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Exempt Action: Final Regulation
Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-120
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests
Action title	Amend and Reissue the Existing General Permit Regulation
Final agency action date	8/25/2022
Date this document prepared	8/22/2022

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

This action addresses the proposed reissuance of the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests. The existing general permit contains effluent limitations, monitoring requirements and special conditions for discharges of sites contaminated by petroleum products, chlorinated hydrocarbon solvents, the hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines. The proposed changes would amend the scope to also include non-petroleum contaminated sites, groundwater remediation discharges, and dewatering activities. Two limits have been revised based on updated standards, and 11 metal limits have been added to address dewatering activities with contamination by metals. In addition,

hardness-dependent metal limits have been specified in place of the existing formula. The proposed changes to the regulation are being made to reissue this general permit and in response to Technical Advisory Committee suggestions, public inquiries for expanded coverage, and staff suggestions to revise, update and clarify the permit conditions.

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). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "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."

This regulation (9VAC25-120) constitutes a VPDES general permit administered by Virginia DEQ, a U.S. EPA authorized permitting authority under CWA § 402(b). Under CWA § 402(b)(1)(B) and 9VAC25-31-240, VPDES permits must be for fixed terms not to exceed five years. The existing general permit expires on February 25, 2023 and must be reissued for another term to remain available to permittees. If this permit is not re-issued in a timely manner, no new coverage is available to any new facility owner or operator and such owners or operators would be required to obtain individual VPDES permits, which require more time to develop and issue, and impose significantly greater burden and costs on permittees and increased administrative burden on DEQ. In addition, internal staff review and TAC meeting input have identified areas where the general permit could be updated and potentially improved. Such improvements are expected to expand the scope of this general permit to identified current commercial activities that at present have no option for obtaining general permit coverage.

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.

APA: Administrative Process Act
CFR: Code of Federal Regulations
DEQ: Department of Environmental Quality
DMR: Discharge monitoring report
EPA: (U.S. EPA): United States Environmental Protection Agency
MTBE: methyl tert-butyl ether
NPDES: National Pollutant Discharge Elimination System
PWS: Public water supply
TAC: Technical Advisory Committee
TPH: Total Petroleum Hydrocarbon
USC: United States Code
VAC: Virginia Administrative Code
VPDES: Virginia Pollutant Discharge Elimination System
VRP: Voluntary Remediation Program

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 August 25, 2022 the State Water Control Board adopted 9VAC25-120 Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests.

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.

The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program, §62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.16 specifies the Board's authority to regulate discharges of industrial wastes, § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

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.

This proposed regulatory action is needed in order to amend and reissue the existing VPDES General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests, which expires on February 25, 2023. The goal of the proposed regulation is to continue to make available the general permit, which establishes standard language for control of these point source discharges through effluent limitations, monitoring requirements and special conditions to ensure protection of the environment and public health, safety and welfare.

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.

Proposed changes to the general permit regulation include:

- Revising the title to reflect the adjusted scope.
- Amending the purpose to address wastewaters from petroleum contaminated sites, non-petroleum contaminated sites, groundwater remediation discharges, dewatering activities, the hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines.
- Revising the term of the general permit to March 1, 2023 through February 29, 2028.
- Making certain language more generic so dates do not have to be changed each reissuance.
- Under registration statement information requirements, replaced location with latitude and longitude of the discharge point.
- Adding VRP information to the registration statement.

- Adding State Corporation Commission entity identification data requirement to the registration statement.
- Adding conditional requirements for the electronic submission of registration statements.
- Adding conditional requirements for the electronic submission of DMRs.
- Amending the benzene limit based on revisions to the state water quality standard.
- Amending the chloroform limit based on revisions to the state water quality standard.
- Adding limits for 12 (total recoverable) metals (Antimony, Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Silver, Thallium, and Zinc) to address dewatering activity discharges contaminated with metals.
- Removing the hardness based formula for metals and replacing them with numeric limit values.
- Specifying that hardness monitoring is total hardness.
- Amending several limits to express them as two significant figures, consistent with existing guidance.
- Updating certain noncompliance report language to reflect updated DEQ website.

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 advantages to the public, permittees and the agency of reissuing this general permit are that a VPDES general permit will continue to be available to facilities with eligible discharges enabling them to discharge to surface waters in a manner that is protective of those waters. In addition, the continued availability of this general permit avoids the increased cost and more complicated application process for permittees associated with issuing an individual permit, and makes permit administration more reasonable for DEQ. There are no known disadvantages.

Expanding the scope of this VPDES general permit offers some projects potential permit coverage as an alternative to seeking costly disposal/ treatment alternatives or seeking an individual VPDES permit, which is much more costly and requires more time to implement.

The advantage of (eventual) electronic submission of registration statements or combined applications and DMRs is that this approach complies with U.S. EPA program requirements for e-reporting. Once in place, this system will also allow for greater efficiency in the submittal, management, and transfer of program data.

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 requirements that exceed applicable 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 state agencies, localities or other entities particularly affected by the proposed regulation as the regulation applies statewide.

Localities Particularly Affected:
See above.

Other Entities Particularly Affected:
See above.

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.

