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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC25-196
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less
Action title	Amendment and reissuance of the VPDES general permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less
Final agency action date	November 29, 2022
Date this document prepared	October 12, 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 Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less. The existing general permit regulation establishes limitations, monitoring requirements and other special conditions for point source discharges of noncontact cooling water of 50,000 gallons per day or less to surface waters in order to maintain surface water quality. This regulatory action is proposed to amend and reissue the existing general permit, which expires on March 1, 2023. A periodic/small business impact review in support of this regulation has been conducted separately.

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 (9VAC25-196) constitutes a VPDES general permit administered by Virginia DEQ, a U.S. EPA authorized permitting authority under Clean Water Act (CWA) § 402(b). Under CWA § 402(b)(1)(B), VPDES permits must be for fixed terms not to exceed five years. The existing general permit expires on March 1, 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.

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.

- Board: State Water Control Board
- BTA- Best Technology Available
- CWA- Clean Water Act
- EPA (U.S. EPA): United States Environmental Protection Agency
- DEQ: Department of Environmental Quality
- NOIRA: Notice of Intended Regulatory Action
- NPDES: National Pollutant Discharge Elimination System
- USC: United States Code
- VAC: Virginia Administrative Code
- VPDES: Virginia Pollutant Discharge Elimination System

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 November 29, 2022 the State Water Control Board adopted 9VAC25-196 Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less as a final regulation.

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 National Pollutant Discharge Elimination System (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.

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (2.2-4006 A 8).

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 regulatory action is needed in order to establish permitting requirements for discharges of noncontact cooling water in quantities of 50,000 gallons per day or less to surface waters in order to maintain surface water quality and thus protect the health, safety and welfare of citizens. The existing general permit expires on March 1, 2023 and must be reissued to cover existing and new facilities that use processes that require the use of noncontact cooling water.

As part of the reissuance process, the effluent limits, monitoring requirements and special conditions in the general permit were reviewed to ensure that the permit is still protective of water quality

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.

The general permit will establish limitations and monitoring requirements for point source discharges of noncontact cooling water in quantities of 50,000 gallons per day or less to surface waters. The effluent limits, monitoring requirements and special conditions in the general permit were reviewed to ensure that the permit is still protective of water quality. The primary issue being addressed is that the existing general permit expires on March 1, 2023 and must be reissued in order to continue making it available after that date. The review of effluent limitations resulted in the updating of chlorine limits to match the criteria set forth in the Virginia Water Quality Standards. Additional requirements were also added to the Registration Statement in order to collect information necessary to inform 316(b) Best Technology Available (BTA) determinations for cooling water intake structures.

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 Virginia Pollutant Discharge Elimination System (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.

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 other state agencies particularly affected by the final regulation.

Localities Particularly Affected:

There are no localities particularly affected by the final regulation.

Other Entities Particularly Affected:

There are no other entities particularly affected by the final regulation.

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.

Commenter	Comment	Agency response
U.S. EPA	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	DEQ reviewed the differences between the Federal regulation at 40 CFR 122.61(b)(1), the VPDES regulation, and the draft language proposed in 9VAC25-196. DEQ intends to retain the language as drafted to ease the burden of administering the general permit on staff.

	<p>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.</p>	
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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.*

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
9VAC25-196-15. Applicability of incorporated references based on the dates that they became effective.		Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, 2021.	Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, <u>2022</u> .	<i>Revised date to “July 1, 2022” based on the most recent federal update prior to this reissuance.</i>
9VAC25-196-50. Authorization to discharge.		B.4. The discharge is not consistent with the assumptions and requirements of an approved TMDL	B.4. The discharge is not consistent with the assumptions and requirements of a TMDL approved prior to the term of this general permit;	<i>Clarifies that only TMDLs approved <u>prior</u> to the term of the general permit will be considered for the purposes of this section.</i>
9VAC25-196-60. Registration Statement.	C.13.e.	Requirement removed.	Requirement removed.	<i>The initial requirement for hydropower facilities to provide a water use efficiency calculation was based on EPA’s 2021 Framework for Considering Existing Hydroelectric Facility</i>

