

TENTATIVE AGENDA
STATE WATER CONTROL BOARD MEETING

August 20, 2025

IN PERSON ONLY – General Assembly Building
House South Subcommittee Room (#210) Second Floor
201 North 9th Street, Richmond, VA 23219

Meeting will be Live-Streamed. Go to: www.deq.virginia.gov
Any Updates To Details/Final Arrangements To Be Announced on Virginia Regulatory Town Hall

Convene – 10:00 A.M

Agenda Item	Presenter	Tab
Minutes (June 30, 2025)	Porterfield	A pg 4
Proposed Regulations		
General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9VAC25-820) – 2026 Amendment and reissuance of the existing regulation	Galli	B pg 25
Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32)- Implementation of Chapter 209 of the 2024 Acts of Assembly (HB870)	Zahradka	C pg 88
Fast-Track Regulation		
Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity 9VAC25-151 - technical corrections for consistency with stormwater regulations	Bryan	D pg 125
Other Business		
Report to the Board Regarding Controversial Permits-	Thomas	
- Synagro Central LLC – Essex County - VPA00831 - Surface Water Withdrawal Permit issuance, Caroline County VWP No. 20-0514 - U.S. Army Garrison – Fort Belvoir - VA0092771		
Mountain Valley Pipeline - Update	Davenport	
Future Meeting date- to be determined	Porterfield	
Public Forum (<i>time not to exceed 45 minutes- no public comment on agenda items or pending regulatory actions during public forum</i>)		

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions on the latest status of the agenda should be directed to Melissa S. Porterfield at (804) 698-4238.

PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions made by the Department of Environmental Quality (Department). These procedures establish the times for the public to provide appropriate comment to the Board for regulatory action and the Department for case decisions for consideration.

For **REGULATORY ACTIONS** (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For **CASE DECISIONS** (e.g., issuance and amendment of permits and enforcement orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. (Note: as of July 1, 2022, the Department takes final action on all case decisions.) As a general rule, public comment is accepted on a draft permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may be an additional comment period during which a public hearing is held, usually 45 days.

In light of these established procedures, the Board accepts public comment on regulatory actions as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Also, public comment will be accepted for certain final exempt actions where there has been no public comment period. Persons are allowed up to 3 minutes to address the Board on the emergency regulation and final exempt actions under consideration.

POOLING MINUTES ON REGULATORY ACTIONS: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION ON A REGULATORY ACTION will not be accepted at the meeting. The Board expects comments and information on a regulatory action to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department staff contact listed below at least

10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. Should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda or pending regulatory actions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less. Note, there is no pooling of minutes during the public forum.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Melissa S. Porterfield, Policy Analyst,
Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond,
Virginia 23218, phone (804) 698-4238, e-mail: Melissa.porterfield@deq.virginia.gov

Additional Meeting Information:

- No food or beverages allowed in meeting space.
- Attendees may not erect any signage inside or outside the meeting room or building.
- Attendees are not entitled to be disorderly or disrupt the meeting from proceeding in an orderly, efficient, and effective fashion. Disruptive behavior may result in a recess or removal from the meeting.
- Possession or use of any device that may disrupt the conduct of business is prohibited, including but not limited to: voice-amplification equipment; bullhorns; blow horns; sirens, or other noise-producing devices; as well as signs on sticks, poles or stakes; or helium-filled balloons.
- All attendees are asked to be respectful of all speakers.
- Rules will be enforced fairly and impartially not only to ensure the efficient and effective conduct of business, but also to ensure no interference with the business of the complex, its employees and guests.
- Attendees wishing to record the proceedings are welcome to do so; however, you may not interfere with the business of the meeting, nor impede the view or participation of other meeting attendees and staff.
- No smoking is allowed unless in a designated outside space. This includes tobacco & e-cigarettes.
- No alcohol, fireworks, pyrotechnics, weapons, or any substances/items controlled by law are allowed.
- No firearms are allowed in the State's contracted spaces except for firearms carried by law-enforcement officers or authorized security personnel.
- All violators may be subject to removal from the meeting facility.
- Anyone removed from the facility may not reenter.
- Anyone who fails to comply with removal may be charged with trespass.

TAB A



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Stefanie K. Taillon
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

MEMORANDUM

To: Members of the State Water Control Board

From : Melissa S. Porterfield

Date: August 1, 2025

Subject: Minutes

Attached are the minutes from your meeting on June 30, 2025. Staff will seek your approval of the minutes at your next meeting.

If you have any questions, please contact me at (804) 698-4238 or melissa.porterfield@deq.virginia.gov.



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STATE WATER CONTROL BOARD MEETING

General Assembly Building, Senate Room C, Third Floor
201 North 9th Street, Richmond, VA 23219

MONDAY JUNE 30, 2025

Board Members Present:

Lou Ann Jessee-Wallace, Chair
Scott Cameron, Vice-chair (arrived at 10:10 a.m.)
Tommy Branin
Robert Dunn
Jerry Kilgore
Steve Yob

Board Members Absent:

Michelle Johnson

Department of Environmental Quality:

Michael Rolband, Director
Melissa Porterfield
Jill Hrynciw

Office of the Attorney General:

Ross Phillips, Assistant Attorney General/Chief

1. The attached minutes summarize activities that took place at this Board Meeting.
2. The meeting convened at 10:04 a.m. and adjourned at 12:01 p.m.



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON JUNE 30, 2025**

Minute No. 1- Approval of meeting Agenda and prior meeting minutes

The Board approved the June 30, 2025 meeting agenda by a vote of 5-0 (Branin, Dunn, Kilgore, Wallace and Yob).

The Board approved the minutes of the meeting held March 24, 202, by a vote of 5-0 (Branin, Dunn, Kilgore, Wallace and Yob).

A handwritten signature in cursive script, reading "Melissa S. Porterfield".
Melissa S. Porterfield



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT
ITS MEETING ON JUNE 30, 2025**

Minute No. 2- Revisions to Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) – in response to CH 280 of the 2025 Acts of Assembly (HB2517) - Land Application of Sewage Sludge for Research Purposes by Public Institutions of Higher Education

Prior to the meeting the Board was provided materials showing the proposed amendments to the regulation. Neil Zahradka, Manager of the Office of Land Application Programs in the Water Division, presented a summary of the proposed changes to the regulation. Mr. Zahradka conveyed to the Board that the amendments are exempt from the requirements of Article 2 of the Administrative Process Act pursuant to VA Code § 2.2-4006(A)(4)(a).

Board Decision

Based on the Board Book briefing material and the staff presentation, the Board voted unanimously (6-0, Branin, Cameron, Dunn, Kilgore, Wallace, Yob) to adopt the Amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) 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.

A handwritten signature in blue ink, reading "Bryant Thomas".

Bryant Thomas
Director, Water Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON JUNE 25, 2024**

**MINUTE 3–WATER QUALITY MANAGEMENT PLANNING REGULATION
(9VAC25-720) AMENDMENTS - ADOPTION OF SEVEN NEW TMDL WASTELOAD
ALLOCATIONS**

Justin Williams, Manager, Office of Watershed and Local Government Assistance Programs, presented an amendment to the Water Quality Management Planning Regulation for seven new waste load allocations for Board approval.

The proposed actions pertain to water bodies in the Tennessee-Big Sandy River Basin and James River Basin:

1. Two new waste load allocations for Greendale Creek and an unnamed Tributary to Fleenor Branch and one new waste load allocation for phosphorus for unnamed Tributary to Fleenor Branch in Washington County.
2. Four new waste load allocations for polychlorinated biphenyls for the non-tidal James River below Bent Creek study area (from Bent Creek confluence to I-95 James River Bridge in Richmond), Maury River, and Jackson River Watersheds in the Upper and Middle James River Basin.

Board member Steven Yob submitted to DEQ staff a signed transactional disclosure statement pursuant to the Virginia State and Local Government Conflict of Interests Act before participating in/voting on these agenda items. He indicated he has a personal interest affected by the transactions being considered because of his employment as Deputy County Manager for Community Operations by Henrico County. Henrico County, like other Virginia localities, is subject to the Water Virginia Quality Management Planning Regulation and Virginia Water Protection General Permits. He indicated he was able to participate in this agenda item fairly, objectively, and in the public interest.

Board Decision:

Based on the Board Book briefing material and the staff presentation, the Board voted unanimously (6-0, Branin, Cameron, Dunn, Kilgore, Wallace and Yob) to adopt the Water Quality Management Planning Regulation amendments including the clarification of stream names as provided in Attachment II and affirm that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

A handwritten signature in black ink, reading "Elizabeth McKercher".

Elizabeth McKercher, Director
Water Planning Division

**Attachment II – Amended Water Quality Management Planning Regulation
proposed for Board Adoption**

9 VAC 25-720-60 A James River Basin

9 VAC 25-720-90 A Tennessee-Big Sandy River Basin

9VAC25-720-60. James River Basin.**A. Total Maximum Daily Load (TMDLs).**

TMDL #	Stream Name	TMDL Title	City/County	Waterbody Identification	Pollutant	WLA ¹	Units
<u>194</u>	<u>Non-tidal James River above Bent Creek</u>	<u>PCB Total Maximum Daily Load Development for the Middle and Upper James River, Maury River, and Jackson River Watersheds</u>	<u>Botetourt, Rockbridge</u>	<u>I18, I24, I27, I28, I37, H01, H03, H05</u>	<u>PCB</u>	<u>190,000</u>	<u>mg/year</u>
<u>195</u>	<u>Non-tidal James River below Bent Creek</u>	<u>PCB Total Maximum Daily Load Development for the Middle and Upper James River, Maury River, and Jackson River Watersheds</u>	<u>Amherst, Bedford, Campbell, Appomattox, Nelson, Buckingham, Albemarle, Fluvanna, Cumberland, Goochland, Powhatan, Henrico, Chesterfield Counties, Lynchburg and Richmond Cities</u>	<u>H08, H14, H17, H19, H20, H22, H33, H38, H39</u>	<u>PCB</u>	<u>160,000</u>	<u>mg/year</u>
<u>196</u>	<u>Maury River</u>	<u>PCB Total Maximum Daily Load Development for the Middle and Upper James River, Maury River, and Jackson River Watersheds</u>	<u>Rockbridge, Buena Vista</u>	<u>I37</u>	<u>PCB</u>	<u>4,100</u>	<u>mg/year</u>
<u>197</u>	<u>Jackson River</u>	<u>PCB Total Maximum Daily Load Development for the Middle and Upper James River, Maury River, and Jackson River Watersheds</u>	<u>Alleghany, Covington</u>	<u>I04, I09</u>	<u>PCB</u>	<u>170,000</u>	<u>mg/year</u>

¹The total WLA can be increased prior to modification provided that DEQ track these changes for bacteria TMDLs where the permit is consistent with water quality standards for bacteria.

² GS means growing season.

9VAC25-720-90. Tennessee-Big Sandy River Basin.**A. Total Maximum Daily Load (TMDLs).**

TMDL #	Stream Name	TMDL Title	City/County	Waterbody Identification	Pollutant	WLA ¹	Units
<u>79</u>	<u>Greendale Creek</u>	<u>Benthic TMDL Development for Greendale Creek and Unnamed Tributary to Fleenor Branch located in Washington County, VA.</u>	<u>Washington</u>	<u>O12</u>	<u>Sediment</u>	<u>28,000</u>	<u>lbs/year</u>
<u>80</u>	<u>UT to Fleenor Branch</u>	<u>Benthic TMDL Development for Greendale Creek and Unnamed Tributary to Fleenor Branch located in Washington County, VA.</u>	<u>Washington</u>	<u>O12</u>	<u>Sediment</u>	<u>440</u>	<u>lbs/year</u>
<u>81</u>	<u>UT to Fleenor Branch</u>	<u>Benthic TMDL Development for Greendale Creek and Unnamed Tributary to Fleenor Branch located in Washington County, VA.</u>	<u>Washington</u>	<u>O12</u>	<u>Phosphorus</u>	<u>2,400</u>	<u>lbs/year</u>

Notes:

¹The total WLA can be increased prior to modification provided that DEQ tracks these changes for bacteria TMDLs where the permit is consistent with water quality standards for bacteria.



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Director

**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON JUNE 30, 2025**

MINUTE NO. 4 – Virginia Pollutant Discharge Elimination System General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (9VAC25-110)

Prior to the meeting the Board was provided materials including a briefing memo to the Board, which included a list of the technical advisory committee membership, the regulation showing proposed amendments, and the Town Hall Agency Background Document. Peter Sherman, from the Office of VPDES Permits, presented a summary of the significant changes being made to the regulation.

Board Decision

Based on the briefing material and the staff presentation, a vote was taken and the Board approved by a vote of six to zero the staff recommendations to authorize the amendments and reissue the VPDES General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (9VAC25-110). The Board also affirmed that they would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulation, as provided by the Administrative Process Act.

A handwritten signature in blue ink, appearing to read "Bryant Thomas".

Bryant Thomas
Interim Director, Water Division



Commonwealth of Virginia

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Director

**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON June 30, 2025**

**MINUTE NO. 5 – Reissuance of Virginia Pollutant Discharge Elimination System (VPDES)
General Permit Regulation for Seafood Processing Facilities 9VAC25-115**

Prior to the meeting the Board was provided materials including a briefing memo which included a list of the technical advisory committee membership, the regulation showing final amendments, errata sheet, and the town hall agency background document. Erica Duncan from the Office of VPDES Permits and Compliance, Central Office, presented a summary of the significant proposed changes to the regulation.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously (6-0, Branin, Cameron, Dunn, Kilgore, Wallace, and Yob) to approve the final regulation and to receive, consider, and respond to any petitions by any person at any time with respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act.

A handwritten signature in blue ink, appearing to read "Bryant Thomas".

Bryant Thomas
Interim Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON JUNE 30, 2025

Minute No. 6 – Proposed reissuance of Virginia Water Protection General Permit Regulations - Virginia Water Protection General Permit for Impacts Less Than One-Half Acre (9VAC25-660); Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities (9VAC25-670); Virginia Water Protection General Permit for Linear Transportation Projects (9VAC25-680); and Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities (9VAC25-690)

Prior to the meeting, the Board was provided materials including a briefing memo which included a list of the technical advisory committee membership, the regulations showing proposed amendments, and the town hall agency background documents. Brenda Winn from the Office of Wetlands and Stream Protection presented a summary of the significant proposed changes to the regulations.

Board member Steven Yob submitted to DEQ staff a signed transactional disclosure statement pursuant to the Virginia State and Local Government Conflict of Interests Act before participating in/voting on these agenda items. He indicated he has a personal interest affected by the transactions being considered because of his employment as Deputy County Manager for Community Operations by Henrico County. Henrico County, like other Virginia localities, is subject to the Water Virginia Quality Management Planning Regulation and Virginia Water Protection General Permits. He indicated he was able to participate in this agenda item fairly, objectively, and in the public interest.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously (6-0, Branin, Cameron, Dunn, Kilgore, Wallace, and Yob) to approve the staff recommendations to approve the proposed general permit regulations Virginia Water Protection General Permit for Impacts Less Than One-Half Acre (9VAC25-660); Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities (9VAC25-670); Virginia Water Protection General Permit for Linear Transportation Projects (9VAC25-680); and Virginia Water Protection General Permit for Impacts from Development and

Certain Mining Activities (9VAC25-690); authorize staff to proceed to notice of public comment and hearing; and authorize staff to be the hearing officer for the public hearing.