The existing general permit expires on February 25, 2023 and must be reissued for another term to remain available to new and current permittees. If this permit is not re-issued in a timely manner, no new coverage is available to any new facility owner or operator and such owners or operators would be required to obtain individual VPDES permits, which require more time to develop and issue, and impose significantly greater burden and costs on permittees and increased administrative burden on DEQ. In addition, internal staff review and TAC meeting input have identified areas where the general permit could be updated and potentially improved. Such improvements are expected to expand the scope of this general permit to identified current commercial activities that at present have no option for obtaining general permit coverage.

Commenter	Comment	Agency response
Jennifer Fulton, Acting Chief, Clean Water Branch US EPA Mid-Atlantic Region	The draft permit allows for automatic transfer of coverage to a new permittee if the current permittee notifies the department within 30 days of the transfer of the title to the facility or property. This permit condition appears to be inconsistent with 40 CFR 122.61(b)(1) which requires the permittee to notify the Director at least 30 days in advance of the proposed transfer date. EPA recommends VADEQ revisit the automatic transfer of coverage condition in the permit to ensure its consistency with the regulations.	DEQ reviewed the differences between the Federal regulation at 40 CFR 122.61(b)(1), the VPDES regulation, and the draft language proposed in 9VAC25-120. DEQ intends to retain the language as drafted to ease the burden of administering the general permit on staff.
David Sligh on behalf of Wild Virginia	A Single General Permit is Inappropriate to Cover the Range of Activities Addressed. The fact sheet (FS) prepared in support of the draft permit states that the permit is to cover "point source discharges from petroleum and non-petroleum contaminated sites, groundwater remediation, dewatering activities, and hydrostatic tests to surface waters of the Commonwealth of Virginia." FS at 1. It goes on to say	This proposed general permit addresses several categories and subcategories of discharges, which is permissible under 9VAC25-31-170. That regulation provides that a VPDES general permit can be written to cover “one or more categories or subcategories of discharges” … within a geographic area (9VAC25-31-170 A 1 and 2). Subsection 2 b provides that “one or more categories or subcategories of point sources other than stormwater point sources” may be regulated “if the sources … within each category or subcategory all: (1) Involve the

	that "the category of discharges is appropriately controlled under a general permit," apparently based on the assertion that "[t]he category of discharges to be included involves facilities with the same or similar types of operations and the facilities discharge the same or similar types of wastes." Id. The assertion that all of the different activities DEQ proposes to cover under this single permit qualify as the same or similar is simply not supportable. A number of the criteria for inclusion of classes of activities in a general discharge permit, as defined in state and federal regulations, are clearly not met here. Alison Thompson, Virginia DEQ June 24, 2022 2 State regulations define the circumstances under which the Board my issue general Virginia Pollutant Discharge Elimination (VPDES) permits, at 9 VAC 25-31-170.1 That section of the administrative code states that a general permit may include one or more categories or subcategories of point sources if all covered sources: (1) Involve the same or substantially similar types of operations; (2) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices; (3) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal; (4) Require the same or similar monitoring; and (5) In the opinion of the board, are more appropriately controlled under a general permit than under individual permits. 9 VAC 25-31-170.A.2. This draft permit fails to conform to conditions (1) - (4). Operations described in the draft permit are very different for different types of activities covered. For example, in performing hydrostatic testing of "new or repaired petroleum or natural gas pipelines, petroleum storage tanks, or water storage tanks and pipelines," as addressed in Part I.A.2., parties acquire either potable or non-potable water, which is presumably not known to be	same or substantially similar types of operations; (2) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices; (3) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal; (4) Require the same or similar monitoring; and (5) In the opinion of the board, are more appropriately controlled under a general permit than under individual permits." (Emphasis added). This general permit addresses two categories of discharges, contaminated sites and hydrostatic testing. It further addresses several subcategories of contaminated sites, including certain short-term projects, hydrostatic tests, gasoline contamination, contamination by petroleum products other than gasoline, contamination by chlorinated hydrocarbon solvents and, under the currently proposed general permit, dewatering with contamination by metals. Consistent with subsection 170 A 2 b, the sources within each of these respective categories or subcategories involve "substantially similar types of operations; [d]ischarge the same types of wastes…; [r]equire same effluent limitations…" and "[r]equire the same or similar monitoring". The current general permit reflects these similar categories and subcategories in distinct sets of effluent limits and monitoring requirements that are appropriate and applicable to each respective category and subcategory given the nature of the activity and discharge. If a discharge includes pollutants from more than one category, all applicable limits will apply. Under the current general permit (VAG83, 2018), the board has found that these sources are appropriately controlled under a general permit (see, 170 A 2 b 5). In addition, EPA has not objected to the scope of the permit. The proposed general permit that is subject to comment here, adds limits and monitoring requirements for discharges associated with dewatering with contamination by metals. These discharge are also sufficiently similar to meet the applicable general permit criteria. With regard to monitoring, state general permit regulations require the sources within each category or subcategory be subject to the same or similar monitoring. As noted, this general permit includes monitoring requirements that are appropriate for each category and subcategory of discharges