				<p>Technologies in Establishing Case-by-Case, BPJ 316(b) NPDES Permit Conditions.</p> <p><i>EPA released a revised Framework document in July 2022 that removed the water use efficiency calculation as an option for BPJ 316(b) determinations. Thus, the requirement was removed from the Final Regulation.</i></p>
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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 requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-196-15. Applicability of incorporated references based on the dates that they became effective.		Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, 2017.	<i>Revised date to "July 1, 2022" based on the most recent federal update prior to this reissuance.</i>
9VAC25-196-40. Effective date of the permit		This general permit will become effective on March 2, 2018. This general permit will expire on March 1, 2023.	<p>This general permit will become effective on April 1, 2023. This general permit will expire on March 31, 2028.</p> <p><i>Amended dates to reflect new 5-year term. Started term at the beginning of the month consistent with DEQ VPDES monitoring policy.</i></p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-196-50. Authorization to discharge. B.3.		B.3. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30; or	<i>Struck "or" and moved it to the end of section 9VAC25-196-50.B.4 due to the addition of section 9VAC25-196-50.B.5</i>
9VAC25-196-50. Authorization to discharge. B.4.		B.4. The discharge is not consistent with the assumptions and requirements of an approved TMDL.	B.4. The discharge is not consistent with the assumptions and requirements of a TMDL approved prior to the term of this general permit; or <i>Clarifies that only TMDLs approved prior to the term of the general permit will be considered for the purposes of this section.</i> <i>Inserted "or" at the end of the section due to the addition of section 9VAC25-196-50.B.5</i>
9VAC25-196-50. Authorization to discharge. B.5.	B.5.	None.	B.5. The facility is subject to the substantive provisions of 40 CFR 125 Subparts I or J. <i>Added section to indicate that facilities subject to the referenced federal regulations are not eligible for coverage under this general permit.</i>
9VAC25-196-50. Authorization to discharge. G.1.		G.1. Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if the owner has submitted a complete registration statement at least 30 days prior to the expiration date of the permit, or a later submittal established by the board, which cannot extend beyond the expiration date of the original permit.	<i>Replaced "30 days" with "60 days" to be consistent with other general permits.</i>
9VAC25-196-50. Authorization to discharge. G.2.b.		G.2.b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the continued general permit or be subject to enforcement	<i>Replaced "reissued" with "amended".</i> <i>Added "coverage" to "... the continued general permit ..."</i>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		action for discharging without a permit;	
9VAC25-196-60. Registration Statement. A.		A. Deadlines for submitting registration statements. The owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the VPDES general permit for noncontact cooling water discharges of 50,000 gallons per day or less.	<i>Replaced "section" with "chapter".</i> <i>Added "regulation" following "VPDES general permit"</i>
9VAC25-196-60. Registration Statement. A.1.		A.1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least 30 days prior to the date planned for commencing operation of the new discharge.	<i>Replaced "30 days" with "60 days" to be consistent with other general permits.</i>
9VAC25-196-60. Registration Statement. A.2.a.		A.2.a. Any owner covered by a VPDES individual 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 VPDES individual permit.	<i>Replaced "210 days" with "240 days" to be consistent with other general permits.</i> <i>Added "or a later submittal established by the board" which is consistent with other general permits and provides flexibility to address submittals later than 240 days prior to the expiration date of the VPDES individual permit.</i>
9VAC25-196-60. Registration Statement. A.2.b.		A.2.b. Any owner that was authorized to discharge under the expiring or expired VPDES general permit and that intends to continue coverage under this general permit shall submit a complete registration statement to the board at least 30 days prior to the expiration date of the existing general permit or a later submittal established by the board.	<i>Added "for noncontact cooling water discharges of 50,000 gallons per day or less," after "VPDES general permit".</i> <i>Replaced "30 days" with "60 days" to be consistent with other general permits.</i>
9VAC25-196-60.	C.3.	None.	C.3. State Corporation Commission entity identification number if the

