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## Exempt Action Proposed Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC25-800
<b>Regulation title</b>	Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges Resulting from the Application of Pesticides to Surface Waters
<b>Action title</b>	Propose New General Permit Regulation
<b>Document preparation date</b>	October 4, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The proposed action is to develop and issue a VPDES general permit for discharges from pesticides applied directly to surface waters to control pests, and/or applied to control pests that are present in or over, including near, surface waters. The general permit regulation is needed in order to comply with court ordered requirements for EPA and states to issue NPDES permits for both chemical pesticide applications that leave a residue or excess in water, and all biological pesticide applications that are made in or over, including near, waters of the United States.

Since the Court ruling, EPA collected and analyzed data on pesticide applications, including labeling requirements, pesticide uses, best management practices employed to minimize the impact of pesticides on water quality, and existing state water quality standards for pesticides. EPA proposed a NPDES Pesticides General Permit that will be issued by them for areas where EPA remains the NPDES permitting authority and for the delegated NPDES states (like Virginia) to use in drafting their permit.

The following pesticide uses will be covered under the General Permit per the court order for operators that apply pesticides in or near water:

- Mosquito and other flying insect pest control
- Aquatic weed and algae control
- Aquatic animal pest control
- Forest canopy pest control

The regulation generally follows EPA’s proposed pesticide general permit with definitions, eligibility requirements (authorizations to discharge), technology effluent limitations (integrated pest management considerations), water quality based limitations, monitoring requirements, pesticide discharge monitoring plan, corrective actions, adverse incident and spills and leaks reporting, recordkeeping and annual reporting requirements and conditions applicable to all permits. However, the EPA proposed general permit was adjusted for Virginia users for clarification, flexibility and ease of implementation.

There is no existing regulation.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), 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.

### Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

On November 27, 2006, EPA issued a final regulation to codify its interpretation of the Clean Water Act as not requiring NPDES permits for application of pesticides to or over, including near, waters of the United States, if the applications are consistent with relevant Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requirements. After the rule was published, petitions for review were filed in 11

Circuit Courts. On January 7, 2009, the Sixth Circuit Court of Appeals ruled in *National Cotton Council, et al. v. EPA* to vacate EPA's Pesticides Rule. On June 8, 2009, the Court granted the Department of Justice's request for a two-year stay of the decision, until April 9, 2011, to provide EPA and states time to develop and issue NPDES permits, and provide outreach to stakeholders on the implications of these actions.

The Sixth Circuit Court ruled that NPDES permits are required for both chemical pesticide applications that leave a residue or excess in water, and all biological pesticide applications that are made in or over, including near, waters of the United States. At the end of the two-year stay, NPDES permits will be required for discharges from pesticides applied directly to surface waters to control pests and/or applied to control pests that are present in or over, including near, surface waters.

The Court's decision covered the following pesticide uses:

- Mosquito and other aquatic nuisance insect control
- Aquatic weed and algae control
- Aquatic nuisance animal control
- Area wide pest control

The goal is for the State Water Control Board to develop and issue a VPDES general permit to comply with the court's ruling by April 10, 2011. The decision of the court that pesticide discharges must be permitted by a NPDES permit to comply with the Clean Water Act (in addition to FIFRA requirements) requires that a VPDES permit is needed to legally apply pesticides to surface waters in Virginia and to protect the health, safety and welfare of citizens.

**Substance**

*Please briefly identify and explain the new substantive provisions (for new regulations), the substantive changes to existing sections, or both where appropriate.*

The regulation generally follows EPA's proposed pesticide general permit with definitions, eligibility requirements (authorizations to discharge), technology effluent limitations (integrated pest management considerations), water quality based limitations, monitoring requirements, pesticide discharge monitoring plan, corrective actions, adverse incident and spills and leaks reporting, recordkeeping and annual reporting requirements and conditions applicable to all permits. However, the EPA proposed pesticide general permit was adjusted for Virginia users for clarification, flexibility and ease of implementation.

**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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

The advantages to the public and the agency are that a Virginia Discharge Elimination System general permit will be available to pesticide operators to enable them to legally discharge chemical residues and biological pesticides resulting from pesticide application to surface waters. The disadvantage to the public is that the cost of pesticide application may increase due to the additional recordkeeping

requirements. The disadvantage to the Commonwealth is that there are no additional staff resources to implement this permit.