**Bryant Thomas,
Interim Water Division Director**



Commonwealth of Virginia

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Director

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON JUNE 30, 2025**

**Minute No. 7- Virginia Clean Water Revolving Loan Fund Final Authorization for the
2025 State Revolving Fund Supplemental Appropriation for Hurricanes Helene and Milton
and the Hawai'i Wildfires**

Meghan Mayfield, Director, Clean Water Finance and Training Services, made a presentation to the Board based on a memorandum dated June 16, 2025. On December 21, 2024, the American Relief Act, 2025, P.L. 118-158, ("the Act") became law. The funding for the Environmental Protection Agency (EPA) in Title VII of the Act included \$3 billion in disaster relief supplemental funding for the State Revolving Fund programs, of which, \$1.23 billion was allotted to the Clean Water State Revolving Fund (CWSRF), available only to states or territories in EPA Regions 3, 4, and 9 for wastewater treatment works impacted by Hurricanes Helene and Milton and the Hawai'i wildfires. Only the States of Florida, Georgia, Hawai'i, North Carolina, South Carolina, Tennessee, and Virginia are eligible to apply for these supplemental funds. The 2025 State Revolving Fund Supplemental Appropriation for Hurricanes Helene and Milton and the Hawai'i Wildfires (SA-HMW) for Clean Water will be administered by the Virginia Department of Environmental Quality's (DEQ) Clean Water Financing and Assistance Program (CWFAP) via the Virginia Clean Water Revolving Loan Fund. Virginia's allotment is \$9,307,000 in SA-HMW funds from the CWSRF.

The Virginia Clean Water Revolving Loan Fund's objective for the SA-HMW funds, for the eligible projects, is to reduce flood or fire damage risk and vulnerability or enhance resiliency to rapid hydrologic change or natural disaster at wastewater treatment works, as defined by section 212 of the Federal Water Pollution Control Act (33 U.S.C. § 1292), and for other eligible tasks at such treatment works or facilities necessary to further such purposes.

Through working with DEQ staff, other State agencies, the Governor's Office of Transformation, and localities directly affected by the disaster, DEQ determined the localities with the greatest demonstrated need based on financial need and environmental impacts or potential impacts on State waters. Therefore, DEQ proposed funding for the projects on the Project Priority List and bypassing an application solicitation period in order to expedite the distribution of funds.

The following three projects and corresponding loan amounts were presented to the board with full principal forgiveness:

- Town of Fries; \$890,900.00
- Town of Chilhowie; \$2,281,678.27
- Buchanan County Public Service Authority; \$6,134,421.73

Staff Recommendation

Authorize the execution of loan agreements for the three projects identified, as well as loan amounts, with full principal forgiveness, resulting in no additional debt to be borne by the locality recipients of these loans.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously (6-0, Branin, Cameron, Dunn, Kilgore, Wallace, and Yob) to approve the staff recommendation.



Meghan Mayfield, Director,
Clean Water Finance and Training Services



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON JUNE 25, 2024**

**MINUTE 8—Notification to the Board — Submission to EPA of Vessel No Discharge Zone
Designations for Water Bodies in Northern Neck**

Justin Williams, Manager, Office of Watershed and Local Government Assistance Programs, briefed the Board for informational purposes on a proposal to designate vessel no discharge zones (NDZs) in the Northern Neck portion of the Commonwealth. He provided an overview of the proposed NDZ waterbodies, requirements for the designation of NDZ under state and federal law, overview of the application process, water quality considerations, and pump-out capacity for potential vessels in the proposed waterbodies. The proposal was developed consistently with Section 312 of the Clean Water Act, as well as the Code of Virginia and Virginia Administrative Code at 62.1-44.33 and 9VAC25-71 et seq. He also provided the results of recent public engagement including a public comment period and four public informational meetings. Mr. Williams indicated after this briefing, the NDZ application would be presented to the Secretary of Natural and Historic Resources for submittal to the U.S. Environmental Protection Agency for review.

A handwritten signature in black ink, reading "Elizabeth McKercher".

Elizabeth McKercher, Director
Water Planning Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON JUNE 25, 2024**

**MINUTE 9–Notification to the Board — Update on Virginia DEQ’s Water Division PFAS
Activities and Biosolids**

Dr. Robert Wheeler, PFAS Program Coordinator and Mr. Neil Zahradka, Manager, Office of Land Application Programs, provided the Board with an informational update on DEQ’s water division activities related to per- and polyfluoroalkyl substances (PFAS) and the biosolids program. The presentation included definitions of PFAS compounds and outlined their common uses, environmental health risks, and regulatory implications in Virginia. Dr. Wheeler reviewed recent General Assembly actions shaping DEQ’s PFAS response, noting legislation from 2022 to 2025 that directed surface water monitoring, industrial discharge testing, and drinking water source assessments based on EPA health-based standards. Dr. Wheeler also provided an overview of DEQ’s PFAS ongoing statewide ambient monitoring efforts for PFAS in surface water and fish tissue.

Mr. Zahradka provided an overview of the biosolids program including management options, land application practices, and the permit structure under existing state and federal requirements. Mr. Zahradka also discussed the intersection of PFAS with the biosolids program, including EPA’s draft biosolids PFAS risk assessment, oversight of in-state and out-of-state biosolids, and the absence of federal standards for PFAS in biosolids. The Board was advised that the public comment on the EPA’s draft PFAS risk assessment remains open through August 14, 2025.

The update noted that DEQ will continue to identify PFAS sources for drinking water systems with exceedances, monitor ambient PFAS through water column and fish sampling, and comply with any new federal requirements for states and any future General Assembly PFAS legislation.

A handwritten signature in blue ink, appearing to read "Bryant Thomas".

Bryant Thomas, Interim Director
Water Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT
ITS MEETING ON JUNE 30, 2025**

Minute No. 10 - Report to the Board Regarding Controversial Permits: Synagro Central LLC – Essex County, VPA00831; Surface Water Withdrawal Permit issuance, Caroline County, VWP No. 20-0514, and U. S. Army Garrison – Fort Belvoir VA0092771.

In accordance with § 10.1-1184.1.B of the Code of Virginia, Bryant Thomas provided the Controversial Permit Report to the Board. The report included each permit number, location of the activities, a summary of events prior to the Board meeting and the schedule for the remaining actions to be taken by the Department. The Board was provided the opportunity to respond to the Department's presentation and provide commentary regarding the permits.

A handwritten signature in blue ink, reading "Bryant Thomas", positioned above a horizontal line.

Bryant Thomas
Interim Director, Water Division



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Michael S. Rolband, PE, PWD, PWS Emeritus
Director

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON JUNE 30, 2025**

Minute No. 11: Mountain Valley Pipeline – Update

Ms. Davenport presented an update on the status of the project. She reported that the project continues in the post-restoration phase and the ongoing activity for this quarter involves achieving permanent vegetation, restoring laydown yards and maintaining erosion and sediment controls until ground cover is uniform and mature enough to survive. She also provided an overview of compliance activities and stipulated penalties for the period of March 22, 2025 through June 18, 2025. She noted that no stipulated penalties were collected for the period January 2025 to March 2025. Finally, Ms. Davenport addressed a June 15, 2025, article from the Roanoke Times. She provided side by side photographic comparisons of the right of way portrayed in the article to current inspection photographs.

A handwritten signature in blue ink that reads "Melanie D. Davenport".

Melanie D. Davenport



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.dep.virginia.gov

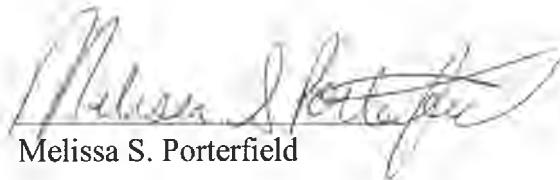
Stefanie K. Taillon
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT
ITS MEETING ON JUNE 30, 2025**

Minute No. 12- Future Meeting Date

No future meeting dates for the Board were confirmed at this meeting.



Melissa S. Porterfield



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Stefanie K. Taillon
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT
ITS MEETING ON JUNE 30, 2025**

Minute No. 13- Public Forum

Tyla Mattson spoke to Board during the public forum concerning emerging contaminants.



Melissa S. Porterfield

TAB B



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Stefanie K. Taillon
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

MEMORANDUM

TO: State Water Control Board Members

FROM: Bryant Thomas, Interim Director, Water Division 

DATE: August 1, 2025

SUBJECT: Reissuance of General VPDES Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia, 9VAC25-820

At the August 20, 2025, meeting of the State Water Control Board (Board), the Board will consider proposed amendments to the General VPDES Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia, 9VAC25-820.

Background

The current General VPDES Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9VAC25-820) will expire on December 31, 2026, and the regulation establishing this general permit is being amended to reissue it for another five-year term. The staff is bringing this proposed regulation amendment before the State Water Control Board (Board) to request authorization to hold a public comment period and a public hearing.

A Notice of Intended Regulatory Action (NOIRA) for the amendment was published August 12, 2024. One comment was received and is included in the attached Agency Background Document, Form TH-08. Following the conclusion of the 30-day public comment period, DEQ formed a technical advisory committee (TAC) to assist in the development of the proposed amendments. The proposed regulation takes into consideration the recommendations of the TAC formed for this regulatory action.

Proposed Amendments

The Board adopted final amendments to the current regulation during the August 25, 2022, meeting to conform to changes in Virginia statutory law (Chapter 365 of the 2022 Acts of Assembly) regarding Board authority. In this proposed regulatory action, sections of the general permit/regulation that were not amended in 2022 will change the term "board" to "department" where the context relates to any action except the adoption of regulations.

Other substantive amendments to the existing regulation that are being proposed include:

Revised Regulation name

- Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nutrient Discharges and Trading in the Chesapeake Bay Watershed.

9VAC25-820-10 Definitions

- Deleted definition for “Board”.
- Added definition for “Nutrient Offset Fund”.

9VAC25-820-15 Applicability of incorporated references based on the dates that they became effective

- Updated Title 40 of the Code of Federal regulations (CFR) reference date to July 1, 025.

9VAC25-820-20 Purpose, applicability

- Revised regulation name

9VAC25-820-40 Compliance Plans

- Removed compliance plan language for completed Enhanced Nutrient Removal Certainty Program (ENRC) and chlorophyll-a nutrient reductions because these timelines will have passed before January 1, 2027, the effective date of the reissued general permit.

9VAC25-820-70 General Permit

- Changed effective date to January 1, 2027, and expiration date to December 31, 2031.
- Revised Part I.A – Special conditions applicable to all facilities – continuation of permit coverage date for submitting a complete registration statement to November 1, 2026.
- Revised Part I.B.3 - Wasteload allocations – to change “aggregate” mass load to “consolidated” mass load to distinguish between the two ways facilities under common ownership may combine discharges. Under Part I.B.2, facilities may aggregate mass loads. Under revised Part I.B.3, facilities may consolidate mass loads in the same tributary.
- Added Part I.B.4 to address facilities in different tributaries that apply for a consolidated mass load limit.
- Added Part I.B.5 - Termination of a wasteload allocation – to explain what happens when a facility’s permit is terminated with no flow diversion.
- Revised Part I.C.3 to remove 9VAC25-820-80 B (ENRC) schedule of compliance references.
- Reduced monitoring frequencies and design flow ranges in Part I.E.1 – Monitoring Requirements – for design flows between 0.5 and 0.999 million gallons per day (MGD) and 1.0 and 4.99 MGD in response to a TAC member’s recommendation and evidence from a statistical analysis that demonstrates that a reduced monitoring frequency is sufficient to capture loading variability for accurate accounting of annual loads.
- Revised Part I.E – Monitoring Requirements – to add rounding and monthly average TP and TN calculations language.
- Revised Part I.J – Compliance with wasteload allocations – Credit acquisitions from the Nutrient Offset Fund – Payments to the Nutrient Offset Fund – to reflect current costs for nutrient reduction.
- Revised Part II.B – Acquisition of wasteload allocations – to include new option to receive point source credits from the Virginia Nutrient Credit Exchange Association.
- Revised Part III.I.3 – Reports of noncompliance – updated link to the online Pollution Response Preparedness (PReP) portal and clarified that the online portal shall be used for reports outside of normal working hours.

Board Memo
August 1, 2025
Proposed Amendments, 9VAC25-820

9VAC25-820-80 Facilities subject to reduced individual total nitrogen and total phosphorus wasteload allocations

- Revised Section 80.A and 80.B to remove those facilities that have met or will achieve compliance by the expiration date of the current permit, with the ENRC and chlorophyll-a reduced wasteload allocations.

Attorney General Certification

The Office of the Attorney General will be sent the proposed regulation for certification of statutory authority. The U.S. Environmental Protection Agency will also need to review and approve the general permit prior to final adoption.

Staff Recommendation

Staff recommends the Board approve the proposed Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nutrient Discharges and Trading in the Chesapeake Bay Watershed, 9VAC25-820 and authorize staff to proceed to notice of public comment and hearing and authorize the staff to serve as the hearing officer at the public hearing

Presenter Contact Information

Laura Galli
Phone: 804-573-5674
Email: Laura.Galli@deq.virginia.gov

Attachments:

TAC Membership
Draft General Permit Regulation
Agency Background Document (TH-08)
Draft Fact Sheet

Board Memo
August 1, 2025
Proposed Amendments, 9VAC25-820

Technical Advisory Committee for General VPDES Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia, 9VAC25-820

- **Representatives of the Regulated Community**
 - Jamie Heisig-Mitchell, HRSD/VAMWA
 - Brian Steglitz, Upper Occoquan Service Authority
 - James Grandstaff, Henrico Water Reclamation Facility/Va Nutrient Credit Exchange
 - Kendra Sveum (alternate Mark Peterson), Loudon Water
 - Chris Pomeroy (alternate: Justin Curtis), Aqua Law
 - Andrew Parker, Virginia Manufacturers Association
- **Representative of Environmental Groups**
 - Nathan Thompson, James River Association
 - Patrick Fanning (alternate: Mike Gerel), Chesapeake Bay Foundation
- **DEQ Central Staff:**
 - Joseph Bryan, VPDES Permit Supervisor (alternate: Erica Duncan, Manager, Office of VPDES Permits)

1 **Project 8010 – Proposed- for August 20, 2025 State Water Control Board meeting**

2 **CH 820-2026 Amendment and Reissuance of the Existing Regulation**

3 Chapter 820

4 ~~General~~ Virginia Pollutant Discharge Elimination System (VPDES) ~~Watershed~~ General Permit
5 Regulation for ~~Total Nitrogen and Total Phosphorus Discharges and Nutrient~~ Discharges and
6 Trading in the Chesapeake Bay Watershed in Virginia

7 **9VAC25-820-10. Definitions.**

8 Except as defined below, the words and terms used in this chapter shall have the meanings
9 defined in the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation
10 (9VAC25-31).

11 "Annual mass load of total nitrogen" (expressed in pounds per year) means the sum of the
12 total monthly loads for all of the months in one calendar year. See Part I E 4 of the general permit
13 in 9VAC25-820-70 for calculating total monthly load.

14 "Annual mass load of total phosphorus" (expressed in pounds per year) means the sum of the
15 total monthly loads for all of the months in one calendar year. See Part I E 4 of the general permit
16 in 9VAC25-820-70 for calculating total monthly load.

17 "Association" means the Virginia Nutrient Credit Exchange Association authorized by § 62.1-
18 44.19:17 of the Code of Virginia.

19 "Attenuation" means the rate at which nutrients are reduced through natural processes during
20 transport in water.

21 ~~"Board" means the Virginia State Water Control Board or State Water Control Board. When~~
22 ~~used outside the context of the promulgation of regulations, including regulations to establish~~
23 ~~general permits, "board" means the Department of Environmental Quality.~~

24 "Delivered total nitrogen load" means the discharged mass load of total nitrogen from a point
25 source that is adjusted by the delivery factor for that point source.