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Registration Statement.			<p>facility is required to obtain an entity identification number by law.</p> <p><i>Inserted this registration statement requirement to be consistent with other general permits. It ensures the facility is able to conduct business in Virginia and aides potential enforcement.</i></p> <p><i>Existing sections C.3 through C.12 renumbered accordingly.</i></p>
9VAC25-196-60. Registration Statement. C.11.	C.12.	<p>MS4 notification:</p> <p>“... The notice shall include the following information: the name of the facility, a contact person and telephone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number if a reissuance; ...”</p>	<p><i>Added the requirement to provide an email address to the owner of the MS4 as part of the notification:</i></p> <p>“The notice shall include the following information: the name of the facility, a contact person and contact information (telephone number and email), the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number if a reissuance.”</p>
9VAC25-196-60. Registration Statement.	C.13.	None.	<p>“C.13. The following cooling water intake structure information:”</p> <p><i>Section 316(b) of the Clean Water Act (CWA) requires that “the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.” Under state and federal regulations cooling water intake requirements for facilities covered under this general permit must meet the requirements of CWA § 316(b) on a case-by-case, best professional judgement (BPJ) basis.</i></p> <p><i>Thus, general cooling water intake structure information is now required on the registration statement, as applicable, in order to inform any necessary 316(b) Best Technology Available (BTA) determination.</i></p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-196-60. Registration Statement.	C.13.a.	None.	<p>“C.13.a. A determination of the cooling water intake source (i.e. groundwater, surface water, third party supplier).”</p> <p><i>Identifies the source of the cooling water to the facility, which will indicate whether a 316(b) BPJ decision will be necessary.</i></p>
9VAC25-196-60. Registration Statement.	C.13.b.	None.	<p>“C.13.b. For surface water intakes or non-potable surface water received from a third party supplier, the following information:</p> <p>(1) Source water physical data (water body description, hydrology, chemistry, and area of influence of intake structure). (2) Cooling water intake structure data (screen size, through screen velocity, configuration of intake, flows, a water balance diagram, and typical operations). (3) Source water baseline biological characterization data (any available studies). (4) Cooling water system data (configuration of the cooling water system and water reuse). (5) Operational status (description of current and future production schedules).”</p> <p><i>Gathers general information regarding the cooling water intake structures of applicable facilities. This information will inform 316(b) BPJ decisions.</i></p>
9VAC25-196-60. Registration Statement.	C.13.c. Removed.	None.	<p>Requirement removed for the Final Regulation following EPA’s release of a revised Framework document in July 2022 that removed the water use efficiency calculation as an option for BPJ 316(b) determinations.</p> <p>“C.13.c. For hydroelectric facilities, the following calculation: (1) A water use efficiency calculation of megawatts produced in megawatt hours (MWh) divided</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>by the cooling water used in billion gallons per day (BGD).”</p> <p><i>For hydropower facilities, a water use efficiency calculation is required in addition to information under C.13.b. This calculation will inform 316(b) BPJ decisions for hydropower facilities.</i></p> <p><i>Per EPA’s Framework for Considering Existing Hydroelectric Facility Technologies in Establishing Case-by-Case, BPJ-316(b) NPDES Permit Conditions, a water use efficiency ratio greater than or equal to 460 megawatt hours per billion gallons per day (MWh/BGD) indicates that a hydroelectric plant has a cooling water withdrawal efficiency comparable to or better than closed-cycle cooling at steam electric power plants. The framework document concludes that in such cases, consistent with the Existing Facilities Rule BPJ provisions in 125.90(b), the facility would be deemed to meet BTA requirements to minimize entrainment and impingement mortality.</i></p>
<p>9VAC25-196-60. Registration Statement. E.</p>		<p>E. 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.</p>	<p><i>Added the following contingent e-reporting language:</i></p> <p>“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.”</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<i>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).</i>
9VAC25-196-70. General permit.		Effective and expiration dates.	<i>Revised as indicated above.</i>
9VAC25-196-70. General permit.		<p>Second paragraph:</p> <p>The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I - Effluent Limitations and Monitoring Requirements, and Part II - Conditions Applicable to all VPDES Permits, as set forth in this general permit.</p>	<p><i>Revised as below:</i></p> <p>“The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I - Effluent Limitations, Monitoring Requirements, Special Conditions, and Part II - Conditions Applicable to all VPDES Permits, as set forth in this general permit.”</p>
<p>9VAC25-196-70. General permit. Part I A 1.</p> <p>Effluent Limitations and Monitoring Requirements for Freshwater</p>		Total Residual Chlorine limit – Nondetectable	<p>Total Residual Chlorine limit – 0.011 mg/L</p> <p><i>The numerical chlorine limitation from the Water Quality Standards is now listed rather than “nondetectable”. The chronic criteria for TRC in freshwater is 0.011 mg/L.</i></p> <p><i>Reporting requirements for permittees remain unchanged.</i></p> <p><i>Reference to footnote (4) was added, indicating the quantification level (QL) for chlorine.</i></p>
<p>9VAC25-196-70. General permit. Part I A 1.</p> <p>Effluent Limitations and Monitoring Requirements for Freshwater</p>		<p>Footnote (3)</p> <p>Chlorine limitation of nondetectable (<0.1 mg/l) and chlorine monitoring only apply to outfalls directly discharging to surface waters where ...</p>	<p><i>Revised Footnote (3) to remove reference to “nondetectable” in accordance with the above as follows:</i></p> <p>“Chlorine limitation and monitoring only apply to outfalls directly discharging to surface waters where ...”</p>
9VAC25-196-70. General permit.		Footnote (4) – QL table	<i>Revised Footnote (4) QL table to add the chlorine QL and list the</i>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I A 1. Effluent Limitations and Monitoring Requirements for Freshwater			<i>units of each material alongside the concentration.</i>
9VAC25-196-70. General permit. Part I A 2. Effluent Limitations and Monitoring Requirements for Saltwater		Total Residual Chlorine limit – Nondetectable	Chlorine Producing Oxidant limit – 0.0075 mg/L <i>The chlorine parameter in saltwater is Chlorine Producing Oxidant.</i> <i>The numerical chlorine limitation from the Water Quality Standards is now listed rather than “nondetectable”. The chronic criteria for chlorine in saltwater is 0.0075 mg/L.</i> <i>Reporting requirements for permittees remain unchanged.</i> <i>Reference to footnote (4) was added, indicating the quantification level (QL) for chlorine.</i>
9VAC25-196-70. General permit. Part I A 2. Effluent Limitations and Monitoring Requirements for Saltwater		Footnote (3) Chlorine limitation of nondetectable (<0.1 mg/l) and chlorine monitoring only apply to outfalls directly discharging to surface waters where ...	<i>Revised Footnote (3) to remove reference to “nondetectable” in accordance with the above as follows:</i> “Chlorine limitation and monitoring only apply to outfalls directly discharging to surface waters where ...”
9VAC25-196-70. General permit. Part I A 2. Effluent Limitations and Monitoring Requirements for Saltwater		Footnote (4) – QL table	<i>Revised Footnote (4) QL table to add the chlorine QL and list the units of each material alongside the concentration.</i>
9VAC25-196-70. General permit.		Part I B 4. MS4 notification ... The notice shall include the following information: the	<i>Added the requirement to provide an email address to the owner of the MS4 as part of the notification:</i>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
Part I B 4 Special Conditions		name of the facility, a contact person and telephone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number if a reissuance ...	"The notice shall include the following information: the name of the facility, a contact person and contact information (telephone number and email), the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number if a reissuance."
9VAC25-196-70. General permit. Part II C 2. Reporting Monitoring Results		Part II C 2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.	<p><i>Added the following contingent e-reporting language:</i></p> <p>"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."</p> <p><i>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).</i></p>
9VAC25-196-70. General permit. Part II D. Duty to Provide Information		Part II D. ... The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge ...	<i>Replaced "his discharge" with "the permittee's discharge".</i>
9VAC25-196-70. General permit. Part II G. Reports of Unauthorized discharges		Part II G. Any permittee 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	<p><i>Added reference to Part II I 3 as follows:</i></p> <p>"... shall notify the department (see Part II I 3) of the discharge immediately upon discovery of the</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		violation of Part II F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery ...	discharge, but in no case later than 24 hours after said discovery ...”
9VAC25-196-70. General permit. Part II H. Reports of Unusual or Extraordinary Discharges		Part II H. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2 ...	<i>Added reference to Part II I 3 and removed “by telephone” as follows:</i> “...the permittee shall promptly notify (see Part II I 3), in no case later than 24 hours, the department after the discovery of the discharge ... <i>Corrected reference to Part II I 2 with Part II I 1 b as follows:</i> “...The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 1 b.”
9VAC25-196-70. General permit. Part II I 2. Reports of Noncompliance		Part II I 2. The permittee shall report all instances of noncompliance not reported under Part II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.	<i>Corrected references to Part II I 2 as follows:</i> “The permittee shall report all instances of noncompliance not reported under Part II I 1, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 1 b.”
9VAC25-196-70. General permit. Reports of Noncompliance	Part II I 3.	Part II I 2. ...”NOTE: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the department’s regional office. Reports may be made by telephone, FAX, or online at	<i>Renumbered the existing “NOTE” to be item 3 and modified the language to be consistent with other general permits as follows:</i> “The immediate (within 24 hours) reports required in Parts II G, H and I shall be made to the department’s regional office. Reports may be

