, and hinder Virginia's ability to meet its goals for litter transport in the Commonwealth's Chesapeake Bay cleanup plan.

COMMENTER: Grant Martin

COMMENT: My family farm raises poultry in Augusta County and is covered under the VPA General Permit for Poultry Waste Management. Thank you for the opportunity to comment on the proposal to renew the program for another ten years. While we can support much of the proposal, I am strongly opposed to the new end-user reporting requirement. This requirement is unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. Such a mandate could be economically devastating to my farm without any environmental benefit.

COMMENTER: Thomas Thacker, Augusta County Poultry Grower

COMMENT: I am writing to voice my opposition to the new reporting requirement for poultry end-users because it will harm the market for poultry litter, hurt poultry growers economically, and hinder Virginia's ability to meet its goals for litter transport in the Commonwealth's Chesapeake Bay cleanup plan.

COMMENTER: Patrick Evick

COMMENT: Just wanted to drop a brief comment regarding the proposal for the VPA General Permit for Poultry Waste: I would urge anyone involved in moving the proposal forward to consider that most, if not all of the reporting requirements are already being obtained during a DEQ inspection of a given farm. Putting additional reporting requirements on the farmer and/or litter-end use would not only add further paperwork, but could also have negative effects on an already-struggling litter market. Thanks for your time and consideration.

COMMENTER: Daryn Martin, Rockingham County

COMMENT: I am an end user of chicken litter, although I only use a small amount I don't want to have to fill out any reports. What I use only goes on hay land that does not have any creeks or streams. This land is fairly flat, not any run-off. Would like to continue using litter to fertilize land which I feel is a whole lot safer than regular fertilizer and a lot better. If I and other users can't get this litter without problems then it will just pile up on poultry farms cause they will not be able to get rid of this litter then it will just pile up on farms and then you will have run off to who knows where!

COMMENTER: Ronald Reynolds, Farmer Crewe, VA

COMMENT: I wish to express opposition to this proposal to require litter end-users to report transfer/application records annually. We poultry growers make reports, the brokers make reports. An increase of paperwork on the end-users could decrease the appeal of using litter as fertilizer and drive down the price of litter. Our family depends on income from litter sold as a part of our total income. Every bit is important to us. Thanks for your consideration.

COMMENTER: Chadwick McMurray, Rockingham County Farmer

COMMENT: I am opposed to the new reporting requirement for poultry litter end-users because it will harm the market for poultry litter, hurt poultry growers economically, and hinder Virginia's ability to meet its goals for litter transport in the Commonwealth's Chesapeake Bay cleanup plan.

COMMENTER: Clay Miller, Shenandoah Valley Organic

COMMENT: First, I am opposed to end-user reporting requirements. This could greatly affect our ability to transport litter according to the goals in the Virginia Chesapeake Bay restoration plan. Many of our end users could easily buy commercial fertilizer, leaving us the grower trying to safely store tons of litter on the farm. That would quickly turn into a large problem.

COMMENTER: Glen Landis, Cumberland Poultry Grower

COMMENT: I raise broilers in Shenandoah County and operate under the VPA General Permit. I would prefer to have the regulation renewed as is, without the additional reporting suggested. I currently transfer all my litter. Additional reporting by end users will likely inhibit some of those end users from utilizing litter simply by not wanting to be saddled with the reporting requirement.

COMMENTER: Philip Bowman, Shenandoah County Poultry Grower

COMMENT: I have a family farm located in Rockingham County and as a farmer. I would find end user reports to be a detriment to my use of litter. Just too much work and bureaucracy. The added bureaucratic expense would be harmful and counterproductive as chicken litter needs to be widely used across the state rather than concentrated near producing areas.

COMMENTER: Carol L. Turner, S&C Poultry Inc., Rockingham County

COMMENT: As a farmer, I would find end user reports to be a detriment to my use of litter. Just too much work and bureaucracy. The added bureaucratic expense would be harmful and counterproductive, as chicken litter needs to be widely used across the state rather than concentrated near producing areas.

COMMENTER: Paul Beyer, Fluvanna County

COMMENT: The proposed requirement for end-user reporting would be an additional time and expense punishment imposed on farmers like myself who are serious about environmental issues and manage their most important resources (land, water and air) responsibly. In addition, this requirement appears to be a duplication of reporting already required or available by other means.

COMMENTER: Richard Baltimore, Cumberland Cattle Farmer

COMMENT: I have a family farm located in Accomack County. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. These new proposals will create an additional and unnecessary burden of record keeping during an already busy time of year for farmers. This information is already being recorded by the poultry growers so the data will be redundant if it is also recorded by the end user.

COMMENTER: Matthew Hickman, Accomack County Farmer

COMMENT: I am opposed to the proposed end-user reporting requirements, as they are unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan.