26 "Delivered total phosphorus load" means the discharged mass load of total phosphorus from
27 a point source that is adjusted by the delivery factor for that point source.

28 "Delivery factor" means an estimate of the number of pounds of total nitrogen or total
29 phosphorus delivered to tidal waters for every pound discharged from a facility, as determined by
30 the specific geographic location of the facility, to account for attenuation that occurs during riverine
31 transport between the facility and tidal waters. Delivery factors shall be calculated using the
32 Chesapeake Bay Program watershed model. For the purpose of this regulation, delivery factors
33 with a value greater than 1.00 in the Chesapeake Bay Program watershed model shall be
34 considered to be equal to 1.00.

35 "Department" or "DEQ" means the Department of Environmental Quality.

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

37 "Eastern Shore trading ratio" means the ratio of pounds of point source credits from another
38 tributary that can be acquired and applied by the owner of a facility in the Eastern Shore Basin for
39 every pound of point source total nitrogen or total phosphorus discharged from the Eastern Shore
40 Basin facility. Trading ratios are expressed in the form "credits supplied: credits received."

41 "Equivalent load" means:

42 2,300 pounds per year of total nitrogen or 300 pounds per year of total phosphorus
43 discharged by an industrial facility are considered equivalent to the load discharged from
44 sewage treatment works with a design capacity of 0.04 million gallons per day,

5,700 pounds per year of total nitrogen or 760 pounds per year of total phosphorus discharged by an industrial facility are considered equivalent to the load discharged from sewage treatment works with a design capacity of 0.1 million gallons per day, and

28,500 pounds per year of total nitrogen or 3,800 pounds per year of total phosphorus discharged by an industrial facility are considered equivalent to the load discharged from sewage treatment works with a design capacity of 0.5 million gallons per day.

"Existing facility" means a facility (i) subject to a current individual VPDES permit from which a discharge has commenced or for which its owner has received a Certificate to Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial facilities) for the treatment works used to derive its wasteload allocation on or before July 1, 2005, or (ii) for which the owner has a wasteload allocation listed in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation. Existing facility shall also mean and include any facility, not subject to an individual VPDES permit, for which its owner holds a separate wasteload allocation in 9VAC25-720-120 C of the Water Quality Management Planning Regulation.

"Expansion" or "expands" means (i) initiating construction at an existing treatment works after July 1, 2005, to increase design flow capacity, except that the term does not apply in those cases where a Certificate to Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial facilities) was issued on or before July 1, 2005, or (ii) industrial production process changes or the use of new treatment products at industrial facilities that increase the annual mass load of total nitrogen or total phosphorus above the wasteload allocation.

"Facility" means a point source from which a discharge or proposed discharge of total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries exists. This term does not include confined animal feeding operations, discharges of storm water, return flows from irrigated agriculture, or vessels.

"General permit" means this general permit authorized by § 62.1-44.19:14 of the Code of Virginia.

"Industrial facility" means any facility (as defined above) other than sewage treatment works.

"Local water quality-based limitations" means limitations intended to protect local water quality including applicable total maximum daily load (TMDL) allocations, applicable Virginia Pollution Discharge Elimination System (VPDES) permit limits, applicable limitations set forth in water quality standards established under § 62.1-44.15 (3a) of the Code of Virginia, or other limitations as established by the State Water Control Board.

"New discharge" means any discharge from a facility that did not commence prior to July 1, 2005, except that the term does not apply in those cases where a Certificate to Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial facilities) was issued to the facility on or before July 1, 2005.

"Nonsignificant discharger" means (i) a sewage treatment works discharging to the Chesapeake Bay watershed downstream of the fall line with a design capacity of less than 0.1 million gallons per day, or less than an equivalent load discharged from industrial facilities, or (ii) a sewage treatment works discharging to the Chesapeake Bay watershed upstream of the fall line with a design capacity of less than 0.5 million gallons per day, or less than an equivalent load discharged from industrial facilities.

"Nutrient Offset Fund" means a special nonreverting fund as established under § 10.1-2128.2 of the Code of Virginia.

91 "Offset" means to acquire an annual wasteload allocation of total nitrogen or total phosphorus
92 for a new or expanding facility to ensure that there is no net increase of nutrients into the affected
93 tributary of the Chesapeake Bay.

94 "Permitted design capacity" or "permitted capacity" means the allowable load (pounds per
95 year) assigned to an existing facility that is a nonsignificant discharger and that does not have a
96 wasteload allocation listed in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-
97 720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation. The
98 permitted design capacity is calculated based on the design flow and installed nutrient removal
99 technology (for sewage treatment works, or equivalent discharge from industrial facilities) at a
100 facility that has either commenced discharge, or for which an owner has received a Certificate to
101 Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial
102 facilities) prior to July 1, 2005. This mass load is used for (i) determining whether the owner of the
103 expanding facility must offset additional mass loading of nitrogen and phosphorus and (ii)
104 determining whether the owner of the facility must acquire credits at the end of a calendar year.
105 For the purpose of this chapter, owners of facilities that have installed secondary wastewater
106 treatment (intended to achieve BOD and TSS monthly average concentrations equal to or less
107 than 30 milligrams per liter) are assumed to achieve an annual average total nitrogen effluent
108 concentration of 18.7 milligrams per liter and an annual average total phosphorus effluent
109 concentration of 2.5 milligrams per liter. Permitted design capacities for facilities that, before July
110 1, 2005, were required to comply with more stringent nutrient limits shall be calculated using the
111 more stringent values.

112 "Permitted facility" means a facility whose owner is authorized by this general permit to
113 discharge total nitrogen or total phosphorus. For the sole purpose of generating point source
114 nitrogen credits or point source phosphorus credits, "permitted facility" shall also mean the Blue
115 Plains wastewater treatment facility operated by the District of Columbia Water and Sewer
116 Authority.

117 "Permittee" means a person authorized by this general permit to discharge total nitrogen or
118 total phosphorus.

119 "Point source nitrogen credit" means the difference between (i) the wasteload allocation for a
120 permitted facility specified as an annual mass load of total nitrogen and (ii) the monitored annual
121 mass load of total nitrogen discharged from that facility, where clause (ii) is less than clause (i),
122 and where the difference is adjusted by the applicable delivery factor and expressed as pounds
123 per year of delivered total nitrogen load.

124 "Point source phosphorus credit" means the difference between (i) the wasteload allocation
125 for a permitted facility specified as an annual mass load of total phosphorus and (ii) the monitored
126 annual mass load of total phosphorus discharged from that facility, where clause (ii) is less than
127 clause (i), and where the difference is adjusted by the applicable delivery factor and expressed
128 as pounds per year of delivered total phosphorus load.

129 "Quantification level" or "QL" means the minimum levels, concentrations, or quantities of a
130 target variable (e.g., target analyte) that can be reported with a specified degree of confidence in
131 accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or
132 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

133 "Registration list" means a list maintained by the department indicating all facilities that are
134 registered for coverage under this general permit, by tributary, including their wasteload
135 allocations, permitted design capacities, and delivery factors as appropriate.

136 "Significant discharger" means the owner of (i) a sewage treatment works discharging to the
137 Chesapeake Bay watershed upstream of the fall line with a design capacity of 0.5 million gallons
138 per day or greater, or an equivalent load discharged from industrial facilities; (ii) a sewage
139 treatment works discharging to the Chesapeake Bay watershed downstream of the fall line with

a design capacity of 0.1 million gallons per day or greater, or an equivalent load discharged from industrial facilities; (iii) a planned or newly expanding sewage treatment works discharging to the Chesapeake Bay watershed upstream of the fall line that was expected to be in operation by December 31, 2010, with a permitted design of 0.5 million gallons per day or greater, or an equivalent load to be discharged from industrial facilities; or (iv) a planned or newly expanding sewage treatment works discharging to the Chesapeake Bay watershed downstream of the fall line that was expected to be in operation by December 31, 2010, with a design capacity of 0.1 million gallons per day or greater, or an equivalent load to be discharged from industrial facilities.

"State-of-the-art nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of three milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter or (ii) equivalent load reductions in total nitrogen and total phosphorus through recycle or reuse of wastewater as determined by the department.

"Tributaries" means those river basins listed in the Chesapeake Bay TMDL and includes the Potomac, Rappahannock, York, and James River Basins and the Eastern Shore Basin, which encompasses the creeks and rivers of the Eastern Shore of Virginia that are west of Route 13 and drain into the Chesapeake Bay.

"VPDES" means Virginia Pollutant Discharge Elimination System.

"Wasteload allocation" means the most limiting of (i) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus allocated to individual facilities pursuant to 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation or its successor, or permitted capacity in the case of nonsignificant dischargers; (ii) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus acquired pursuant to § 62.1-44.19:15 of the Code of Virginia for new or expanded facilities; or (iii) applicable total nitrogen or total phosphorus wasteload allocations under the Chesapeake Bay total maximum daily loads (TMDLs) to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

9VAC25-820-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, 2014; ~~however, references to 40 CFR Part 136 are incorporated as published in the July 1, 2024, update 2025.~~

9VAC25-820-20. Purpose, applicability.

A. This regulation fulfills the statutory requirement for the ~~General VPDES Watershed General Permit for Total Nitrogen and Total Phosphorus discharges and nutrient trading~~ Nutrient Discharges and Trading in the Chesapeake Bay watershed issued by the ~~board~~ State Water Control Board pursuant to the Clean Water Act (33 USC § 1251 et seq.) and § 62.1-44.19:14 of the Code of Virginia.

B. This general permit regulation governs owners of facilities holding individual VPDES permits or otherwise meeting the definition of "existing facility" that discharge or propose to discharge total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries.

9VAC25-820-40. Compliance plans.

~~A. By February 1, 2023, every owner of a facility subject to reduced individual total nitrogen or total phosphorous wasteload allocations as identified in 9VAC25-820-80 shall either individually~~

or through the Virginia Nutrient Credit Exchange Association submit compliance plans to the department for approval.

1. For facilities listed in 9VAC25-820-80 A, compliance with reduced wasteload allocations established by the Enhanced Nutrient Removal Certainty Program shall be on the effective date of the reduced allocations as established in 9VAC25-720-60 and 9VAC25-720-120. For facilities listed in 9VAC25-820-80 B, compliance with chlorophyll a based total phosphorus wasteload allocations shall be achieved as soon as possible, but no later than January 1, 2026. The compliance plans shall contain any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined wasteload allocations of all the permittees in the tributary. Permittees submitting individual plans are not required to account for other facilities' activities.

2. As part of the compliance plan development for facilities listed in 9VAC25-820-80 B, permittees shall either:

a. Demonstrate that the additional capital projects anticipated by subdivision 1 of this subsection are necessary to ensure continued compliance with these allocations by January 1, 2026, or

b. Request that their individual wasteload allocations become effective on January 1, 2023.

3. The compliance plans may rely on the exchange of point source credits in accordance with this general permit, but not the acquisition of credits through payments into the Nutrient Offset Fund (§ 10.1-2128.2 of the Code of Virginia), to achieve compliance with the individual and combined wasteload allocations in each tributary.

B. Every owner of a facility required to submit a registration statement shall either individually or through the Virginia Nutrient Credit Exchange Association submit annual compliance plan updates to the department for approval as required by Part I D of the general permit.

9VAC25-820-70. General permit.

Any owner whose registration statement is accepted by the ~~board~~ department will receive the following general permit and shall comply with the requirements of the general permit.

General Permit No.: VAN000000

Effective Date: January 1, ~~2022~~ 2027

Expiration Date: December 31, ~~2026~~ 2031

GENERAL PERMIT FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS NUTRIENT DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of facilities holding a VPDES individual permit or owners of facilities that otherwise meet the definition of an existing facility, with total nitrogen or total phosphorus discharges, or both to the Chesapeake Bay or its tributaries, are authorized to discharge to surface waters and exchange credits for total nitrogen or total phosphorus, or both.

The authorized discharge shall be in accordance with the registration statement filed with DEQ, this cover page, Part I-Special Conditions Applicable to All Facilities, Part II-Special

Conditions Applicable to New and Expanded Facilities, and Part III-Conditions Applicable to All VPDES Permits, as set forth herein.

PART I

SPECIAL CONDITIONS APPLICABLE TO ALL FACILITIES

A. Authorized activities.

1. Authorization to discharge for owners of facilities required to register.

a. Every owner of a facility required to submit a registration statement to the department by November 1, ~~2024~~ 2026, and thereafter upon the reissuance of this general permit, shall be authorized to discharge total nitrogen and total phosphorus subject to the requirements of this general permit upon the department's approval of the registration statement.

b. Any owner of a facility required to submit a registration statement with the department ~~at the time he makes application with the department~~ for a new discharge or expansion that is subject to an offset or technology-based requirement in Part II of this general permit, shall be authorized to discharge total nitrogen and total phosphorus subject to the requirements of this general permit upon the department's approval of the registration statement.

c. Upon the department's approval of the registration statement, a facility will be included in the registration list maintained by the department.

2. Authorization to discharge for owners of facilities not required to register. Any owner of a facility authorized by a VPDES permit and not required by this general permit to submit a registration statement shall be deemed to be authorized to discharge total nitrogen and total phosphorus under this general permit at the time it is issued. Owners of facilities that are deemed to be permitted under this subsection shall have no obligation under this general permit prior to submitting a registration statement and securing coverage under this general permit based upon such registration statement.

3. Continuation of permit coverage.

a. Any owner authorized to discharge under this general permit and who submits a complete registration statement for the reissued general permit by November 1, ~~2026~~ 2031, in accordance with Part III M or who is not required to register in accordance with Part I A 2 is authorized to continue to discharge under the terms of this general permit until such time as the ~~board~~ department either:

(1) Issues coverage to the owner under the reissued general permit, or

(2) Notifies the owner that the discharge is not eligible for coverage under this general permit.

b. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the ~~board~~ department may choose to do any or all of the following:

(1) Initiate enforcement action based upon the ~~2017~~ 2022 general permit,

(2) Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the administratively continued coverage under the terms of the ~~2017~~ 2022 general permit or be subject to enforcement action for operating without a permit, or

(3) Take other actions authorized by the State Water Control Law.

B. Wasteload allocations.

278 1. Wasteload allocations allocated to permitted facilities pursuant to 9VAC25-720-50 C,
279 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of
280 the Water Quality Management Planning Regulation, or applicable TMDLs, or wasteload
281 allocations acquired by owners of new and expanding facilities to offset new or increased
282 delivered total nitrogen and delivered total phosphorus loads from a new discharge or
283 expansion under Part II B of this general permit, and existing loads calculated from the
284 permitted design capacity of expanding facilities not previously covered by this general
285 permit, shall be incorporated into the registration list maintained by the department. The
286 wasteload allocations contained in this list shall be enforceable as annual mass load limits
287 in this general permit. Credits shall not be generated by facilities whose operations were
288 previously authorized by a Virginia Pollution Abatement (VPA) permit that was issued
289 before July 1, 2005.

290 2. Except as described in subdivisions 2 c and 2 d of this subsection, an owner of two or
291 more facilities covered by this general permit and discharging to the same tributary may
292 apply for and receive an aggregated mass load limit for delivered total nitrogen and an
293 aggregated mass load limit for delivered total phosphorus reflecting the total of the water
294 quality-based total nitrogen and total phosphorus wasteload allocations or permitted
295 design capacities established for such facilities individually.

296 a. The permittee (and all of the individual facilities covered under a single registration)
297 shall be deemed to be in compliance when the aggregate mass load discharged by
298 the facilities is less than the aggregate mass load limit.

