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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC25-820
<b>VAC Chapter title(s)</b>	General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorous Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia
<b>Action title</b>	<b>CH 820-2026 Amendment and Reissuance of the Existing Regulation</b>
<b>Final agency action date</b>	April 7, 2026
<b>Date this document prepared</b>	February 23, 2026

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 general permit regulation governs facilities holding a VPDES individual permit, or owners of facilities that otherwise meet the definition of an existing facility, that discharge or propose to discharge total nitrogen or total phosphorous, or both to the Chesapeake Bay or its tributaries. Facilities covered by the general permit regulation are authorized to discharge to surface waters and trade credits for total nitrogen and total phosphorus to offset discharges that exceed their wasteload allocations. Nitrogen and phosphorous are both nutrients and contribute to pollution in the Chesapeake Bay.

This regulatory action will amend and reissue the existing general permit which expires on December 31, 2026. Additionally, the nutrient load limits, monitoring requirements, and special conditions of the general permit were reviewed and updated to ensure that the permit is still protective of water quality.

**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). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “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.”*

Section 62.1-44.19:14 of the Code of Virginia requires that the State Water Control Board (Board) issue this general permit regulation and specifies requirements for the general permit.

The impetus of the regulatory change is § 62.1-44-15 (5a) of the Code of Virginia which states, “All certificates issued by the Board under this chapter shall have fixed terms. The term of a Virginia Pollution Discharge Elimination System permit shall not exceed five years.” This general permit expires on December 31, 2026, and must be reissued in order to make coverage available for facilities that hold individual VPDES permits and discharge or propose to discharge total nitrogen and total phosphorous to the Chesapeake Bay or its tributaries.

**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.*

- 8 HC / 24 HC: 8-Hour / 24-Hour composite sample: The sampling process design for NPDES compliance monitoring
- Board: State Water Control Board
- CBF: Chesapeake Bay Foundation
- CFR: Code of Federal Regulations
- DEQ or department: Department of Environmental Quality
- MGD: Million gallons per day
- NOIRA: Notice of Intended Regulatory Action
- NPDES: National Pollutant Discharge Elimination System
- ORM: Office of Regulatory Management
- POTW: Publicly owned treatment works - sewage treatment facilities owned and operated by a government agency, typically a municipality
- TAC: Technical Advisory Committee
- TKN: Total Kjeldahl Nitrogen
- TMDL: Total Maximum Daily Load
- TN: Total Nitrogen
- TP: Total Phosphorus
- U.S. EPA: United States Environmental Protection Agency
- USC: United States Code
- VAC: Virginia Administrative Code
- VAMWA: Virginia Association of Municipal Wastewater Agencies
- VPDES: Virginia Pollutant Discharge Elimination System
- WIP: Watershed Implementation Plan



**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) that the agency has “adopted final amendments” to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, “On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)].”*

The State Water Control Board adopted these amendments to 9VAC25-820, retitled as the “Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nutrient Discharges and Trading in the Chesapeake Bay Watershed,” on April 7, 2026 as a final regulation and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**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 the State Water Control Law, § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44,19:14 of the Code of Virginia directs the Board to issue a Watershed General VPDES Permit authorizing point source discharges of total nitrogen and total phosphorous to the waters of the Chesapeake Bay and its tributaries, § 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 discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC § 1342) 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.

40 CFR Parts 122, 123, and 124 implement the NPDES permit program under § 402 of the Clean Water Act. These provisions cover basic U.S. EPA permitting requirements, what a state must do to obtain approval to operate its program in lieu of a federal program and minimum requirements for administering the approved state program, and procedures for U.S. EPA processing of permit applications and appeals. Sections 122.1 (40 CFR § 122.1) requires permits for the discharge of “pollutants” from any “point source” into “waters of the United States.”

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (§ 2.2-4006 A 8 of the Code of Virginia).

