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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-860
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Potable Water Treatment Plants
Date this document prepared	May 8, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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*.

Acronyms and Definitions

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

NPDES- National Pollutant Discharge Elimination System
USC: United States Code
U.S. EPA: United States Environmental Protection Agency
VPDES- Virginia Pollutant Discharge Elimination System

Legal Basis

Identify (1) the promulgating agency, 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 agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The basis for this regulation is the State Water Control Law, § 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 § 1342) 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.

This general permit regulation governs point source discharges of process wastewater from potable water treatment plants to surface waters.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

One alternative considered was the repeal of this regulation, and this alternative was rejected. This regulation provides the regulated community with a streamlined permitting process. Without this regulation, entities that are currently eligible to operate under the provisions of the general permit would be required to obtain individual VPDES permits to operate. This regulation is the least burdensome alternative available for achieving the purpose of the regulation.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency's response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An informal advisory group was not formed to assist with the periodic review.

A Public Comment Period was held from February 10, 2025, through March 3, 2025. No comments were received.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This general permit regulation governs the discharge of process wastewater from potable water treatment plants to surface waters and contains effluent limitations, monitoring requirements, and special conditions that are necessary for the protection of public health, safety, and welfare. The regulation is clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The regulation is effective and continues to be needed and will be retained without changes.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This regulation continues to be needed. The general permit regulation covers point source discharges of process wastewater from potable water treatment plants. Repealing this regulation would require these dischargers to obtain individual VPDES permits to conduct these activities.

No public comments were received during the comment period for this periodic review.

This regulation establishes procedures for obtaining coverage under this general permit and the applicable limitations and monitoring requirements for point source discharges of wastewaters from potable water treatment plants. This regulation is clearly written and easily understandable.

The regulation does not overlap, duplicate, or conflict with federal or state law or regulation as the State Water Control Board is the delegated authority to regulate point source discharges to surface water.

The State Water Control Board last re-issued this regulation in 2023. This regulation is evaluated, and necessary changes are made to the regulation when the permit is re-issued.

The general VPDES permit accomplishes the objectives of applicable law, minimizes the costs to a small business owner and simplifies the application process. Without the general permit, currently permitted facilities and new permittees would be required to obtain an individual VPDES permits, which would increase the complexity of a permit application and the costs to obtain permit coverage. Currently permitted water treatment plants are not classified as small businesses.

Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

There is no potential impact of the regulation on the institution of the family and family stability because they are not operators of potable water treatment plants. A potential direct or indirect benefit of this general permit regulation on the institution of the family and family stability is the possible access to potable water if they are receiving access to potable water from a permittee.