299 b. The permittee will be eligible to generate credits only if the aggregate mass load
300 discharged by the facilities is less than the total of the wasteload allocations assigned
301 to any of the affected facilities.

302 c. The aggregation of mass load limits shall not affect any requirement to comply with
303 local water quality-based limitations.

304 d. Facilities whose operations were previously authorized by a Virginia Pollution
305 Abatement (VPA) permit that was issued before July 1, 2005, cannot be aggregated
306 with other facilities under common ownership or operation.

307 e. Operation under an aggregated mass load limit in accordance with this section shall
308 not be deemed credit acquisition as described in Part I J 2 of this general permit.

309 3. An owner that consolidates two or more facilities discharging to the same tributary into
310 a single ~~regional~~ facility may apply for and receive an ~~aggregated~~ consolidated mass load
311 limit for total nitrogen and an ~~aggregated~~ consolidated mass load limit for total phosphorus,
312 subject to the following conditions:

313 a. ~~Aggregate~~ Consolidated mass load limits will be calculated accounting for delivery
314 factors in effect at the time of the consolidation.

315 b. If all of the affected facilities have wasteload allocations in 9VAC25-720-50 C,
316 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C
317 of the Water Quality Management Planning Regulation, the ~~aggregate~~ consolidated
318 mass load limit shall be calculated by adding the wasteload allocations of the affected
319 facilities. ~~The regional facility shall be eligible to generate credits~~ Credits may be
320 generated based on the consolidated wasteload allocation.

321 c. If any, but not all, of the affected facilities has a wasteload allocation in 9VAC25-
322 720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-
323 720-120 C of the Water Quality Management Planning Regulation, the ~~aggregate~~
324 consolidated mass load limit shall be calculated by adding:

(1) Wasteload allocations of those facilities that have wasteload allocations in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation;

(2) Permitted design capacities assigned to affected industrial facilities; and

(3) Loads from affected sewage treatment works that do not have a wasteload allocation in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, defined as the lesser of a previously calculated permitted design capacity, or the values calculated by the following formulae:

Nitrogen Load (lbs/ year) = flow (MGD) x 8.0 mg/l x 8.345 x 365 days/year

Phosphorus Load (lbs/ year) = flow (MGD) x 1.0 mg/l x 8.345 x 365 days/year

Flows used in the preceding formulae shall be the design flow of the treatment works from which the affected facility currently discharges.

~~The regional facility shall be eligible to generate credits~~ Credits may be generated based on the consolidated wasteload allocation.

d. If none of the affected facilities have a wasteload allocation in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the ~~aggregate consolidated~~ mass load limit shall be calculated by adding the respective permitted design capacities for the affected facilities.

e. Facilities whose operations were previously authorized by a Virginia Pollution Abatement (VPA) permit that was issued before July 1, 2005, may be consolidated with other facilities under common ownership or operation, but their allocations cannot be transferred ~~to the regional facility~~.

f. Facilities whose operations were previously authorized by a VPA permit that was issued before July 1, 2005, can ~~become regional~~ receive effluent from other facilities, but they cannot receive additional allocations beyond those permitted in Part II B 1 d of this general permit.

4. An owner that consolidates two or more facilities discharging into different tributaries may apply for a consolidated mass load limit for total nitrogen and a consolidated mass load limit for total phosphorus. The department will evaluate the request on a case-by-case basis, taking into account the conditions set forth in Part I B 3 a through Part I B 3 d, and any additional conditions necessary and appropriate for water quality protection.

5. Termination of a wasteload allocation. If a facility's individual and general permit are terminated or expire with no consolidation of wasteload allocations, the following shall apply:

a. If a facility has wasteload allocations in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the wasteload allocations shall be transferred to the Nutrient Offset Fund, and the facility removed from the registration list.

b. If a facility has wasteload allocations based on permitted design capacity, the facility and the wasteload allocations shall be removed from the registration list.

4. 6. Unless otherwise noted, the nitrogen and phosphorus wasteload allocations assigned to permitted facilities are considered total loads, including nutrients present in the intake water from the river, as applicable. On a case-by-case basis, an industrial discharger may demonstrate to the satisfaction of the ~~board~~ department that a portion of the nutrient load originates in its intake water. This demonstration shall be consistent with the assumptions

and methods used to derive the allocations through the Chesapeake Bay models. In these cases, the ~~board~~ department may limit the permitted discharge to the net nutrient load portion of the assigned wasteload allocation.

~~5. 7.~~ Bioavailability. Unless otherwise noted, the entire nitrogen and phosphorus wasteload allocations assigned to permitted facilities are considered to be bioavailable to organisms in the receiving stream. On a case-by-case basis, a discharger may demonstrate to the satisfaction of the ~~board~~ department that a portion of the nutrient load is not bioavailable; this demonstration shall not be based on the ability of the nutrient to resist degradation at the wastewater treatment plant, but instead, on the ability of the nutrient to resist degradation within a natural environment for the amount of time that it is expected to remain in the Chesapeake Bay watershed. This demonstration shall also be consistent with the assumptions and methods used to derive the allocations through the Chesapeake Bay models. In these cases, the ~~board~~ department may limit the permitted discharge to the bioavailable portion of the assigned wasteload allocation.

C. Schedule of compliance.

1. For facilities listed in 9VAC25-820-80 A, compliance with reduced wasteload allocations established by the Enhanced Nutrient Removal Certainty Program shall be on the effective date of the reduced allocations as established in 9VAC25-720-60 and ~~9VAC25-720-120~~. ~~For facilities listed in 9VAC25-820-80 B, compliance with chlorophyll-a based total phosphorus wasteload allocations shall be achieved as soon as possible but no later than January 1, 2026.~~

2. Following submission of compliance plans and compliance plan updates required by 9VAC25-820-40, the ~~board~~ department shall reevaluate the schedule of compliance in subdivision 1 of this subsection, taking into account the information in the compliance plans and the factors in § 62.1-44.19:14 C 2 of the Code of Virginia. When warranted based on such information and factors, the ~~board~~ department shall adjust the schedule in subdivision 1 of this subsection as appropriate by modification or reissuance of this general permit.

~~3. The registration list shall contain individual dates for compliance with wasteload allocations for dischargers, as follows:~~

~~a. Owners of facilities listed in 9VAC25-820-80 B will have individual dates for compliance based on their respective compliance plans that may be earlier than the schedule listed in subdivision 1 of this subsection.~~

~~b. Owners of facilities listed in 9VAC25-820-80 B that waive their compliance schedules in accordance with 9VAC25-820-40 A 2 b shall have an individual compliance date of January 1, 2023.~~

~~c. Upon completion of the projects contained in their compliance plans, owners of facilities listed in 9VAC25-820-80 B may receive a revised individual compliance date of January 1 for the calendar year immediately following the year in which a Certificate to Operate was issued for the capital projects, but not later than January 1, 2026.~~

~~d. Owners of new and expanded facilities will have individual dates for compliance corresponding to the date that coverage under this general permit was extended to discharges from the facility.~~

D. Annual update of compliance plan. Every owner of a facility required to submit a registration statement shall either individually or through the Virginia Nutrient Credit Exchange Association submit updated compliance plans to the department no later than February 1 of each year. The compliance plans shall contain sufficient information to document a plan to achieve and maintain compliance with applicable total nitrogen and total phosphorus individual wasteload allocations

on the registration list and aggregate wasteload allocations in Part I C 3. Compliance plans for owners of facilities that were required to submit a registration statement with the department under Part I G 1 a may rely on the acquisition of point source credits in accordance with Part I J of this general permit to achieve compliance with the individual and combined wasteload allocations in each tributary. Annual compliance plan updates for facilities subject to reduced wasteload allocations and listed in 9VAC25-820-80 shall not rely on the acquisition of credits through payments into the Nutrient Offset Fund. Compliance plans for expansions or new discharges for owners of facilities that are required to submit a registration statement with the department under Part I G 1 b and c may rely on the acquisition of allocation in accordance with Part II B of this general permit to achieve compliance with the individual and combined wasteload allocations in each tributary.

E. Monitoring requirements.

1. Discharges shall be monitored by the permittee during weekdays as specified in the table below unless the department determines that weekday only sampling results in a non-representative load. Weekend monitoring or alternative monthly load calculations to address production schedules or seasonal flows shall be submitted to the department for review and approval on a case-by-case basis. Facilities that exhibit instantaneous discharge flows that vary from the daily average discharge flow by less than 10% may submit a proposal to the department to use an alternative sample type; such proposals shall be reviewed and approved by the department on a case-by-case basis.

Parameter	Sample Type and Collection Frequency					
STP design flow	≥20.0 MGD <u><0.040 MGD</u>	1.0–19.999 MGD <u>0.040-0.499 MGD</u>	0.5-0.999 MGD <u>0.040-0.499 MGD</u>	0.5–0.999 MGD <u>1.0-4.99 MGD</u>	0.040–0.499 MGD <u>5.0-19.999 MGD</u>	<0.040 MGD <u>≥20.0 MGD</u>
Effluent TN load limit for industrial facilities	<487 lb/yr	≥100,000 lb/yr <u>487 - 49,999 lb/yr</u>	50,000-99,999 lb/yr <u>50,000-99,999 lb/yr</u>	50,000–99,999 lb/yr <u>100,000-349,999 lb/yr</u>	487–49,999 lb/yr <u>>350,000 lb/yr</u>	<487 lb/yr
Effluent TP load limit for industrial facilities	<37 lb/yr	≥10,000 lb/yr <u>37-4,999 lb/yr</u>	5,000-9,999 lb/yr <u>5,000-9,999 lb/yr</u>	5,000–9,999 lb/yr <u>10,000-34,999 lb/yr</u>	37–4,999 lb/yr <u>>35,000 lb/yr</u>	<37 lb/yr
Flow		Totalizing, Indicating, and Recording				1/Day, see individual VPDES permit for sample types
Flow	<u>1/Day, see individual VPDES permit for</u>	<u>Totalizing, Indicating, and Recording</u>				

	<u>sample types</u>					
Nitrogen Compounds (Total Nitrogen = TKN + NO ₂ - (as N) + NO ₃ - (as N))	24 HC 3 Days/Week <u>1/Month Grab</u>	24 HC 2 Days/Week* <u>8 HC</u> <u>2/Month, > 7 Days apart</u>	<u>8 HC</u> 1 <u>Day/Week</u>	8 HC 2 Days/Week <u>24 HC</u> 1 <u>Day/Week</u>	8 HC 2/Month, > 7 days apart <u>24 HC</u> 2 <u>Days/Week*</u>	1/Month Grab <u>24 HC</u> 3 <u>Days/Week</u>
Total Phosphorus	24 HC 3 Days/Week <u>1/Month Grab</u>	24 HC 2 Days/Week* <u>8 HC</u> <u>2/Month, > 7 days apart</u>	<u>8 HC</u> 1 <u>Day/Week</u>	8 HC 2 Days/Week <u>24 HC</u> 1 <u>Day/Week</u>	8 HC 2/Month, > 7 days apart <u>24 HC</u> 2 <u>Days/Week*</u>	1/Month Grab <u>24 HC</u> 3 <u>Days/Week</u>
*Two flow composited samples taken in the same calendar week that are then composited by flow into a single weekly composite sample for analysis shall be considered to be in compliance with this requirement.						

2. Monitoring for compliance with effluent limitations shall be performed in a manner identical to that used to determine compliance with effluent limitations established in the individual VPDES permit unless specified otherwise in subdivisions 3, 4, and 5 of Part I E. Monitoring or sampling shall be conducted according to analytical laboratory methods approved under 40 CFR Part 136, unless other test or sample collection procedures have been requested by the permittee and approved by the department in writing. All analysis for compliance with effluent limitations shall be conducted in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories. Monitoring may be performed by the permittee at frequencies more stringent than listed in subdivision 1 of Part I E; however, the permittee shall report all results of such monitoring.

3. Loading values greater than or equal to 10 pounds reported in accordance with Part I E and F of this general permit shall be calculated and reported to the nearest pound without regard to mathematical rules of precision. Loading values of less than 10 pounds reported in accordance with Part I E and F of this general permit shall be calculated and reported to at least two significant digits with the exception that all complete calendar year annual loads shall be reported to the nearest pound.

4. Data shall be reported on a form provided by the department, by the same date each month as is required by the owner's individual VPDES permit. The total monthly load shall be calculated in accordance with the following formula:

$$ML = \left(\frac{\sum DL}{s} \right) \times d$$

where:

ML = total monthly load (lb/mo) = average daily load for the calendar month multiplied by the number of days of the calendar month on which a discharge occurred

DL = daily load = daily concentration (expressed as mg/l to the nearest 0.01 mg/l) multiplied by the flow volume of effluent discharged during the 24-hour period

(expressed as MGD to at least the nearest 0.01 MGD and in no case less than two significant digits), multiplied by 8.345. Daily loads greater than or equal to 10 pounds may be rounded to the nearest whole number to convert to pounds per day (lbs/day). Daily loads less than or equal to 10 pounds may be rounded to no fewer than two significant figures.

s = number of days in the calendar month in which a sample was collected and analyzed

d = number of discharge days in the calendar month

For total phosphorus, all daily concentration data below the quantification level (QL) for the analytical method used shall be treated as half the QL (without rounding). All daily concentration data equal to or above the QL for the analytical method used shall be treated as it is reported. If all data are below the QL, then the average shall be reported as half the QL.

For total nitrogen (TN), if none of the daily concentration data for the respective species (i.e., TKN, nitrates/nitrites) are equal to or above the QL for the respective analytical methods used, the daily TN concentration value reported shall equal one half of the largest QL (without rounding) used for the respective species. If one of the data is equal to or above the QL, the daily TN concentration value shall be treated as that data point as reported. If more than one of the data is above the QL, the daily TN concentration value shall equal the sum of the data points as reported.

The quantification levels shall be less than or equal to the following concentrations:

Parameter	Quantification Level
TKN	0.50 mg/l
Nitrite	0.10 mg/l
Nitrate	0.20 mg/l
Nitrite + Nitrate	0.20 mg/l

Higher QLs may be approved on a case-by-case basis where a higher QL routinely results in reportable results of the species in question or is otherwise technically appropriate based on standard lab practices.

The total year-to-date mass load shall be calculated in accordance with the following formula:

$$AL_{YTD} = \sum_{\{Jan-present\}} ML$$

where:

AL-YTD = calendar year-to-date annual load (lb/yr)

ML = total monthly load (lb/mo)

The total annual mass load shall be calculated in accordance with the following formula:

$$AL = \sum_{\{Jan-Dec\}} ML$$

where:

AL = calendar year annual load (lb/yr)

ML = total monthly load (lb/mo)

5. The department may authorize a chemical usage evaluation as an alternative means of determining nutrient loading for outfalls where the only source of nutrients is that found in

the surface water intake and chemical additives used by the facility. Such an evaluation shall be submitted to the department for review and approval on a case-by-case basis. Implementation of approved chemical usage evaluations shall satisfy the requirements specified under Part I E 1 and 2.

6. Monthly average concentration data reporting. For total phosphorus, TKN, and nitrite + nitrate monthly average concentration values. All concentration data below the QL used for the analysis shall be treated as one half of the QL without rounding. All concentration data equal to or above the QL used for the analysis shall be treated as it is reported to the nearest 0.01 mg/L. An arithmetic average shall be calculated using all reported data for the month. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated to the nearest 0.01 mg/L.

