

Meeting Minutes  
Friday, September 18, 2020

Eastern Shore Surficial Aquifer General Permit Regulatory Advisory Panel (RAP)  
Electronic-only Meeting on GoToWebinar

Members Present: John Coker, Brett Mariner, Jessica Steelman, Curtis Consolvo, Holly Porter, Jay Ford, and Britt McMillan.

Members Absent: Dave Lovell, Sue Mastyl, Ed Tankard, Paul Muhly, and Mark Patterson.

Other Participants: Scott Kudlas (facilitator), Tony Cario, Gary Graham, Shannon Alexander, Tony Banks, Ben Rowe, Martha Moore, Janet Mineva, Robert Meyers, Adrienne Kotula, Stephanie Kitchen, and Ryan Green.

The meeting convened at 1:12 p.m. and adjourned at 3:37 p.m.

1. Welcome and Introductions [Scott Kudlas, DEQ]. Mr. Kudlas welcomed the RAP members to the third meeting of the RAP. A revised tentative agenda for the meeting had previously been emailed to members (Attachment 1). Previous RAP meeting minutes ([Meeting 1](#) and [Meeting 2](#)) had been sent to RAP members for review before the meeting. Strawmen of the regulations (Attachments 2 and 3) had also previously been emailed to the members for review. Mr. Kudlas also announced that there would be another meeting of the RAP on October 9, 2020 at a time yet to be determined. Intentions are to take these proposals to the State Water Control Board at their December 9, 2020. Mr. Kudlas reviewed the agenda briefly and addressed the modeling demonstration issue first.
2. Demonstration of on-line AOI modeling application. [Scott Kudlas, DEQ]. Mr. Kudlas indicated that the planned demonstration video of the AOI modeling application is unavailable for this meeting but would be available later through the [hyperlink address](#) shown in the revised agenda. He asked members to access the video later and be prepared to discuss the video and the application at the next meeting. Comments on the video and the application by RAP members may also be sent to Mr. Gary Graham, DEQ at [gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov) and Mr. Kudlas reminded members to NOT copy the other members on comments.
3. Review of the Strawman for 9VAC25-910 General Permit [Scott Kudlas and Tony Cario, DEQ]. Mr. Kudlas reminded the RAP that the strawman that was provided to the RAP members was developed using general permit language and for this general permit, portions of that general language were either struck out (if recommended to be

deleted) or highlighted for further discussion with the RAP. Mr. Cario reviewed the sections so indicated, and opened each item for discussion.

- a. 9VAC25-910-50. Application,
  - i. Subsection B. Subdivision 1: There is currently no fee anticipated. This would just be a placeholder in case fees became necessary later to cover DEQ expenses for these permits. Subdivision 4: Something needs to be added to this subdivision to provide for applications for proposed wells. Subdivision 5 is unnecessary because maps are not necessary any more in order to locate a well. Subdivision 8: A conservation and management plan is not needed because conservation provisions will be included in the general permit. Subdivision 11: Geophysical logs aren't necessary if there is a depth limit provided (such as adding an 80 ft limit to the general permit conditions) unless the applicant wanted to go deeper than that limit. Subdivision 12: Other information may be required, but the subordinate subdivisions aren't necessary.
  - ii. Subsection C. Keep the ability for the board to waive application requirements if they already have the information.
  - iii. New subsection E. Administrative withdrawal helps DEQ process out incomplete applications.
- b. 9VAC25-910-55. Notice of planned changes; modifications to coverage. Subsection A requires notification of changes and subsection B provides the instances in which modification may be made, such as administrative changes.
- c. 9VAC25-910-60. Termination of coverage provision allows revocation in situations such as the well not being used, but something may need to be added to allow the applicant to terminate coverage.
- d. 9VAC25-910-65. General permit conditions. Part I Operating conditions:
  - i. Subsection B: The interval for reporting should be semiannually or annually.
  - ii. Subsection C: A conservation and management plan should only consist of an annual withdrawal audit that is kept on file (instead of submitted for review). Development of a plan, review of a plan, and submitting reports of compliance with the plan requirements is unnecessary. There might be room to simplify these requirements, such as just doing a water balance. Provisions for drought actions are required.
  - iii. Subsection D: DEQ needs a way to resolve instances where there may be adverse impacts off the applicant's property, however unlikely. Provisions

for preconditions for claims and for paying the expenses for researching the impact may be needed.