**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 final regulatory action protects the health, safety, and welfare of citizens by establishing permitting requirements for discharges of total nitrogen and total phosphorous to the Chesapeake Bay and its tributaries from sewage treatment facilities and industrial facilities that are already authorized to make

such discharges by an individual VPDES permit. The existing general permit expires on December 31, 2026, and must be reissued to cover new and existing nitrogen and phosphorous discharges. The general permit establishes annual effluent loading limits for total nitrogen and total phosphorous and establishes the conditions by which credits (the difference in pounds between a facility’s limit and the mass actually discharged) may be traded. The general permit also establishes how any increase in nitrogen and phosphorous loading from a new or expanding discharger must be offset by other nutrient reductions elsewhere in the basin.

**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.*

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The general permit establishes nutrient load limits and monitoring requirements for discharges to the waters of the Chesapeake Bay and its tributaries. The nutrient load limits, monitoring requirements, and special conditions of the general permit were reviewed and updated to ensure that the permit is still protective of water quality.

The primary issue being addressed is that the existing general permit expires on December 31, 2026, and must be reissued to continue making it available after that date. Additional updates include clarifying consolidation versus aggregation of facilities, clarifying when and how wasteload allocations are terminated without transfer, removing language for completed compliance schedules, updating monitoring requirements, adding language to clarify monthly average reporting procedures, and adding language regarding a new option to obtain point source credits through the Virginia Nutrient Credit Exchange Association.

**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.*

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The advantages to the public, permittees, and the Agency of reissuing this general permit are that a Virginia Pollutant Discharge Elimination System (VPDES) General Permit will continue to be available to facilities with eligible discharges enabling them to discharge to surface waters in manner that is protective of those waters. There are no known disadvantages to the public, Agency, Commonwealth or regulated community.

**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.*

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There have been no changes made to this analysis since the previous stage of this action. There are no requirements in the final regulation that are more restrictive than applicable federal 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.*

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There have been no changes made to this analysis since the previous stage of this action.

Other State Agencies Particularly Affected:

State agencies with current or pending general permit coverage would be particularly affected.

Localities Particularly Affected:

This regulation is applicable throughout the Chesapeake Bay Watershed, which does not affect all Virginia localities. The final amendments are not expected to impose a disproportionate material water quality impact on any locality that would not be experienced by the other localities within the watershed. Whether there is a disproportionate or material water quality impact on localities that is not experienced by other localities is questionable as all localities within the Chesapeake Bay Watershed share the water quality impacts. Any locality in the watershed operating a publicly owned treatment works (POTW) would be subject to this general permit regulation.

Other Entities Particularly Affected:

Facilities that discharge or propose to discharge total nitrogen or total phosphorous, or both to the Chesapeake Bay or its tributaries, must do so in a manner consistent with this general permit. No other entities are particularly affected by the final regulation.

**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.*

A public comment period was held from October 6, 2025, through December 5, 2025. A total of seven comments were received. Three comments were received during a public hearing held on November 10, 2025. Three comments were submitted during the public comment period through email. Finally, one comment was received from U.S. EPA Region 3 via email as part of the VPDES review process.

Commenter	Comment	Agency response
Mr. Patrick Fanning, Chesapeake Bay Foundation (CBF)	<p><b>9VAC25- 820-70 Part I B 4</b></p> <p>Our primary concern with the proposed changes to the Watershed General Permit is in this section, which seeks to incorporate into regulations a concept and process that does not currently exist under state law and, even if it could be achieved, would require additional regulatory changes outside of the Watershed General Permit. As such, we believe this language should be removed from any final version of the Watershed General Permit.</p> <p>As DEQ is well aware, nutrient discharges under the Bay TMDL are managed on a watershed basis and specific wasteload allocations are assigned to significant dischargers for each watershed basin. Likewise, Virginia’s Phase III Watershed Implementation Plan (WIP) to achieve the Bay TMDL goals sets target loads by basin, further broken out by sector. Transferring a wasteload allocation between basins is not contemplated.</p>	DEQ acknowledges that state law does not currently address nor prohibit the transfer of wasteload allocation across tributaries; however, it does authorize the transfer of nutrient credits between certain tributaries (§ 62.1-44.19:18 A.1.ii). DEQ concurs that there may be additional regulatory barriers to implementing the regulatory language in 9VAC25-820-70 Part I B 4 during the proposed stage. As such, the proposed language has been removed from the final amendments to the regulation.

