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PART I
GENERAL

9 VAC 25-32-10. Definitions.

The following words and terms, when used in this regulation and in VPA permits issued under this regulation shall have the meanings defined in the State Water Control Law, unless the context clearly indicates otherwise and as follows:

“Agricultural Storm Water” means storm water that is not the sole result of land application of manure, litter or process wastewater. Where manure, litter or process wastewater has been applied 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, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of an animal feeding operation is an agricultural storm water discharge.

"Animal Feeding Operation" means a lot or facility (other than an aquatic animal production facility), where the following conditions are met:

1. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and
2. crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Two or more animal feeding operations under common ownership are a single animal feeding operation for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

“Animal Unit” means 1000 pounds of live animal weight.

"Best Management Practices (BMP)" means a schedule of activities, prohibition of practices, maintenance procedures and other management practices to prevent, or reduce the pollution of state waters. BMP's include treatment requirements, operating and maintenance procedures, schedule of activities, prohibition of activities, and other management practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.

"Board" means the Virginia State Water Control Board or State Water Control Board.

"Bypass" means intentional diversion of waste streams from any portion of a treatment works.

~~"Concentrated confined animal feeding operation" means an animal feeding operation at which:~~

- ~~1. At least the following number and type of animals are confined:~~
 - ~~a. 300 slaughter and feeder cattle;~~
 - ~~b. 200 mature dairy cattle (whether milked or dry cows);~~
 - ~~c. 750 swine each weighing over 25 kilograms (approximately 55 pounds);~~
 - ~~d. 150 horses;~~
 - ~~e. 3,000 sheep or lambs;~~
 - ~~f. 16,500 turkeys;~~
 - ~~g. 30,000 laying hens or broilers; or~~
 - ~~h. 300 animal units; and~~
- ~~2. Treatment works are required to store wastewater, or otherwise prevent a point source discharge of wastewater pollutants to state waters from the animal feeding operation except in the case~~

of a storm event greater than the 25-year, 24-hour storm.

~~"Confined animal feeding operation" means a lot or facility together with any associated treatment works where the following conditions are met:~~

~~1. Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and~~

~~2. Crops, vegetation forage growth, or post-harvest residues are not sustained over any portion of the operation of the lot or facility.~~

"Confined poultry feeding operation" means any animal feeding operation with 200 or more animal units of poultry. This equates to 20,000 chickens or 11,000 turkeys. These numbers are established regardless of animal age or sex.

"Department" means the [Virginia](#) Department of Environmental Quality

"Director" means the Director of the [Virginia](#) Department of Environmental Quality, or an authorized representative.

"Discharge" means when used without qualification, a discharge of a pollutant or any addition of any pollutant or combination of pollutants to state waters or waters of the contiguous zone or ocean other than discharge from a vessel or other floating craft when being used as a means of transportation.

"Draft VPA permit" means a document indicating the Board's tentative decision to issue, deny, modify, revoke and reissue, terminate or reissue a VPA permit. A notice of intent to terminate a VPA permit and a notice of intent to deny a VPA permit are types of draft VPA permits. A denial of a request

for modification, revocation and reissuance or termination is not a draft VPA permit.

"General VPA permit" means a VPA permit issued by the Board authorizing a category of pollutant management activities.

"Land application" means the introduction of wastewaters or sludge into or onto the ground for treatment or reuse.

"Limitation" means any restriction imposed on quantities, rates or concentration of pollutants which are managed by pollutant management activities.

"Manure" means manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.

"Monitoring report" means forms supplied by the Department for use in reporting of self-monitoring results of the permittee.

"Municipality" means a city, county, town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.

"Non-point source" means a source of pollution, such as a farm or forest land runoff, urban storm water runoff or mine runoff that is not collected or discharged as a point source.

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute

in charge, and whose duties include testing or evaluation to control waterworks or wastewater works operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

"Overflow" means the unintentional discharge of wastes from any portion of a treatment works.

"Permittee" means an owner or operator who has a currently effective VPA permit issued by the Board.

"Point source" means any discernible, defined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agricultural land [or agricultural storm water runoff](#).

"Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to, pollution. It does not mean:

1. Sewage from vessels; or
2. Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes if approved by Department of Mines Minerals and Energy unless the Board determines that such injection or disposal will result in the degradation of ground or surface water resources.

"Pollutant management activity" means a treatment works with a potential or actual discharge to

state waters, but which does not have a point source discharge to surface waters.

"Privately owned treatment works (PVOTW)" means any sewage treatment works not publicly owned.

"Publicly owned treatment works (POTW)" means any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

"Public hearing" means a fact-finding proceeding held to afford interested persons an opportunity to submit factual data, views, and arguments to the Board.

"Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with the Act, the Law, and Board regulations, standards and policies.

"Sewage sludge use or disposal" means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.

"Sludge" means solids, residues, and precipitates separated from or created by the unit processes of a treatment works.

"State Water Control Law (Law)" means Chapter 3.1 of Title 62.1 (' 62.1-44.2 et seq.) of the Code of Virginia.

"Surface water" means

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate "wetlands";
3. All other waters such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands", sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. Which are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in paragraphs 1 - 4 of this definition;
6. The territorial sea; and
7. "Wetlands" adjacent to waters, other than waters that are themselves wetlands, identified in paragraphs 1 - 6 of this definition.

"Toxic pollutant" means any agent or material including, but not limited to, those listed under 307(a) of the Clean Water Act, 33 U.S.C 1251 et seq, which after discharge will, on the basis of available information, cause toxicity. Toxicity means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health or other adverse environmental effects.

"Treatment facility" means only those mechanical power driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

"Treatment works" means any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste or necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions, or alterations; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined sewer water and sanitary sewer systems.

"Twenty-five-year, 24-hour storm event" means the maximum 24 hour precipitation event with a probable recurrence interval of once in 25 years as established by the National Weather Service or appropriate regional or state rainfall probability information.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit limitations because of factors beyond the permittee's reasonable control. An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Virginia Pollution Abatement (VPA) permit" means a document issued by the Board, pursuant to this regulation, authorizing pollutant management activities under prescribed conditions.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" means a document issued by the Board pursuant to 9 VAC 25-31-10 et seq., authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

"VPA application" means the standard form(s) approved by the Board for applying for a VPA permit.

9 VAC 25-32-30. Requirements and Prohibitions.

A. All pollutant management activities covered under a VPA permit shall maintain no point source discharge of pollutants to surface waters except in the case of a storm event greater than the 25-year, 24-hour storm.

B. 1. Except in compliance with a VPA permit, or another permit issued by the Board, it shall be unlawful for any person to:

a. Discharge into, or adjacent to, state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

b. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

2. Any person required to obtain a permit pursuant to this regulation, who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of 9 VAC 25-32-30 B 1; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of 9 VAC 25-32-30

B 1 shall notify the Department of the discharge immediately upon discovery of the discharge and, in any event, no later than 24 hours after the discovery. A written report of the unauthorized discharge shall be submitted by the owner to the Department within five days of discovery of the discharge.

a. The written report shall contain:

- (1) A description of the nature of the discharge;
- (2) The cause of the discharge;
- (3) The date on which the discharge occurred;
- (4) The length of time that the discharge continued;
- (5) The volume of the discharge;
- (6) If the discharge is continuing, how long it is expected to continue;
- (7) If the discharge is continuing, what the expected total volume of the discharge

will be; and

(8) Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by the permit.

b. Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.

C. VPA permits may be utilized to authorize pollutant management activities including, but not limited to: animal feeding operations [that are not required to obtain a VPDES permit](#), storage or land application of sewage, sludge, industrial waste or other waste; or the complete reuse or recycle of wastewater. Point source discharges of pollutants to surface waters may be authorized by a VPDES permit (See 9 VAC 25-31-10 et seq. VPDES Permit Regulation).

D. No VPA permit shall be issued in the following circumstances:

1. Where the terms or conditions of the VPA permit do not comply with the applicable

regulations or requirements of the Law;

2. For the discharge of any radiological, chemical or biological warfare agent or high level radioactive material into state waters; or

3. For any pollutant management activity that is in conflict with any area-wide or basin-wide water quality control and waste management plan or policy established by the Board pursuant to the Law.