COMMENTER: Harry Miller, Brunswick County Farmer

COMMENT: With this section of the new Permit I am in the belief that less is more. We as producers are required now to report the end users and their information. With their signature and receipt of our litter they are now bound to one of three requirements to utilize this litter. DEQ already has the information through the producers and the ability to spot check any end user it likes. I understand the idea behind the request for information from the end user but I don't see where duplicating the information would improve the outcome. Knowing the watersheds where the litter is applied and the amounts gives us a strong handle on bacterial and nutrient loads in these watersheds and in the Bay as a whole. An unfortunate consequence that I see from this is change would be the concentration of litter in certain areas, especially in my area of central Virginia, due to the drop in end users. I and many other producers would be forced to use more of our litter than we would like and ask our NMP writers to start using the P = Index so we would be able to use our stranded litter. This might not sound that dire but in the end it would be. We know that more pollution would occur if we stockpile more litter and have to use NMP Practices that allow us to use more litter. The more litter is spread out across the Commonwealth the less the likelihood of that litter causing water quality problems. 90% of our water quality problems occur during 10% of our rainfall events. With this being said the more litter utilized in fewer places greatly increases the probability of water quality problems. These events will happen if litter is more centralized and with the increasing occurrences of 25 year and greater storm events litter may cause irreversible problems that are out of the producers control. In the end I think more of the reporting burden should be shouldered by the permit holders and not the end users. Correct usage of litter is vital to solving the water quality problems of the state, so I believe it is up to the producers and DEQ to work with end users to educate them on the facts and by doing so increase the usage of litter in environmentally appropriate ways.

COMMENTER: Kevin Dunn, Poultry Grower in Buckingham County

COMMENT: I have a family farm In Augusta County Virginia. I would like to comment on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. I am a small end-user of poultry waste as fertilizer for hay fields. Government management and new reporting requirements for small end-users is not appropriate. It increases burden for the small end user, who already operates a marginal business.

COMMENTER: Kenneth Miller, Augusta County Farmer

COMMENT: I am opposed to the proposed end-user reporting requirements, as they are unnecessary for purposes of tracking poultry litter, harmful to the litter market, and counter-productive to the litter transport goals in Virginia's Chesapeake Bay restoration plan. We are working 365 days a year providing a safe food supply.

COMMENTER: Marty Potts, Purcellville

COMMENT: I have a family farm located in Pittsylvania county. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. Just more burdensome regulations on the end user producer. You already have regulation and rules in place you do not need additional in user rules, it's becoming duplicative.

COMMENTER: James Calhoun, Pittsylvania County Farmer

COMMENT: I have a family farm located in Augusta County. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. I am a beef cattle farmer and not a poultry grower. I use poultry litter for fertilizer when it is available and I can find it. Although there are many poultry growers in the Shenandoah Valley, an adequate supply of litter is nearly always difficult to find. Please do not make the regulations more difficult. If you do, I will have to go back to using commercial fertilizers.

COMMENTER: Charles Curry, Augusta County Farmer

COMMENT: I have a family farm located in Augusta County. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. We have 1600 A of crops and open land to graze our 1200 head of cattle. We spread many Tons of Poultry waste to keep our hay and pasture fields in great condition. To apply fertilizer would greatly increase our expenses! And not be as beneficial!

COMMENTER: Charles Obaugh, Augusta County Farmer

COMMENT: Requiring all end users to have a nutrient management plan and annual reporting will discourage the use of litter application on a local basis, thus creating a huge transportation issue in an attempt to transport litter outside of the watershed area. Omitting the use of litter on crops and grasslands could result in thinner stands of grass and poorer crop growth, thus resulting in more water runoff in heavy rain events. I am also opposed to this proposal.

COMMENTER: Junior Beachy, Staunton

COMMENT: My farm is located in Hanover county and we farm 300 acres of row crops (soybeans) and have 40 acres of grass hay and pasture. We sold our dairy cows in 2019 after 60 years in dairy business. We have a small number of young stock left but will continue to grow crops and likely add beef cattle. I'm concerned with potentially adding a new requirement for end-users of poultry litter to report transfer and land application record annually to DEQ when the Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630 is up for renewal. We have not used poultry waste in the past because we've had our own manure from the dairy cows to use as fertilizer but as we move forward we will look to all options for the best way to sustainably grow our crops and protect our precious land. We are already using a certified nutrient management plan and this additional requirement is an unnecessary burden.

COMMENTER: Matthew Nuckols, Hanover County Farmer

COMMENT: My name is David Wine and I am a permitted poultry litter broker from Bridgewater, VA. I am writing this email in regards to the VPA General Permit for Poultry Waste. My personal opinion after working in this industry for over 6 years is that the end-user reporting requirements are unnecessary for purposes of tracking poultry litter and could potentially cause harm to the litter market itself. It could also work against the transport goals in Virginia's Chesapeake Bay restoration plan. My fear is that this requirement could have a negative impact on my ability to market and transfer poultry waste.

COMMENTER: David Wine, Registered Poultry Waste Broker, Rockingham County

COMMENT: Creamfield Farm is based out of Mechanicsville Va and operates in 9 county's of VA. We utilize poultry Litter to offset the commercial fertilizer because of its added benefits. It is

crucial to our operation that we are able to continue accessing it as is without any extra requirements than already in place. We strongly oppose 9VAC25-630

COMMENTS: Grayson W. Kirby, Creamfield Farm, Hanover County Farm

COMMENT: We are located near Stuarts Draft and are a poultry litter end-user which has really improved our soil. We have a closely monitored Nutrient Management Plan and do not see any purpose in the repetition of reporting our use. Poultry litter is an excellent product to enhance the soil and it would be a large expense and problem to just pile it up or put it in a landfill. We want to keep our nutrient input costs down while paying close attention to our effect on the environment. Our use is based on the recommendation of our Nutrient Management Plan. We have no interest in incentive payments because time that could be spent farming will be spent in repetitious bookkeeping.

