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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-110
VAC Chapter title(s)	VPDES General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day
Action title	Final reissuance of the Domestic Sewage Discharge general permit amending term dates, bacteria limits, non-single family home operation and maintenance requirements, and other minor changes.
Final agency action date	December 9, 2020
Date this document prepared	Beginning October 20, 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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 final reissuance of the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day. This general permit contains effluent limitations, monitoring requirements and special conditions for discharges of domestic sewage to surface waters from individual single family dwellings and building or dwellings other than individual single family dwellings that meet the discharge threshold. The changes to the regulation are being made to reissue this general permit and in response to water quality standard changes and Technical Advisory Committee suggestions and staff requests to revise, update and clarify the permit conditions.

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). "Mandate" is defined as "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 (9VAC25-110) constitutes a VPDES general permit administered by Virginia DEQ, a U.S. EPA authorized permitting authority under CWA § 402(b). Under CWA § 402(b)(1)(B) and 9VAC25-31-240, VPDES permits must be for fixed terms not to exceed five years. The existing general permit expires on August 1, 2021 and must be reissued for another term to remain available to permittees. 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.

- APA: Administrative Process Act
- CFR: Code of Federal Regulations
- DEQ: Department of Environmental Quality
- DMR: Discharge monitoring report
- DSD: Domestic sewage discharge (under 1,000 gallons per day)
- EPA: (U.S. EPA): United States Environmental Protection Agency
- NPDES: National Pollutant Discharge Elimination System
- NSFH: Non-single family home/ building or dwelling other than an individual single family dwelling
- SFH: Single family home/ individual single family dwelling
- TAC: Technical Advisory Committee
- USC: United States Code
- VAC: Virginia Administrative Code
- VDH: Virginia Department of Health
- 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.

The State Water Control Board adopted the amendments at its meeting on December 9, 2020.

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 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

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 amend and reissue the existing VPDES General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day, which expires on August 1, 2021. The goal of the regulation is to continue to make available the general permit, which establishes standard language for control of these point source discharges through effluent limitations, monitoring requirements and special conditions to ensure protection of the environment and public health, safety and welfare.

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.

Changes to the general permit regulation include:

- Clarifying the definition of "individual single family dwelling."
- Revising the term of the general permit to August 2, 2021 through July 1, 2026.
- Requiring that the owner of an individual single family dwelling must submit a combined application.
- Making certain language more generic so dates do not have to be changed each reissuance.
- Adding language regarding continuation of permit coverage to address automatic renewal.
- Added latitude and longitude data requirement to the registration statement.
- Adding State Corporation Commission entity identification data requirement to the registration statement for non-single family homes.
- Clarifying the VDH notification/ documentation necessary for the registration statement that an onsite system is not available.
- Revised the discharge limits in I A 1, I B 1, and I C 1 for E. coli and enterococci to reflect revised water quality standards that became effective October 21, 2019.
- Changed the operation and maintenance (O&M) requirements for non-single family homes to be consistent with VDH requirements for single family homes.
 - Require NSFHs to engage a licensed operator;
 - Specify that persons that perform maintenance on discharging systems (licensed operators) must hold a Class IV or higher wastewater work operator licensed or an alternative onsite sewage system operator license;
 - Require the licensed operator to visit the system two times per year;

- Removed the express requirement for NSFHs to have a maintenance contract;
- Removed the alternative for NSFHs to conduct O&M under an approved O&M plan;
- Added VPDES signature requirements for the combined application.
- Added conditional requirements for the electronic submission of registration statements.
- Added conditional requirements for the electronic submission of DMRs.

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 DSD 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 given the very large number of permittees (approx. 2800). There are no known disadvantages.

The advantages of adopting the revised bacteria limits are increased protection of health and consistency with state and federal law and regulation.

The advantages of changing the operation and maintenance (O&M) requirements for non-single family homes to be similar to VDH requirements for single family homes is that this emphasizes the focus on achieving proper operation and maintenance of these systems, which generally results in compliance discharges that are protective of water quality. These changes would also make DEQ and VDH requirements consistent for SFHs and NSFHs, respectively. Such changes would result in an additional annual visit to each system and could increase O&M costs in some cases since it should better ensure that O&M is being implemented.

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 were no proposed requirements that would have exceeded applicable federal requirements and, hence, no changes to any such 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:

As proposed, there were no state agencies, localities or other entities particularly affected by the proposed regulation as the regulation applies statewide and does not alter existing VDH requirements for onsite discharging systems. Hence, there are no changes to agencies affected.