	<p>While CBF supports consolidation of wastewater treatment plants where it makes financial sense and where it will improve the level of wastewater treatment, thereby reducing nutrient discharges, we have concerns, which we raised throughout the TAC process and most recently at the public hearing on this permit, that the proposed regulatory language is insufficient to capture what would be a significant departure from the Bay TMDL's and Virginia's watershed-based approaches to regulating point source nutrient discharges. The proposed language is overly simplistic and fails to lay out how DEQ will actually evaluate, consider, and implement a consolidation of facilities currently discharging to different tributaries. Simply allowing for "case-by-case" evaluation of applications for consolidations of facilities discharging to different tributaries without prescribing how the process will work is insufficient. Likewise, throughout the TAC process, no explanation was provided to TAC members as to how the wasteload allocations associated with a consolidation of facilities discharging to different tributaries could be transferred between tributaries. If DEQ has established such a process it should be shared with TAC members, the State Water Control Board, and the public. Finally, allowing for the transfer of allocations across major basins has the potential to result in negative impacts to local water quality within each basin. While Chesapeake Bay TMDL accounting is largely focused upon deep water goals, several tidal segments of Virginia rivers remain impaired as a result of nutrient loading and trading across basins would leave these segments vulnerable to further degradation without mitigation.</p> <p>Given the departure from the watershed-based approach that is the foundation of the Commonwealth's regulation of point source nutrient discharges and the many uncertainties about how consolidation of wasteload allocations for facilities discharging to different tributaries could actually be achieved while maintaining the annual limits for nutrient loading of each tributary under the Bay TMDL and Virginia</p>	
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	<p>WIP, we find the addition of this language to be inappropriate and ask that DEQ remove it from the final permit.</p>	
<p>Mr. Patrick Fanning, CBF</p>	<p><b>9VAC-820-70 Part I B 3</b>                  CBF supports the proposed clarifications in this section regarding consolidation. The language change from “aggregate” to “consolidated” mass load limit appropriately clarifies the text is inclusive of the consolidation of flows from two or more facilities to a single facility in the same tributary.</p>	<p>Thank you for your comment.</p> <p>No changes are being made to the regulation in response to this comment.</p>
<p>Mr. Patrick Fanning, CBF</p>	<p><b>9VAC25-820-70 Part I B 5</b>                  We support the proposed clarifying language changes to address termination of wasteload allocations when a facility’s permit is terminated or allowed to expire without flow diversion to another facility.</p>	<p>Thank you for your comment.</p> <p>No changes are being made to the regulation in response to this comment.</p>
<p>Mr. Patrick Fanning, CBF</p>	<p><b>9VAC25-820-70 Part II B 1</b>                  CBF suggests that additional minor changes are needed here to improve clarity. The headings and format of this section should be further amended to add needed clarity on the differences between the annual acquisition of point source credits versus the acquisition of wasteload allocations, and to spell out that a discharger cannot acquire wasteload allocations through the Virginia Nutrient Credit Exchange.</p> <p>We suggest the language of Section B be modified from “Acquisition of wasteload allocations. Wasteload allocations required by this section to offset new or increased delivered total nitrogen and delivered total phosphorus loads shall be acquired in accordance with this section,” to “Acquisition of wasteload allocations <i>or annual point source credits</i>. Wasteload allocations <i>or the acquisition of annual point source credits</i> required by this section to offset new or increased delivered total nitrogen and delivered total phosphorus loads shall be acquired in accordance with this section.”</p> <p>Further, we suggest the language of Section B(1) be modified from, “Such allocations may be acquired from one or a combination of the following:” to, “Such allocations <i>or point source credits</i> may be acquired from one or a combination of the following:”</p>	<p>9VAC25-820-70 Part II B has been amended as follows to improve clarity:</p> <p style="padding-left: 40px;">B. Acquisition of wasteload allocations <u>or annual point source credits</u>. Wasteload allocations <u>or annual point source credits</u> required by this section to offset new or increased delivered total nitrogen and delivered total phosphorus loads, shall be acquired in accordance with this section.</p> <p style="padding-left: 80px;">1. Such allocations <u>or annual point source credits</u> may be acquired from one or a combination of the following...</p>