- e. 9VAC25-910-65. General permit conditions. Part II Conditions applicable to all groundwater withdrawal permits:
  - i. Subsection F: The required monitoring is really only water volume monitoring so this may be able to be simplified.
  - ii. Subsection G: Environmental laboratory certification isn't needed.
  - iii. Subsection H: Requiring a tap on small wells may be a problem. This requirement may need revision.
  - iv. Subsection I: Permit Actions. The requirement to do a pre-application meeting with DEQ is unnecessary. This subsection may be able to be simplified more.
  - v. Subsection J: The minor modifications subsection needs to be cleaned up to be consistent with earlier changes.
  - vi. Subsection K: Well Construction. Much of this subsection needs to be stricken.
  - vii. Subsection L: Permit Reopening. This whole subsection should probably just be removed, it is so unlikely, but certainly subdivision c should be removed.
- f. Wrap Up: A final version of both regulations will be provided before the next meeting, with the hope of polling for consensus on the regulations then.

A [recording of the meeting](#) is available for review on-line.

Attachments:

1. Revised Tentative Meeting Agenda.
2. Strawman for the General Permit Regulation (9VAC25-910).
3. Strawman for Base Regulation Changes (9VAC25-610).

## TENTATIVE AGENDA

### ESGWMA Surficial Groundwater General Permit Regulatory Advisory Panel Meeting #3 (Rescheduled), September 18, 2020

- I. Welcome and Introductions
- II. Finish Review of Strawman for 9 VAC 25-910 General Permit
  - A. Review 9 VAC 25-910-50
  - B. Review 9 VAC 25-910-55
  - C. Review 9 VAC 25-910-60
  - D. Review 9 VAC 25-910-65
- III. Demonstration of on-line AOI modeling application  
<https://youtu.be/NzZWjTmL-oA>
- IV. Wrap up for the day and discussion of next meeting
  - A. If time permits, the Panel will review changes to the 9 VAC 25-910-10 through 9 VAC 25-910-45 made in response to RAP comments.

## CHAPTER 910 General Permit for Use of Surficial Aquifer on the Eastern Shore

### 9VAC25-910-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in § 62.1-44.2 et seq. of the Code of Virginia (Ground Water Management Act of 1992) and 9VAC25-610 (Groundwater Withdrawal Regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Act" means the Ground Water Management Act of 1992, Chapter 25 (§ [62.1-254](#) et seq.) of Title 62.1 of the Code of Virginia.

"Adverse impact" means reductions in groundwater levels or changes in groundwater quality that limit the ability of any existing groundwater user lawfully withdrawing or authorized to withdraw groundwater at the time of permit or special exception issuance to continue to withdraw the quantity and quality of groundwater required by the existing use. Existing groundwater users include all those persons who have been granted a groundwater withdrawal permit subject to this chapter and all other persons who are excluded from permit requirements by [9VAC25-610-50](#) .

~~"Agricultural use" means utilizing groundwater for the purpose of agricultural, silvicultural, horticultural, or aquacultural operations. Agricultural use includes withdrawals for turf farm operations, but does not include withdrawals for landscaping activities or turf installment and maintenance associated with landscaping activities.~~

"Applicant" means a person filing an application to initiate or enlarge a groundwater withdrawal in a groundwater management area.

"Area of impact" means the areal extent of each aquifer where more than one foot of drawdown is predicted to occur due to a proposed withdrawal.

~~"Beneficial use" includes domestic (including public water supply), agricultural, commercial, and industrial uses.~~

"Board" means the State Water Control Board.

~~"Consumptive use" means the withdrawal of groundwater, without recycle of said waters to their source of origin.~~

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

~~"Draft permit" means a prepared document indicating the board's tentative decision relative to a permit action.~~

"Eastern Shore Groundwater Management Area" means the ground water management area declared by the Board encompassing the Counties of Accomack and Northampton

"Geophysical investigation" means any hydrogeologic evaluation to define the hydrogeologic

framework of an area or determine the hydrogeologic properties of any aquifer or confining unit to the extent that withdrawals associated with such investigations do not result in unmitigated adverse impacts to existing groundwater users. Geophysical investigations include pump tests and aquifer tests.

"Groundwater" means any water, except capillary moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir, or other body of surface water wholly or partially within the boundaries of this Commonwealth, whatever the subsurface geologic structure in which such water stands, flows, percolates, or otherwise occurs.

~~"Human consumption" means the use of water to support human survival and health, including drinking, bathing, showering, cooking, dishwashing, and maintaining hygiene.~~

"Mitigate" means to take actions necessary to assure that all existing groundwater users at the time of issuance of a permit or special exception who experience adverse impacts continue to have access to the amount and quality of groundwater needed for existing uses.

"Permit" means a groundwater withdrawal permit issued under the Ground Water Management Act of 1992 permitting the withdrawal of a specified quantity of groundwater under specified conditions in a groundwater management area.