**COMMENTS: Lloyd McPherson, Christians Creek Holsteins, Inc., Staunton, VA
Dora McPherson, Christians Creek Holsteins, Inc., Staunton, VA**

COMMENT: I have a family farm located in Rockingham COUNTY. As a Virginia farmer, I write to submit comments on the proposed changes to Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630. We use most of our poultry litter but also sell some as an added income. I report what I produce so I don't think the end user should also have to report as this is redundancy and the end user does not have a poultry operation therefore is not familiar with reporting requirements.

COMMENTS: Lee Biller, Rockingham County Farmer

COMMENT: We also feel that increased unnecessary regulations would hinder our ability to get rid of our litter and for our end-users to be able to use it as an affordable and safe fertilizer for their needs. Poultry litter is already analyzed and tested so users can only put down a certain amount on their land and more regulations would just make it that more difficult for everyone. Farmers need affordable fertilizers and poultry litter is a good option for them. They do not use it needlessly and are concerned about keeping our water clean and our land in good shape. If we didn't have a market for our litter how would we be able to raise poultry for everyone to have food. Poultry litter is a by-product of a much need food industry and must be used responsibly the way farmers are currently using it. All the farmers I know that use it are much more responsible about it than some that use chemicals and chemical fertilizers on their land. Thank you for your attention on this matter.

**COMMENTS: Trent Johnson, Poultry Grower, Lunenburg County
Roxie Johnson, Poultry Grower, Lunenburg County**

COMMENT: I understand that the DEQ is considering adding annual reporting of the transportation and application of poultry litter by end-users to the VPA General Permit for Poultry Waste regulations list. Adding this requirement would have no positive impacts, but it would certainly be fraught with negative consequences. This information is already provided within other reporting structures, and adding an additional and unnecessary burden to the end-user is counterproductive.

When it becomes cheaper, easier, and less annoying to buy and utilize commercial fertilizer, that is what the end-user will do, (because they are not stupid). At that point the bottom will drop out of the litter market, and the poultry growers will not only become more fiscally insecure, but they will be stuck with massive amounts of litter. The domino effect will greatly increase the risk of environmental damage, due to the double jeopardy situation of poultry growers being unable to properly dispose of litter, and end-users returning to commercial fertilizer.

COMMENTS: Mary Jane Martin, Augusta County Poultry Grower

RESPONSE: DEQ acknowledges these comments and understands that there is opposition to the new proposed reporting requirements. § 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from end-users on a yearly basis via another method. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from the end-user and facilitate DEQ's reporting to EPA for credit in the Bay model. These improvements to the regulations demonstrate Virginia's commitment to improving

the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III.

After analyzing the comments and determining what information the department needs to ensure compliance with the regulation and what is necessary for receiving credit in the Bay model through the reporting of poultry waste transfer data to the Chesapeake Bay Office of the EPA. Staff determined that a better option to reporting all land application records and supporting documents (as previously required in the proposed language) would be to instead require the end-user to report (in a phased in reporting timeframe): poultry waste transfer records; the method they used to determine the land application rate; and the county where the waste is being utilized.

This alternative strikes a balance for obtaining the information related to poultry waste transactions and a subset of important land application information while reducing the reporting burden and the concerns related to the release of private and personally identifying information contained in the specific land application records and supporting documents. This option will provide the department with the necessary information in a timely manner while not compromising the privacy and personal identifying information that is protected by the Department of Conservation and Recreation through exemptions in the Freedom of Information Act, and protected by Federal branches of the United States Department of Agriculture.

The following changes are being proposed based on these comments. Section 70, Tracking and Accounting Requirements for End-Users is being revised to report the following items to the Department in a phased in timeframe:

- 1. poultry waste transfer records,***
- 2. the method the end-user used to determine the land application rate, and***
- 3. the county where the waste is being utilized.***

COMMENT: I would like to express my opposition to several proposed changes being made to the VPA General Permit for Poultry Waste. The permitting process was originally set up as part of the Chesapeake Bay Restoration Process. It was used to help manage poultry litter in the Shenandoah Valley and encourage its movement out of this poultry dense area. End-User reporting requirements will be a burden to this process. I feel that imposing reporting requirements on the end-user will hamper the removal of the poultry waste from the Valley. End users will use the easiest source for their nutrient needs. Another form that needs to be filled out may be all it takes for them to look elsewhere. It will be counter-productive to the original goal for the Chesapeake Bay and should not be added to the permit requirements.

COMMENTS: Gloria Long, George's Inc.