	contaminated, feed that water into the units to be tested, and place the system under pressure. The water is then released from the units and discharged. The units being tested are to be "substantially free of debris, raw material, product, or other residual materials," FS at 19. Discharges in this category are "generally one-time occurrences of less than 48 hours." Id. In sharp contrast, operations covered under Parts I.A.3., I.A.4, I.A.5., and I.A.6. are designed to gather water polluted by spills, leaks, or dumping of waste and treat it to meet numerous effluent limitations for pollutants expected to be present because of the nature of the cleanup site being addressed. Clearly the handling and treatment for polluted water at these types of sites requires personnel and systems adequate to protect humans and the environment from these activities themselves and to ensure that treatment systems are properly designed, operated, and maintained. These discharges may last for extended periods of at least weeks or months. As noted above, the types of wastes vary greatly between sites merely handling hydrostatic test water and those involved in pollution cleanup. Further, the wastes from one subcategory of cleanup site to another vary drastically. The great differences in the types of wastes, from one category to another, is reflected in wholly different and distinct sets of effluent limitations. To illustrate this fact, we note that water accumulated and treated at sites contaminated by chlorinated hydrocarbon solvents, under Part I.A.5., may contain measurable levels of eight pollutants that are "known or suspected carcinogen[s]."2 Water from sites 1 Virginia's regulation is essentiallly identical in substance to federal regulations at 40 C.F.R. § 122.28. 2 As designated for each of these pollutants in the table at 9 VAC 25-260-140.B. Alison Thompson, Virginia DEQ June 24, 2022 3 contaminated by metals, covered under Part I.A.6., has no identified carcinogens but does include	addressed and the corresponding discharge limits applicable to the category or subcategory. As for monitoring short term projects, these projects do not encompass what is considered a full monitoring period under the VPDES program. These projects end before DEQ would have time to review a DMR and take compliance action if such was warranted (often a letter or notice of violation for a first DMR exceedance). The approach in the general permit, requiring monitoring and recordkeeping, with DEQ able to access those records as deemed necessary, maintains monitoring of the discharge but simplifies the administration of the general permit for what is not an ongoing activity. Short term discharges normally pose less environmental risk than long term or continuous discharges. In the unusual case where a short term project poses a significant problem, the required monitoring records can be used to support an enforcement action.

	twelve separate metals in the "total recoverable" form. Some of these metals are present naturally in the areas addressed, some are not. The toxicity of these pollutants, which may cause both acute and chronic effects, is affected by the hardness of the water containing them. Clearly, it is not credible to assert that either the types of wastes or the effluent limitations for these different types of discharging operations are "the same." Finally, the monitoring methods and requirements are significantly different from one subcategory of discharge addressed in the draft permit to another. The collection of samples for metals, volatile organic compounds, and other types of pollutants require different methods, containers, preservation techniques, and holding times. The analytical tests are different and require different types of training and levels of expertise. It is also notable that the permit requires that monitoring results be recorded by the dischargers for "short term projects" at Part I.A.1. and "dischargers of hydrostatic test waters" at Part I.A.2., but these dischargers are not required to submit the results to DEQ. All other categories addressed in the permit require monthly reporting to DEQ. This difference in requirements implies that DEQ places a higher level of importance on the monitoring efforts and results for some operations than for others.	
David Sligh on behalf of Wild Virginia	Activities Covered Under the Draft Permit Are Likely to Violate the Antidegradation Policy. The state may not issue a VPDES permit if there is a reasonable potential that discharges made in accordance with the permit's requirements will cause or contribute to violations of the water quality standards (WQS). This applies to all parts of the WQS, including narrative and numeric criteria and the antidegradation policy.	This permit authorizes discharges of (1) treated groundwater from petroleum and hydrocarbon contaminated sites, (2) groundwater collected in building sumps, and (3) water used for hydrostatic testing of pipelines and tanks. Discharges under the first category involve remediation of groundwater contaminated from leaking underground storage tanks (USTs). In some cases the groundwater being remediated is already reaching the receiving stream.

	We assert that discharges allowed under the conditions of the permit and the implementation procedures defined by DEQ will almost certainly violate the antidegradation policy in some cases, particulary where water quality currently exceeds the minimum levels required under the numeric criteria in the WQS. Therefore, we believe the permit must be re-drafted to prevent this potential. The regulation governing the application of this general permit states that a party proposing a discharge which "violates or would violate the antidegradation policy in the Water Quality Standards at VAC25-260-30" will be notified that the discharge is not eligible for coverage under general permit number VAG83. 9 VAC 25-194-50.B.3. The section of Virginia's water quality standards regulation that deals with high quality or so-called "Tier 2" waters states, in part: Where the quality of the waters exceed water quality standards, that quality shall be maintained and protected unless the board finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Commonwealth's	These sites are most often in developed areas where stream quality has already been adversely impacted due to development and the nearest receiving stream is considered to be a Tier I waterbody. The permit protects that waterbody by allowing for the remediation and ensuring that the discharge meets applicable water quality criteria. Discharges under the second category are new to this permit and are being incorporated in response to a growing number of development sites that must dewater the groundwater from deep structures such as underground parking garages. These sites are often Brownfield sites that were contaminated from previous activities and have completed a voluntary remediation program. Because of the potential for some remaining contamination of the groundwater, a permit for the discharge is required and the permit again protects water quality by requiring that the discharge meets applicable water quality criteria. The third category of discharges under this general permit is applicable water used to hydrostatic test pipelines and tanks. Discharges under this category are expected to contain only trace amounts of pollutants and are temporary in nature. Water quality is protected by requiring that the discharge meet applicable water quality criteria end-of-pipe. The general permit also requires that hydrostatic test water be managed to control the volume and velocity of the discharge to minimize erosion at the outlet and any downstream channels and stream banks. The general permit protects water quality (including antidegradation) by ensuring that the discharge meets all applicable water quality criteria end-of-pipe prior to discharge to Tier I waters. In the event that a discharge is proposed to Tier II waters under the general permit, an evaluation is performed to ensure that the Board’s antidegradation

	continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. . . . According to a communication from DEQ staff: "In the event that a discharge is proposed to a Tier II stream, staff is instructed to evaluate whether the effluent limits are protective of the antidegradation policy using the methodology outlined in Guidance Memo No. 00-2011."[3] The guidance document referenced varies from the plain wording of the regulation, which mandates that high quality conditions "shall be maintained and protected," in that the guidance arbitrarily defines levels water quality reductions the agency deems significant. That threshold of significance is, according to the agency memorandum, based on "a consensus of agency opinion."[4] That document provides no scientific or technical sources or analyses that support this "consensus of agency opinion." The record for this permit action does not include any such analyses or support. Most pertinent to our concerns regarding pollutants to be discharges under this permit are the assertions in the guidance that "there will be no	policy is met. This evaluation is performed using a theoretical combination of conservative assumptions including maximum discharge rate, maximum effluent concentration and critical streamflow conditions as identified in 9VAC25-260-140. Allowing the use of only 25% of the stream's assimilative capacity (10% for human health criteria) under an evaluation that assumes the theoretical, simultaneous occurrence of a number of conservative assumptions ensures that high water quality is maintained and protected. Under actual conditions, impacts are not expected to be detectable or measurable. The determination of whether or not the applicant is eligible to discharge to a Tier II stream under the general permit is made on a case-by-case and is dependent on the proposed discharge rate and the size of the receiving stream. Proposed discharges that would violate the Board's antidegradation policy at the pollutant concentrations included in the general permit are not eligible for coverage and must apply for an individual permit so that more protective effluent limits may be applied. DEQ maintains and protects high quality waters through the procedures established in Guidance Memorandum No. 00-2011, *Guidance on Preparing VPDES Permit Limits*. The Water Quality Standards establish that aquatic life criteria should not be exceed more than once every 3 years on average. Return intervals for exceedance of human health criteria are not established but these criteria are established to prevent impacts due to long term exposures. DEQ's guidance ensures protection of high quality waters by allowing only a minimal impact under a combination of conservative conditions (10-year drought stream flow, maximum discharge rate, maximum discharge concentration) that would be expected to occur simultaneously much less

	significant lowering of water quality if the permit limits is [sic] based on the following restrictions . . . • No more than 25% of the unused assimilative capacity is allocated for toxic criteria for the protection of aquatic life. • No more than 10% of the unused assimilative capacity is allocated for criteria for the protection of the human health. Id. As explained below, we assert the application of the agency guidance for this permit action is unsupportable for five reasons. First, the plain language of the regulation is unambiguous and the agency is not authorized to weaken or change that regulatory provision based on a "consensus of agency opinion." The State Water Control Board (Board) bears the sole authority to adopt water quality standards. The Board has allowed for the agency to make findings of significance in other parts of the WQS regulations[5] but did not do so in this instance. We may not assume that they intended to allow this latitude for agency judgement here.	frequently than the once in 3 year return interval established for aquatic life criteria. Likewise, the human health impact from a discharge meeting human health criteria end-of-pipe is expected to be negligible. The approach used to apply the Board's antidegradation policy is similar to that used in numerous states and is fully protective of water quality. The procedures in Guidance Memorandum No. 00-2011 have been accepted by the Board and USEPA in the issuance of numerous VPDES permits. Human health criteria established in the Boards Water Quality Standards are established at levels that are meant to prevent any impact to human health. These criteria are established using similarly conservative assumptions on fish and drinking water consumption rates, exposure times, etc. By requiring that all water quality criteria are met end-of-pipe without the benefit of any dilution, DEQ has ensured that there is virtually no threat to human health from discharges permitted under the general permit. Even considering the synergistic impacts of multiple carcinogens, it is highly unlikely that any person would have sufficient exposure (drinking, eating fishing, swimming, etc.) to the discharge from a temporary pump and treat remediation system to pose a hazard.