"Permittee" means a person that currently has an effective groundwater withdrawal permit issued under the Ground Water Act of 1992.

"Person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized under the laws of this Commonwealth or any other state or country.

~~"Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.~~

~~"Private well" means, as defined in § [32.1-176.3](#) of the Code of Virginia, any water well constructed for a person on land that is owned or leased by that person and is usually intended for household, groundwater source heat pump, agricultural use, industrial use, or other nonpublic water well.~~

~~"Public hearing" means a fact finding proceeding held to afford interested persons an opportunity to submit factual data, views, and comments to the board pursuant to § [62.1-44.15:02](#) of the Code of Virginia.~~

"Salt water intrusion" means the encroachment of saline waters in any aquifer that creates adverse impacts to existing groundwater users or is counter to the public interest.

~~"Special exception" means a document issued by the board for withdrawal of groundwater in unusual situations where requiring the user to obtain a groundwater withdrawal permit would be contrary to the purpose of the Ground Water Management Act of 1992. Special exceptions allow the withdrawal of a specified quantity of groundwater under specified~~

~~conditions in a groundwater management area.~~

~~"Supplemental drought relief well" means a well permitted to withdraw a specified amount of groundwater to meet human consumption needs during declared drought conditions after mandatory water use restrictions have been implemented.~~

"Surface water and groundwater conjunctive use system" means an integrated water supply system wherein surface water is the primary source and groundwater is a supplemental source that is used to augment the surface water source when the surface water source is not able to produce the amount of water necessary to support the annual water demands of the system.

"Surficial aquifer" means the upper surface of a zone of saturation, where the body of groundwater is not confined by an overlying impermeable zone.

~~"Water well systems provider" means any individual who is certified by the Board for Contractors in accordance with § 54.1-1128 et seq. of the Code of Virginia and who is engaged in drilling, installation, maintenance, or repair of water wells, water well pumps, ground source heat exchangers, and other equipment associated with the construction, removal, or repair of water wells, water well systems, and ground source heat pump exchangers to the point of connection to the ground source heat pump.~~

"Well" means any artificial opening or artificially altered natural opening, however made, by which groundwater is sought or through which groundwater flows under natural pressure or is intended to be withdrawn.

"Withdrawal system" means (i) one or more wells or withdrawal points located on the same or contiguous properties under common ownership for which the withdrawal is applied to the same beneficial use or (ii) two or more connected wells or withdrawal points which are under common ownership but are not necessarily located on contiguous properties.

*[To be determined if specific definitions need to be added]*

*"Instream beneficial uses" means uses including, but not limited to, the protection of fish and wildlife resources and habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes of the protection of navigation, maintenance of waste assimilation capacity, the protection of fish and wildlife resources and habitat, recreation, cultural and aesthetic values is an instream beneficial use of Virginia's waters.*

### ***Yorktown-Eastover Aquifer***

#### **9VAC25-910-15. Information requirements.**

Pursuant to 9VAC25-610-380, the board may request (i) such plans, specifications, and other pertinent information as may be necessary to determine the effect of an applicant's groundwater withdrawal (ii) such

other information as may be necessary to accomplish the purposes of this chapter. Any owner, permittee, or person applying for a general permit coverage shall provide the information requested by the board.

#### **9VAC25-910-20. Purpose**

The purpose of this chapter is to establish a general permit for the use of the surficial aquifer in the Eastern Shore Groundwater Management Area under the provisions of 9VAC25-610. Applications for coverage under this general permit shall be processed for approval, or denial by the board. Coverage, or application denial by the board, shall constitute the general permit action and shall follow all provisions in the Ground Water Management Act of 1992 (§ [62.1-254](#) et seq of the Code of Virginia), except for the public comment and participation provisions, from which each general permit action is exempt.

#### **9VAC25-910 25. Delegation of authority.**

The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

#### **9VAC25-910 30. Effective date of the permit**

The general permit in 9VAC25-910-65 is effective XXX, 2020 and expires XXXX, 2035. Any coverage that is granted pursuant to 9VAC25-910-65 shall remain in full force and effect until 11:59 p.m. on XXXX, 2035, unless the general permit coverage is terminated or revoked on or before this date.

#### **9VAC25-910-35. Continuation of Coverage.**

Where a permittee that has received general permit coverage desires to continue the authorized activities, the Permittee shall reapply for new general permit coverage or for an individual permit, including payment of any required permit application fee before XXXX, 2035. Activities using groundwater requiring a permit shall not commence or continue until a general permit or administrative continuance is granted, or an individual permit is issued by the board.