9 VAC 25-32-40. Exclusions.

The following do not require a VPA permit:

A. The introduction of sewage, industrial waste or other pollutants into publicly owned treatment works by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with VPA permits until all discharges of pollutants to state waters are eliminated;

B. Any introduction of pollutants from non-point source agricultural or silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to ~~concentrated confined animal feeding operations; confined poultry feeding operations or animal feeding operations having 300 or more animal units utilizing a liquid manure collection system.~~

C. Return flows from irrigated agricultural land;

D. Land disposal activity, including sewage sludge use or disposal or onsite waste treatment, when this activity is authorized by a State Department of Health permit or otherwise authorized by the Department of Environmental Quality; ~~and~~

E. Discharges authorized by EPA under the Safe Drinking Water Act Underground Injection Control Program (UIC) and approved, in writing, by the Board; ~~and~~

F. Animal feeding operations that are required to obtain a VPDES permit.

PART VI

SPECIAL PROGRAMS

9 VAC 25-32-250. ~~Confined~~ Animal Feeding Operations.

A. All ~~confined~~ animal feeding operations shall maintain no point source discharge of pollutants to surface waters, except in the case of a storm event greater than the 25-year, 24-hour storm.

~~Concentrated confined animal feeding operations~~ Confined poultry feeding operations and animal feeding operations at which the following two conditions are met are pollutant management activities subject to the VPA permit program:

1. At least the following number and type of animals are confined:

a. 300 slaughter and feeder cattle;

b. 200 mature dairy cattle (whether milked or dry cows);

c. 750 swine each weighing over 25 kilograms (approximately 55 pounds);

d. 150 horses;

~~_____ e. 3,000 sheep or lambs;~~

~~_____ f. 16,500 turkeys;~~

~~_____ g. 30,000 laying hens or broilers; or~~

~~_____ h. 300 animal units; and~~

~~_____ 2. Treatment works are required to store wastewater, or otherwise prevent a point source discharge of wastewater pollutants to state waters from the animal feeding operation except in the case of a storm event greater than the 25-year, 24-hour storm.~~

~~Two or more confined animal feeding operations under common ownership are considered, for the purposes of this regulation to be a single confined animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.~~

B. Case-by-case designation of ~~concentrated confined~~ animal feeding operations that require VPA permits.

1. The Board may designate ~~that any confined~~ animal feeding operation which does not ~~fall under the definition of 9 VAC 25-32-10 as a concentrated confined animal feeding operation~~ meet the criteria specified in the preceding section may require a VPA permit upon determining that it is a potential or actual contributor of pollution to state waters. In making this designation the following factors shall be considered:

a. The size of the operation;

b. The location of the operation relative to state waters;

c. The means of conveyance of animal wastes and process waters into state waters;

d. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process waste waters into state waters;

e. The means of storage, treatment, or disposal of animal wastes; and

f. Other relevant factors.

2. A VPA permit application shall not be required for an ~~an concentrated confined~~ animal feeding operation designated under paragraph B 1 of this section until the Board has conducted an on-site inspection of the operation and determined that the operation shall be regulated under the VPA permit program.

9 VAC 25-32-300. Transition.

Upon the effective date of this regulation the following will occur:

A. All VPA applications received after that date will be processed in accordance with this regulation.

~~B. Any owner holding a No-Discharge Certificate will be notified of the deadline for applying for a VPA permit, unless this notification has already been made. All such notifications shall be completed by July 1, 1998. Upon notification that a VPA permit is necessary for the pollutant management activity authorized by the No-Discharge Certificate, the permittee shall have 180 days to apply for a VPA permit. If a VPA permit is required, the existing No-Discharge Certificate will remain in effect until the VPA permit is issued. Concurrent with the issuance of the VPA permit, the No-Discharge Certificate will be revoked subject to appropriate notice and opportunity for public hearing. Notwithstanding the forgoing, all No-Discharge Certificates which do not bear an expiration date shall terminate no later than July 1, 1999.~~

~~C. Existing VPA permits for sewage sludge use or disposal shall be terminated when the sewage sludge use or disposal is authorized by:~~

1. A permit issued by the Department of Health; or
2. A VPDES permit issued by the Board.