RESPONSE: This regulation and general permit contains strict conditions and requirements for all poultry operations across the state. These conditions and requirements do not change based on the location of the operation, poultry waste end-user or poultry waste broker, no matter if the operation or entity is located in the Chesapeake Bay watershed or outside of it. Since 2000, the current regulations have included requirements for detailed recordkeeping related to poultry waste transfers and the land application of poultry waste and the recordkeeping and reporting of the detailed records by poultry waste brokers. The proposed regulation and general permit includes the reporting of the detailed records by the owners of permitted poultry operations and poultry waste end-users and poultry waste brokers. ***No changes are being proposed based on this comment.***

SC-6 Subject: Section 80 – Utilization and Storage Requirements for Transferred Poultry Waste – Supportive

COMMENT: We support proposed changes to 9VAC25-630-80. B.1.d.2, B.2. and C.4. for the reasons cited above under 9VAC25-630-50.

COMMENTERS: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation

Frank Baber, Cumberland County Poultry Grower

RESPONSE: DEQ appreciates your support. ***No changes are being proposed based on this comment.***

SC-7a Subject: Section 90 – Commercial Poultry Processor Activities – Supportive

COMMENT: We support the proposed commercial poultry processor activities requirement as an aide in assisting permitted poultry growers in complying with 9VAC25-630 and the General Permit. While we believe most processors already implement standard practices in line with spirit of the proposed regulation, we are aware of occurrences where permitted commercial growers' efforts to comply have been made more difficult by the actions of commercial poultry processor employees and their agents at grower farms. In some instances, the results of these actions, for example spilled feed, have been cited during regulatory inspections by DEQ and other agencies.

**COMMENTER: Tony Banks, Senior Assistant Director, Agriculture, Development & Innovation, Virginia Farm Bureau Federation
Frank Baber, Cumberland County Poultry Grower**

RESPONSE: DEQ appreciates your support. *No changes are being proposed based on this comment.*

SC-7b Subject: Section 90 – Commercial Poultry Processor Activities - Not-Supportive

COMMENT: DPI believes that the new section to regulate certain typical farming activities on the contract growers' farms, including delivery of chickens, catching chickens for harvest and delivering feed to the farms is not necessary. Chicken companies are already responsible for cleaning up any incidental spills or issues and work closely with the grower to assure that. Requiring an additional operational and maintenance manual outlining proper procedures for compliance and sharing that with DEQ will be additional time and paperwork for the poultry processors.

COMMENTER: Holly Porter, Executive Director, Delmarva Poultry Industry, Inc.

COMMENT: Proposed change: Adds a new section to regulate certain "typical farming activities" performed by commercial poultry processors on contract growers' farms, including delivery of poultry, catching poultry for transport, and filling feed bins. The section prohibits introduction of water into the process of the typical farming activities, except when cooling birds and cleaning and disinfection of vehicles and equipment prior to entering and leaving the farm when there is a disease outbreak or poultry health risk. The section requires processors to clean up and properly dispose of any poultry waste, feed, and hydraulic fluids, fuels, and oils which processors deposit or release. Farming activities must, where available, be conducted on impervious surfaces to facilitate cleanup efforts. The processor must submit an operation and maintenance manual outlining proper procedures for compliance with the section.

VPF comment: VPF believes these new requirements are unnecessary because poultry processors take measures to prevent spillages during these farming activities, and work with the grower on any incidental spillages that can occur from time to time.

COMMENTER: Hobey Bauhan, President, Virginia Poultry Federation

RESPONSE: We understand that some believe that this section is not necessary; however, DEQ staff have observed occasions where activities performed by the commercial poultry processor at a permitted poultry farm were not conducted to the same standard required of the permitted grower by the poultry waste general permit. Additionally, staff have observed subpar clean-up from the typical activities that the commercial poultry processor performed on the permittee's farm. These type of conditions leave the permittee in a situation where they are not considered in compliance with the general permit through no fault of their own. The inclusion of this new section will help DEQ hold the appropriate entity responsible for implementing best management practices and cleanup. *No changes are being proposed based on these comments.*

Table A

Name	Name	Name	Name
Angela Whitehead	Barbara Person	Billy Borum	Bryan Conrad
Carol L Turner	Charles Curry	Charles Obaugh	David Cardwell
Dianne Beck	Edward Mullins	Emily Edmondson	Fred Holland
Howard Hill	James Calhoun	James Graves	James Messick
John Quantz	Jonathan Wood	Joyce Millsap	Keith Coffey
Kevin Owen	Kimberly Croft	Lee Biller	Lewis Ray
Lynn Gayle	Mark Campbell	Marvin Pence	Marty Potts
Matthew Hickman	Nancy Biscoe	Nicholas Moody	Paul Beyer
Paula Craun	Rebecca Denhoff	Richard Baltimore	Ronald Wilson
Sarah Thomsen	Shields Jones	Wayne Miller	Wendell Jones
Willaim Osl	William Braford	William Latane	