#### **9VAC25-910-40. Authorization to withdrawal groundwater from the surficial aquifer of the Eastern Shore.**

A. Any person granted coverage under the general permit may withdrawal groundwater from the surficial aquifer of the Eastern Shore Groundwater Management Area, as defined in this chapter, provided that:

1. The applicant submits an application in accordance with 9VAC25-910-50.
2. The applicant remits any required permit application fee.
3. The applicant receives general permit coverage from the Department of Environmental Quality under 9VAC25-910-65 and complies with the limitations and other requirements of the general permit; the general permit coverage letter; and the Ground Water Management Act of 1992 and attendant regulations.
4. The applicant has not been required to obtain an individual permit under 9VAC25-610 for the proposed project withdrawals. The applicant, at his discretion, may seek an individual permit, in lieu of coverage under this general permit.

B. Application may be made at any time for an individual permit in accordance with 9VAC25-610.

C. Coverage under general permit does not relieve the Permittee of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.



#### **9VAC25-910-45. Exceptions to coverage.**

- A. Coverage under this general permit is not required if the activity is excluded from permitting in accordance with 9VAC25-610-50.
- B. The activity to withdrawal water shall not have been prohibited by state law or regulations, nor shall it contravene applicable Groundwater Withdrawal Regulations.
- C. The board shall deny application for coverage under this general permit to any applicant conducting activities that cause, may reasonably be expected to cause, or may be contributing to cause more than minimal degradation of the Yorktown-Eastover Aquifer, water quality, stream or wetland hydrology, or other *instream beneficial uses*. The board may require an individual permit in accordance with 9VAC25-610-95 B rather than granting coverage under this general permit.
- D. Coverage under this general permit shall not be granted for:
  1. Any activity outside the Eastern Shore Groundwater Management Area.
  2. Any activity in an aquifer other than the surficial aquifer of the Eastern Shore Groundwater Management Area.
  3. Any well with a maximum depth greater than 80 feet below land surface.

#### **9VAC25-910-50. Application.**

- A. The applicant shall file a complete application in accordance with this section for coverage under this general permit.
- B. A complete application for general permit coverage, at a minimum, consists of the following information, if applicable to the project:
  1. The permit fee as required by the Fees for Permits and Certificates Regulations (9VAC25-20);
  2. A groundwater withdrawal permit application completed in its entirety with all maps, attachments, and addenda that may be required. Application forms shall be submitted in a format specified by the board. Such application forms are available from the Department of Environmental Quality;
  3. A signature as described in 9VAC25-610-150;
  4. A completed well construction report for all existing wells associated with the application submitted on the Water Well Completion Report, Form GW2;
  5. Locations of all wells associated with the application shown on United States Geological Survey 7-1/2 minute topographic maps. The applicant shall provide the latitude and longitude coordinates in a datum specified by the department for each existing and proposed well. The detailed location map shall be of sufficient detail such that all wells may be easily located for site inspection;
  6. ~~A map identifying the service areas for public water supplies;~~
  7. Information on surface water and groundwater conjunctive use systems as described in 9VAC25-610-104 if applicable;
  8. ~~A water conservation and management plan as described in 9VAC25-610-100;~~ ***Specific conservation and management conditions to be added to permit***
  9. The application shall include notification from the local governing body in which the withdrawal is to occur that the location and operation of the withdrawing facility is in compliance with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia. If the governing body fails to respond to the applicant's request for certification within 45 days of receipt of the written request, the location and operation of the proposed facility shall be deemed to comply with the provisions of such ordinances for the purposes of this chapter. The applicant shall document the local governing body's receipt of the request for certification through the use of certified mail or other means that establishes proof of delivery;
  10. Documentation justifying volume of groundwater withdrawal requested as described in 9VAC25-610-102

A and B;

11. **[TO BE DETERMINED AFER REVIEW AND DISCUSSION WITH RAP]** A complete suite of geophysical logs (16"/64" Normal, Single Point, Self Potential, Lateral, and Natural Gamma at a scale of 20 ft per inch) shall be obtained from boreholes at the locations and depths approved by the Department. At least two months prior to the scheduled geophysical logging, the Permittee shall notify the Department of the drilling timetable to receive any further guidance needed on performing the geophysical logging and to allow scheduling of Department staff to make a site visit during the drilling of the borehole and/or the geophysical logging. Geophysical log data collected without the oversight of the Department will not be accepted.
  12. Other relevant information that may be required by the board to evaluate the application. **[TO BE DETERMINED AFER REVIEW AND DISCUSSION WITH RAP]**
    - a. The installation of monitoring wells and the collection and analysis of drill cuttings, continuous cores, water quality samples, or other hydrogeologic information necessary to characterize the aquifer system present at the proposed withdrawal site.
    - b. The completion of pump tests or aquifer tests to determine aquifer characteristics at the proposed withdrawal site.
- C. The board may waive the requirement for information listed in section B to be submitted if it has access to substantially identical information that remains accurate and relevant to the permit application.
- D. Incomplete application. Where an application is not accepted as complete by the board under the requirements of subdivision B of this section, the board shall require the submission of additional information pursuant to 9VAC25-610-98.
- E. An incomplete permit application for this general permit may be administratively withdrawn from processing by the board for failure to provide the required information after 60 days from the date of the latest written information request made by the board. An applicant may request a suspension of application review by the board. A submission by the applicant making such a request shall not preclude the board from administratively withdrawing an incomplete application. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.