Pertinent matters of interest are that this permit differs from the EPA proposed pesticide general permit in that this permit does not require submittal of a 'registration statement' or 'notice of intent' from the pesticide operators that wish to be covered under the permit. The department has considered the nature, types and volume of discharge, the potential for pollutants in the discharge and an estimate of the numbers of discharges to be covered by the permit. Since registration statements would only provide very general information the staff does not believe that registration statement should be required. Furthermore, Virginia Department of Agriculture and Consumer Services (VDACS) regulations require submittal of business licenses and certification of certain operators. The department believes that the information maintained by VDACS is ample information to identify significant operators and any submittal of paperwork to the department would be a duplicative effort. Not requiring registration statements also eliminates staff resources needed to review registrations, send out acceptance letters and other correspondence normally associated with registrations. All operators falling under one or more of the four pesticide 'uses' are automatically covered for discharge to surface waters. Since there is no registration requirement, there is also no fee requirement.

Another matter of interest is that permit coverage is only being issued for a 2-year period rather than the standard 5-year coverage. EPA is expected to issue their final pesticides general permit by the end of this year. Based on the substantial comments EPA has received on their draft permit, and recent legislation that has been introduced in Congress to modify some of EPA's requirements, it is likely that the TAC would need to be reconvened to consider changes to Virginia's permit based on changes EPA makes for their final permit. The use of this 2-year permit will allow Virginia to put in place a general permit by the court required deadline and also provide a reasonable time to evaluate the federal permit to incorporate appropriate changes for the reissuance of the Virginia general permit in June 2013. The Virginia 2-year permit, if approved by EPA, will also provide a timing off-set to future EPA general permit reissuance (every 5 years) and allow more time for DEQ to react to future changes in the EPA requirements. This proposed general permit is protective of water quality; matches up with current Virginia Department of Agriculture and Consumer Services requirements; fits the intent of the court-decision; and allows more time to digest any changes that EPA makes to the requirements based on comments received or legislative changes.

The definition of operator in 9VAC25-800-10 provides that more than one person may be responsible for the same discharge resulting from pesticide application. This matches the EPA definition. This has caused some concern by the public in that there are overlapping responsibilities. This was discussed in great detail with the technical advisory committee and it was eventually determined to keep the definition of operator as proposed in the federal general permit. Other alternatives were provided to ease this concern (such as no requirement for registration statements and only adverse incident annual reporting). Some operators (e.g. those that exceed the acreage thresholds) will have additional reporting requirements but all operators are required to consider integrated pest management practices and decisions in their operation and report annually any adverse incidents.

Operators exceeding pesticide application thresholds have more recordkeeping requirements than the operators falling under the threshold. This is within the spirit and intent of the EPA permit. However, the threshold limits identified in 9VAC25-800-30 C Table 1 were generally considered by the technical advisory committee and other interested stakeholders to be too low. It was decided that at this stage of the process there was not time to adequately research revised numbers and be able to have the justification in place to be considered by EPA.

A final issue is that the EPA proposed pesticide general permit prohibits coverage under the general permit in 'exceptional' or 'tier 3' waters. Virginia's water quality standards in the antidegradation policy at 9VAC25-260-30 A 3 allows for temporary discharges to tier 3 waters. The Virginia proposed pesticide permit recognizes this allowance and states that discharges resulting from the application of pesticides are temporary and allowable in exceptional waters (see 9VAC25-260-30 A 3 (b) (3)). Staff believes it is

important to allow pesticide application in exceptional waters because there are situations where the pesticide application may be for the express purpose of protecting or restoring the exceptional waters. For example, a gypsy moth infestation if left unchecked could adversely affect water quality by 1) increase siltation from rapid runoff of rainfall from defoliated areas; 2) increase in water temperature as the stream flows through areas made shadeless; and 3) nutrient overloading from the deposition of large quantities of caterpillar droppings.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is 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.*

Integrated pest management (IPM) is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM uses current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment. The Virginia pesticide general permit proposal requires that all operators consider IPM in their operations. While this could be considered more stringent than the federal requirements, in that the EPA proposed pesticide general permit requires that only operators that submit notices of intent to be covered under EPA's permit must implement integrated pest management practices, the technical advisory committee that assisted the Agency with the development of the Virginia pesticide general permit thought IPM practices were important for all operators to consider.

### Localities 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.*

There are no localities particularly affected by the proposed regulation.

### 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, the potential impacts of the regulation on the regulated community and the impacts of the regulation on farm or forest land preservation.*

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the potential impacts on the regulated community and on any impacts of the regulation on farm and forest land preservation. Also, the Board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small

businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so at the public hearing or by mail, email or fax to William Norris, P.O. Box 1105, Richmond, VA 23218, (804) 698- 4022 (phone), (804) 698-4346 (fax), [william.norris@deq.virginia.gov](mailto:william.norris@deq.virginia.gov). Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at [www.townhall.virginia.gov](http://www.townhall.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by DEQ by the close of the comment period.