<p>Ms. Jennifer Fulton Chief, Clean Water Branch U.S. EPA Mid-Atlantic Region</p>	<p>U.S. EPA has reviewed the draft permit and fact sheet submitted on June 16, 2025. The revisions to the General Permit (GP) Regulation for Nutrient Discharges and Trading in the Chesapeake Bay Watershed (VAN00000) draft reissuance incorporate several significant updates including reducing the monitoring frequency for total nitrogen (TN) and total phosphorus (TP) from twice per week to once per week for the 1.0-4.99 MGD and 0.5-0.999 MGD facilities. Based on our review of this draft permit and fact sheet, U.S. EPA offers the following comments:</p> <ul style="list-style-type: none"> <li>• Please clarify how the monitoring frequency proposed in the draft is consistent with 40 CFR §122.48(b).</li> </ul>	<p>40 CFR §122.48(b) states that all permits shall specify: “b) required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.”</p> <p>The basis for the 2027 monitoring frequencies in the proposed amendments, including statistical evaluations of data obtained at the original monitoring frequencies (from 2007 and 2012 terms), were discussed at length in the Fact Sheet. Additionally, as noted in the Fact Sheet, the monitoring frequencies for 2027 are more frequent than those originally established for this general permit in 2007 and carried forward in 2012. The frequencies were increased significantly for the 2017 reissuance and were not re-evaluated for 2022. Members of the regulated community requested that DEQ update the monitoring frequencies for 2027. DEQ evaluated data reported under the 2022 and earlier general permits and compared it to monitoring frequencies of other Nutrient GPs (e.g. U.S.EPA’s Great Bay Total Nitrogen General Permit; Connecticut’s General Permit for Nitrogen Discharges).</p> <p>To address U.S. EPA’s concerns, DEQ has included additional clarifying information in the Fact Sheet:</p> <ol style="list-style-type: none"> <li>1. That a VPDES Individual Permit is a prerequisite for registration under the general permit regulation.</li> <li>2. That while the general permit sets the minimum required sampling and reporting frequencies for nutrient load monitoring, monitoring frequencies included in Individual Permits are evaluated on a case-by-case basis and may be more frequent in order to address technology-based, local TMDL-based, and/or water quality-based effluent limitations.</li> <li>3. That facilities issued VPDES Individual Permits on or after July 1, 2005, that fall into the two design flow ranges with monitoring</li> </ol>
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		<p>frequency updates (0.5-0.99 and 1.0-4.99 MGD) are also subject to technology-based concentration limits based on <a href="#">9VAC25-40-70</a> A 3 b or 4.</p> <ol style="list-style-type: none"> <li>4. That both VPDES Individual Permits and general permit regulations include requirements to take samples and measurements that are representative of the monitoring activity.</li> <li>5. That where concerns about sample shopping or biases arise, they may be addressed on a case-by-case basis by DEQ's Compliance program.</li> </ol>
<p>Mr. Ignatius Mutoti, Retaw Engineering</p>	<p>My comment is appreciating the design aspect. I've helped a lot of clients with designing and investment in newer technologies that are working very effectively in complying with nutrient wasteload allocations. Facilities are unsure of how to proceed, particularly with expansion. Facilities that probably have nutrient allocations that have been terminated, so what happened to that list of nutrient allocations? There is real economic damage when investments are made based on allocations that are not there. What is the way forward and can this be restored? These are the comments I get from the clients I represent.</p>	<p>For the 2027 reissuance, Part I B 4, Termination of a wasteload allocation, has been added to 9VAC25-820-70 to clarify what happens to a wasteload allocation when a facility's permit is terminated or expires without consolidation of wasteload allocations with another facility. This part was added in response to comments received during the Technical Advisory Committee meetings.</p> <p>9VAC25-820-70 Part II B currently provides options for the acquisition of a wasteload allocation. Part II B 1 c and d specify that:</p> <ol style="list-style-type: none"> <li>c. Until such time as the department finds that no allocations are reasonably available in an individual tributary, acquisition of allocations through payments made into the Nutrient Offset Fund established in § 10.1-2128.2 of the Code of Virginia; or</li> <li>d. Acquisition of allocations through such other means as may be approved by the department on a case-by-case basis.</li> </ol> <p>No additional changes are being made to the regulation in response to this comment.</p>
<p>Mr. Chris Pomeroy, Virginia Association of Municipal Wastewater Agencies (VAMWA)</p>	<p>VAMWA is comprised of 65 of the larger utilities statewide. VAMWA was the principal proponent, of the 2005 legislation under which today's permit is being reissued. This has been a key part of our nutrient trading program success over the past twenty years. This is a very complex and important program to the</p>	<p>Thank you for your comment.</p> <p>No changes are being made to the regulation in response to this comment.</p>