	Email message from Alison Thompson, DEQ to David Sligh, Wild Virginia, *RE: General Permit VAG83*, June 24, 2022. 4 Virginia DEQ, Memorandum from Larry G. Lawson, Guidance Memo No. 00-2011; *Guidance on Preparing VPDES Permit Limits*, August 24, 2000, p. 9. [5] 9 VAC 25-260-40 prohibits "significant changes to naturally occurring dissolved oxygen and pH fluctuations in [Class VII trout] waters;" 9 VAC 25-260-275.E. allows for findings of "significant adverse social and economic impacts to beneficial uses and to the locality and its citizens" as a factor in decision-making related to protection of clam and oyster waters; 9 VAC 25-260-370.B. allows for judgements as to whether populations of trout or warmwater gamefish exist in a stream. Second, while EPA has allowed states to apply significance or de minimis concepts in regard to antidegradation, there is no support for those actions in the Clean Water Act (CWA) or regulations. The EPA's primary justification for allowing de minimis amounts of degradation is that this procedure "allows States and Tribes to focus limited resources where they may result in the greatest environmental protection"[6] but, by this reasoning, the EPA seems willing to replace the judgement of Congress with ad hoc and relatively unbounded value judgements by State agencies. At the same time, the EPA acknowledges that "States or Tribes that define a high threshold of significance may be unduly restricting the number of proposed activities that	

	are subject to a full antidegradation review"[7] but the Agency has failed to define what it considers an appropriate "threshold." The Supreme Court addressed this issue in Arkansas v. Oklahoma, 503 U.S. 91 (1992). In that case a new sewage treatment plant in Arkansas, which was to discharge effluent that would flow downstream through a series of three creeks for 17 miles, enter the Illinois River, and then flow another 22 miles before crossing the border into Oklahoma. The State of Oklahoma's WQS required that "no degradation" of the upper Illinois River could be permitted.[8] An Administrative Law Judge had first upheld the permit, finding that there would not be an "undue impact" from the new discharge to a portion of the River in Oklahoma that was already impaired; that there would be no more than "a mere de minimis impact" on the downstream State's waters.[9] The EPA's Chief Judicial Officer also upheld the permit but ruled that a proper interpretation of the federal regulation required a more protective standard; that where the prediction of an impact was merely theoretical but was "not expected to be actually detectable or measurable,"[10] the permit should not be denied on that basis. The Supreme Court ruled that EPA's interpretation of the CWA and the regulation was not arbitrary and capricious and upheld the permit. The levels of degradation in quality allowed in DEQ guidance and apparently applied in implementing this permit will certainly result in detectable	

	negative impacts on receiving waters. Therefore, we believe they cannot be justified under federal law, even if the state's regulation is held to allow this interpretation. Third, even if it is held that DEQ has the latitude to interpret the regulation to allow an insignificant or de minimis lowering of water quality, DEQ has done so in an arbitrary and unlawful manner through the guidance document. As stated above, no evidence of any technical reasoning or support has been offered in this proceeding or at the time the guidance was issued to justify the raising of pollutant levels as specified and noted above. DEQ must [6] Water Quality Standards Regulation, Advance notice of proposed rulemaking, 63 Fed. Reg. 36742, 36783 (July 7, 1998). [7] Id. [8] Arkansas v. Oklahoma, 503 U.S. 91, 94 (1992). [9] Id. at 96. [10] Id. at 97. not be allowed to base important regulatory decisions on vague bases, such as unexplained "consensus of agency opinion." Fourth, in regard to some of the specific types of pollutants addressed in permit number VAG83, any addition will increase risks and cannot be easily dismissed as insignificant. As discussed above in this letter, there are numerous substances deemed to be known or suspected cancer-causing agents that are allowable in measurable amounts in	

	discharges. This is particularly significant because, unlike many other pollutants, there are no "safe" levels of carcinogens in the environment. By contrast, for many substances smaller amounts are considered harmless to humans and wildlife but above defined thresholds they are thought to cause acute or chronic toxicity effects. Fifth, even if we could determine that increases in any one carcinogenic pollutant and the greater risk it presents are acceptable, this would not account for the fact that discharges allowed under this permit may contain a soup of multiple carcinogenic and non-carcinogenic substances and we have no idea how these combinations of pollutants affect risk of death or impairment to humans or wildlife. As explained above, the permit could allow increases in levels of up to eight carcinogens in the form of chlorinated hydrocarbon solvents along with other pollutants. We simply have no idea how these mixtures affect the risk levels humans would face if exposed to them and it highly irresponsible to allow these increases without that understanding. We do know that combinations of pollutants may have synergistic reactions, such that the impacts to two or three or eight may cause orders of magnitude greater harm than would each individual chemical.	
David Sligh on behalf of Wild Virginia	Activities Covered Under the Draft Permit May Violate Narrative Criteria The Board's WQS regulation includes general or narrative criteria that prohibit discharges that cause or	The effluent limitations contained in the general permit meet all water quality criteria including the narrative criteria. In the case cited, any potential disruption in treatment could result in bacterial contamination that could have an immediate and severe impact on individuals harvesting and consuming shellfish. No such nexus exists in this case

	contribute to conditions in state waters that "interfere directly or indirectly with designated uses of such waters or are inimical or harmful to human, animal, plant, or aquatic life." 9 VAC 25-260-20.A. All state water are designated for "recreational uses" and "the propagation and growth of a balanced, indigenous population of aquatic life." 9 VAC 25-26010. Any water user wishing to use a stream that receives discharges such as those allowed in the draft permit from contaminated sites, particularly those containing a mix of cancer-causing chemicals, even if those pollutants are individually found in small concentrations, would understandably have their uses interfered with. This would constitute a violation of the narrative criteria and must not be allowed under the permit. As support for this contention, we cite the Virginia Appeals Court descision in *State Water Control Board v. Captains Cove Utility Company, Inc*.[11] In that case, the Board had denied a discharge permit to a sewage treatment facility based on the fact that the potential for bacterial contamination in receiving waters would cause a perception of risk for recreation and shellfishing. The court was clear that the narrative WQS prohibition on direct or indirect interference with uses, including recreation, could justify denial of a permit. The discharge need not contravene established numeric criteria. As here, it is possible that every one of the chemicals in one of these discharges could be below the numerical concentrations allowed under our WQS but still reasonably be	as the parameters of concern all cause health concerns due to long term exposures. Again, it is very unlikely that there is any long term exposure to discharges from the temporary pump and treat remediation systems covered under this general permit.