**9VAC25-910-55. Notice of planned changes; modifications to coverage. [TO BE DETERMINED AFER REVIEW AND DISCUSSION WITH RAP]**

- A. The permittee shall notify the board in advance of a planned change, and an application or request for modification to coverage shall be reviewed according to all provisions of this chapter. The applicant may submit a new permit application for consideration under an individual permit.
- B. General permit coverage may be modified under the following circumstances:

**9VAC25-910-60. Termination of coverage. [TO BE DETERMINED AFER REVIEW AND DISCUSSION WITH RAP]**

General permit coverage may be revoked in accordance with 9VAC25-610-290 and 9VAC25-610-300.

**9VAC25-910-65. General Permit.**

Any owner whose registration statement is accepted by the board will receive coverage under the following permit and shall comply with the requirements therein and be subject to all requirements of 9VAC25-610.

GENERAL PERMIT FOR GROUNDWATER WITHDRAWALS FROM THE SURFICIAL AQUIFER OF THE  
EASTERN SHORE GROUNDWATER MANAGEMENT AREA

Effective date: XXXX, 2020

Expiration date: XXXX, 2035

Pursuant to Section 62.1-256 of the Ground Water Management Act of 1992 (§ 62.1-254 et seq. of the Code of Virginia) and the Groundwater Withdrawal Regulations (Regulations) (9VAC25-610), the State Water Control Board (Board) hereby authorizes the Permittee to withdraw and use groundwater in accordance with this permit.

The authorized withdrawals shall be in accordance with the information submitted with the application, this cover page, Part I – Operating Conditions and Part II - Conditions Applicable to all Groundwater Withdrawal Permits, as set forth in this general permit.

**Part I. Operating Conditions.**

**A. Authorized Withdrawal**

The withdrawal of groundwater shall be limited to the wells identified Groundwater Withdrawal application submitted in accordance with 9VAC25-910-50.

**B. Reporting** *[TO BE DETERMINED AFER REVIEW AND DISCUSSION WITH RAP]*

1. Water withdrawn from each well shall be recorded monthly at the end of each month and reported to the Office of Water Supply, in paper or electronic format, on a form provided by the Department by the tenth (10<sup>th</sup>) day of each July and October for the respective previous months. Records of water use shall be maintained by the Permittee in accordance with Part III.F, 1 through 5 of this permit.
2. The Permittee shall report any amount in excess of the permitted withdrawal limit by the fifth (5<sup>th</sup>) day of the month following the month when such a withdrawal occurred. Failure to report may result in compliance or enforcement activities.

**C. Water Conservation and Management Plan**

*[TO BE DETERMINED AFER REVIEW AND DISCUSSION WITH RAP] Create standard WCMP conditions for this General Permit]*

1. The permittee shall conduct an annual audit of the total amount of groundwater used in the distribution system and operational processes. The audit shall include:
  - a. Ensuring that your water system uses the minimum amount of water needed;
  - b. Identification of any new water saving equipment procedures, or improvements installed or water saving processes adopted;
  - c. Implementation and evaluation of a leak detection and repair program;
2. Results of the annual audit shall be maintained onsite and available to the DEQ upon request.

3. When a drought emergency is declared by the Commonwealth of Virginia in the Eastern Shore Drought Evaluation Region or in accordance with the County's (or Locality's) Drought Management Ordinance, the permittee shall implement either the provisions directed by the Commonwealth, the Drought Management Ordinance, whichever is the most restrictive. The permittee shall be responsible for determining when drought emergencies are declared. The permittee shall retain records documenting that mandatory conservation measures were implemented during declared drought emergencies.