Localities Particularly Affected:

See above.

Other Entities Particularly Affected

See above.

For purposes of "Locality Particularly Affected" under the Board's statutes:

There is no locality particularly affected as specified under the Board's statutes.

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.

DEQ received two comments on the proposed regulations (see table below). This regulatory action continues to be needed in order to amend and reissue the existing VPDES General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day, which expires on August 1, 2021, so it remains available to the approximately 2800 permittees covered by the general permit. The regulation is no more complex than necessary to protect water quality. It has been written in coordination with VDH's alternative discharging sewage treatment regulations. It was last evaluated five years ago when reissued and conditions have not materially changed since then.

Commenter	Comment	Agency Response
Joel Pinnix (via Town Hall, 8/4/20, 5:31 pm, ID 84201)	Water Quality Standards - Disinfection The proposed E.coli and enterococci standards of 126 CFU/100ml and 35 CFU/100ml represent a significant change to the disinfection standard. Where is the evidence to suggest that discharge water quality requires significantly higher levels of disinfection? I note that the rationale for this proposed change is consistency with state water quality standards pursuant to 9VAC25-260-170. However, a review of that standard indicates that the "bacteria criteria shall apply to protect primary	The proposed bacteria standards reflect revised state water quality standards, which are based on state and federal law and regulations. The evidence for the revised water quality standards is in the record supporting 9VAC25-260-170. The commenter is correct that the proposed bacteria standards are those applicable to primary recreational uses. Under 9VAC25-260-10 A, all state waters are designated for recreational uses. In addition, DEQ notes that this regulation is a general permit, applicable to approximately 2800 permittees throughout the state. As such, the permittees covered under this permit

Commenter	Comment	Agency Response
	<p>contact recreational uses in surface waters...".</p> <p>In my experience, most receiving waters for these discharges are NOT primary contact recreational surface waters - many tend to be ephemeral streams and low-flow unnamed tributaries. If a significant increase in disinfection is warranted, perhaps a distinction between recreational and nonrecreational receiving waters is a more appropriate solution.</p>	<p>discharge to many different surface waters. DEQ has selected the most protective bacteria standards in effect to ensure that all such discharges are protective of health and the environment.</p>
<p>Holland Kennedy 8/8/2020</p> <p>(Via mail, received 8/12/2020)</p>	<p>Dear DEQ Regarding [SIC] your letter full of lawyer speak, I am wondering if this letter means...</p> <ol style="list-style-type: none"> <li data-bbox="415 743 930 1444">1. Will I be required to e-report on the septic system in my yard. <li data-bbox="415 1444 930 1661">2. If you require e-reporting – are you going to provide internet for the poor, those with no cell signal where they live – or provide a smart phone and cell service. <li data-bbox="415 1661 930 1871">3. Are you paying for the operation and maintenance? Seeing your [SIC] the one making the laws – not us! 	<p>See below.</p> <p>This regulation does not apply to traditional septic systems. Rather, it applies to alternative discharging sewage treatment systems.</p> <p>Consistent with federal regulations that require states to establish electronic reporting within their NPDES programs, Virginia has regulations for e-reporting (9VAC25-31-1020) and is in the process of implementing these regulations. The Domestic Sewage Discharge General Permit include language that provides that following notification from DEQ of the start date for electronic submission, registration statements or combined applications, as well as DMRs, must be submitted electronically in compliance with 9VAC25-31-1020. DEQ must provide 3 months' notice between notification from the department and the date after which such forms must be submitted electronically. Regulations at 9VAC25-31-1010 address waivers from e-reporting requirements.</p> <p>DEQ is not providing internet service, cell phones or cellular service. The e-reporting regulations do provide for conditional waivers from e-reporting under 9VAC25-31-1010. In addition, licensed treatment works operators may be able to support e-reporting.</p> <p>DEQ is not paying for the operation and maintenance of these treatment works serving individual single family dwellings and buildings or dwellings other than single family dwellings. This regulation has been developed by DEQ to implement the State Water Control Law and the Clean Water</p>

Commenter	Comment	Agency Response
		Act, enacted by state and federal government respectively. Under this reissuance, the requirements for individual single family dwellings have not changed significantly and, hence, the associated costs of implementation have not increased.
	4. Will you provide the latitude and longitude information for people who don't know how to find that.	DEQ will not provide latitude and longitude information, but will provide support to assist permittees in determining latitude and longitude information. For example, DEQ's VEGIS webpage includes such information.
	5. Will you swear that the latitude + longitude position of each home will not be ever release to a party who might want to target that home?	DEQ manages VPDES permit information consistent with applicable law and regulations.
	P.S. It seems the burden of doing the DEQ requirements keep getting paid for by the poor – including the stupid server tanks (that the Sewer Nazis Required us to put in, to the cost of many thousand dollars!) in my front yard that stink and draw flies during the hottest months of the year.	DEQ recognizes that there are costs associated with treating wastewater and protecting water quality, as required by federal and state law. These costs accrue to all permitted dischargers, and have been minimized to the extent possible.

