

Meeting Minutes  
Friday, October 9, 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, Dave Lovell, Sue Mastyl, Ed Tankard, and Britt McMillan.

Members Absent: Paul Muhly and Mark Patterson.

Other Participants: Scott Kudlas (facilitator), Tony Cario, Gary Graham, Jutta Schneider, and Justin Curtis.

The meeting convened at 10:06 a.m. and adjourned at 11:41 a.m.

1. Welcome and Introductions [Scott Kudlas, DEQ]. Mr. Kudlas welcomed the RAP members to the final meeting of the RAP. A tentative agenda for the meeting had previously been emailed to members (Attachment 1). Strawmen of the regulations (Attachments 2, 3 and 4) had also previously been emailed to the members for review. Mr. Kudlas noted for the record that there was a quorum of RAP members present on-line.
2. Finish Review of Strawman for 9VAC25-610 Base Regulation change [Scott Kudlas, DEQ]. Mr. Kudlas very briefly addressed the changes to the base regulation by noting that the changes were in large part boilerplate, with changes to definitions specific to the general permit regulation and changes necessary to the management of groundwater withdrawals. He then opened the floor for discussion and then asked if there were any objections to the base regulation as presented that would prevent a finding of consensus. **Hearing no objections, Mr. Kudlas noted that the decision of RAP was that they were in consensus concerning the base regulation proposal.**
3. Finish Review of Strawman for 9VAC25-910 General Permit [Scott Kudlas and Tony Cario, DEQ]. Mr. Kudlas addressed each of the changes to the general permit regulation. A change was proposed to Part II of the General Permit, in the subsection concerning Well Construction. At the conclusion of the discussions, Mr. Kudlas then asked if there were any objections to the General Permit regulation as presented that would prevent a finding of consensus. **Hearing no objections, Mr. Kudlas noted that the decision of RAP was that they were in consensus concerning the General Permit regulation proposal, as revised.**

4. Outline next steps [Scott Kudlas, DEQ]. Mr. Kudlas noted that there was a piece of legislation that was currently being considered by the 2020 Special Session of the General Assembly. Senate Bill 673, among other things, prohibits the use of a confined aquifer in any Groundwater Management Area for agricultural irrigation unless the surficial aquifer is insufficient for that purpose. This legislation is not expected to affect the work of this RAP. This proposal will be presented to the State Water Control Board at the December 9, 2020 meeting for approval to be published for public comment. Barring unforeseen delays, the proposal is expected to be presented to the board for final approval in the spring of 2021.
5. Public Comment [Scott Kudlas, DEQ]. One of the members was concerned that the proposal did not address the full range of incentives that were available to promote the use of the surficial aquifer. Mr. Kudlas responded that the General Permit was the only incentive over which the State Water Control Board currently had authority. The board will be open to other proposals for incentives within their authority, but this General Permit regulation is the only option within the constraints of the published Notice of Intended Regulatory Action that is the basis for this action. Mr. Kudlas then opened the floor for public comment. No members of the public offered comments.

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

Attachments:

1. Tentative Meeting Agenda.
2. Strawman for Base Regulation Changes (9VAC25-610). Version 2 (8/19/20)
3. Strawman for the General Permit Regulation (9VAC25-910). Version 3 (10/9/20)
4. Strawman for the General Permit Regulation (9VAC25-910 – Clean Copy Version 3 (10/9/20)

Attachment 1

TENTATIVE AGENDA  
ESGWMA Surficial Groundwater General Permit Regulatory Advisory  
Panel Meeting #4 (Final), October 9, 2020

- I. Welcome and Introductions
- II. Finish Review of Strawman for 9 VAC 25-610 Base Regulation change
- III. Finish Review of Strawman for 9 VAC 25-910 General Permit
- IV. Outline next steps
- V. Public Comment

## 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.

Attachment 3

Strawman for the General Permit Regulation (9VAC25-910). Version 3 (10/9/20)

This file is in a tracking format that is incompatible with the Minutes.  
Please contact the following person for a copy of the file:

Gary Graham, DEQ Regulatory Analyst  
[gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov)  
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## Attachment 4

### **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](#).

"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.