For nitrite + nitrate if tested separately, add the daily total nitrite and nitrate concentrations to obtain the daily nitrite + nitrate values. If none of the daily concentrations data for the respective species tested separately (nitrites, nitrates) are equal to or above the QL for the respective analytical methods used, the daily nitrite + nitrate concentration value shall equal one half of the largest QL (without rounding) used for the respective species. If one of the data is equal or above the QL, the daily nitrite + nitrate concentration value shall be treated as that data point as reported. If more than one of the data is above the QL, the daily nitrite + nitrate concentration value shall equal the sum of the data points as reported. An arithmetic average shall be calculated using all reported data for the month. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated to the nearest 0.01 mg/L.

F. Annual reporting. On or before February 1, annually, each permittee shall file a discharge monitoring report with the department identifying the annual mass load of total nitrogen and the annual mass load of total phosphorus discharged by the permitted facility during the previous calendar year.

G. Requirement to register; exclusions.

1. The following owners are required to register for coverage under this general permit:

a. Every owner of an existing facility authorized by a VPDES permit to discharge 100,000 gallons or more per day from a sewage treatment work, or an equivalent load from an industrial facility, directly into tidal waters, or 500,000 gallons or more per day from a sewage treatment works, or an equivalent load from an industrial facility, directly into nontidal waters shall submit a registration statement to the department by November 1, 2016 2026, and thereafter upon the reissuance of this general permit in accordance with Part III M. The conditions of this general permit will apply to such owner upon approval of a registration statement.

b. Any owner of a facility authorized by a ~~Virginia Pollutant Discharge Elimination System~~ VPDES permit to discharge 40,000 gallons or more per day from a sewage treatment works, or an equivalent load from an industrial facility, directly into tidal or nontidal waters shall submit a registration statement with the department at the time ~~he makes~~ they submit an application for an individual permit with the department for a new discharge or expansion that is subject to an offset requirement in Part II of this general permit or to a technology-based requirement in 9VAC25-40-70, and thereafter upon the reissuance of this general permit in accordance with Part III M. The conditions of this general permit will apply to such owner beginning January 1 of the calendar year immediately following approval of a registration statement and issuance or modification of the individual permit.

c. Any owner of a facility treating domestic sewage authorized by a VPDES permit with a discharge greater than 1,000 gallons per day up to and including 39,999 gallons per

- day that did not commence the discharge of pollutants prior to January 1, 2011, and is subject to offset requirements in accordance with Part II A 1 c of this general permit shall submit a registration statement with the department at the time the owner makes application for an individual permit with the department or prior to commencing a discharge, whichever occurs first, and thereafter upon the reissuance of this general permit in accordance with Part III M.
2. All other categories of discharges are excluded from registration under this general permit.
- H. Registration statement.
1. The registration statement shall contain the following information:
- a. Name, mailing address, ~~and~~ telephone number, and email address, ~~and fax number~~ of the owner (and facility operator, if different from the owner) applying for permit coverage;
 - b. Name (or other identifier), address, city or county, contact name, phone number, and email address, ~~and fax number~~ for the facility for which the registration statement is submitted;
 - c. VPDES permit numbers for all permits assigned to the facility, or pursuant to which the discharge is authorized;
 - d. If applying for an aggregated wasteload allocation in accordance with Part I B 2 of this permit, a list of all affected facilities and the VPDES permit numbers assigned to these facilities;
 - e. For new and expanded facilities, a plan to offset new or increased delivered total nitrogen and delivered total phosphorus loads, including the amount of wasteload allocation acquired. Wasteload allocations or credits sufficient to offset projected nutrient loads must be provided for period of at least five years; and
 - f. For existing facilities, the amount of a facility's wasteload allocation transferred to or from another facility to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion.
2. The registration statement shall be submitted to the DEQ Central Office, Office of VPDES Permits. Following notification from the department of the start date for the required electronic submission of Notices of Intent to Discharge forms (i.e., registration statements), as provided for in 9VAC25-31-1020, such form submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. At least three months' notice shall be provided between the notification from the department and the date after which such forms must be submitted electronically.
3. An amended registration statement shall be submitted to DEQ immediately upon the acquisition or transfer of a facility's wasteload allocation to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion.
- I. Public notice for registration statements proposing modifications or incorporations of new wasteload allocations or delivery factors.
1. All public notices issued pursuant to a proposed modification or incorporation of a (i) new wasteload allocation to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion or (ii) delivery factor shall be published once a week for two consecutive weeks in a local newspaper of general circulation serving the locality where the facility is located informing the public that the owner of the facility intends to apply for coverage under this general permit. At a minimum, the notice shall include:

- a. A statement of the owner's intent to register for coverage under this general permit;
- b. A brief description of the facility and its location;
- c. The amount of wasteload allocation that will be acquired or transferred if applicable;
- d. The delivery factor for a new discharge or expansion;
- e. If applicable, any proposed nonpoint source to point source trading ratio less than 2:1 proposed under Part II B 1 b (1);
- f. A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the facility and how the standards and the requirements of this chapter will be met, to identify issues of concern, to facilitate communication, and to establish a dialogue between the owner and persons who may be affected by the discharge from the facility;
- g. An announcement of a 30-day comment period and the name, telephone number, and address of the owner's representative who can be contacted by the interested persons to answer questions;
- h. The name, telephone number, and address of the DEQ representative who can be contacted by the interested persons to answer questions, or where comments shall be sent; and
- i. The location where copies of the documentation to be submitted to the department in support of this general permit notification and any supporting documents can be viewed and copied.
2. The owner shall place a copy of the documentation and support documents in a location accessible to the public in the vicinity of the proposed facility.
3. The public shall be provided 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period will begin on the date the notice is published in the local newspaper.
- J. Compliance with wasteload allocations.
1. Methods of compliance. The owner of the permitted facility shall comply with its wasteload allocation contained in the registration list maintained by the department. The owner of the permitted facility shall be in compliance with its wasteload allocation if:
- a. The annual mass load is less than or equal to the applicable wasteload allocation assigned to the facility in this general permit (or permitted design capacity for expanded facilities without allocations);
- b. The owner of the permitted facility acquires sufficient point source nitrogen or phosphorus credits in accordance with subdivision 2 of this subsection; provided, however, that the acquisition of nitrogen or phosphorus credits pursuant to this section shall not alter or otherwise affect the individual wasteload allocations for each permitted facility; or
- c. In the event he is unable to meet the individual wasteload allocation pursuant to subdivision 1 a or 1 b of this subsection, the owner of the permitted facility acquires sufficient nitrogen or phosphorus credits through payments made into the Nutrient Offset Fund pursuant to subdivision 3 of this subsection; provided, however, that the acquisition of nitrogen or phosphorus credits pursuant to this section shall not alter or otherwise affect the individual wasteload allocations for each permitted facility.
2. Credit acquisition from owners of permitted facilities. A permittee may acquire point source nitrogen credits or point source phosphorus credits from one or more owners of permitted facilities only if:

- a. The credits are generated and applied to a compliance obligation in the same calendar year;
- b. The credits are generated by one or more permitted facilities in the same tributary, except that owners of permitted facilities in the Eastern Shore Basin may also acquire credits from owners of permitted facilities in the Potomac and Rappahannock tributaries. Owners of Eastern Shore Basin facilities may acquire credits from the owners of Potomac tributary facilities at a trading ratio of 1:1. A trading ratio of 1.3:1 shall apply to the acquisition of credits from the owners of a Rappahannock tributary facility by the owner of an Eastern Shore Basin facility;
- c. The exchange or acquisition of credits does not affect any requirement to comply with local water quality-based limitations as determined by the ~~board~~ department;
- d. The credits are acquired no later than June 1 immediately following the calendar year in which the credits are applied;
- e. The credits are generated by a facility that has been constructed, and has discharged from treatment works whose design flow or equivalent industrial activity is the basis for the facility's wasteload allocations (until a facility is constructed and has commenced operation, such credits are held, and may be sold, by the Nutrient Offset Fund; and
- f. No later than June 1 immediately following the calendar year in which the credits are applied, the permittee certifies on a credit exchange notification form supplied by the department that he has acquired sufficient credits to satisfy his compliance obligations. The permittee shall comply with the terms and conditions contained in the credit exchange notification form submitted to the department.

3. Credit acquisitions from the Nutrient Offset Fund. Until such time as the ~~board~~ department finds that no allocations are reasonably available in an individual tributary, permittees that cannot meet their total nitrogen or total phosphorus effluent limit may acquire nitrogen or phosphorus credits through payments made into the Nutrient Offset Fund established in § 10.1-2128.2 of the Code of Virginia only if, no later than June 1 immediately following the calendar year in which the credits are to be applied, the permittee certifies on a form supplied by the department that he has diligently sought, but has been unable to acquire, sufficient credits to satisfy his compliance obligations through the acquisition of point source nitrogen or phosphorus credits with other permitted facilities, and that he has acquired sufficient credits to satisfy his compliance obligations through one or more payments made in accordance with the terms of this general permit. Such certification may include providing a record of solicitation or demonstration that point source allocations are not available for sale in the tributary in which the permittee's facility is located. Payments to the Nutrient Offset Fund shall be in the amount of ~~\$5.08~~ \$ for each pound of nitrogen and ~~\$11.15~~ \$ for each pound of phosphorus and shall be subject to the following requirements:

- a. The credits are generated and applied to a compliance obligation in the same calendar year.
- b. The credits are generated in the same tributary, except that owners of permitted facilities in the Eastern Shore Basin may also acquire credits from the owners of facilities that discharge to the Potomac and Rappahannock tributaries. Owners of Eastern Shore Basin facilities may acquire credits from the owners of facilities that discharge to a Potomac tributary at a trading ratio of 1:1. A trading ratio of 1.3:1 shall apply to the acquisition of credits from owners of facilities that discharge to a Rappahannock tributary by the owners of an Eastern Shore Basin facility.

c. The acquisition of credits does not affect any requirement to comply with local water quality-based limitations, as determined by the ~~board~~ department.

4. This general permit neither requires nor prohibits a municipality or regional sewerage authority's development and implementation of trading programs among industrial users, which are consistent with the pretreatment regulatory requirements at 40 CFR Part 403 and the municipality's or authority's individual VPDES permit.

Part II

SPECIAL CONDITIONS APPLICABLE TO NEW AND EXPANDED FACILITIES

A. Offsetting mass loads discharged by new and expanded facilities.

1. An owner of a new or expanded facility shall comply with the applicable requirements of this section as a condition of the facility's coverage under this general permit.

a. An owner of a facility authorized by a VPDES permit first issued before July 1, 2005, that expands the facility to discharge 40,000 gallons or more per day, or an equivalent load, shall demonstrate to the department that he has acquired wasteload allocations sufficient to offset any increase in his delivered total nitrogen and delivered total phosphorus loads resulting from any expansion beyond his permitted capacity as of July 1, 2005.

b. An owner of a facility authorized by a VPDES permit first issued on or after July 1, 2005, to discharge 40,000 gallons or more per day, or an equivalent load, shall demonstrate to the department that he has acquired wasteload allocations sufficient to offset his delivered total nitrogen and delivered total phosphorus loads.

c. An owner of a facility treating domestic sewage authorized by a VPDES permit with a discharge greater than 1,000 gallons per day up to and including 39,999 gallons per day that did not commence the discharge of pollutants prior to January 1, 2011, shall demonstrate to the department that he has acquired wasteload allocations sufficient to offset his delivered total nitrogen and delivered phosphorus loads prior to commencing the discharge, except when the facility is for short-term temporary use only as determined by the department or when treatment of domestic sewage is not the primary purpose of the facility.

2. Offset calculations shall address the proposed discharge that exceeds:

a. The applicable wasteload allocation assigned to discharges from the facility in this general permit, for expanding significant dischargers with a wasteload allocation listed in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation;

b. The permitted design capacity, for all other expanding dischargers; and

c. Zero, for facilities with a new discharge.

3. An owner of multiple facilities that discharge into the same tributary, and assigned an aggregate mass load limit in accordance with Part I B 2 of this general permit, that undertakes construction of new or expanded facilities shall be required to acquire wasteload allocations sufficient to offset any increase in delivered total nitrogen and delivered total phosphorus loads resulting from any expansion beyond the aggregate mass load limit assigned these facilities.

B. 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.

1. Such allocations may be acquired from one or a combination of the following:

a. Acquisition of all or a portion of the wasteload allocations or point source nitrogen or point source phosphorus credits from the owners of one or more permitted facilities, either directly from the owner or, in the case of point source credits, through the Virginia Nutrient Credit Exchange Association based on delivered pounds by the respective trading parties as listed by the department;

b. Acquisition of credits certified by the ~~board~~ department pursuant to § 62.1-44.19:20 of the Code of Virginia. Credits used to offset new or increased nutrient loads under this subdivision shall be:

- (1) Subject to a trading ratio of two pounds reduced for every pound to be discharged if certified as a nonpoint source credit by the ~~board~~ department pursuant to § 62.1-44.19:20 of the Code of Virginia. On a case-by-case basis the ~~board~~ department may approve nonpoint source to source trading ratios of less than 2:1 (but not less than 1:1) when the applicant demonstrates factors that ameliorate the presumed 2:1 uncertainty ratio for credits generation by nonpoint sources such as:
 - (a) When direct and representative monitoring of the pollutant loadings from a nonpoint source is performed in a manner and at a frequency similar to that performed at VPDES point sources and there is consistency in the effectiveness of the operation of the nonpoint source best management practice (BMP) approaching that of a conventional point source.
 - (b) When nonpoint source credits are generated from land conservation that ensures permanent protection through a conservation easement or other instrument attached to the deed and when load reductions can be reliably determined;
- (2) Calculated using best management practices efficiency rates and attenuation rates, as established by the latest science and relevant technical information, and approved by the ~~board~~ department;
- (3) Based on appropriate delivery factors, as established by the latest science and relevant technical information, and approved by the ~~board~~ department;
- (4) Demonstrated to have achieved reductions beyond those already required by or funded under federal or state law, or by Virginia's Chesapeake Bay TMDL Watershed Implementation Plan;
- (5) Generated in accordance with conditions of the facility's individual VPDES permit; and
- (6) In the case of credits generated by land use conversions and urban source reduction controls (BMPs), the credits shall represent nutrient reductions beyond those in place as of July 1, 2005;

c. Until such time as the ~~board~~ 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

d. Acquisition of allocations through such other means as may be approved by the department on a case-by-case basis. This includes allocations granted by the ~~board~~ department to an owner of a facility that is authorized by a VPA permit to land apply domestic sewage if:

- (1) The VPA permit was issued before July 1, 2005;
- (2) The allocation does not exceed the facility's permitted design capacity as of July 1, 2005;
- (3) The waste treated by the facility that is covered under the VPA permit will be treated and discharged pursuant to a VPDES permit for a new discharge; and

- 787 (4) The owner installs state-of-the-art nutrient removal technology at such a facility.
- 788 2. Acquisition of allocations or point source nitrogen or point source phosphorus credits is
- 789 subject to the following conditions:
- 790 a. The allocations or credits shall be generated and applied to an offset obligation in
- 791 the same calendar year in which the credit is generated;
- 792 b. The allocations or credits shall be generated in the same tributary;
- 793 c. Such acquisition does not affect any requirement to comply with local water quality-
- 794 based limitations, as determined by the ~~board~~ department;
- 795 d. The allocations are authenticated (i.e., verified to have been generated) by the
- 796 permittee as required by the facility's individual VPDES permit, utilizing procedures
- 797 approved by the ~~board~~ department, no later than February 1 immediately following the
- 798 calendar year in which the allocations are applied; and
- 799 e. If obtained from the owner of a permitted point source, the allocations shall be
- 800 generated by a facility that has been constructed, and has discharged from treatment
- 801 works whose design flow or equivalent industrial activity is the basis for the facility's
- 802 wasteload allocations.
- 803 f. Such allocations or credits shall be secured for a period of five years with each
- 804 registration under the general permit.
- 805 3. Priority of options. The ~~board~~ department shall give priority to allocations or credits
- 806 acquired in accordance with subdivisions 1 a, b, and d of this subsection. The ~~board~~
- 807 department shall approve allocations acquired in accordance with subdivision 1 c of this
- 808 subsection only after the owner has demonstrated that he has made a good faith effort to
- 809 acquire sufficient allocations in accordance with subdivisions 1 a and 1 b of this
- 810 subsection, and that such allocations are not reasonably available taking into account
- 811 timing, cost and other relevant factors. Such demonstration may include providing a record
- 812 of solicitation, or other demonstration that point source allocations or nonpoint source
- 813 allocations are not available for sale in the tributary in which the permittee's facility
- 814 discharge is located.
- 815 4. Annual allocation acquisitions from the Nutrient Offset Fund. The cost for each pound
- 816 of nitrogen and each pound of phosphorus shall be determined at the time payment is
- 817 made to the Nutrient Offset Fund, based on the higher of (i) the estimated cost of achieving
- 818 a reduction of one pound of nitrogen or phosphorus at the facility that is securing the
- 819 allocation, or comparable facility, for each pound of allocation acquired; or (ii) the average
- 820 cost, as determined by the department on an annual basis, of reducing two pounds of
- 821 nitrogen or phosphorus from nonpoint sources in the same tributary for each pound of
- 822 allocation acquired.