	deemed an interference with recreational uses.	
Kimberly Larkin, Dewberry	The registration statement does not specify this [hydrostatic testing] type of work as a subject under #7 for public utility lines such as drinking water lines and blow offs, or cooling tower flushing discharges. This could lead to confusion for public utility companies as to their duty to file.	The fact sheet does detail that it covers: hydrostatic tests of (1) natural gas and (2) petroleum storage tanks, pipelines, and associated distribution equipment; and (3) hydrostatic tests of water storage tanks, pipelines, and associated distribution equipment. The registration statement only itemizes (1) and (2) on the list of activities. This is because the distribution equipment coverage was added on from the initial hydrostatic testing coverage during the last reissuance. Cooling tower flushing discharges are not authorized under this regulation. The fact sheet and guidance document will be updated to clarify this prohibition.
Kimberly Larkin, Dewberry	Excavation Dewatering should be clarified to include “construction” excavation dewatering.	The Construction GP (VAR10), does cover the following non-stormwater discharges: Authorized Nonstormwater Discharges The following nonstormwater discharges from construction activities are also covered by this general permit (1) discharges from firefighting activities; (2) fire hydrant flushings; (3) water used to wash vehicles or equipment where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge; (4) water used to control dust that has been filtered, settled, or similarly treated prior to discharge; (5) potable water sources, including uncontaminated waterline flushings, managed in a manner to avoid an instream impact; (6) routine external building wash down where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge; (7) pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled or leaked material has been removed prior to washing); where soaps, solvents, or detergents have not been used; and where the wash water has been filtered, settled, or similarly treated prior to discharge; (8) uncontaminated air conditioning or compressor condensate; (9) uncontaminated groundwater or spring water; (10) foundation or footing drains where flows are not contaminated with process materials such as solvents; (11) **uncontaminated, excavation**

		dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and (12) landscape irrigations. Staff will address this in the guidance document.
Kimberly Larkin, Dewberry	The regulation should include an explanation of VPDES permit overlap with the Construction General permit.	Staff will address the overlap with other general permits in the guidance document.

Details 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.*

No significant changes were made since the draft stage.

Details of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action 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.*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
Title		VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT REGULATION FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES, GROUNDWATER REMEDIATION, AND HYDROSTATIC TESTS	VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT REGULATION FOR DISCHARGES FROM GROUNDWATER REMEDIATION OF CONTAMINATED SITES, DEWATERING ACTIVITIES OF CONTAMINATED SITES, AND HYDROSTATIC TESTS *Struck "petroleum" and added "dewatering activities." Seeking to accommodate common activities that lack general permit coverage now.*
9VAC25-120-10 Definitions		Definition exists for the term "Board."	*Revised the definition:* "Board" means the State Water Control Board. However, when used outside the context of the

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			promulgation of regulations, including regulations to establish general permits, "Board" means the "Department of Environmental Quality". *This conforms to recently enacted legislation (SB 657). In the balance of the general permit/ regulation, changed "board" to "department" where the reference was to a permit action.*
9VAC25-120-20 Purpose		This general permit regulation governs the discharge of wastewaters from sites contaminated by petroleum products, chlorinated hydrocarbon solvents, the hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines.	This general permit regulation governs the discharge of wastewaters from petroleum contaminated sites, non-petroleum contaminated sites, groundwater remediation discharges, dewatering activities, the hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines. *Replaced "site contaminated with petroleum products" with "petroleum contaminated sites", struck "chlorinated hydrocarbon solvents", and added "non-petroleum contaminated sites, groundwater remediation discharges, dewatering activities."* *In description of wastewaters that may be discharged, added discharges resulting from "metals or other contaminated site" cleanup. Also struck "approved by the board" since VRP cleanups are approved by the director.* *Expanding scope to address dewatering and certain cleanups beyond petroleum based on requests for GP coverage.*
9VAC25-120-50. Effective		This general permit will become effective on February 26, 2018. This	This general permit will become effective on March 1, 2023. This