**D. Mitigation Plan** *[TO BE DETERMINED AFTER REVIEW AND DISCUSSION WITH RAP]*

1. In cases where the area of impact does not remain on the property owned by the applicant or existing groundwater withdrawers will be included in the area of impact, the applicant shall mitigate all adverse impacts on existing groundwater users in accordance with the following process:
  - a. The permittee will review any claim of an adverse impacts within five (5) business days.
  - b. If the Permittee accepts the claim as valid, the Permittee will notify the claimant and will implement mitigation within **thirty (30) business days**.
  - c. If the claim is not accepted as valid, the Permittee will notify the claimant that
    - a. the claim is denied **or**;
    - b. that additional documentation from the claimant is required in order to evaluate the claim. Within **fifteen (15) business days** of receiving additional documentation from the claimant, the Permittee will notify the claimant (a) that the Permittee agrees to mitigate adverse impacts or (b) the claim is denied;
    - c. If the claim is denied, the claimant will be notified by the Permittee that the claimant may request the parties agree to submit their dispute to a mutually agreed upon impartial arbitrator, at the claimants expense, authorized to resolve the controversy by rendering a final and binding decision.

**G. Well Tags**

Each well that is included in this permit shall have affixed to the well casing, in a prominent place, a permanent well identification plate that records, at a minimum, the DEQ well identification number, the groundwater withdrawal permit number, the total depth of the well, and the screened intervals in the well. Such well identification plates shall be in a format specified by the Board and are available from the Department.

**H. Well Abandonment**

The Permittee shall permanently abandon out of service wells in accordance with the Virginia Department of Health's Regulations and submit documentation to the Department of Environmental Quality within 30 days of abandonment. At least two weeks prior to the scheduled abandonment, the Permittee shall notify the Department of the scheduled abandonment date.

**Part II. Conditions Applicable to All Groundwater Withdrawal Permits.**

**A. Duty to Comply**

The Permittee shall comply with all conditions of the permit. Nothing in this permit shall be construed to

relieve the permit holder of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any permit violation is a violation of the law and is grounds for enforcement action, permit termination, revocation, modification, or denial of a permit application. 9VAC25-610-130 A

#### **B. Duty to Cease or Confine Activity**

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a permit has been granted in order to maintain compliance with the conditions of the permit. 9VAC25-610-130 B

#### **C. Duty to Mitigate**

The Permittee shall take all reasonable steps to avoid all adverse impacts that may result from this withdrawal as defined in 9VAC25-610-10

#### **D. Inspection, Entry, and Information Requests**

Upon presentation of credentials, the Permittee shall allow the Board, the Department, or any duly authorized agent of the Board, at reasonable times and under reasonable circumstances, to enter upon the Permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the permit conditions, and to inspect any facilities, well(s), water supply system, operations, or practices (including sampling, monitoring and withdrawal) regulated or required under the permit. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency. 9VAC25-610-130 D

#### **E. Duty to Provide Information**

The Permittee shall furnish to the Board or Department, within a reasonable time, any information that the Board may request to determine whether cause exists for modifying or revoking, reissuing, or terminating the permit, or to determine compliance with the permit. The Permittee shall also furnish to the Board or Department, upon request, copies of records required to be kept by regulation or this permit. 9VAC25-610-130 E

#### **F. Monitoring and Records Requirements**

1. The Permittee shall maintain a copy of the permit on-site and/or shall make the permit available upon request. 9VAC25-610-130 E
2. Monitoring of parameters shall be conducted according to approved analytical methods as specified in the permit. 9VAC25-610-130 F 1
3. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. 9VAC25-610-130 F 2
4. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit, for a period of at least three years from the date of the expiration of a granted permit. This period may be extended by request of the Board at any time. 9VAC25-610-130 F 3

5. Records of monitoring information shall include as appropriate: 9VAC25-610-130 F 4
  - a. the date, exact place and time of sampling or measurements;
  - b. the name(s) of the individual(s) who performed the sampling or measurements;
  - c. the date the analyses were performed;
  - d. the name(s) of the individual(s) who performed the analyses;
  - e. the analytical techniques or methods supporting the information, such as observations, readings, calculations and bench data used;
  - f. the results of such analyses; and
  - g. chain of custody documentation.

**G. Environmental Laboratory Certification** *[TO BE DETERMINED AFER REVIEW AND DISCUSSION WITH RAP]* *Since only withdrawal reporting is required this may not be needed*

The Permittee shall comply with the requirement for certification of laboratories conducting any tests, analyses, measurements, or monitoring required pursuant to the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), Environmental Laboratory Certification Program (§ 2.2-1105 et seq. of the Code of Virginia), Certification for Noncommercial Environmental Laboratories (1VAC30-45), and/or Accreditation for Commercial Environmental Laboratories (1VAC30-46), and

- a. Ensure that all samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Conduct monitoring according to procedures approved under 40CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency.
- c. Periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements. 1VAC30-45-20

**H. Metering and Equipment Requirements**

1. Each well and/or impoundment or impoundment system shall have an in-line totalizing flow meter to read gallons, cubic feet, or cubic meters installed prior to beginning the permitted use. Meters shall produce volume determinations within plus or minus 10% of actual flows. 9VAC25-610-140 A 7 b
  - a. A defective meter or other device must be repaired or replaced within 30 days.
  - b. A defective meter is not grounds for not reporting withdrawals. During any period when a meter is defective, generally accepted engineering methods shall be used to estimate withdrawals. The period during which the meter was defective must be clearly identified in

the groundwater withdrawal report required by Part I, Subsection D of this permit. An alternative method for determining flow may be approved by the Board on a case-by-case basis.