	<p>Commonwealth. VAMWA supports the Department's actions, appreciates the collaborative committee process the Department has run, and the way that the Department has given the committee members an opportunity to participate and bring our ideas. Again, VAMWA supports the reissuance of the permit and all of the collaboration behind the reissuance.</p>	
<p>G. Anne Richardson, Chief, Rappahannock Tribe of Virginia</p>	<p>The Rappahannock Tribe is taking this public comment opportunity to advocate for greater Tribal involvement in granting permits affecting the Chesapeake Bay.</p> <p>Governance of the Chesapeake Bay is managed by the states that comprise it, all of whom are participants in the Chesapeake Bay Program, which released the Chesapeake Bay Agreement. Consequently, the State of Virginia created the Virginia Chesapeake Bay Nutrient and Sediment Reduction Strategy. Throughout the creation, implementation, and ongoing changes to Chesapeake Bay governance, Tribal involvement has remained limited. As a sovereign nation within the Bay, the Rappahannock Tribe sees its lack of involvement in these matters as unacceptable. To that end, the Tribe has been advocating for the Chesapeake Bay Program to work towards developing policies to include Tribes.</p> <p>At the state level, there is also a need for greater Tribal involvement in matters affecting the Chesapeake Bay. Chapter 830 (<i>sic</i>) of the Virginia Code does not currently mandate consultation for VPDES permits. The omission of permits affecting surface water from this Code is unfortunate and steps must be taken to amend as appropriate. As the Tribe takes these steps, it is necessary for DEQ to begin developing a more productive and collaborative relationship with the Tribes of Virginia.</p> <p>In the future, the Tribe expects to have a greater degree of cooperation between the State of Virginia, its DEQ, and the Chesapeake Bay Program. General permits, which affect Tribal resources, including the Chesapeake Bay, must include Tribal input and guidance. The</p>	<p>DEQ welcomes the Tribe's perspective and collaboration in protecting the resources of the Chesapeake Bay and the Commonwealth. Public engagement plays an essential role in developing regulations that are scientifically sound, legally robust, and responsive to diverse perspectives.</p> <p>DEQ is currently working on ways to enhance collaboration with the federally recognized tribal nations across the watershed in accordance with the Chesapeake Executive Council's Charge to the Principals' Staff Committee published December 2, 2025.</p> <p>Please reach out to DEQ for any comments or questions regarding this general permit, which the Board is required to issue pursuant § 62.1-44.19:14 et seq. of the Code of Virginia.</p> <p>No changes are being made to the regulation in response to this comment.</p>

	Tribe urges DEQ to take steps to enhance its relationship with the Tribal Nations of Virginia.	
<b>Enhesa</b> Reagan Ferris Consultant	In this regulation, there is a unit of measurement in the Sample Type and Collection Frequency table (HC). I see no definition of HC within the regulation or anywhere online. Could you please clarify what HC means?	<p>HC means "Hour composite"</p> <p>An hour composite sample is a combination of individual samples, taken proportional to flow, obtained at hourly or smaller time intervals for the entire discharge of the monitored period.</p> <p>HC = Hour Composite has been added to the table in 9VAC-25-820-70 Part I.E.1 for clarity.</p>

**Details 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.*

Five changes were made since the previous stage of this action as a result of comments received from CBF and an environmental consultant.