Detail 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
9VAC25-110-70	NA	None	None	In A 3, clarified that the late registration condition is not applicable to automatic renewal and that registration accepted after expiration of existing general permit does not result in authorization to discharge that is retroactive.

9VAC25-110-80	NA	None	None	In II I, made existing NOTE regarding submittal of 24-hour reports into item 3. Renumbered existing item 3 to be item 4.
9VAC25-110-80.	NA	None	None	In II M 2, Duty to Reapply, 2 a and b, changed August 2, 2016 to August 2, 2021, which will be the effective date of this reissued general permit.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this exempt action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *Please put an asterisk next to any substantive changes.*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
Title		CHAPTER 110 VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT FOR DOMESTIC SEWAGE DISCHARGES OF LESS THAN OR EQUAL TO 1,000 GALLONS PER DAY	CHAPTER 110 VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT REGULATION FOR DOMESTIC SEWAGE DISCHARGES OF LESS THAN OR EQUAL TO 1,000 GALLONS PER DAY
9VAC25-110-10. Definitions		Definition of “individual single family dwelling.”	Revised the definition of “individual single family dwelling” to clarify that it includes flow from an accessory structure such as a garage or pool house. Added language to clarify that an unused additional connection does not change the status of the individual single family dwelling until an additional single family dwelling is connected to the treatment works. Some SFHs with unused connections are addressed as NSFHs, and the effect of accessory structures has not been consistently clear.
9VAC25-110-15. Applicability of incorporated references based on the dates that		This section updates all Title 40 Code of Federal Regulations (CFR) within the document to be those published as of July 1, 2015. This is a recommendation from the DEQ Office of Policy so dates do not need to be	Changed the date to July 1, 2021, which will be the latest EPA update prior to issuance of the final permit.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
they became effective.		added for each CFR reference.	
9VAC25-110-20. Purpose; delegation of authority; effective date of permit.		Existing term is August 2, 2016 to August 1, 2021.	* Revised to August 2, 2021 to July 31, 2026. Ending date modified to end of month. Next term can amend annual monitoring period and DMR submittal date.
9VAC25-110-60. Authorization to discharge.		Individual single family dwelling may submit a combined application in place of a registration statement.	* Individual single family dwelling must submit a combined application in place of a registration statement. Under VDH regulations, VDH must receive the combined application.
9VAC25-110-60. Authorization to discharge.		Owners not eligible if VDH determines that an onsite system is available.	Substance unchanged. Added reference to criteria in 12VAC5-640 to indicate VDH will use these criteria to evaluate availability.
9VAC25-110-60. Authorization to discharge.		Allows continuation of permit coverage if authorized under 2011 general permit and submits a complete registration statement or combined application on or before August 1, 2016.	Expiring permit coverages are continued if the owner has submitted a complete registration statement or, for an individual single family dwelling, a combined application, at least 60 days prior to the expiration date of the permit. Where the expiring permit coverage was originally based on automatic renewal as found in 9VAC25-110-70 A 2 b, such coverage is continued provided the owner continues to meet the automatic renewal criteria. Make more generic and addresses automatic renewal process.
9VAC25-110-60. Authorization to discharge.		Where covered under expiring or expired permit and violating that permit, Board may bring enforcement action under 2011 permit, or issue notice of intent to deny such that owner required to cease discharges authorized under 2011 permit or be subject to enforcement for discharge without a permit.	Removed mention of 2011 permit and replace with more generic "continued coverage." To avoid having to change dates each reissuance. No change to substantive options. Have removed reference to the 2011 general permit in several instances and replaced these with more generic language.
9VAC25-110-70. Registration statement.		Individual single family dwelling may submit a combined application in place of a registration statement.	* Individual single family dwelling must submit a combined application in place of a registration statement. Per VDH regulation VDH must receive the combined application.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-110-70. Registration statement.		Owner proposing a new discharge must submit a registration statement or combined application at least 60 days prior to commencing operation.	Maintains 60 day timeframe but allows or a later submittal date established by the Board. Makes consistent with other general permits.
9VAC25-110-70. Registration statement.		Late registration statement or combined applications will be accepted after August 1, 2016, but authorization to discharge will not be retroactive.	Removed August 1, 2016 and substituted "the expiration date of this permit." The use of generic language avoids having to change date every reissuance. Such changes are being made across all general permits. Also changed cross reference from subdivision 2 b (which is automatic coverage) to subdivision 2 c.
9VAC25-110-70. Registration statement.		Indicates on registration statement if the building is an individual single family dwelling.	Added parenthetical that if it is a single family dwelling, see the requirement to submit a combined application in 9VAC25-110-60 A 1. VDH requested clarification.
9VAC25-110-70. Registration statement.		Name of the receiving water.	* Added outfall latitude and longitude. Need for GIS accuracy in in DEQ database. Required for e-reporting data to EPA.
9VAC25-110-70. Registration statement.		Requires registration include a copy of notification that onsite sewage disposal system applied for and there is no onsite system that can serve the parcel of land.	Rewords provision to state that onsite system cannot be constructed to serve parcel. VDH TAC comment that correct letter not always provided or used. Intend to clarify in guidance.
9VAC25-110-70. Registration statement.		Operation and maintenance requirements for SFHs are specified in 12VAC5-640-500. (VDH regulations).	Removed reference to section 500. Based on VDH TAC comment. VDH may revise and reorganize regulations and wanted a more flexible citation.
9VAC25-110-70. Registration statement.		Operation and maintenance for NSFH subject to a maintenance contract (provide name of individual or company and date of expiration) unless granted an exception (owner conducts under approved O&M plan).	* Operation and maintenance for NSFH must engage licensed operator. Removed exception to maintenance contract based on submission and approval of O&M plan. Change to make consistent with VDH regulations for SFHs, and to focus on achieving best possible implementation of O&M, since this results in compliance with discharge limits and protection of water quality.
9VAC25-110-70.		NA	* Added requirement for NSFHs to provide State Corporation Commission