2. Each well shall be equipped in a manner such that water levels can be measured during pumping and non-pumping periods without dismantling any equipment. Any opening for tape measurement of water *levels* shall have an inside diameter of at least 0.5 inches and be sealed by a removable plug or cap. 9VAC25-610-140 A 7 e **The Permittee shall provide a tap for taking raw water samples from each permitted well.**

## **I. Permit Actions**

1. A permit may be modified or revoked as set forth in Part VI of the Groundwater Withdrawal Regulations. 9VAC25-610-290 and 9VAC25-610-130 G
2. If a Permittee files a request for permit modification or revocation, or files a notification of planned changes, or anticipated noncompliance, the permit terms and conditions shall remain effective until the Board makes a final case decision. This provision shall not be used to extend the expiration date of the effective permit. 9VAC25-610-130 G
3. Permits may be modified or revoked upon the request of the Permittee, or upon Board initiative, to reflect the requirements of any changes in the statutes or regulations. 9VAC25-610-130 G
4. A new permit application shall be submitted 270 days prior to the expiration date of this permit, unless permission for a later date has been granted by the Board, to continue a withdrawal greater than or equal to 300,000 gallons in any month while an application for a renewal is being processed. 9VAC25-610-96
5. A new permit application shall be submitted 270 days prior to any proposed modification to this permit that will (i) result in an increase of withdrawal above permitted limits; or (ii) violate the terms and conditions of this permit. 9VAC25-610-96
6. The applicant shall provide all information described in 9VAC25-910-50 for any reapplication.
7. The Permittee must notify the Department in writing of any changes to owner and facility contact information within 30 days of the change. 9VAC25-610-140 C

## **J. Minor Modifications** **[TO BE DETERMINED AFER REVIEW AND DISCUSSION WITH RAP]**

1. A minor modification to this permit must be made to replace an existing well(s) or add an additional well(s) provided that the well(s) is screened surficial aquifer, and is in the near vicinity of the existing well(s), the total groundwater withdrawal does not increase, the area of impact does not increase, and the well has been approved by the Department prior to construction. 9VAC25-610-330 B 4 and B 5

2. A minor modification to this permit must be made to combine withdrawals governed by multiple permits when the systems are physically connected as long as interconnection will not result in additional groundwater withdrawal and the area of impact will not increase. 9VAC25-610-330 B 6
3. Minor modifications to this permit must also be made to:
  - a. Allow for change in ownership when the Board determines no other change in the permit is necessary and the appropriate written agreements are provided in accordance with the transferability of permits and special exceptions. 9VAC25-610-320 and 9VAC25-610-330 B 8

## K. Well Construction

At least two weeks prior to the scheduled construction of any well(s), the Permittee shall notify the Department of the construction timetable and receive prior approval of the well(s) location(s) and acquire the DEQ Well number. All wells shall be constructed in accordance with the following requirements.

1. A well site approval letter or well construction permit must be obtained from the Virginia Department of Health prior to construction of the well. 9VAC25-610-130 A
2. A complete suite of geophysical logs (16"/64" Normal, Single Point, Self-Potential, Lateral, and Natural Gamma) shall be completed for the well and submitted to the Department along with the corresponding completion report. 9VAC25-610-140 C
3. The Permittee shall evaluate the geophysical log and driller's log information to estimate the **top of the Yorktown-Eastover** aquifer and; therefore, a depth above which the pump shall be set. The Permittee's determination of the top of the Yorktown-Eastover aquifer shall be submitted to the Department for review and approval, or approved on site by the Department's Groundwater Characterization staff, prior to installation of any pump. 9VAC25-610-140 A 6 **[TO BE DETERMINED AFTER REVIEW AND DISCUSSION WITH RAP]**
4. The Permittee shall install gravel packs and grout in a manner that prevents leakage between aquifers. 9VAC25-610-140 C
5. A completed GW-2 Form and any additional water well construction documents shall be submitted to the Department within 30 days of the completion of any well and prior to the initiation of any withdrawal from the well. The assigned DEQ Well number shall be included on all well documents. 9VAC25-610-140 C

## L. Permit Reopening



This permit may be reopened for the purpose of modifying the conditions of the permit as follows:

- a. To meet new regulatory standards duly adopted by the Board. 9VAC25-610-140 A 11
- b. When new information becomes available about the permitted withdrawal, or the impact of the withdrawal, which had not been available at permit issuance and would have justified the application of different conditions at the time of issuance. 9VAC25-610-310 B 1
- c. When the reported withdrawal is less than 60% of the permitted withdrawal amount for a five year period.
- d. If monitoring information indicates the potential for adverse impacts to groundwater quality or level due to this withdrawal.