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date of the permit		general permit will expire on February 25, 2023.	general permit will expire on February 29, 2028. *Amended dates to reflect new 5-year term. Started term at the beginning of the month consistent with DEQ VPDES monitoring policy.*
9VAC25-120-60. Authorization to discharge		C. Compliance with this general permit constitutes compliance, for purposes of enforcement, with §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b) of the federal Clean Water Act and the State Water Control Law with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.	*Added the phrase, "including compliance with the water withdrawal reporting, 9VAC25-200, and the groundwater permitting program 9VAC25-610," at the end of the final sentence.* *This was added to clarify to registrants that they may need a water withdrawal permit and/or to report groundwater withdrawn to DEQ.*
9VAC25-120-60. Authorization to discharge		D.1. Permit coverage shall expire at the end of it's term….	D.1. Permit coverage shall expire at the end of the applicable permit term…. *Replaced "its" with "the applicable permit".*
9VAC25-120-70. Registration statement		A. Any owner seeking coverage …. shall submit a complete VPDES general permit registration statement ….which shall serve as a notice of intent for coverage under the general VPDES permit …..	*Replaced "general VPDES permit" with "VPDES general permit", which is a wording correction being made to all general permits, and revised text to reflect new title of the general permit.* *This "VPDES general permit" wording was also revised in other locations in the general permit.*
9VAC25-120-70. Registration statement		Under B, short term projects "are authorized to discharge under this permit immediately upon the permit's effective date of February 26, 2018."	*Under B, revised the permit's effective date to be March 1, 2023.*
9VAC25-120-70. Registration statement		Under C.1, new facilities must submit a complete registration statement 30 days prior to commencing operation.	*Under C.1, added "or a later submittal date established by the board", which is consistent with other general permits and provides flexibility to address submittals*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			later than 30 days prior to operation.
9VAC25-120-70. Registration statement		C.2.a. Any owner covered by an individual VPDES permit who is proposing to be covered by this general permit shall submit a complete registration statement at least 210 days prior to the expiration date of the individual VPDES permit	*Changed "210 days" to "240 days" to be consistent with other general permits*.
9VAC25-120-70. Registration statement		C.2.b. Any owner that was authorized to discharge under the petroleum contaminated sites…. general VPDES permit ….and that intends to continue coverage ….shall submit a complete registration statement to the board at least 30 days prior to the expiration date of the existing permit or a later submittal established by the board.	*Inserted "expiring" prior to "petroleum contaminated sites…". VPDES general permit.*
9VAC25-120-70. Registration statement		E.9. Requires the location of the discharge point, or all proposed discharge points for linear project.	*Replaced "location" with "latitude and longitude in decimal degrees (six digits - ten-thousandths place)." This information is required by EPA for electronic reporting (e-reporting).*
9VAC25-120-70. Registration statement		E.19. The registration statement must include any pollution complaint number associated with the project.	*After "number" added "or Voluntary Remediation Program (VRP) information." Many of the projects seeking permit coverage are VRP projects, and this information characterizes the nature of the project and the discharge.*
9VAC25-120-70. Registration statement		None.	*Added (in place of existing 21) a requirement that registration statements include State Corporation Commission entity identification number if a facility is required to obtain an entity identification number by law. This provision is being added to all general permits. It ensures the facility is able to conduct business in Virginia and aides potential enforcement.*

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9VAC25-120-70. Registration statement	E.22.	E.21. Certification statement.	*Re-numbered existing certification statement (E.21) as new subsection E.22.*
9VAC25-120-70. Registration statement		G. The registration statement shall be delivered by either postal or electronic mail to the DEQ regional office serving the area where the facility is located.	Added the following contingent e-reporting language: "Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements), as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms must be submitted electronically." *E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR 69189; 11/2/2020) and state regulation (9VAC25-31-1020).*
9VAC25-120-80. General permit		Effective and expiration dates, and title.	*Revised as indicated above.*
9VAC25-120-80. General permit. Part I A 2 Discharges of hydrostatic test waters		TPH limit – 15.0 mg/l.	TPH limit – 15 mg/l. *Limit expressed as two significant figures in accordance with agency guidance.*
9VAC25-120-80. General permit. Part I A 3 Gasoline contamination		Limits: Benzene – 12.0 ug/l. Toluene – 43.0 ug/l. Total Xylenes – 33.0 ug/l. MTBE (freshwater not PWS and saltwater) – 440.0 ug/l. MTBE (freshwater listed as PWS) – 15.0 ug/l. Lead (total recoverable) – Hardness-based formula.	Limits: Benzene limit – 5.8 ug/l. *Based on revised WQS.* Toluene – 43 ug/l. Total Xylenes – 33 ug/l. MTBE (freshwater not PWS and saltwater) – 440 ug/l. MTBE (freshwater listed as PWS) – 15 ug/l. Lead (total recoverable) – 7.2 ug/l.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		Ethylene Dibromide (freshwater listed as PWS) – 0.161 ug/l. Ethanol – 4100.0 ug/l. Monitoring Only: Hardness (mg/l CaCO3)	Ethylene Dibromide (freshwater listed as PWS) – 0.16 ug/l. Ethanol – 4100 ug/l. *Limits expressed in two significant figures per agency guidance memorandum GM06-2016*. *For lead, the existing hardness-based formula in the general permit has been complex for permittees to understand and implement and has resulted in poor discharge monitoring reporting and unclear compliance. DEQ has replaced the formula with numeric metals limits calculated based on the 10th percentile of hardness as indicated in available state data. The new metals limits in I A 6 have been calculated in the same manner.* *Specified that hardness (monitoring only) is total.* *In footnote 2, deleted "The minimum hardness concentration that will be used to determine the lead effluent limit is 25 mg/l" since the hardness-based formula was removed.*
9VAC25-120-80. General permit. Part I A 4 Contamination by petroleum products other than gasoline		Limits: Benzene 12.0 ug/l. TPH – 15.0 mg/l. MTBE – 15.0 ug/l.	Limits: Benzene limit – 5.8 ug/l. *Based on revised WQS* TPH – 15 mg/l. MTBE – 15 ug/l. *Limits expressed in two significant figures per agency guidance memorandum GM06-2016*.
9VAC25-120-80. General permit. Part I A 5. Contamination by chlorinated hydrocarbon solvents		Limits: Chloroform – 80.0 ug/l. cis-1,2 Dichloroethylene – 70.0 ug/l. trans 1,2 Dichloroethylene – 100.0 ug/l. 1,1,1 Trichloroethane – 54.0 ug/l.	Limits: Chloroform – 60.0 ug/l. *Based on revised WQS.* cis-1,2 Dichloroethylene – 70 ug/l. trans 1,2 Dichloroethylene – 100 ug/l. 1,1,1 Trichloroethane – 54 ug/l. 1,2 Dichlorobenzene – 16 ug/l.