Table B

Name	Name	Name	Name
A Hawkins	A Merzi	Abby Juraschek	Adam Donofrio
Adam Strasel	Adele Friedel	Adelgunde Kohler	Alan Partin
Alan Wurtzel	Alexandra Kokich	Alfred Calambro	Alison Cipriani
Allen Witherington	Alma Edgerly	Amanda Camden	Amaryntha Schalin
Amy White	Andrea Moran	Andrea Orvos	Andrea Steegmayer
Ann Dori	Ann Gordon	Ann Violi	Anna Decker
Anne Hartley	Anne Katherman	Annette Ramos	Astrata Barber
Barbara Brunson	Barbara Witucki	Barry Mayberry	Barry Mowday
Becky Daiss	Ben Ames	Berkley Mitchell	Betty Vornbrock
Bev Mann	Beverly Burns	Beverly Flaschentrager	Beverly Pettway
Bob Robinson	Bonnie Farmer	Brad Yoho	Brandy Beazley
Brian Dick	Brian Gallagher	Brian Maddox	Brooke Kane
Bruce Coffey	Bruce Rauscher	Bryan Keohane	Bryan Mitchell
Caleb Merendino	Cari Grafton	Carl Olson	Carla Takacs
Carol Parke	Caroline Brockman	Caroline Broun	Caroline Chambers
Carolyn Harding	Catherine Baj-Lindsey	Catherine Foster	Catherine Lukaszewicz
Catherine Putnam	Catherine Sharp	Catherine Siegel	Catherine Volz
Charleen Moore	Charles Allen	Charles Barlow	Charles Comer
Charles Epes	Charles Whittle	Charlie Knight	Chris Durrer
Christie Lum	Christina Ohlrogge	Christine Stone	Christopher Hembree
Cindy Amos	Cindy Duncan	Claire Beasley	Claire Conner
Claire Jacobsen	Claudia Thompson-Deahl	Cliff Gauthier	Colin Hebert
Colleen Shanley	Concha Mendoza	Connie Minton	Cynthia Cuellar
Cynthia Daniels	Cynthia Rea	D. Hunter	Dan Stainback
Daniel Remler	Daniel Wowk	Darcel Stephan	Daren Brady
Darleen Brown	David Andre	David Christhilf	David Dooley
David Harris	David Peyton	Dean Amel	Deb Mccusker
Deborah Farrell	Deborah Harris	Deborah Wooten	Deedee Tostanoski
Denise Apple	Dennis Tackett	Devin Lee	Devon Kendall
Diana Burson	Donald Walsh	Donna Bebermeyer	Donna Bode
Donna Hapner	Donna Phillips	Dorothy Landreth	Doug Meikle
Douglas Reece	Douglas Throp	Duane Luetkenhaus	Earl Morris
Edward Augustine	Edward Bernas	Edward Knight	Eileen Doughty
Eileen Weber	Elaine Becker	Elaine Fischer	Elaine Skurnick

Name	Name	Name	Name
Eleanor Lawson	Elias Nimmer	Eliza Berkley	Elizabeth Booth
Elizabeth Dunbar	Elizabeth Lonoff	Elizabeth Meni	Elizabeth Miklos
Elizabeth Porter	Elizabeth Spiher	Elliott Stone	Elyse Dewyngaert
Emilie Larson	Emily Luebke	Eric Gray	Eric Steele
Eric Ward	Erich Hart	Erika Boka	Erin Hillert
Faye Bailey	Frances Lee-Vandell	Francis Sprinkel	Frank Bays
Frank Defazio	Frank Gilbert	Fred Dobbs	Fred Dolezal
Frederick Stier	Gail Rilee	Gale Collins	Gary Johnson
Gene Cochran	George Carter	Georgiana Bloom	Gianluigi Ciovati
Gilbert Thompson	Gina Gil	Gladys Overton	Glen Caldwell
Glenn Corey	Gloria Benton	Gray Puryear	Greg Crider
Gregory Falls	Gregory Svoboda	Harold Henriksen	Heather Callahan
Heather Hollowell	Heidi Ananthakrishnan	Heidi Jack	Helen Sanders
Irene Kubosh	Irwin Flashman	Isabel Tirath	Jack Coyncil
Jacqueline Dwyer	Jacqui Bowman	James Boland	James Civitarese
James Davidson	James Diggs	James Mather	James Oconnor
James Vick	James Wilcox	Jan Dillard	Jane Comings
Jane Hanger	Jane Smith	Janet Coldsmith	Janet Malcolm
Janet Rountree	Janette Martin	Janice Levin	Jean Washburn
Jeanne Hoffman	Jeanne Stanborough	Jeffrey Hollar	Jeffrey Schnebelen
Jenna Faulconer	Jennie Garnett	Jennifer Alcorn	Jennifer Ciminelli
Jennifer Keys	Jennifer Vandavier	Jessenia Winstanley	Jessica Caswell
Jessica Miller	Jill Barker	Jim Flinchum	Jim Lindsay
Joan Chapman	Joan Peaslee	Joan Price-Bayer	Joan Yater
Joel Becker	John Carrico	John Crowder	John Dronzek
John Eckel	John Floyd	John Fox	John Jarrell
John Latoski	John Palmer	John Rogers	John Skeele
John Vanluik	Jonathan Nottingham	Joseph Reid	Joseph Rule
Joseph Valentine	Joshua Botts	Joy Loving	Joyce Lane
Joyce Remington	Juan Del Alamo	Juan Hernandez	Judi Burbes
Judith Creger	Judith Doty	Judith Hinch	Julia Younger
Julie Mccollum	Julisa Negron	Kam Hitchcock-Mort	Kara Danner
Karina Laureano	Kate Mcaloon	Katherine Podlewski	Katherine Surret
Katherine Towson	Kathleen Childs	Kathleen Gurren	Kathleen Mclane
Kathleen Turk	Kathryn Jones	Kathryn Sukites	Kathy Kelly
Kathy Stark	Kathy Zentz	Katlin Mccarter	Keith Everton
Kelly Place	Kelly Saunders	Kelly Wynn	Ken Schultz
Kenneth Barter	Kirby Hutto	Kirk Treakle	Kirsten Burk
Kristen Corr	Kristin Bartschi	Kristin Carter	Lani Furbank
Larry Cartwright	Larry Olson	Laura Ray	Lauren Bennett
Lawrence Amos	Lawrence Wright	Leah Bush	Leslee Nicholas
Leslie Geiger	Leslie Jacobs	Leslie King	Lester Stano
Linda Centorrino	Linda Howell	Linda Walters	Lisa Billow
Lisa Knight	Lisa Porter	Lisa Syrop	Lorraine Potter
Lou Ferraro	Louise Lee	Luann Masterson	Lynn Thompson
Lynne Kaye	Lynne Miceli	Malcolm Scott	Maraya Best
Marcus Walther	Margann Green	Margaret Strawn	Maria Delgado-Librero
Maria Millar	Mariana Lawrence	Marilyn Clark	Marilyn Hamly
Marilyn Siegel	Mark Miller	Mark Santora	Mark Zimmerman