823 Part III

824 CONDITIONS APPLICABLE TO ALL VPDES PERMITS

825 A. Monitoring.

- 826 1. Samples and measurements taken as required by this permit shall be representative of
- 827 the monitored activity.
- 828 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part
- 829 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless
- 830 other procedures have been specified in this permit.
- 831 3. The permittee shall periodically calibrate and perform maintenance procedures on all
- 832 monitoring and analytical instrumentation at intervals that will ensure accuracy of
- 833 measurements.

834 4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-
835 45 (Certification for Noncommercial Environmental Laboratories) or 1VAC30-46
836 (Accreditation for Commercial Environmental Laboratories).

837 B. Records.

838 1. Records of monitoring information shall include:

- 839 a. The date, exact place, and time of sampling or measurements;
- 840 b. The individuals who performed the sampling or measurements;
- 841 c. The dates and times analyses were performed;
- 842 d. The individuals who performed the analyses;
- 843 e. The analytical techniques or methods used; and
- 844 f. The results of such analyses.

845 2. Except for records of monitoring information required by this permit related to the
846 permittee's sewage sludge use and disposal activities, which shall be retained for a period
847 of at least five years, the permittee shall retain records of all monitoring information,
848 including all calibration and maintenance records and all original strip chart recordings for
849 continuous monitoring instrumentation, copies of all reports required by this permit, and
850 records of all data used to complete the registration statement for this permit, for a period
851 of at least three years from the date of the sample, measurement, report, or request for
852 coverage. This period of retention shall be extended automatically during the course of
853 any unresolved litigation regarding the regulated activity or regarding control standards
854 applicable to the permittee or as requested by the ~~board~~ department.

855 C. Reporting monitoring results.

856 1. The permittee shall submit the results of the monitoring required by this permit not later
857 than the 10th day of the month after monitoring takes place, unless another reporting
858 schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the
859 department's regional office.

860 2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on
861 forms provided, approved, or specified by the department.

862 3. If the permittee monitors any pollutant specifically addressed by this permit more
863 frequently than required by this permit using test procedures approved under 40 CFR Part
864 136 or using other test procedures approved by the U.S. Environmental Protection Agency
865 or using procedures specified in this permit, the results of this monitoring shall be included
866 in the calculation and reporting of the data submitted on the DMR or reporting form
867 specified by the department.

868 4. Calculations for all limitations that require averaging of measurements shall utilize an
869 arithmetic mean unless otherwise specified in this permit.

870 D. Duty to provide information. The permittee shall furnish to the department, within a
871 reasonable time, any information that the ~~board~~ department may request to determine whether
872 cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or
873 to determine compliance with this permit. The ~~board~~ department may require the permittee to
874 furnish, upon request, such plans, specifications, and other pertinent information as may be
875 necessary to determine the effect of the wastes from the discharge on the quality of state waters
876 or such other information as may be necessary to accomplish the purposes of the State Water
877 Control Law. The permittee shall also furnish to the department, upon request, copies of records
878 required to be kept by this permit.

879 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any
880 progress reports on, interim and final requirements contained in any compliance schedule of this
881 permit shall be submitted no later than 14 days following each schedule date.

882 F. Unauthorized discharges. Except in compliance with this permit or another permit issued
883 by the ~~board~~ department, it shall be unlawful for any person to:

- 884 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or
885 deleterious substances; or
- 886 2. Otherwise alter the physical, chemical, or biological properties of such state waters and
887 make them detrimental to the public health, to animal or aquatic life, or to the use of such
888 waters for domestic or industrial consumption, for recreation, or for other uses.

889 G. Reports of unauthorized discharges. Any permittee that discharges or causes or allows a
890 discharge of sewage, industrial waste, other wastes, or any noxious or deleterious substance into
891 or upon state waters in violation of Part III F, or that discharges or causes or allows a discharge
892 that may reasonably be expected to enter state waters in violation of Part III F, shall notify the
893 department of the discharge immediately upon discovery of the discharge, but in no case later
894 than 24 hours after said discovery. A written report of the unauthorized discharge shall be
895 submitted to the department within five days of discovery of the discharge. The written report shall
896 contain:

- 897 1. A description of the nature and location of the discharge;
- 898 2. The cause of the discharge;
- 899 3. The date on which the discharge occurred;
- 900 4. The length of time that the discharge continued;
- 901 5. The volume of the discharge;
- 902 6. If the discharge is continuing, how long it is expected to continue;
- 903 7. If the discharge is continuing, what the expected total volume of the discharge will be;
- 904 and
- 905 8. Any steps planned or taken to reduce, eliminate, and prevent a recurrence of the
906 present discharge or any future discharge not authorized by this permit.

907 Discharges reportable to the department under the immediate reporting requirements of other
908 regulations are exempted from this requirement.

909 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge
910 including a bypass or upset should occur from a treatment works and the discharge enters or
911 could be expected to enter state waters, the permittee shall promptly notify, in no case later than
912 24 hours, the department by telephone after the discovery of the discharge. This notification shall
913 provide all available details of the incident, including any adverse effects on aquatic life and the
914 known number of fish killed. The permittee shall reduce the report to writing and shall submit it to
915 the department within five days of discovery of the discharge in accordance with Part III I 2.
916 Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:

- 917 1. Unusual spillage of materials resulting directly or indirectly from processing operations;
- 918 2. Breakdown of processing or accessory equipment;
- 919 3. Failure or taking out of service some or all of the treatment works; and
- 920 4. Flooding or other acts of nature.

921 I. Reports of noncompliance. The permittee shall report any noncompliance that may
922 adversely affect state waters or may endanger public health.

1. An oral or online report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
 - b. Any upset that causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
- a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The ~~board~~ department may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral or online report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Part III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Part III G, H, and I ~~may~~ shall be made to the department's regional office. Reports may be made by telephone or online at <https://www.deq.virginia.gov/our-programs/pollution-response> (online reporting is preferred). For reports outside normal working hours, ~~a message may be left and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service~~ the online portal shall be used. For emergencies, call the Virginia Emergency Operations Center (24-hours) at 1-800-468-8892.

4. When the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement or in any report to the department, the permittee shall promptly submit such facts or information.

J. Notice of planned changes.

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 only when:

- a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (1) After promulgation of standards of performance under § 306 of the Clean Water Act (33 USC § 1251 et seq.) that are applicable to such source; or

- (2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 of the Clean Water Act within 120 days of their proposal;

- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

- c. The alteration or addition results in a significant change in the permittee's sludge use or of disposal practices, and such alteration, addition, or change may justify the

- 970 application of permit conditions that are different from or absent in the existing permit,
971 including notification of additional use or of disposal sites not reported during the
972 permit application process or not reported pursuant to an approved land application
973 plan.
- 974 2. The permittee shall give advance notice to the department of any planned changes in
975 the permitted facility or activity that may result in noncompliance with permit requirements.
- 976 K. Signatory requirements.
- 977 1. Registration statement. All registration statements shall be signed as follows:
- 978 a. For a corporation: by a responsible corporate officer. For the purpose of this section,
979 a responsible corporate officer means (i) a president, secretary, treasurer, or vice-
980 president of the corporation in charge of a principal business function, or any other
981 person who performs similar policy-making or decision-making functions for the
982 corporation or (ii) the manager of one or more manufacturing, production, or operating
983 facilities, provided the manager is authorized to make management decisions that
984 govern the operation of the regulated facility including having the explicit or implicit
985 duty of making major capital investment recommendations and initiating and directing
986 other comprehensive measures to assure long-term environmental compliance with
987 environmental laws and regulations; the manager can ensure that the necessary
988 systems are established or other actions taken to gather complete and accurate
989 information for permit registration requirements; and where authority to sign
990 documents has been assigned or delegated to the manager in accordance with
991 corporate procedures;
- 992 b. For a partnership or sole proprietorship: by a general partner or the proprietor,
993 respectively; or
- 994 c. For a municipality, state, federal, or other public agency: by either a principal
995 executive officer or ranking elected official. For purposes of this section, a principal
996 executive officer of a public agency includes (i) the chief executive officer of the agency
997 or (ii) a senior executive officer having responsibility for the overall operations of a
998 principal geographic unit of the agency.
- 999 2. Reports, etc. All reports required by permits and other information requested by the
1000 ~~board~~ department shall be signed by a person described in Part III K 1 or by a duly
1001 authorized representative of that person. A person is a duly authorized representative only
1002 if:
- 1003 a. The authorization is made in writing by a person described in Part III K 1;
- 1004 b. The authorization specifies either an individual or a position having responsibility for
1005 the overall operation of the regulated facility or activity such as the position of plant
1006 manager, operator of a well or a well field, superintendent, position of equivalent
1007 responsibility, or an individual or position having overall responsibility for
1008 environmental matters for the company. A duly authorized representative may thus be
1009 either a named individual or any individual occupying a named position; and
- 1010 c. The written authorization is submitted to the department.
- 1011 3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate
1012 because a different individual or position has responsibility for the overall operation of the
1013 facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted
1014 to the department prior to or together with any reports, or information to be signed by an
1015 authorized representative.
- 1016 4. Certification. Any person signing a document under Part III K 1 or 2 shall make the
1017 following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action, permit coverage termination, or denial of a permit coverage renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

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 submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board department. The board department shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights or any infringement of federal, state, or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to, any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part III U) and "upset" (Part III V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

1066 S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any
1067 discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of
1068 adversely affecting human health or the environment.

1069 T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an
1070 enforcement action that it would have been necessary to halt or reduce the permitted activity in
1071 order to maintain compliance with the conditions of this permit.

1072 U. Bypass.

1073 1. "Bypass" means the intentional diversion of waste streams from any portion of a
1074 treatment facility. The permittee may allow any bypass to occur that does not cause
1075 effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure
1076 efficient operation. These bypasses are not subject to the provisions of Part III U 2 and 3.

1077 2. Notice.

1078 a. Anticipated bypass. If the permittee knows in advance of the need for a bypass,
1079 prior notice shall be submitted, if possible, at least 10 days before the date of the
1080 bypass.

1081 b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass
1082 as required in Part III I.

1083 3. Prohibition of bypass.

1084 a. Bypass is prohibited, and the ~~board~~ department may take enforcement action
1085 against a permittee for bypass, unless:

1086 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property
1087 damage;

1088 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary
1089 treatment facilities, retention of untreated wastes, or maintenance during normal
1090 periods of equipment downtime. This condition is not satisfied if adequate back-up
1091 equipment should have been installed in the exercise of reasonable engineering
1092 judgment to prevent a bypass that occurred during normal periods of equipment
1093 downtime or preventive maintenance; and

1094 (3) The permittee submitted notices as required under Part III U 2.

1095 b. The ~~board~~ department may approve an anticipated bypass after considering its
1096 adverse effects if the ~~board~~ department determines that it will meet the three conditions
1097 listed in Part III U 3 a.

1098 V. Upset.

1099 1. An upset, defined in 9VAC25-31-10, constitutes an affirmative defense to an action
1100 brought for noncompliance with technology-based permit effluent limitations if the
1101 requirements of Part III V 2 are met. A determination made during administrative review
1102 of claims that noncompliance was caused by upset, and before an action for
1103 noncompliance, is not a final administrative action subject to judicial review.

1104 2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate
1105 through properly signed, contemporaneous operating logs, or other relevant evidence
1106 that:

1107 a. An upset occurred and that the permittee can identify the cause or causes of the
1108 upset;

1109 b. The permitted facility was at the time being properly operated;

1110 c. The permittee submitted notice of the upset as required in Part III I; and

1111 d. The permittee complied with remedial measures required under Part III S.

1112 3. In any enforcement proceeding the permittee seeking to establish the occurrence of an
1113 upset has the burden of proof.

1114 W. Inspection and entry. The permittee shall allow the director, or an authorized representative
1115 (including an authorized contractor acting as a representative of the administrator) upon
1116 presentation of credentials and other documents as may be required by law, to:

1117 1. Enter upon the permittee's premises where a regulated facility or activity is located or
1118 conducted, or where records must be kept under the conditions of this permit;

1119 2. Have access to and copy, at reasonable times, any records that must be kept under the
1120 conditions of this permit;

1121 3. Inspect at reasonable times facilities, equipment (including monitoring and control
1122 equipment), practices, or operations regulated or required under this permit; and

1123 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance
1124 or as otherwise authorized by the Clean Water Act and the State Water Control Law,
1125 substances or parameters at any location.

1126 For purposes of this section, the time for inspection shall be deemed reasonable during
1127 regular business hours or whenever the facility is discharging. Nothing contained herein shall
1128 make an inspection unreasonable during an emergency.

1129 X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause.
1130 The filing of a request by the permittee for a permit modification, revocation and reissuance,
1131 termination, or notification of planned changes or anticipated noncompliance does not stay any
1132 permit condition.

1133 Y. Transfer of permit coverage. Permit coverage is not transferable to any person except after
1134 notice to the department. Coverage under this permit may be automatically transferred to a new
1135 permittee if:

1136 1. The current permittee notifies the department within 30 days of the transfer of the title
1137 to the facility or property, unless permission for a later date has been granted by the ~~board~~
1138 department;

1139 2. The notice includes a written agreement between the existing and new permittees
1140 containing a specific date for transfer of permit responsibility, coverage, and liability
1141 between them; and

1142 3. The ~~board~~ department does not notify the existing permittee and the proposed new
1143 permittee of its intent to deny the new permittee coverage under the permit. If this notice
1144 is not received, the transfer is effective on the date specified in the agreement described
1145 in Part III Y 2.

1146 Z. Severability. The provisions of this permit are severable, and if any provision of this permit
1147 or the application of any provision of this permit to any circumstance is held invalid, the application
1148 of such provision to other circumstances, and the remainder of this permit, shall not be affected
1149 thereby.