## Strawman for Base Regulation Changes

### 9VAC25-610-10. Definitions.

Unless a different meaning is required by the context, the following terms as used in this chapter shall have the following meanings:

"General permit" means a groundwater withdrawal permit authorizing the withdrawal of groundwater in a groundwater management area under specified conditions including the size of the withdrawal or the aquifer or confining unit from which the withdrawal is to be made.

"Surface water" means all state waters that are not groundwater as groundwater is defined in § 62.1-255 of the Code of Virginia.

"Instream beneficial uses" means uses including, but not limited to, the protection of fish and wildlife resources and habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes of the protection of navigation, maintenance of waste assimilation capacity, the protection of fish and wildlife resources and habitat, recreation, cultural and aesthetic values is an instream beneficial use of Virginia's waters.

9VAC25-610-94. Application for a new permit, expansion of an existing withdrawal, or reapplication for a current permitted withdrawal.

### 9VAC25-610-95. General permits.

A. The board may issue a general permit by regulation for withdrawals of groundwater within a groundwater management area, as it deems appropriate in accordance with the following:

1. A general permit may be written to cover

a. withdrawals of a certain size

b. withdrawals from a specific aquifer or confining unit

c. other categories of withdrawals deemed appropriate by the board.

2. A general permit must clearly identify the applicable conditions of this chapter for each category or subcategory of withdrawals covered by the permit.

3. The general permit may exclude specified withdrawals or areas from coverage

B. When the board determines on a case-by-case basis that concerns for the aquifer, water quality and the ecosystem services that depend on the groundwater so indicate, the board may require individual applications and individual permits rather than approving coverage under a general permit regulation. Cases where an individual permit may be required include the following:

1. The wells of two or more groundwater users within the area are interfering or may reasonably be expected to interfere substantially with one another;

2. The available ground water or surface water supply that rely on surficial aquifer input has been or may be adversely impacted or where instream beneficial uses may be impacted d.

3. The groundwater or surface water in the area has been or may become polluted. Such pollution includes any alteration of the physical, chemical or biological properties of ground water, or surface waters, which has a harmful or detrimental effect on the quality or quantity of such waters.

4. Where the applicant or permittee is not in compliance with the conditions of the general permit regulation or coverage; or

5. When an applicant or permittee no longer qualifies for coverage under the general permit.

C. General permit coverage may be revoked from an individual permittee for any of the reasons set forth in 9VAC25-610-300 A subject to appropriate opportunity for a hearing.

D. Activities authorized under a general permit and general permit regulation shall be authorized for the fixed term stated in the applicable general permit and general permit regulation.

E. When an individual permit is issued to a permittee, the applicability of general permit coverage to the individual permittee is automatically terminated on the effective date of the groundwater withdrawal individual permit.

F. When a groundwater withdrawal general permit regulation is issued, which applies to a permittee that is already covered by an individual permit, such person may request exclusion from the provisions of the general permit regulation and subsequent coverage under an individual permit.

G. General permits may be issued, modified, revoked and reissued, or terminated in accordance with the provisions of the Administrative Process Act (Chapter 40 of Title 2.2 of the Code of Virginia, §2.2-4000 et seq.).

9VAC25-610-96. Duty to reapply for a permit.

9VAC25-610-300. Causes for revocation.

A. After public notice and opportunity for a formal hearing pursuant to 9VAC25-230-100 a permit or special exception can be revoked for cause. Causes for revocation are as follows:

1. Noncompliance with any condition of the permit or special exception;
2. Failure to fully disclose all relevant facts or misrepresentation of a material fact in applying for a permit or special exception, or in any other report or document required by the Act, this chapter or permit or special exception conditions;
3. The violation of any regulation or order of the board, or any order of a court, pertaining to groundwater withdrawal;
4. A determination that the withdrawal authorized by the permit or special exception endangers human health or the environment and cannot be regulated to acceptable levels by permit or special exception modification;
5. A material change in the basis on which the permit or special exception was issued that requires either a temporary or permanent reduction, application of special conditions or elimination of any groundwater withdrawal controlled by the permit or special exception.