Name	Name	Name	Name
Marshall Mccorkle	Martha Cusick	Martha Ellett	Martha Malabad
Mary Babcock	Mary Calvert	Mary Elia	Mary Finley-Brook
Mary Frase	Mary Green	Mary Justis	Mary Koussis
Mary Walsh	Mary-Helen Sullivan	Mchenry Stiff	Michael Binns
Michael Gilman	Michael Higgins	Michael Hoak	Michael Rigdon
Michele McMahon	Micheline Plaskett	Michelle Dail	Mike East
Molly Gray	Myrene Oconnor	Nancy Arnold	Nancy Berger
Nancy Lucas	Nancy Partin	Nathan Longest	Nina Krantz
Nowell Overby	Oliver W	Omar Pivaral	Pamela JiraneK
Pamela Joslin	Pamela Mullins	Pamela Townsend	Pat Quinn
Patricia Hughes	Patricia Polentz	Patricia Quintana	Patricia Stover
Patrick Calvert	Patty Driscoll	Peggy Rommen	Peter Moxon
Phyllis Haas	Polk Kellam	Quentin Fischer	Rafael García-Cardona
Rajshri Gopal	Randall Nord	Ray Legge	Raymond Arendt
Rebecca Piatt	Reshma Eggleston	Richard Allen	Richard Biondi
Richard Carpenter	Richard Henshaw	Richard Porterfield	Richard Shultz
Rick Miller	Rob Woods	Robert Agee	Robert Benson
Robert Blackburn	Robert Forster	Robert Goumas	Robert Leggett
Robert Pool	Robert Rhodes	Robert Taylor	Robert Theobald
Robert Wallace	Robert Warren	Ronnie Woody	Ross Varin
Roxane Hughes	Ruth Schrott	Ruth Wadlington	Sally Nystrom
Sally Tucker	Samantha Cutler	Samuel Black	Sandra Craig
Sandra Kerr	Sandra Uhler	Sandra Wilson	Sarah Drain
Shabaka Moore	Shannon Brennan	Sharon Goumas	Sharon Hesse
Sharon Irving	Sharon Mcqueen	Sharon Peery	Sharon Shutler
Shawn Wozniak	Sheila Sylvester	Shelley Sheehe	Sheryl Schweitzer
Shirley Jenkins	Stacey Lightfoot	Steffanie Feichter	Stephanie Buresh
Stephanie Schutte	Stephen Kimbel	Stephen Maxwell	Steve Atkinson
Steve Knockemus	Steven Benner	Steven Gulette	Steven Urquhart
Steven Zaret	Sue Giacinto	Susan Black	Susan Boyd
Susan Coulson	Susan Johnston	Suzanne Harness	Sydney Mctigue
Sylvia Bocskor	Taffi Newhouser	Tami Palacky	Tayloe Murphy
Teresa Young	Teresa Yuan	Theo Giesy	Theresa Dunleavy
Thomas Huber	Thomas Mckitty	Thomas Shull	Thomas Thompson
Tim Gilbert	Todd Lipcsey	Todd Powers	Tom Aub
Tom Long	Tomeka Watkinson	Tony Schrider	Vanessa Church
Vicki Douglas	Victor Nolasco	Victoria Hook	Virginia Masterson
Walter Demmerle	Walter Moore	Wanda Garrett	Wayne Matten
Wayne Nolde	Wayne Webb	Wendy Swanson	Wes Callender
William Brlote	William Cleveland	William Corlett	William Furlow
William Jennings	William Kirk	William Martin	William Moors
William Schreier	William Welkowitz	Win Winfree	Yun Yao

Table C

Name	Name	Name	Name
Ann Violi	Catherine Lukaszewicz	Elaine Becker	Elaine Fischer
Jan Dillard	Jane Smith	Joy Loving	Martha Ellett
Sue Giacinto	Victoria Hook	William Kirk	

Table D

Name	Name	Name	Name
Ann Violi	Catherine Lukaszewicz	Elaine Becker	Elaine Fischer
Jan Dillard	Jane Smith	Joy Loving	Sue Giacinto
Victoria Hook	William Kirk		

Table E

Name	Name	Name	Name
Alan Partin	Ann Violi	Catherine Lukaszewicz	Elaine Becker
Elaine Fischer	Jan Dillard	Jane Smith	Joseph Valentine
Martha Ellett	Sue Giacinto	Victoria Hook	William Kirk

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

The Board made three changes since the proposed regulation was published for the public comment period. One change was to correct a citation, another change was made to further clarify the requirements allowing the administrative continuance of the general permit, and a final change based on significant public comment related to Section 70.