1150 **9VAC25-820-80. Facilities subject to reduced individual total nitrogen and total**
1151 **phosphorus wasteload allocations.**

1152 A. Enhanced Nutrient Removal Certainty Program facilities

Facility	VPDES No.
HRSD—York River STP	VA0081311
HRSD - Boat Harbor STP	VA0081256

HRSD - James River STP	VA0081272
HRSD - Williamsburg STP	VA0081302
HRSD - Nansemond STP	VA0081299
HRSD - Army Base STP	VA0081230
HRSD - VIP WWTP	VA0081281

1153 B.Chlorophyll-a based total phosphorus wasteload allocations.

Facility	VPDES No.
Richmond WWTP	VA0063177
Falling Creek WWTP	VA0024996
Proctor's Creek WWTP	VA0060194
Henrico County WWTP	VA0063690
Phillip Morris - Park 500	VA0026557
Hopewell WWTP	VA0066630
South Central Wastewater Authority WWTP	VA0025437

1154


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Exempt Action: Proposed Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-820
VAC Chapter title(s)	General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia
Action title	CH 820-2026 Amendment and Reissuance of the Existing Regulation
Date this document prepared	August 1, 2025

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 phosphorus, 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 waste load allocations. Nitrogen and phosphorus are both nutrients and contribute to pollution in the Chesapeake Bay.

This regulatory action is proposed to 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 the State Water Control Board (Board) to 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 phosphorus to the Chesapeake Bay or its tributaries.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

8 HC / 24 HC: 8-Hour / 24-Hour composite sample: The sampling process design for NPDES compliance monitoring

Board: State Water Control Board

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

TKN: Total Kjeldahl Nitrogen

TN: Total Nitrogen

TP: Total Phosphorus

U.S. EPA: United States Environmental Protection Agency

USC: United States Code

VAC: Virginia Administrative Code

VPDES: Virginia Pollutant Discharge Elimination System

Legal Basis

Please 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 phosphorus 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. Section 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

Please 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 is intended to solve.

This proposed 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 works 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 phosphorus 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 the facility’s limit and the mass actually discharged) may be traded. The general permit also establishes how any increase in nitrogen or phosphorous loading from a new or expanding discharger must be offset by other nutrient reductions elsewhere in the basin.

Substance

Please 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.

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 that needs to be 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.

Amendments may be identified following the submittal of public comments on the proposed regulation.

Issues

Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The advantages to the public, permittees, and the agency of reissuing this general permit are that a 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 a 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

Please identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements in the proposed regulation that are more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:

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

Localities Particularly Affected:

This regulation is applicable throughout the Chesapeake Bay Watershed, which does not affect all Virginia localities. The proposed 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 phosphorus, 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 proposed regulation.

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.

Public Comment Received

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response. Ensure to include all comments submitted: including those 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 August 12, 2024, through September 11, 2024. One comment was received.

Commenter	Comment	Agency response
Patrick J. Fanning Chesapeake Bay Foundation	The Chesapeake Bay Foundation (CBF) wrote in support of retaining the Virginia Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (Watershed General Permit) in retaining the regulation in its current form. The Chesapeake Bay Foundation did not recommend any substantive changes to the permit.	DEQ acknowledged the comment from CBF in support of the proposed regulatory action and their request to be appointed to the Technical Advisory Committee (TAC) convened as part of the regulatory action was granted. DEQ staff are in concurrence that this would not be the appropriate time to address wasteload allocations and will do so during the periodic review of the regulations in which they are housed.

Commenter	Comment	Agency response
	The watershed General Permit is required by statute (Va. Code § 62.1-44.19:14) and is part and parcel of the Chesapeake Bay Watershed Nutrient Credit Exchange Program (Va. Code §§ 62.1-44.19:12 et seq.) The facility wasteload allocations referenced in the Watershed General Permit are house in separate regulations and are subject to statutorily required, periodic review every 10 years pursuant to Va. Code § 62.1-44.19:14 D. Therefore, any consideration of changes to facility wasteload allocations must be conducted during this decennial review. CBF requested that Patrick Fanning be selected as their primary representative and Mike Gerel as their alternate for the Technical Advisory Committee.	

Public Participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal, and any impacts of the regulation on farm and forest land preservation. DEQ and the Board are also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail or email to Laura Galli, Guidance and Regulation Coordinator, Office of VPDES Permits, Virginia Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, phone: 804-573-5674, and laura.galli@deq.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall website at (<https://www.townhall.virginia.gov>). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://www.townhall.virginia.gov>) and on the

Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Please include citations to the specific section(s) of the regulation that are changing.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-820-10		Definitions	The definition of Board was removed because the term has been replaced by “department” throughout the regulation. This reflects a change in the law, Chapter 356 of the 2022 Acts of Assembly, that shifted responsibilities from the Board to the department. Added a definition for “Nutrient Offset Fund” because this term is referenced in the regulation but not previously defined.
9VAC25-820-15		Applicability of incorporated references based on the dates that they become effective.	Revised date of incorporation by reference of 40 CFR from July 1, 2014, to July 1, 2025, to maintain consistency with federal regulations. This section will be updated to the most recent version prior to reissuing the general permit regulation.
9VAC25-820-20;		Purpose, applicability; General permit	Revised title of the regulation for clarity and brevity.
9VAC25-820-40.A		Compliance Plans Requires submittal of a compliance plan by February 1, 2023, for facilities identified in 9VAC25-820-80A and by no later than January 1, 2026, for facilities listed in 9VAC25-820-80B.	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.
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 requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-820-70		General Permit	The term “board” was changed to “department” throughout the regulation in response to Chapter 356 of the 2022 Acts of Assembly. Revised to reflect the new permit term and title.
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 2026 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		Wasteload allocations Authorizes two or more facilities discharging to the same tributary into a single regional facility to receive aggregated mass nutrient load limits.	Replaced the word “aggregate” with “consolidated” mass load limit. 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. This change has been applied subdivisions a through e.
	9VAC25-820-70 Part I.B.4	None	Consolidation of facilities discharging to different tributaries. Added option for consolidation of facilities discharging to multiple tributaries. Added to provide flexibility on a case-by-case basis to owners that

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			consolidate two or more facilities discharging to different tributaries.
	9VAC25-820-70 Part I.B.5	None	Termination of a wasteload allocation. Added 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.
9VAC25-820-70 Part I.B.4	9AC25-820-70 Part I.B.6	Apportionment of nutrient load in intake water	Updated the section number (changing B.4 to B.6) to reflect the addition of new sections. The current requirement related to total loads have not changed.
9VAC25-820-70 Part I.B.5	9AC25-820-70 Part I.B.7	Bioavailability	Updated the section number (changing B.5 to B.7) to reflect the addition of new sections. The current requirement related to bioavailability has not changed.
9VAC25-820-70 Part 1.C.1		Schedules of compliance pertaining to the TN and TP load allocations that apply to facilities listed in section -80A.	Removed reference to the facilities listed in 9VAC25-720-120 as they have already met compliance. Removed reference to the facilities listed in 9VAC25-820-80B as they will meet compliance by the end of the current permit cycle.
9VAC25-820-70 Part 1.C.3		Schedule of compliance pertaining to facilities listed in -80B.	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	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. 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. 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). Changed 0.5-0.999 MGD monitoring frequency from 8 HC 2 days/week to 8 HC 1 day/week.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			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 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.
9VAC25-820-70 Part I.E.1.4		Data reporting	The phrase "without rounding" 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

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			communication has been replaced by email and other options.
9VAC25-820-70 Part I.J 3		Credit acquisitions from the Nutrient Offset Fund	Updating the cost of credits per pound of nitrogen from \$5.08 to \$XX.XX and per pound of phosphorus from \$11.15 to \$XX.XX. These prices reflect the average cost of nutrient removal at projects financed by the Water Quality Improvement Fund over the previous 5 years and account for grants, matching funds, and operational costs.
9VAC25-820-70 Part II.B.1.a		Acquisition of wasteload allocations	Added reference to the option of obtaining point source credits through the Virginia Nutrient Credit Exchange Association.
9VAC25-820-70 Part III.I.1		Reports of noncompliance: The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.	Revised language to clarify reporting requirements by adding the phrase "or online" to allow the option of electronic reporting.
9Vac25-820-70 Part III.I.3		Reports of noncompliance: The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.	Revised language to specify that reports outside of normal working hours should be done using the online portal (instead of leaving a message). The changes clarify and simplify the reporting requirements.
9VAC25-820-80 A		Facilities subject to reduced individual total nitrogen and total phosphorus wasteload allocations – Enhanced Nutrient Removal Certainty (ENRC) Program Facilities	Removed Hampton Roads Sanitation District – York River Sewage Treatment Plant as this facility has already met compliance with the ENRC reduced wasteload allocation.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
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.

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 direct impact on 1) the authority and rights of parents, 2) economic self-sufficiency, self-pride, or assumption of familial responsibilities, 3) marital commitments, or 4) disposable family income.

FACT SHEET
REISSUANCE OF A VPDES GENERAL PERMIT FOR NUTRIENT DISCHARGES AND
NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED

Effective Date of Permit January 1, 2027

The Virginia State Water Control Board (Board) has under consideration the reissuance of a Virginia Pollutant Discharge Elimination System (VPDES) general permit for nutrient discharges and nutrient trading in the Chesapeake Bay watershed.

Permit Number: VAN000000

Name of Permittee: Owners of new or existing facilities holding individual VPDES permits that discharge, or propose to discharge, total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries. There are three categories of owners required to register for coverage under this general permit, which are described below.

Facility Location: Within the Chesapeake Bay Watershed of the Commonwealth of Virginia (except for the Washington, DC - Blue Plains WWTP, which is eligible to exchange nutrient credits under this permit). Localities within the Chesapeake Bay Watershed include all or portions of the Counties of Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Botetourt, Buckingham, Campbell, Caroline, Charles City, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Frederick, Giles, Gloucester, Goochland, Greene, Hanover, Henrico, Highland, Isle of Wight, James City, King and Queen, King William, Lancaster, Loudoun, Louisa, Madison, Mathews, Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Powhatan, Prince Edward, Prince George, Prince William, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Shenandoah, Spotsylvania, Stafford, Surry, Warren, Westmoreland, and York; and the Cities of Alexandria, Buena Vista, Charlottesville, Chesapeake, Colonial Heights, Covington, Fairfax, Falls Church, Fredericksburg, Hampton, Harrisonburg, Hopewell, Lexington, Lynchburg, Manassas, Manassas Park, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Staunton, Suffolk, Virginia Beach, Waynesboro, Williamsburg, and Winchester.

Receiving Waters: Surface waters within the Chesapeake Bay watershed, comprised of such waters within the Potomac, Rappahannock, York, and James River Basins, and the creeks and rivers of the Eastern Shore of Virginia that are west of Route 13 and drain into the Chesapeake Bay.

Restrictions: The Department of Environmental Quality (Department) will deny authorization to discharge under this general permit if the owner is proposing to discharge to surface waters specifically named in Board regulation which prohibit such discharges; if the discharge would violate the Virginia Water Quality Standards antidegradation policy; or if the discharge is not consistent with the assumption and requirements of an approved Total Maximum Daily Load (TMDL).

On the basis of preliminary review and application of lawful standards and regulations, the board proposes to issue the general permit subject to certain conditions and has prepared a draft permit. The board has determined that this category of discharges is appropriately controlled under a general permit. The category of discharges to be included involves facilities with the same or similar need to control nutrient levels in their wastewater discharges. The draft general permit requires that all covered facilities meet standardized effluent limitations, conditions and monitoring requirements and allows the exchange of nitrogen and phosphorus credits between certain covered facilities. This permit will maintain the Water Quality Standards adopted by the Board. This general permit will replace the general permit VAN000000 which expires on December 31, 2026. Owners covered under the expiring general permit who wish to continue to discharge under the general permit must register for coverage under the new permit.

All pertinent information is on file and may be inspected, and arrangements made for copying by contacting:

Laura Galli
Virginia Department of Environmental Quality
Office of VPDES Permits
P.O. Box 1105, Richmond, Virginia 23218
Phone: 804-573-5674
Email: laura.galli@deq.virginia.gov

FACT SHEET

VPDES General Permit for Nutrient Discharges and Nutrient Trading in the Chesapeake Bay Watershed

Page 2 of 11

The process for issuing or amending a VPDES general permit regulation includes publication of a Notice of Intended Regulatory Action (NOIRA) with a 30-day comment period, forming and meeting with a Technical Advisory Committee (TAC), presenting the proposed regulation to the State Water Control Board (SWCB), publication of a Notice of Public Comment (NOPC) with a 60-day public comment period, holding a public hearing, and adoption of the final regulation by the SWCB.

The NOPC 60-day comment period is published in a newspaper, the Virginia Register, the Virginia Regulatory Town Hall (<https://townhall.virginia.gov/L/ViewBoard.cfm?BoardID=103>), and is provided to an open mailing list. The NOPC specifies the methods and appropriate contacts for commenting, as well as the date, time and place for the public hearing.

Administrative

The general permit will have a fixed term of five (5) years effective, upon Board approval, January 1, 2027. Every authorization to discharge under this general permit will expire at the same time and all authorizations to discharge will be renewed on the same date. However, an owner is allowed to continue to discharge under the terms of their previous permit provided they have submitted a complete registration statement before the expiration date of the existing permit. This is also known as an administrative continuance and such a continuance is only available until the effective date of the reissued permit.

All persons desiring to be covered by this general permit must register with the Department by filing a registration statement and applicable fees. The majority of registrations will come from existing operations. Existing operations covered under the previous general permit seeking to retain coverage under the reissued general permit must file a new registration statement at least 60 days prior to expiration (prior to November 1, 2026).

All facilities that the Department believes are eligible for coverage under this general permit will be authorized to discharge under the terms and conditions of the permit after a complete registration statement is submitted, the applicable permit fee is paid, and the Department sends a copy of the general permit to the applicant.

Activities Covered by this Permit

This general permit authorizes wastewater discharges of nitrogen and phosphorus from wastewater treatment facilities located in the Chesapeake Bay watershed that are already authorized by a VPDES individual permit. Although no additional action will be required of many facilities across the Commonwealth, three categories of facilities are required by law to register for coverage under this general permit:

- Sewage treatment works authorized to discharge 100,000 gallons or more per day (or an equivalent load from industrial processes), directly into tidal waters, or 500,000 gallons or more per day (or an equivalent load from industrial processes) directly into non-tidal waters. These facilities have already been identified during the development of the Chesapeake Bay Tributary Strategy; further, these facilities are listed in the Water Quality Management Planning regulation (9VAC 25-720) and have been assigned wasteload allocations for nitrogen and phosphorus, to be regulated as annual mass loading limits in the general permit. These facilities are required by law to register for general permit coverage upon the effective date of the general permit.
- Sewage treatment works that, as a result of new construction or expansion, are discharging or will discharge 40,000 gallons or more per day (or an equivalent load from industrial processes) directly into tidal or nontidal waters. These facilities are required to register for coverage under the general permit at the time of application with the Department for an individual VPDES permit, should that permit authorize new discharge or expansion that is subject to an offset or technology-based requirement. These facilities will not receive a wasteload allocation for the increased (or new) discharges; expanded and expanding facilities will receive an annual load limit based on the facility design flow and nutrient removal technology that existed as of July 1, 2005.
- New sewage treatment works that are permitted to discharge greater than 1,000 gallons per day and less than 40,000 gallons per day that have not commenced the discharge of pollutants prior to January 1, 2011, and are subject to offset requirements. These facilities are required to register for coverage under the general permit prior to commencing a discharge. These facilities will not receive a wasteload allocation for the new discharges and will be required to offset any new Total Nitrogen and Total Phosphorus load.

The general permit establishes annual effluent loading limits for nitrogen and phosphorus, and establishes the conditions by which credits (the difference in pounds between the facility's limit and the mass actually discharged) may be exchanged. The permit also establishes how new or expanding facilities may acquire additional wasteload allocation to offset any increase in nutrient load from the discharge.

Effluent Limitations and Monitoring Requirements:

This permit supersedes the requirements of the registrants' individual VPDES permits pertaining to total nitrogen and total phosphorus load limits except where site specific conditions necessitate more restrictive limits.