<b>Current chapter-section number</b>	<b>New chapter-section number, if applicable</b>	<b>New requirement from previous stage</b>	<b>Updated new requirement since previous stage</b>	<b>Change, intent, rationale, and likely impact of updated requirements</b>
	9VAC25-820-70 Part I B 4	Consolidation of mass load limits from two or more facilities discharging into different tributaries	* Removed condition allowing consolidation of mass load limits from two or more facilities discharging into different tributaries from this regulatory action.	This change has been made in response to a comment from the CBF. DEQ acknowledges that state law does not currently address nor prohibit the transfer of wasteload allocation across tributaries; however, it does authorize the transfer of nutrient credits between certain tributaries (§ 62.1-44.19:18 A 1 ii). DEQ concurs that there may be additional regulatory barriers to implementing the regulatory language as proposed. As such, the proposed language has been removed from the final amendments. By

				removing the proposed amendment from the final regulation, there will be no change in the existing requirements or alternatives for members of the regulated community.
9VAC25-820-70 Part I B 4 and I B 5	9VAC25-820-70 Part I B 5, I B 6 and I B 7		Renumbered as Part. I B 4, I B 5 and I B 6	Renumbered due to the removal of Part I B 4 (consolidation of mass load limits from two or more facilities discharging into different tributaries ), as proposed, from the final amendments.
9VAC25-820-70 Part I E 1			Added HC = Hour Composite to define term used in table.	This change has been made in response to a comment from an environmental consultant. It provides clarity and improves understanding.
9VAC25-820-70 Part I G 1 a		Registration statement due date listed as November 1, 2026.	Revised date to November 1, 2031	This change has been made to correct the due date of the Registration Statement submittal for the new reissuance cycle.
9VAC25-820-70 Part II B			Acquisition of wasteload allocations [ <u>or annual point source credits</u> ]. Wasteload allocations [ <u>or annual point source credits</u> ] required by this section to offset new or increased delivered total nitrogen and total phosphorus loads shall be acquired in accordance with this section.	This change has been made in response to comments from the CBF. The regulatory language has been revised to improve clarity.
9VAC25-820-70 Part II B 1			Such allocations [ <u>or annual point source credits</u> ] may be acquired from or a combination of the following:	This change has been made in response to comments from the CBF. The regulatory language has been revised to improve clarity.

**Details of All Changes Proposed in this Regulatory Action**

List all changes proposed in this action 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 section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-820-10		Definitions	<p>The definition of “Board” was removed because the term has been replaced by “department” throughout the regulation. This reflects a change in law, Chapter 356 of the 2022 Acts of Assembly, that shifted responsibilities from the Board to the department.</p> <p>Added a definition for “Nutrient Offset Fund” because this term is referenced in the regulation but not previously defined.</p>
9VAC25-820-15		Applicability of incorporated references based on the dates that they become effective.	<p>Revised date of incorporation by reference of 40 CFR from July 1, 2014, to July 1, 2025, to maintain consistency with federal regulations.</p> <p>This section will be updated to the most recent published version of Title 40 of the CFR prior to reissuing the general permit regulation.</p>
9VAC25-820-20		Purpose, applicability; General Permit	Revised title of the regulation for clarity and brevity.
9VAC25-820-40 A		<p>Compliance Plans</p> <p>Requires submittal of a compliance plan by February 1, 2023, for facilities identified in 9VAC25-820-80 A and by no later than January 1, 2026, for facilities listed in 9VAC25-820-80 B.</p>	<p>Removed current “compliance dates.” The existing dates are no longer relevant because the effective date of the reissued general permit is after the current compliance date.</p>
9VAC25-820-40 B	9VAC25-820-40	Requires submission of annual compliance plan updates to DEQ.	This subsection has been renumbered to reflect the deletion of the compliance dates that had been in subsection A. There are no changes to the requirement.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-820-70		General Permit	<p>The term “board” was changed to “department” throughout the regulation in response to Chapter 356 of the 2022 Acts of Assembly.</p> <p>Revised to reflect the new permit term and title.</p>
9VAC25-820-70 Part I A 1		Authorization to discharge for owners of facilities that submit a timely registration statement.	Updated the date of timely registration statement submittal from November 1, 2021, to November 1, 2026, to reflect a new reissuance cycle of the general permit and clarify that authorization to discharge begins upon approval of the registration statement by the department.
9VAC25-820-70 Part I A 3 a		Continuation of permit coverage	Updated the date of timely registration statement submittal from November 1, 2026 to November 1, 2031, to reflect continuation of coverage of the 2027 permit into the 2032 term if a timely registration statement is received.
9VAC25-820-70 Part I A 3 b		Continuation of permit coverage	Updated the date of the general permit references from 2017 to 2022 to refer to the last permit issuance for enforcement action when the owner that was covered under the expiring or expired general permit.
9VAC-820-70 Part I B 3		<p>Wasteload allocations</p> <p>Authorizes an owner that consolidates two or more facilities discharging to the same tributary into a single regional facility to receive aggregated mass nutrient load limits.</p>	<p>Replaced the word “aggregate” with “consolidated” mass load limit.</p> <p>Removed the term “regional” referring to the receiving facility. The changes clarify the situation where an owner diverts the discharge flow from two or more facilities to a single facility in the same tributary, in contrast with Part I.B.2 which addresses “aggregate load limits” for individual facilities under common ownership.</p> <p>This change has been applied to subdivisions a through e to improve clarity and understanding.</p>
	9VAC25-820-70 Part I B 4	None	Termination of a wasteload allocation. Added the subdivision to clarify what happens to a wasteload allocation when a facility’s permit is terminated or allowed to expire without flow diversion to another facility. The addition provides certainty for facilities

