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## Proposed Regulation Agency Background Document

<b>Approving authority name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC 25-190
<b>Regulation title</b>	General VPDES Permit for Nonmetallic Mineral Mining
<b>Action title</b>	Amendment to Reissue General Permit
<b>Document preparation date</b>	Enter date this form is uploaded on the Town Hall

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

The State Water Control Board proposes to amend the VPDES General Permit Regulation for Nonmetallic Mineral Mining in order to reissue the general permit for another five year term. The reissued general permit will replace current General Permit VAG84 which will expire on June 30, 2004. The existing regulation sets forth guidelines for the permitting of wastewater discharges from nonmetallic mineral mines and establishes limitations and monitoring requirements for flow, pH and total suspended solids. The regulation also sets forth the minimum information requirements for all requests for coverage under the general permit. No significant changes to the existing regulation are proposed in this amendment.

**Basis**

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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. The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

This regulation amendment is necessary in order to reissue the existing general permit which expires on June 30, 2004. VPDES permits are essential to protect the health, safety and welfare of citizens as they limit pollutants that are discharged into state waters.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)*

No significant changes have been made to this general permit regulation. It will continue to establish limitations and monitoring requirements for point source discharges from nonmetallic mineral mining facilities. Effluent limits in the general permit are set to protect the quality of the waters receiving the discharges.

**Issues**

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

The primary advantage of this regulatory action to the public and to the agency is the continuation of a general permit, which provides a simpler option for obtaining VPDES permit coverage where appropriate. There are no known disadvantages to the public or Commonwealth.

**Requirements More Restrictive Than Federal**

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no requirements in this regulation that exceed applicable federal requirements.

**Locality Particularly Affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

This regulation will be applied uniformly throughout the Commonwealth and will not impact any one locality.

**Public Participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulation on farm or forest land preservation.*

In addition to any other comments, the State Water Control Board is seeking comments on the costs and benefits of the proposal and on any impacts of the regulation on farm and forest land preservation.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail, email or fax to Michael Gregory, Virginia Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, phone (804) 698-4065, fax (804) 698-4032, email mbgregory@deq.state.va.us. Written comments must include the name and address of the commenter. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period.

A public hearing will be held and notice of the public hearing can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Financial impact**

*Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information:*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	<b>No cost to the state. VPDES permits are required by federal and state law and attendant regulations separate from this one. General VPDES permits such as the one established by this regulation provide cost savings to the state by reducing the staff time and resources necessary to issue permits. The proposed amendment will continue this cost savings.</b>
<b>Projected cost of the regulation on localities</b>	<b>None</b>
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation including specific information on the impact on small businesses as defined in § 2.2-2279</b>	<b>There will be no increased financial burden to individuals, businesses, including small businesses, or other entities. Nonmetallic mineral mines classified under SIC major group 14 will benefit financially from continuance of this general permit due to the lower application fee and simplified means of obtaining the required VPDES permit coverage.</b>
<b>Agency’s best estimate of the number of such entities that will be affected</b>	<b>178 mineral mines are currently registered for coverage.</b>
<b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>	<b>None</b>

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

The alternative to the proposed reissuance is to do nothing, which will allow the general permit to expire. In that case individual VPDES permits would have to be issued to all facilities now covered by the general VPDES permit, using more staff time and resources and at a higher cost to the regulated community. The agency thus believes continuation of the existing general permit is the least burdensome alternative.

**Public comment**

*Please summarize all public comment received during 30-day period following the publication of the NOIRA, and provide the agency response.*

Commenter	Comment	Agency response
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Vulcan Materials	Request participation on ad hoc committee	Participation on ad hoc committee granted
Va.Division of Mineral Mining	Request participation on ad hoc committee	Participation on ad hoc committee granted
Va. Aggregates Association	Request participation on ad hoc committee	Participation on ad hoc committee granted

**Impact on family**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

It is not anticipated that this regulation will have a direct impact on families.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
10		provides definitions	minor editorial corrections made
20		describes regulation purpose, authority and permit effective date	minor editorial corrections made and projected effective date updated
50		describes who is covered by the permit	minor editorial corrections made
60		provides a registration form	removes form in favor of narrative description of registration requirements
70		provides the general permit requirements	updates effective date, minor editorial corrections, removes storm water monitoring requirement for the parameter TPH (determined unnecessary per review of data from last 5 year term).