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
Registration statement.			<p>(SCC) entity ID number if the facility is required to obtain an entity identification number by law.</p> <p>For consistency with other general permits. To ensure that the correct entity is permitted and that such entities are registered to do business in VA.</p>
9VAC25-110-70. Registration statement.		Registration statement must be signed per 9VAC25-31-110 A.	* Adds combined application. Combined application can function as registration statement.
9VAC25-110-70. Registration statement.		Registration statement can be delivered to the department by postal or electronic mail.	<p>* Registration or combined application can be delivered to the department's regional office where the treatment works is located. Once notification is provided by DEQ of the start date for required electronic submission as established in 9VAC25-31-1020, forms must submitted electronically. DEQ will provide at least three months' notice.</p> <p>Required by federal e-reporting regulations. 9VAC25-31-1010 includes a conditional waiver.</p>
9VAC25-110-80. General permit.		Effective date August 2, 2016; Expiration date August 1, 2021.	<p>* Effective date August 2, 2021; Expiration date July 31, 2026.</p> <p>Guidance specifies that monitoring start date is first day of month. Ending date modified to end of month. Next term can amend annual monitoring period and DMR submittal date.</p>
9VAC25-110-80. General permit.		The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I and Part II conditions.	The authorized discharge shall be in accordance with the information submitted with the registration statement <u>or combined application</u> (underlined is new) this cover page, Part I and Part II conditions. In many instances, the combined application is used in lieu of the registration statement.
9VAC25-110-80. General permit.		In I C, discharges to waters subject to Policy for the Potomac River Embayment are subject to specified limits.	Clarify that discharges must be subject to 9VAC25-415-40 and added note indicating that this provision include conditional exemptions. In response to regional DEQ comment.
9VAC25-110-80. General permit.		The permit condition addressing O&M requirements for SFHs	Amended the reference to 12VAC5-640.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		specifies requirements in 12VAC5-640-500.	Based on VDH TAC comment. Provides flexibility for revision and reorganization of VDH regulations.
9VAC25-110-80. General permit.		Discharge limits in I A 1, I B 1, and I C 1 for E. coli and enterococci are 235 CFU/100 ml and 104 CFU/100 ml, respectively.	* Revised the discharge limits in I A 1, I B 1, and I C 1 for E. coli and enterococci to reflect revised water quality standards (126 CFU/100 ml and 35 CFU/100ml. respectively) that became effective October 21, 2019. Because this is a general permit and applies to a broad range of receiving waters, the most stringent use standard (primary recreation) is being applied.
9VAC25-110-80. General permit.		[D 2 b (1)] For existing treatment works, the permittee shall keep a maintenance contract in force during the permit term, unless an exception to the maintenance contract requirement has been requested and granted in accordance with Part I D 3. A copy of the maintenance contract, if applicable, shall be kept at the site of the treatment works and made available to DEQ upon request.	* [D 2 b (1)] Removed the requirement for a maintenance contract or an O&M plan. Require that NSFH permittees engage a licensed operator as defined in D 3. This approach is consistent with VDH requirements for SFHs, and is focused on ensuring O&M is fully implemented, which ensures compliance with limits and the protection of water quality. The revised provisions in D 2 b <u>here and below</u> are based on existing language and restructured to be generally consistent with VDH requirements.
9VAC25-110-80. General permit.		[I D 2 b (2)] For proposed treatment works, the permittee shall submit a certification that the permittee has a valid maintenance contract to DEQ prior to operation of the treatment works, unless an exception to the maintenance contract requirement has been requested and granted. A maintenance contract shall be kept in force during the permit term. A copy of the maintenance contract shall be kept at the site of the treatment works, and shall	See above.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-110-80. General permit.		<p>be made available to DEQ upon request.</p> <p>[D 2 b (3) (a)] The maintenance contract shall provide for the following: Performance of required testing and at least annual inspections. The owner or maintenance provider should not force a discharge to obtain a sample.