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			when their individual and general permits are terminated or expire.
9VAC25-820-70 Part I B 4	9VAC25-820-70 Part I B 5	Apportionment of nutrient load in intake water	Updated the section number (changing B 4 to B 5) to reflect the addition of new section B 4, Termination of wasteload allocation. The current requirement related to total loads have not changed.
9VAC25-820-70 Part I B 5	9VAC25-820-70 Part I B 6	Bioavailability	Updated the section number (changing B 5 to B 6) to reflect the addition of new section B 4, Termination of wasteload allocation. The current requirement related to bioavailability has not changed.
9VAC25-820-70 Part I C 1		Schedules of compliance pertaining to the TN and TP load allocations that apply to facilities listed in 9VAC25-820 –80 A.	Removed reference to the facilities listed in 9VAC25-720-120 as they have already met compliance. Removed reference to the facilities listed in 9VAC25-820-80 B as they will meet compliance by the end of the current permit cycle.
9VAC25-820-70 Part I C 3		Schedule of compliance pertaining to facilities listed in 9VAC25-820-80 B.	Removed language referring to compliance dates that will have passed by the date of reissuance of the general permit.
9VAC25-820-70 Part I E 1		Monitoring Requirements	<p>Table columns were re-ordered to list the design flow ranges from lowest to highest to improve readability of the information displayed in the table.</p> <p>Split the 1.0-19.999 million gallons daily (MGD) Design Flow range into 1.0-4.99 MGD and 5.0-19.999 MGD, with the respective effluent TN and TP industrial load limits.</p> <p>Added 1 day/week 24 HC monitoring frequency for the 1.0-4.99 MGD flow range (it had been 2 day/week 24 HC when the range was 1.0 to 19.999 MGD).</p> <p>Changed 0.5-0.999 MGD monitoring frequency from 8 HC 2 days/week to 8 HC 1 day/week.</p> <p>These changes are in response to a TAC member’s recommendation and are based on a statistical analysis that demonstrates that a monitoring frequency of 1 day/week for the</p>