"Department" means the Department of Environmental Quality.

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

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

"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.

"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.

"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.

"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.

#### **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 9VAC25-910-50 is effective XXX, 2020 and expires XXXX, 2035. Any coverage that is granted pursuant to 9VAC25-910-50 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. 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 9VAC25-910-45.
2. The applicant remits any required permit application fee.
3. The applicant receives general permit coverage from the Department of Environmental Quality under



9VAC25-910-50 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.

**9VAC25-910-40. 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 withdraw 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 water level declines in the underlying confined aquifer system, 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, unless the applicant provides geophysical logs with the application that show the maximum depth of the well is constructed within the surficial aquifer of the Eastern Shore Groundwater Management Area, as determined by Department review. Wells with a maximum depth less than or equal to 80 feet below land surface do not require submission of geophysical logs.

**9VAC25-910-45. Application.**

A. The applicant shall file a complete application in accordance with this section for coverage under this general permit for use of the surficial aquifer in the Eastern Shore Groundwater Management Area.

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. For all proposed wells, provide the well name, proposed well depth, screen intervals, pumping rate, and latitude and longitude;

6. Locations of all existing and proposed wells associated with the application shown on a USGS 7.5 minute topographic map or equivalent computer generated map. The map shall be of sufficient detail such that all wells may be easily located for site inspection. The applicant shall provide the latitude and longitude coordinates in a datum specified by the Department for each existing and proposed well. The map must show the outline of the property and the location of each of its existing and proposed wells and must include all springs, rivers and other surface water bodies
7. Information on surface water and groundwater conjunctive use systems as described in 9VAC25-610-104 if applicable;
8. 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;
9. Documentation justifying volume of groundwater withdrawal requested as described in the groundwater withdrawal application provided in accordance with 9VAC25-910-50 B.2
10. Where existing or proposed wells are greater than 80 feet below land surface, 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 four 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.

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.

#### **9VAC25-910-50. 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 9VAC25-910-45.

#### **B. Reporting**

1. Water withdrawn from each well shall be recorded monthly, at the end of each month, and reported to the Department annually, in paper or electronic format, on a form provided by the Department, by the tenth (10<sup>th</sup>) day of each July for the respective previous 12 months. Records of water use shall be maintained by the Permittee in accordance with Part II.F, 1 through 4 of this general 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**

1. The permittee shall conduct an annual water audit quantifying the flows of the water in the system to understand its usage, reduce losses and improve water conservation. The audit shall include:
  - a. Documented annual review of the amount of water used compared with the expected need of the system to ensure that the water system uses the minimum amount of water necessary;
  - b. Documented list of any new water saving equipment, procedures, or improvements installed or water saving processes implemented during the previous year;
  - c. Implementation and evaluation of a leak detection and repair; including documented quarterly visual monitoring during withdrawal periods where the permittee will locate and correct system leaks;
  - d. A Groundwater Withdrawal Water Conservation and Management Audit Form, completed in its entirety, provided by the Department.
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**

1. In cases where the Area of Impact provided with the permit application for the water withdrawal from the surficial aquifer does not remain on the property owned by the permittee and existing groundwater withdrawers are included in the area of impact, the permittee shall mitigate all adverse impacts on existing groundwater users in accordance with the following process:
  - a. The permittee will review and respond to any claim of an adverse impact from a groundwater user within the Area of Impact 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 and provide a justification for denial 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 within thirty (30) days or (b) the claim is denied and provide a justification for denial;
- 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 within thirty (30) days, authorized to resolve the controversy by rendering a final and binding decision. The losing party shall be responsible for the arbitration costs. If the claim is approved by the arbitrator, the permittee will mitigate the adverse impacts within thirty (30) business days of making the decision or as soon as practical.