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		1,2 Dichlorobenzene – 15.8 ug/l.	*Limits expressed in two significant figures per agency guidance memorandum GM06-2016.*
	9VAC25-120-80. General permit. Part I A 6 Dewatering activities with contamination by metals	None. (A lead limit is included in I A 3 as a hardness based formula).	Limits: (metals are all total recoverable) Antimony – 5.6 ug/l. Arsenic – 10 ug/l. Cadmium – 0.55 ug/l. Chromium – 11 ug/l. Copper – 6.6 ug/l. Lead – 7.2 ug/l. Mercury – 0/77 ug/l. Nickel – 15 ug/l. Selenium – 5.0 ug/l. Silver – 1.9 ug/l. Thallium – 0.24 ug/l. Zinc – 87 ug/l. pH – 6.0 to 9.0 standard units. Monitoring only: Flow. Total Hardness (as CaCO3 in mg/l). *Metals are being added to address dewatering projects that are not sufficiently covered by the existing general permit, and thereby provide a more efficient general permit option for such projects.*
	9VAC25-120-80. General permit. Part I A 6 Dewatering activities with contamination by metals. Footnotes.		(1) Metals analyzed per 40 CFR 136. (2) Collect total hardness concurrent with the metals. (3) Monitoring frequency 1/ month for discharges into freshwaters not listed as PWS and into saltwaters. The frequency is 2/ month for freshwaters listed as PWS (if compliance in the first 12 months of coverage the permittee can request a frequency of 1/ month [1/quarter for ethanol]. Frequency reverts if warning letter, NOV or enforcement action).
9VAC25-120-80. General permit. Part II C		2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved	Added the following contingent e-reporting language: “Following notification from the department of the start date for the

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
Reporting and Monitoring Results		or specified by the department.	required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically." *E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR 69189; 11/2/2020) and state regulation (9VAC25-31-1020).*
9VAC25-120-80. General permit. Part II D Duty to Provide Information		The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit.	Struck "modifying, revoking and reissuing". *General permits are issued as regulations and are not modified, revoked and reissued. Global edit for all general permits.* *Also replaced "his discharge" with "the permittee's discharge" in the second sentence.*
9VAC25-120-80. General permit. Part II G Reports of Unauthorized Discharges		Reports of unauthorized discharges.	With regard to immediate notification of the department, added reference to Part II I 3. *Facilitates the use of online reporting.*
9VAC25-120-80. General permit. Part II H Reports of Unusual or Extraordinary Discharges		Reports of unusual or extraordinary discharges.	Struck "in no case later than 24 hours" and "by telephone" and added reference to Part II I 3. *Facilitates the use of online reporting.*
9VAC25-120-80. General permit. Part II I Reports of Noncompliance		3. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement	*Existing 3 renumbered to be new 4.* *Renumbered the existing "NOTE" to be item 3. Also updated reporting link to be:*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		or in any report to the department, it shall promptly submit such facts or information. NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/PollutionReportingForm.aspx.	*https://www.deq.virginia.gov/get-involved/pollution-response*
9VAC25-120-80. General permit. Part II L Duty to Comply		Duty to comply.	Struck "or standards for sewage sludge use or disposal." *This general permit does not address sewage sludge.*

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.

This general permit does not predominantly apply to small businesses, rather, it applies to discharges from petroleum contaminated sites, groundwater remediation, and hydrostatic tests. Nevertheless, the reissuance of this VPDES general permit accomplishes the objectives of applicable law and minimizes the application burden and permit implementations costs to affected small business owners. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase the complexity of a permit application, implementation and compliance costs.

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.

This general permit applies to discharges from petroleum contaminated sites, groundwater remediation, and hydrostatic tests. It is being revised to address dewatering from contaminated sites. Its availability allows for these discharges and associated cleanups to be conducted efficiently while protecting surface waters in a manner consistent with state law. This permit does not directly impact families, however, facilitating cleanups and development could promote economic interests generally, and indirectly support families and contribute to economic self-sufficiency. This general permit has been designed to minimize burden while achieving a level of water quality protection consistent with state and federal requirements.