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
9VAC25-630-40 C (Registration statement)	N/A	The registration statement shall be signed in accordance with 9VAC25-32-50 <u>9VAC25-630-70.</u>	N/A	Corrected citation in C3 to the appropriate section of the regulation that details the requirements for signing permit applications to clarify the regulation.
9VAC25-630-30 D 1 (Authorization to manage pollutants)	N/A	N/A	D. Continuation of permit coverage. 1. <u>In any case where the board, through no fault of the owner or permittee, does not issue the next consecutive general permit with an effective date on or before the expiration date of the expiring general permit, the following applies:</u>	Made further revisions to clarify the requirements to allow for an administrative continuance.

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
			<p>a.] Any owner that was authorized to manage pollutants under the general permit issued in 2000, and that submits a complete registration statement [in accordance with 9VAC25-630-40] on or before November 30, 2010 the expiration date [of the expiring general permit coverage], is authorized to continue to manage pollutants under the terms of the 2000 [previously issued] general permit [until such time as the board either: The conditions of the expiring general permit and any requirements of coverage granted under it shall continue in force until the effective date of the next consecutive general permit and until such time as the board either:]</p> <p>[ab]. Issues coverage to the owner under [this the next consecutive] general permit; or</p> <p>[bc]. Notifies the owner that coverage under [this the next consecutive general] permit is denied.</p>	

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
<p>9VAC25-630-70 A (Tracking and accounting requirements for poultry waste end-users)</p>	<p>N/A</p>	<p>N/A</p>	<p>Moved “Method used to determine land application rates” recordkeeping item to A2 from recordkeeping subdivision A3. Moved reporting requirement language to A3 from A4. Changed reporting requirements to remove the detailed land application records and supporting documents. Moved land application recordkeeping requirements to A4.</p>	<p>*§ 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from end-users on a yearly basis via another method. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from the end-user and facilitate DEQ’s reporting to EPA for credit in the Bay model. These improvements to the regulations demonstrate Virginia’s commitment to improving the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III. It was determined that a better option to reporting all land application records and supporting documents (as previously required in the proposed language) would be to instead require the end-user to report (in a phased in reporting timeframe):</p>

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
				<p>poultry waste transfer records; the method they used to determine the land application rate; and the county where the waste is being utilized.</p> <p>This alternative strikes a balance for obtaining the information related to poultry waste transactions and a subset of important land application information while reducing the reporting burden and the concerns related to the release of private and personally identifying information contained in the specific land application records and supporting documents. This option will provide the department with the necessary information in a timely manner while not compromising the privacy and personal identifying information that is protected by the Department of Conservation and Recreation through exemptions in the Freedom of Information Act, and protected by Federal branches of the United States Department of Agriculture. This revision makes the end-user reporting requirements more consistent with the proposed permitted grower and registered poultry waste broker reporting requirements.</p>

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this exempt action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *Please put an asterisk next to any substantive changes.*

The Board made revisions related to the effective and expiration dates of the general permit term; added two definitions; and added language related to the commercial poultry processor’s duty to comply. The Board also added, corrected and updated citations found within the regulation and general permit. The agency amended language in the section for authorization to manage pollutants and continuation of the general permit coverage. The conditions in Section 50 were reorganized by separating conditions into three subject areas: site conditions, poultry waste transfer and utilization conditions, and other special conditions. There were some minor technical revisions made in the regulation and general permit and both Registration Statements (permit applications) and the Poultry Litter Fact Sheet were revised to reflect the changes made in the regulation and general permit. There were substantive changes made to the regulation and general permit. These changes included adding the phased in reporting requirements for both the permitted entities and end-users of poultry waste and the addition of a new section for the commercial poultry processor. Further details, to include the change and rationale, of each of the proposed changes are listed in the table below.

Current Section Number	New Section Number, if applicable	Current Requirements	Change, intent, rationale, and likely impact of new requirements
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.
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).