#### **E. 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.

#### **F. 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.

#### **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.

#### **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 and provide mitigation of the adverse impact in accordance with Part I.D of this general permit.

#### **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.

#### **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.

#### **F. Water Withdrawal Volume 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. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. 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.
4. Records of monitoring information shall include as appropriate:
  - 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 measurements were performed;
  - d. the results of such measurements ; and

#### **G. Water Withdrawal Volume Metering and Equipment Requirements**

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.

- 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.

#### **H. Well Construction**

At least four months 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.
2. For wells constructed with a maximum depth greater than 80 feet, 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.

3. The Permittee's determination of the surficial aquifer depth 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.
4. 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.

#### **I. Transfer of permits**

1. Permits are not transferable to any person except after notice to the Department.
2. Coverage under this permit may be automatically transferred to a new permittee if:
  - a. The current permittee notifies the Department within 30 days of the proposed transfer of the title to the facility or property, unless permission for a later date has been granted by the board;
  - b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - c. The board does not notify the existing permittee and the proposed new permittee of its intent to deny the new permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II I.2.b.

#### **J. Notice of planned change**

1. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required:
  - a. to replace or alter an existing well(s) or add an additional well(s) provided that the well(s) is screened in the 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;
  - b. where an alteration or addition to the water withdrawal system could significantly change the nature of groundwater withdrawn from the surficial aquifer;

#### **K. Revocation and Termination of coverage**

1. General permit coverage may be revoked in accordance with 9VAC25-610-290 and 9VAC25-610-300.
2. The permittee may terminate coverage under this general permit by filing a complete notice of termination with the Department. The notice of termination may be filed after one or more of the following conditions have been met:
  - a. Operations have ceased at the facility and there are no longer withdrawals from the surficial aquifer;
  - b. A new owner has assumed responsibility for the facility (Note: A notice of termination does not have to be submitted if a Change of Ownership Agreement Form has been submitted);
  - c. All groundwater withdrawals associated have been covered by an individual groundwater withdrawal permit; or
  - d. Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.
3. The notice of termination shall contain the following information:
  - a. Owner's name, mailing address, telephone number, and email address (if available);
  - b. Facility name and location;

- c. The general permit number;
  - d. A completed Termination Agreement Form obtained from the Department.
  - e. The basis for submitting the notice of termination, including:
    - (a) A statement indicating that a new owner has assumed responsibility for the facility;
    - (b) A statement indicating that operations have ceased at the facility, and there are no longer groundwater withdrawals from the surficial aquifer;
    - (c) A statement indicating that all groundwater withdrawals have been covered by an individual Groundwater Withdrawal permit; or
    - (d) A statement indicating that termination of coverage is being requested for another reason (state the reason); and
    - (e) The following certification: "I certify under penalty of law that all groundwater withdrawals from the surficial aquifer at the identified facility that are authorized by this general permit have been eliminated, or covered under a groundwater withdrawal individual permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to withdraw groundwater in accordance with the general permit, and that withdrawing groundwater is unlawful where the withdrawal is not authorized by a groundwater withdrawal permit or otherwise excluded from permitting. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Virginia Groundwater Management Act."
4. The notice of termination shall be signed in accordance with 9VAC25-610-150.

#### **L. Continuation of Coverage**

Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if the owner has submitted a complete application statement at least 90 days prior to the expiration date of the permit, or a later submittal established by the board, which cannot extend beyond the expiration date of the original permit. The permittee is authorized to continue to withdrawal until such time as the board either:

- a. Issues coverage to the owner under this general permit; or
- b. Notifies the owner that the withdrawal is not eligible for coverage under this general permit.

#### **M. Duty to reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain coverage under a new permit. All permittees with currently effective permit coverage shall submit a new application at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted in writing by the board. The board shall not grant permission for application to be submitted later than the expiration date of the existing permit.