A public hearing will be held and notice of the public hearing will appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and 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.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

It is anticipated approximately 400 pesticide businesses (including local governments) could be impacted by this new general permit regulation. Businesses that apply pesticides exceeding a certain annual threshold will be required to develop a pesticide discharge management plan, and to keep additional pesticide application records. All operators, regardless of the number of acres on which they apply pesticides, will be required to consider integrated pest management decisions in their operations and submit an annual report to the Department of Environmental Quality of any adverse incidents

**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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

There are several alternatives for compliance with the court ordered requirement to permit pesticides discharges. One is to issue individual VPDES permits to each pesticide applicator. Due to the magnitude of pesticide applicators that are potentially required to be permitted, it is not practical to issue individual permits to each of these applicators. The agency decided to pursue the alternative to issue a VPDES general permit to cover this category of discharger.

The agency also considered various thresholds at which to require permit registration and decided to simplify that process by requiring no registration. All operators falling under one or more of the four pesticide ‘uses’ are automatically covered for discharge to surface waters. This is allowed under the VPDES permit regulation at 9VAC25-31-17- B 2 a. Since there is no registration requirement, there is also no fee requirement.

The proposed regulation contains a requirement for operators exceeding an annual pesticide application threshold to develop a pesticide discharge management plan. The threshold limits identified in 9VAC25-800-30 C Table 1 were generally considered by the technical advisory committee and other interested stakeholders to be too low and several alternatives were discussed. It was decided that at this stage of

the process there was not time to adequately research revised numbers and be able to have the justification in place to be considered by EPA.

The agency also considered the level of detail recommended by EPA in the annual report requirement and decided that only adverse incidents needed to be reported annually. All other records would be maintained on site and would be consistent with and not exceed the current recordkeeping required by the Virginia Department of Agriculture and Consumer Services.

The Board worked closely with the Virginia Department of Agriculture and Consumer Services, the EPA and the public in a technical advisory committee capacity in order to consider many other alternatives for achieving the court's requirements in the most cost-effective manner.

**Regulatory flexibility analysis**

*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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.*

As stated in ‘Alternatives’ above, the agency decided to not require registration statements. This will eliminate a registration fee and minimize the adverse impact on small business. Also, the agency decided on a less stringent reporting requirement than those recommended by EPA. The agency also exempted pesticide operators that treat below a certain acreage of surface water from developing a pesticide discharge monitoring plan. The agency also consolidated certain reporting requirements present in Part I of the permit (reports of non-compliance) and eliminated certain requirements in Part II that did not apply to pesticide operators (reports of unusual or extraordinary discharges from treatment works, notice of planned changes for treatment works, signatory requirements, bypass and upset).

**Public comment**

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

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Buchanan, Randy - Virginia Mosquito Control Association	1) Our current position is to see a General State Wide Permit, with one registration (NOI) and reporting requirements that mirror our current record keeping requirements as mandated by VDACS. 2) We commend Virginia DEQ on its approach to developing this unfunded, mandated permitting requirement by the Federal Government. 3) We agree with the purpose in the NOIR Background Document. This general permit regulation is needed in order to comply with court ordered requirements for EPA and states to issue NPDES permits for...pesticide applications that are made in or over, including near, waters	Comments acknowledged: Concerns and recommendations taken into consideration during the discussions of the Technical Advisory Committee and the drafting of the draft General Permit.