Current Section Number	New Section Number, if applicable	Current Requirements	Change, intent, rationale, and likely impact of new requirements
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 1 (Authorization to manage pollutants)	N/A	The current regulation allows for the continuation of the general permit coverage.	<p>D. Continuation of permit coverage.</p> <p>1. <u>[In any case where the board, through no fault of the owner or permittee, does not issue the next consecutive general permit with an effective date on or before the expiration date of the expiring general permit, the following applies:</u></p> <p><u>a.] Any owner that was authorized to manage pollutants under the general permit issued in 2000, and that submits a complete registration statement [in accordance with 9VAC25-630-40] on or before November 30, 2010 the expiration date [of the expiring general permit coverage], is authorized to continue to manage pollutants under the terms of the 2000 [previously issued] general permit [until such time as the board either:</u></p> <p><u>The conditions of the expiring general permit and any requirements of coverage granted under it shall continue in force until the effective date of the next consecutive general permit and until such time as the board either:]</u></p> <p><u>[ab]. Issues coverage to the owner under [this the next consecutive] general permit; or</u></p> <p><u>[bc]. Notifies the owner that coverage under [this the next consecutive general] permit is denied.</u></p> <p>Made further revisions to clarify the requirements to allow for an administrative continuance.</p>

Current Section Number	New Section Number, if applicable	Current Requirements	Change, intent, rationale, and likely impact of new requirements
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.
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.
9VAC25-630-40 C (Registration statement)	N/A	The current requirement points to an incorrect citation in the VPA Permit regulation.	The registration statement shall be signed in accordance with 9VAC25-32-50 <u>9VAC25-630-70</u> . Corrected citation in C3 to the appropriate section of the regulation that details the requirements for signing permit applications to clarify the regulation.
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.

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 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.
9VAC25-630-50 (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.

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 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 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.

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	The condition only requires that the records are maintained on site and made available to staff upon request.	<p>* Added a reporting requirement to phase in reporting by the permitted grower. § 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from 957 permitted growers during site inspections on a yearly basis to ensure credit can be received in the Bay model each year. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from the permitted grower and facilitate DEQ's reporting to EPA for credit in the Bay model. These improvements to the regulations demonstrate Virginia's commitment to improving the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III.</p> <p>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.</p> <p>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.</p>
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.
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.

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 (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.
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.

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	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 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 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 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.
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.

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 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.

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	The condition only requires that the records are maintained on site and made available to staff upon request.	<p>*Added a reporting requirement to phase in reporting by the permitted end-user or permitted broker. § 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from all permittees during site inspections on a yearly basis to ensure credit can be received in the Bay model each year. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from the permitted grower and facilitate DEQ’s reporting to EPA for credit in the Bay model. These improvements to the regulations demonstrate Virginia’s commitment to improving the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III.</p> <p>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.</p> <p>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. This addition also makes the permitted entity reporting requirements consistent throughout the permit.</p>
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.

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 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.
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.

Current Section Number	New Section Number, if applicable	Current Requirements	Change, intent, rationale, and likely impact of new requirements
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.

<p>9VAC25-630-70 A (Tracking and accounting requirements for poultry waste end-users)</p>	<p>N/A</p>	<p>Recordkeeping items were included in the current regulation but the reporting requirement is not in the current regulation.</p>	<p>*Moved “Method used to determine land application rates” recordkeeping item to A2 from recordkeeping subdivision A3. Moved reporting requirement language to A3 from A4. Changed reporting requirements to remove the detailed land application records and supporting documents. Moved land application recordkeeping requirements to A4.</p> <p>§ 62.1-44.17:1.1. of the Code of Virginia, mandates that DEQ track information related to poultry waste transfers. In addition, the poultry waste transfer data is reported to the Chesapeake Bay Program Office of EPA in order to receive credit each year for moving poultry waste out of the watershed. Unfortunately, DEQ does not have the staffing resources to acquire the transport data from end-users on a yearly basis via another method. The new reporting requirements will significantly improve the timing and receipt of the poultry transfer data from the end-user and facilitate DEQ’s reporting to EPA for credit in the Bay model. These improvements to the regulations demonstrate Virginia’s commitment to improving the recordkeeping and reporting related to Poultry Waste Transport as stated in the Watershed Implementation Plan III. It was determined that a better option to reporting all land application records and supporting documents (as previously required in the proposed language) would be to instead require the end-user to report (in a phased in reporting timeframe): poultry waste transfer records; the method they used to determine the land application rate; and the county where the waste is being utilized.</p> <p>This alternative strikes a balance between 1) obtaining the information related to poultry waste transactions and a subset of important land application information, as expressed by two of the TAC members, and 2) reducing the reporting burden and the concerns related to the release of private and personally identifying information contained in the specific land application records and supporting documents. This option will provide the Department with information that better characterizes poultry waste destinations and which methods poultry waste end-users are using to manage the material, while not compromising the privacy and personal identifying information that is protected by the Virginia Department of Conservation and Recreation through exemptions in the Freedom of Information Act, and protected by Federal branches of the United States Department of Agriculture. Furthermore, this revision makes the end-user reporting requirements more consistent with the proposed permitted grower and registered poultry waste broker reporting requirements, which do not require reporting of land application records. As with the permitted grower, the end-user land application</p>
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Current Section Number	New Section Number, if applicable	Current Requirements	Change, intent, rationale, and likely impact of new requirements
			records can be reviewed by DEQ staff to ensure compliance without taking custody of the records.
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 <i>A 1 b</i> . 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 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.
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.

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	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 C 1 c (2), C 1 c (3) and C 2 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.
9VAC25-630-80 (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.

Current Section Number	New Section Number, if applicable	Current Requirements	Change, intent, rationale, and likely impact of new requirements
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.

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.

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.