</p>	<p>* [D 2 b (2)(a), (b) and (c)] The permittee must: Have the system operated and maintained by a licensed operator including the responsibilities specified in D 2 (b) 3; Have a licensed operator visit the system at least semi-annually; Have a licensed operator collect, analyze and submit to the department any samples required under Part I A, Part I B, or Part I C, as appropriate, of this general permit;</p> <p>* [D 2 b (3)(a)] The licensed operator has responsibilities to: Perform all monitoring required in accordance with either Part I A, Part I B, or Part I C, as appropriate, and periodic (at least semi-annual) inspections of the treatment works. Note: Discharges from the treatment works should, to the maximum extent feasible, be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that treatment works).</p>
9VAC25-110-80. General permit.		<p>[D 2 b (3) (b)] The maintenance contract shall provide for the following: A written notification to the owner within 24 hours whenever the contract provider becomes aware that maintenance or repair of the owner's treatment works is necessary. The owner is responsible for prompt maintenance and repair of the treatment works.</p>	<p>* [D 2 b (2)(d)] The permittee must provide prompt maintenance and repair of the treatment works once notified by the operator that repair or maintenance is necessary. The owner is responsible for all costs associated with the maintenance or repair.</p> <p>* [D 2 b (3)(b) and (c)] The licensed operator has responsibilities to: During visits required by this subsection, fulfill the operator responsibilities specified in this subsection through observing the system and through laboratory or field tests required by this permit or that the operator deems appropriate. In performing a required visit, the operator is responsible for the entire system and, where applicable, shall follow the approved O&M manual;</p> <p>Provide a written or electronic notification to the owner within 24 hours whenever the operator becomes aware that maintenance or repair of</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			the owner's treatment works is necessary.
9VAC25-110-80. General permit.			* [D 2 b (2)(f)] The permittee must follow the treatment works O&M manual (where available) and keep a copy of the O&M manual in electronic or hard copy form on the property where the system is located, make the O&M manual available to the department upon request, and make a reasonable effort to transfer the O&M manual to any future owner.
9VAC25-110-80. General permit.		[D 2 b (3) (c)] The maintenance contract shall provide for the following: A log of the following items shall be maintained at the treatment works by the contract provider: Results of tests and sampling; Alarm activation incidents; Maintenance, corrective, or repair activities performed; Recommended repair or replacement items; and Copies of all reports prepared by the contract provider.	* [D 2 b (2)(e)] The permittee must maintain a copy of the log provided by the operator on the property where the system is located in electronic or hard copy form, make the log available to the department upon request, and make a reasonable effort to transfer the log to any future owner. * [D 2 b (3)(d)] The licensed operator has responsibilities to maintain and provide a log of the following: Results of all tests and sampling; Alarm activation incidents, including the date and time of equipment failure and return to service; Maintenance, including the date and amount of disinfection chemicals added to the chlorinator, the date and amount of dechlorination chemicals added if applicable, the date and approximate volume of sludge removed, and date receipts for chemicals and equipment purchased and maintenance performed; corrective, or repair activities performed; Recommended repair or replacement items; Copies of all reports prepared by the operator; and sludge or solid removal.
9VAC25-110-80. General permit.		[D 2 b (4)] The permittee shall keep a log of all maintenance performed on the treatment works including, but not limited to,	See [D 2 b (2)(e)] and [D 2 b (3)(d)] above.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		<p>the following: The date and amount of disinfection chemicals added to the chlorinator; If dechlorination is used, the date and amount of any dechlorination chemicals that are added; The date and time of equipment failure and the date and time the equipment was restored to service; The date and approximate volume of sludge removed; Dated receipts for chemicals purchased, equipment purchased, and maintenance performed.</p>	