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			<p>design flow ranges of 0.5-0.999 MGD and 1.0-4.99 MGD is sufficient to capture loading variability for accurate accounting of annual loads.</p> <p>Added HC = Hour Composite to specify the term used in the table.</p> <p>The changes improve clarity and understanding. They also reduce the monitoring frequency for some facilities while maintaining sufficient requirements and review to ensure compliance with permit conditions.</p>
9VAC25-820-70 Part I E 4		Data reporting	The phrase " <u>without rounding</u> " has been added to clarify the formula used to calculate total monthly load and for consistency with calculations used in VPDES Individual Permits.
	9VAC25-820-70 Part I E 6	Monthly average concentration reporting	Incorporated language from the VPDES individual permit for the reporting procedures of monthly average concentrations for TP, TKN and nitrate + nitrite. This provides clarity and consistency with the VPDES individual permits which are issued pursuant to the department's authority in the VPDES Permit Regulation, 9VAC25-31.
9VAC25-820-70 Part I G 1 a		November 1, 2016	Updated to November 1, 2031, to reflect a new reissuance cycle of the general permit.
9VAC25-820-70 Part I G 1 b		Requirement to Register	Minor editorial revisions to clarify requirements for registration statements.
9VAC25-820-70 Part I H		Registration statement	Minor editorial revisions to clarify requirements for registration statements. Removed the requirement to provide a fax number as the use of a fax as a means of communication has been replaced by email and other options.
9VAC25-820-70 Part I J 3		Credit acquisitions from the Nutrient Offset Fund	<p>Updating the cost of credits per pound of nitrogen from \$5.08 to \$9.23 and per pound of phosphorus from \$11.15 to \$20.26.</p> <p>The cost of credits per pound of nitrogen was updated based on DEQ's 2022 Pay-For-Outcomes Nonpoint Source Pollution Reduction</p>

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			<p>Grant Program that created a market for the purchase of nitrogen credits from the affected sewage treatment facilities. The average cost of \$8.58 per pound of nitrogen is the price that producers of credits were willing to sell the annual reductions considering all their costs. The 2022 cost (\$8.58) was adjusted for inflation using the CPI (July 2022 – July 2025 CPI-U Washington Arlington-Alexandria, DC-VA-MDWV) (299.937 – 322.730). The cost of credits per pound of phosphorus (\$11.15) was adjusted using the same ratio of change experienced by the cost nitrogen credits.</p>
<p>9VAC25-820-70 Part II B 1 a</p>		<p>Acquisition of wasteload allocations</p>	<p>Added reference to the option of obtaining point source credits through the Virginia Nutrient Credit Exchange Association.</p> <p>Added language to specify that “annual point source credits” can be used to offset new or increased TN and TP loads. The regulatory language provides clarity and improves understanding for the regulated community.</p>
<p>9VAC25-820-70 Part III I 1 and 2</p>		<p>Reports of noncompliance: The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.</p>	<p>Revised language to clarify reporting requirements by adding the phrase “or online” to allow the option of electronic reporting.</p>
<p>9VAC25-820-70 Part III I 3</p>		<p>Reports of noncompliance: The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.</p>	<p>Revised language to specify that reports outside of normal working hours shall be submitted using the online portal (instead of leaving a message). Updated the contact for emergencies to the Virginia Emergency Operations Center to be consistent with updates in state reporting requirements. The changes clarify and simplify the reporting requirements.</p>
<p>9VAC25-820-80 A</p>	<p>9VAC25-820-80</p>	<p>Facilities subject to reduced individual total nitrogen and total phosphorus wasteload</p>	<p>Removed Hampton Roads Sanitation District – York River Sewage Treatment Plant as this facility has</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		allocations – Enhanced Nutrient Removal Certainty (ENRC) Program Facilities	already met compliance with the ENRC reduced wasteload allocation.
9VAC25-820-80 B		Facilities subject to reduced individual total nitrogen and total phosphorus wasteload allocations – Chlorophyll-a based total phosphorus wasteload allocations	Removed. All facilities listed have achieved compliance or will achieve compliance by the expiration date of the current permit.

**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.*

As §62.1-44.19:14 of the Code of Virginia directs the Board to issue this regulation, there are no viable alternative regulatory methods that will accomplish the objectives of the applicable law.

**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 point source discharges of total nitrogen and total phosphorus, to the Chesapeake Bay or its tributaries and has been designed to minimize burden while achieving a level of water quality protection consistent with state and federal requirements. This regulatory action does not address and will have no impact on 1) authority and rights of parents, 2) economic self-sufficiency, self-pride, or assumption of familial responsibilities, 3) marital commitments, or 4) disposable family income.