	<p>of the United States (WOUS). 4) We boldly disagree with any statements that this permitting is being done on a national level to reduce the amount of pesticides that are applied to waters of the US. Note that FIFRA regulated labels will still govern application sites &amp; rates for pesticide applications. The real need for this permit is to replace the legal basis for pesticide applications that FIFRA will no longer govern as of April 10, 2010. 5) Although we don't think that public health pesticide usage should be governed by the CWA, we look forward to working toward a workable permit that is as least burdensome as possible to all parties involved. 6) In a nutshell, we would like to see a 5 year permit with one registration (NOI) and reporting requirements that mirror the current VDACS record keeping requirements as close as possible. 7) In reviewing the draft EPA permit we would like to make additional comments: 1.0 Coverage under This Permit: 1.1.2.3 Discharges Currently or Previously Covered by another Permit: Comment: References to pesticides, herbicides and fertilizers in a VPDES General Permit for MS4, Storm Water Management Program A.1.a.5 should not be construed as pesticide applications to WOUS covered by the VPDES Storm Water Permit; 5.0 Pesticide Discharge Management Plan: 5.1.1 PDMP Team: Comment: Many localities utilize seasonal employees that are VDACS certified pesticide applicators for mosquito control pesticide applications. Consideration should be given to facilitating the addition and removal of PDMP Team member names; 5.0 Pesticide Discharge Management Plan: 5.1.2 Pest Management Area Description; c. General location map. This section references 'location of waters of the US': Comment: We do not have inclusive maps of locations of WOUS nor do we have the legal authority to delineate WOUS. This authority lies with the US Army Corps of Engineers (USACOE) and this requirement will add a substantial burden to the agency. Note is delineation authority was transferred to 'operators' this would be the addition of an unrealistic task. 8) Additional Comments: We have a general concern that with this new permit, we will be altering or duplicating the requirements of our current jurisdictional agency, VDACS. Record keeping time frame requirements will be increased from 2 years to 8 years. Pesticide accident reporting requirements will also be complicated. 9) One last comment is our concern for the lack of recognition of the benefits of our bio-rational pesticides.</p>	
<p>Carlock, John M. - Hampton Roads Planning District Commission</p>	<p>1) Utilities throughout the region use pesticides specifically for the control of algae in water supply reservoirs. The selection and application of algaecide products is already highly regulated by the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as well as the Virginia Department of Agriculture and Consumer Services Pesticide Applicator Certification Programs. 2) Similarly, local mosquito control programs are already highly regulated and necessary to ensure public health. Additional</p>	<p>Comments acknowledged: Concerns and recommendations taken into consideration during the discussions of the Technical Advisory Committee and the</p>



	<p>regulatory requirements would not aid in an improved program. 3) Because of VDACS requirements for all categories of certified pesticide applicators, any record-keeping requirements should mimic those requirements to avoid double reporting and records for the applicator. 4) Several definitions within the regulation need clarification: Specifically, 'near' surface waters. This has the potential to include all types of landscaping companies. Will this apply to the myriad of stormwater management ponds in the Commonwealth, which are already regulated under local stormwater permits for the most part? 5) If pesticide users are under the thresholds for requiring an individual or general permit, how will they be educated of their responsibilities under this regulation? 6) What remedies will be available for areas near Tier 3 or impaired waters for landscaping, mosquito control, stormwater pond management and the like?</p>	<p>drafting of the draft General Permit.</p>
<p>Ewing, Amy M. - DGIF</p>	<p>We have reviewed the public notice of intent to draft a proposal for the adoption of a new General Virginia Pollutant Discharge Elimination System (VPDES) Permit for pesticide discharges. We are supportive of this initiative.</p>	<p>Comments acknowledged.</p>
<p>Frazier, Katie - Virginia Agribusiness Council</p>	<p>1) Every effort should be made to ensure that duplicative processes will not be required of pesticide applicators as a result of this EPA permit. 2) Annual Thresholds - The relationship between contractors and property owners regarding meeting the annual thresholds should be examined further. 3) Co-permitting - Holding one party in a contract responsible for another's permitting requirements would be extremely confusing and detrimental to the permitted entities. Separate permits with separate permit liability for each permittee should be strictly maintained. 4) Multiple contractors - In some situations, a landowner may have multiple contractors applying different pesticides to the same land in one year for different purposes. How to avoid "double permitting" of that acreage and what is the landowner required to do in this situation? 5) Enforcement - What will be the enforcement provisions for non-compliance with the "permit-by-rule" (those not required to submit a NOI)? What will the enforcement provisions be for those required to have a general permit (required to submit a NOI)? 6) Recordkeeping - Efforts should be made to keep record-keeping requirements between state permitting programs (VDACS Pesticide Applicators regulations and DEQ's NPDES Permit regulations) consistent to alleviate confusion and duplicative efforts for permittees. 7) Definition of "near" waters of the United States - Needs to be further discussed with impacted parties to determine the most appropriate means of addressing this issue."</p>	<p>Comments acknowledged: Concerns and recommendations taken into consideration during the discussions of the Technical Advisory Committee and the drafting of the draft General Permit.</p>
<p>McDonough, Peter - Virginia Golf Course Superintendent's Association</p>	<p>We have many questions on how this process will unfold and what effect this will have on the golf industry's ability to utilize several key products that have EPA approved guide lines in place already. The public meeting held by DEQ on June 9<sup>th</sup>, 2010 brought forth many good points and concerns, here are a few of ours: Duplicating Permits for the</p>	<p>Comments acknowledged: Concerns and recommendations taken into consideration during</p>