<p>9VAC25-110-80. General permit.</p>		<p>[D 3] The owner of any treatment works serving a building or dwelling other than an individual single family dwelling may request an exception to the maintenance contract requirement by submitting an operation and maintenance plan to the board for review and approval. At a minimum, the operation and maintenance plan shall contain the following information: [unchanged contents omitted here].</p>	<p>* Removed NSFH exception to maintenance contract requirement based on submittal, approval and operation pursuant to an O&M plan.</p> <p>TAC input indicated that O&M implementation was most effective where there was a qualified operator.</p>
<p>9VAC25-110-80. General permit.</p>			<p>* D 2 b (3)(e)] The licensed operator has responsibilities to conduct an inspection within 48 hours after notification by the owner that a problem may be occurring.</p>
<p>9VAC25-110-80. General permit.</p>			<p>* [D 3] Specify that all individuals who perform maintenance on discharging systems pursuant to this general permit are required to hold a valid Class IV or higher wastewater works operator license or an alternative onsite sewage system operator license issued by the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p>Added clarification that for purposes of this general permit, this requirement is satisfied where an individual is directly supervised by and under the direction of a licensed operator, who remains responsible for such maintenance. Requested by TAC to facilitate administration.</p>
<p>9VAC25-110-80. General permit. Part II.</p>		<p>Monitoring results under this permit are not required to be submitted to the department. (Note: other parts of the permit do require the submittal of monitoring results).</p>	<p>Revised such that monitoring results must be submitted to the department consistent with the requirements in I A 2, I B 2, and I C 2, as applicable.</p> <p>Removed monitoring due date because it is specified elsewhere in the permit.</p> <p>* Added e-reporting language for monitoring results submitted to the department on a DMR. Specified that once notification is provided by DEQ of the start date for required electronic submission as established in 9VAC25-31-1020, forms and reports must be submitted electronically. DEQ will provide at least three months' notice.</p> <p>E-reporting is required by U.S. EPA regulations.</p>
<p>9VAC25-110-80. General permit. Part II.</p>			<p>Added item under "Reports of noncompliance." Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement, or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information.</p> <p>EPA requirement per 40 CFR 122.41(l)(8).</p>
<p>9VAC25-110-80. General permit. Part II.</p>		<p>Duty to comply. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit coverage renewal application.</p>	<p>Duty to comply. Permit noncompliance is grounds for enforcement action, for permit coverage termination, or denial of a permit coverage renewal.</p> <p>To tailor to and make consistent with general permits.</p>
<p>9VAC25-110-80. General</p>		<p>Inspection and entry. The permittee shall allow the director, or an authorized</p>	<p>Inspection and entry. The permittee shall allow the director or an authorized representative (including</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
permit. Part II.		representative, upon presentation of credentials and other documents as may be required by law, to: [unchanged contents omitted here].	an authorized contractor acting as a representative of the administrator), upon presentation of credentials and other documents as may be required by law, to: [unchanged contents omitted here].
9VAC25-110-80. General permit.		Transfer of permits. Permits are not transferable to any person except after notice to the department.	Transfer of permit coverage. Permit coverage is not transferable to any person except after notice to the department.

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, it applies to domestic discharges from numerous individual single family dwellings, as well as to many buildings or dwellings other than individual single family dwellings. Nevertheless, the reissuance of this VPDES general permit accomplishes the objectives of applicable law and minimizes the application burden and permit implementations 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 domestic discharges from individual single family dwellings, as well as to many buildings or dwellings other than individual single family dwellings. Its availability allows for these homes and buildings to operate as residences for families while protecting surface waters in a manner consistent with state law. Such residences are a vital resource that support families and contribute to economic self-sufficiency. This general permit has been designed to minimize burden while achieving a level of water quality protection consistent with state and federal law.