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/PollutionReportingForm.aspx. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892."</p>	<p>made by telephone, FAX, or online at https://www.deq.virginia.gov/get-involved/pollution-response (online reporting preferred). For reports outside normal working hours, the online portal shall be used. For emergencies, call the Virginia Department of Emergency Management's Emergency Operations Center (24-hours) at 1-800-468-8892."</p> <p><i>Existing item 3 renumbered as item 4.</i></p>
<p>9VAC25-196-70. General Permit. Part II M. Duty to Reapply.</p>		<p>Part II M.</p> <p>"All permittees with currently effective permit coverage shall submit a new registration statement at least 30 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board."</p>	<p><i>Replaced "30 days" with "60 days" to be consistent with other general permits.</i></p>

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, this general permit regulation governs point source discharges of noncontact cooling water of 50,000 gallons per day or less to surface waters. Nevertheless, the reissuance of this VPDES general permit accomplishes the objectives of applicable law and minimizes the application burden and permit implementation 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 point source discharges of noncontact cooling water of 50,000 gallons per day or less to surface waters and has been designed to minimize burden while achieving a level of water quality protection consistent with state and federal requirements. This regulatory action does not address and will have no direct impact on 1) the authority and rights of parents, 2) economic self-sufficiency, self-pride, or assumption of familial responsibilities, 3) marital commitments, or 4) disposable family income.