	<p>same property; Definition of 'near' waters of the United States; Co-permitting; Enforcement; Recordkeeping; and Annual Thresholds. We expect further discussion on these and other permit scenarios that could affect our ability to enhance Virginia's economy.</p>	<p>the discussions of the Technical Advisory Committee and the drafting of the draft General Permit.</p>
<p>Moon, Michael C. - City of Manassas</p>	<p>1) It is the City's request that municipalities already regulated under the Department of Conservation and Recreation (DCR) MS4 storm water program be exempt from this regulation. This would be effectively layering the regulatory process which is not beneficial and would result in additional permitting costs that are unnecessary for cities/counties in the Commonwealth. 2) The City would request an exemption for jurisdictions in the Commonwealth that own, maintain, and/or operate their own water supply reservoirs for drinking purposes. These water supply reservoirs have historically treated aquatic weed and algae control for water quality purposes to control the organics entering the Water Treatment Plant (WTP). These WTPs are permitted and regulated by the Virginia Department of Health (VDH) and as such should not fall under a separate VPDES program for water supplies."</p>	<p>Comments acknowledged: Concerns and recommendations taken into consideration during the discussions of the Technical Advisory Committee and the drafting of the draft General Permit.</p>
<p>Ramaley, Brian L. - City of Newport News</p>	<p>1) The ability to control algae in our terminal reservoirs is critical to our ability to provide an adequate supply of high quality drinking water to our customers. In the past, we have asked DEQ to consider the terminal reservoirs as part of the water treatment process because they are located immediately adjacent to our treatment plants, and the water quality management activities in those reservoirs are driven by drinking water quality concerns...As the general permit is developed we again ask that the unique status of terminal drinking water reservoirs be recognized." 2) "Section 1.1.2.1 <i>Discharges to Water Quality Impaired Waters</i> of the Draft EPA General Permit includes an important element that we believe should be retained in the General Permit that will be developed by DEQ. Specifically, this language allows an operator to provide evidence that a water is no longer impaired, even if the water is currently listed as impaired for a pesticide or its degradates...In cases where adequate, recent data exist confirming that the designated uses are fully supported by the current water quality, operators should be given the opportunity to use the General Permit process." 3) "We also believe that it will be important for DEQ to include representatives from the drinking water industry as well as the Virginia Department of Health during the development of this new General Permit. This is to ensure coordination with current practices as well as existing regulations and designations for water supply reservoirs administered by VDH."</p>	<p>Comments acknowledged: Concerns and recommendations taken into consideration during the discussions of the Technical Advisory Committee and the drafting of the draft General Permit.</p>
<p>Umphlette, CB - City of Portsmouth</p>	<p>1) I cannot imagine that the development of the general VPDES permit will in any way contribute to improvements in the safety or quality of our drinking water or offer further environmental safeguards. New permitting requirements will</p>	<p>Comments acknowledged: Concerns and recommendations</p>

	<p>needlessly create additional regulatory and operational burdens that must be borne by public utilities and add expenses which must ultimately be passed on to consumers as increased water rates. 2) "Our utility currently uses pesticides specifically for the control of algae in our water supply reservoirs. The uses and selection of algaecide products is already regulated by requirements to comply with existing Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requirements and VA Department of Agriculture Pesticide Applicator Certificates. Further, the active C++ ingredient of Copper Sulfate based algaecides is already a regulated contaminate in our drinking water. 3) The utility requires the flexibility to respond to algae problems within reservoirs when and where problem areas occur...the unpredictable occurrences of algae blooms, particularly the blue-green algae most associated with taste and odor problems demand a freedom of action regarding treatment decisions that I fear will be hampered by further regulatory demands. I fear that additional regulations will only slow and burden our current program without any gains of safety to the environment or our water customers. 4) I would encourage the regulators to exempt public water suppliers from any further regulation in the proper use of these pesticides.</p>	<p>taken into consideration during the discussions of the Technical Advisory Committee and the drafting of the draft General Permit.</p>
<p>Walek, Jack - Lawn Doctor of West Henrico</p>	<p>1) Including near surface waters should be clarified to indicate waters up to the water's edge, or below the high tide edge, or only in moving or flowing streams and ditches. 2) Ground applications to established grass above the water line should fall under the regulations governed by VDACS Pesticide Services.</p>	<p>Comments acknowledged: Concerns and recommendations taken into consideration during the discussions of the Technical Advisory Committee and the drafting of the draft General Permit.</p>

**Family impact**

*Assess the impact of this 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 the institution of the family or family stability.