The Department maintains a registration list of facilities covered by the general permit. This list contains the load limits for the facilities; these limits are enforceable under the general permit.

Basis for Limitations and Monitoring Requirements

The Chesapeake Bay Tributary Strategy established goals for the reduction of point source discharges of nitrogen and phosphorus from “significant” dischargers (sewage treatment works discharging 100,000 gallons or more per day to tidal waters, or an equivalent industrial load, or sewage treatment works discharging 500,000 gallons or more per day to nontidal waters, or an equivalent industrial load). The Water Quality Management Planning Regulation (9 VAC 25-720) codified the point source goals in the Tributary Strategy as waste load allocations (WLAs) for the respective dischargers.

On December 29, 2010, the U.S. Environmental Protection Agency (EPA) established the Chesapeake Bay Total Maximum Daily Load (TMDL) for Nitrogen, Phosphorus, and Sediment. The TMDL applies to the Bay watershed within Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia. The TMDL seeks to ensure pollution control measures needed to fully restore the Bay. Three phases of Watershed Implementation Plans (WIPs) were developed by each of the Bay jurisdictions outlining implementation paths toward accomplishing their Bay TMDL allocation goals. The Phase III WIPs contains strategies to ensure that the necessary pollution control measures are in place by the end of 2025.

§62.1-44.19.12 et seq. of the Code of Virginia requires that this general permit be developed and specifies the minimum contents of the general permit. The general permit incorporates the wasteload allocations (WLAs) in the Water Quality Management Planning Regulation (9 VAC 25-720) and the Chesapeake Bay TMDL as effluent limitations (loading caps) for nitrogen and phosphorus. In the case of conflicts between the Water Quality Management Planning Regulation and the TMDL, the more limiting WLA is used. The TMDL also includes WLAs for sediment. Sediment allocations are implemented in the form of Total Suspended Solids limitations in individual VPDES permits and are not included in the watershed general permit.

Virginia’s Watershed Implementation Plan for EPA’s Chesapeake Bay TMDL for Nitrogen, Phosphorus and Sediment

For the first 5-year term of the watershed general permit (1/1/2007 - 12/31/2011), WLAs were established by the Water Quality Management Planning Regulation (9VAC25-720). The allocations in the regulation were developed from the Commonwealth of Virginia Chesapeake Bay Nutrient and Sediment Reduction Tributary Strategy (January 2005).

In November 2010, Virginia submitted its first WIP to EPA. The initial Phase I WIP provided information to EPA to consider when it established point-source WLAs and non-point source load allocations within the Bay watershed segments designated as impaired. On December 29, 2010, the EPA established the Chesapeake Bay TMDL. The 2010 TMDL included nutrient WLAs in the York and James River Basins that were more restrictive than those contained in the original 2005 Tributary Strategies.

The second 5-year term of the watershed general permit (1/1/2012 – 12/31/2016) implemented additional nutrient reductions in accordance with Virginia’s Phase I WIP. These reductions included a 43% reduction in Total Phosphorus WLAs in the York River Basin as well as Total Nitrogen and Total Phosphorus reductions from the Hampton Roads Sanitation District facilities in the James River Basin.

In March 2012, Virginia submitted its Phase II WIP to EPA. The Phase II WIP subdivided the Bay TMDL allocations into target areas at a local government level. In addition, the Phase II WIP augmented the Phase I WIP by providing more localized strategies, developed with input from Virginia’s stakeholders and localities.

The third 5-year term of the watershed general permit (1/1/2017 – 12/31/2021) included additional Total Nitrogen reductions from the aggregate Hampton Roads Sanitation District WLA in the James River as well as reductions in the individual Total Phosphorus WLAs for all but two of the significant James River dischargers. These reductions in James River WLAs completed the reductions necessary to meet Dissolved Oxygen water quality criteria in the James River as outlined in the Phase I WIP and Appendix X to the TMDL. These reduced WLAs were listed in Section 80 of the 2017 watershed general permit regulation.

The fourth 5-year term of the watershed general permit (1/1/2022 – 12/31/2026) included new TN and TP delivery factors that were established using EPA’s Phase 6.0 Chesapeake Bay Watershed Model for discharges west of the fall line for each river basin. Discharges located east of the fall line for each river basin are assigned a delivery factor of 1.0. These delivery factors are shown on the Registration List for each basin. Because the Virginia Nutrient Credit Exchange Association (the Exchange) had prepared a compliance plan that included trade agreements through 2025, the new delivery factors were not phased in until 2026. These delivery factors will be continued through the next 5-year permit term.

Summary of Substantive Changes from the 2022 Nutrient General Permit

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		Regulation name	Revised the name of the regulation for clarity and less redundancy.
9VAC25-820-10		Definitions	The definition of Board was removed because the term has been replaced by "department" throughout the regulation. This reflects a change in the law, Chapter 356 of the 2022 Acts of Assembly, that shifted responsibilities from the Board to the department.
9VAC25-820-10		Definitions	The definition of "Nutrient Offset Fund" was added since this term is referenced in the regulation but not previously defined.
209VAC25-820-20; 9VAC25-820-70		Purpose, Applicability; General Permit	Revised the name of the regulation.
9VAC25-820-40.A		Compliance Plans Requires submittal of a compliance plan by February 1, 2023 for facilities identified in 9VAC25-820-80A and by no later than January 1, 2026 for facilities listed in 9VAC25-820-80B.	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.
9VAC25-820-40.B	9VASC25-820-40.A	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.
9VAC25-820-70		General Permit	Updated the effective (2027) and expiration (2031) dates to reflect the reissuance date of the permit.
9VAC25-820-70		General Permit	Revised the name of the regulation.
9VAC25-820-70.Part I.A.1.a		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.
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 a new reissuance cycle of the general permit.
9VAC25-820-70 Part I.B.3		Wasteload allocations Authorizes two or more facilities discharging to the same tributary into a single regional facility to receive aggregated mass nutrient load limits.	Replaced the word "aggregate" with "consolidated" mass load limit. Removed the term "regional" referring to the receiving facility. The change clarifies situations where an owner diverts the discharge flow to a facility owned by a different entity, in contrast with Part I.B.2 which addresses "aggregate load limits" for individual facilities under common ownership. This change has been applied subsections a through e.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
	9VAC25-820-70 Part I.B.4		Consolidation of facilities discharging to different tributaries. Added option for consolidation of facilities discharging to multiple tributaries. Added to provide flexibility on a case-by-case basis to owners that consolidate two or more facilities discharging to multiple tributaries.
	9VAC25-820-70 Part I.B.5		Termination of a wasteload allocation. Added 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.
9VAC25-820-70 Part 1.C.1		Schedules of compliance pertaining to the TN and TP load allocations that apply to facilities listed in section -80A.	Removed reference to the facilities listed in 9VAC25-720-120 as they have already met compliance. Removed reference to the facilities listed in 9VAC25-820-80B as they will meet compliance by the end of the current permit cycle.
9VAC25-820-70 Part 1.C.3		Schedule of compliance pertaining to facilities listed in -80B.	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	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. Split the 1.0-19.999 MGD STP 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.
9VAC25-820-70 Part I.E.1		Monitoring Requirements	Added 1 day/week 24 HC for the 1.0-4.99 MGD flow range. Changed 0.5-0.999 MGD monitoring frequency from 2 days/week 8 HC to 1 day/week 8 HC.
	9VAC25-820-70 Part I.E.1.6	Monthly average concentration reporting	Added language for the reporting procedures of monthly average concentrations for TP, TKN and nitrate+nitrite or clarity and consistency with the language included in the VPDES individual permits.
9VAC25-820-70 Part I.J 3		Credit acquisitions from the Nutrient Offset Fund	Updating the cost of credits per pound of Nitrogen from \$5.08 to \$XX.XX and per pound of phosphorus from \$11.15 to \$XX.XX. These prices reflect the average cost of nutrient removal at projects financed by the Water Quality Improvement Fund over the previous 5 years and account for grants, matching funds, and operational costs.
9VAC25-820-70 Part II.B.1.a		Acquisition of wasteload allocations	Added reference to the option of obtaining point source credits through the Virginia Nutrient Credit Exchange Association.
9VAC25-820-70 Part III.I		Part III contains conditions applicable to all permits.	Updated language for reporting outside of normal working hours.

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Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-820-80.A		Facilities subject to reduced individual total nitrogen and total phosphorus wasteload allocations – Enhanced Nutrient Removal Certainty (ENRC) Program Facilities	Removed HRSD – York River STP as this facility has 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.

Basis for Part I Special Conditions

These special conditions apply to every registrant under this general permit.

A. Authorized activities

Basis: §62.1-44.19:14.C.5 of the Code of Virginia authorizes the discharge of total nitrogen and total phosphorus for facilities already holding an individual VPDES permit and outlines the registration requirements for existing, new and expanded facilities. Facilities holding an individual VPDES permit that are not required to register for general permit coverage are authorized to discharge under this general permit, but are not subject to the general permit requirements until registration is required (most likely by expansion). This subdivision includes provisions (A.3.) for the continuation of permit coverage that are consistent with the provisions applicable to individual VPDES permits under 9 VAC 25-31-70.

B. Wasteload allocations

Basis: §62.1-44.19:14.C.1 of the Code of Virginia specifies that waste load allocations be assigned to each permitted facility (B.1.) and provides additional guidance for how those allocations may be aggregated for owners of multiple facilities (B.2.).

B.3: During development of the general permit, consolidation of multiple dischargers into one regional facility was considered functionally similar to the aggregation of wasteload allocations, and conditions developed accordingly to account for consolidation of facilities with, and without, wasteload allocations. For the 2027 permit reissuance, the term “aggregated” is replaced with “consolidated” to differentiate between facilities that shut down and divert flow to another facility (consolidation, or transfer, of a wasteload allocation) and facilities whose wasteload allocations are aggregated under common ownership, as addressed in Part I.B.2.

B.4: This condition was added to provide flexibility for facilities that may need to consolidate wasteload allocation between multiple tributaries. These situations will be evaluated on a case-by-case basis by DEQ, evaluating the conditions set forth in Part I.B.3 a through d, while ensuring that water quality protection is maintained.

B.5: This condition was added to explain what happens to a facility’s wasteload allocation when the facility’s individual and general permits are terminated or allowed to expire with no flow diversion to another facility. As long as the permits are kept active, even when there is no discharge, the wasteload allocation is retained and may be used for trading.

C. Schedule of Compliance

Basis: 9 VAC 25-31-250 allows for schedules of compliance when appropriate requiring compliance with effluent limitations as soon as possible.

D. Annual update of tributary wide compliance plan

Basis: §62.1-44.19:14.C.3 of the Code of Virginia requires annual updates to the plan no later than February 1 of each year.

E. Monitoring and monthly reporting requirements

Basis: §62.1-44.19:14.C.4 of the Code of Virginia authorizes the Department to establish monitoring requirements as necessary to comply with the legislation. Permittees will submit monthly loading data on the same date as is required by their respective individual permits.

The monitoring frequencies established for the 2007 and 2012 permit terms were as follows:

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2007 & 2012 Sampling Frequencies			
< 0.040 MGD	0.040 - 0.99 MGD	1.0 - 19.99 MGD	20+ MGD
1/Month	2/Month	1/Week	3 Days/Week
Grab	8-HC	24-HC	24-HC

In 2014, EPA provided a technical memorandum meant to address the load calculation methodology and sampling frequency of Chesapeake Bay watershed wastewater treatment plants and to identify an approach that should result in data sufficient to support Chesapeake Bay jurisdictions' trading and offset programs. The memorandum specifically noted that it was not official agency guidance and did not replace the EPA 2003 Trading Policy. The result of the memorandum, which considered one to two years data from two facilities with annual average flows exceeding 20 MGD (one in Virginia, one in Pennsylvania), was a recommendation that three or more samples per week for both TN and TP would generate data sufficient to support credit calculation for the purposes of water quality offset and/or trading programs.

The recommendations of the 2014 technical memorandum were discussed by the technical advisory committee during the 2017 reissuance process and resulted in a proposal to divide the 1.0-19.99 MGD flow range and the 0.040-0.99 MGD flow range into four tiers as presented in the table below. The proposal would have resulted in an increased sampling frequency for both the 5.0-19.99 MGD and 0.5-0.99 MGD flow tiers.

2017 (Proposed)					
< 0.040 MGD	0.040 - 0.499 MGD	0.5 - 0.99 MGD	1.0 - 4.99 MGD	5.0 - 19.99 MGD	20+ MGD
1/Month	2/Month	1/Week	1/Week	2/Week	3 Days/Week
Grab	8-HC	8-HC	24-HC	24-HC	24-HC

EPA objected to the proposed frequencies in a March 2016 letter and provided an additional 2016 Statistical Analysis recommending a 2/Week sampling frequency for facilities in the 0.5-0.99 MGD and 1.0-4.99 MGD flow tiers and recommending that these sampling frequencies be revisited at the next reissuance.

EPA's 2016 Statistical Analysis evaluated one year of data (2015) for 43 facilities in the 0.5-0.99 MGD and 1.0-4.99 MGD ranges. From that initial dataset, the analysis narrowed in scope to 14 facilities that, in the analysis, demonstrated "a high degree of variability among months for the same load" as determined by instances of exceeding a 1% probability Z-score of ± 2.57 .

DEQ staff performed a follow-up statistical analysis utilizing the same methods for the same 14 facilities identified in the EPA's 2016 analysis, but expanded the dataset to 2009-2015 to be more representative. Further, DEQ staff performed the 1% probability Z-score analysis for all Nutrient GP facilities across all flow tiers. The results of the two DEQ analyses supported maintaining the proposed sampling frequencies for the 0.5-0.99 MGD and 1.0-4.99 MGD ranges, as noted below.

- For the total nitrogen analysis of the 14 facilities, DEQ calculated 756 months of data and 15 total exceedances of a ± 2.57 Z-score (1.98% of data set). This is compared to an 8.33% exceedance rate in EPA's analysis.
- For the total phosphorus analysis of the 14 facilities, DEQ calculated 588 months of data and 9 total exceedances of a ± 2.57 Z-score (1.53% of data set). This is compared to an 8.33% exceedance rate in EPA's analysis.
- The analysis of all facilities in the 0.5-0.99 MGD range, currently sampling at a frequency of 2/Month, demonstrated that the data is representative and capturing variability for total nitrogen 98.3% of the time and for total phosphorus 98.9% of the time, as defined by a 1% probability Z-score.
- The analysis of all facilities in the 1.0-4.99 MGD range, currently sampling at a frequency of 1/Week, demonstrated that the data is representative and capturing variability for total nitrogen 98.7% of the time and for total phosphorus 98.0% of the time, as defined by a 1% probability Z-score.

Despite the additional data evaluation provided by DEQ staff, the monitoring frequencies were adjusted for the 2017 permit to address EPA's objection with the intent to revisit them at the following reissuance. The resulting frequencies, shown below, retained the 1.0-19.99 MGD flow tier while increasing the sampling frequency from 1/Week to 2/Week and further increased the 0.5-0.99 MGD flow tier frequency from the original 2/Month to 2/Week.

2017 (Final)				
< 0.040 MGD	0.040 - 0.499 MGD	0.5-0.99 MGD	1.0 - 19.99 MGD	20+ MGD
1/Month	2/Month	2/Week	2/Week	3 Days/Week
Grab	8-HC	8-HC	24-HC	24-HC

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The above frequencies were not revisited during the 2022 reissuance process and were carried forward. However, for the 2027 permit reissuance, the members of the technical advisory committee recommended a re-evaluation and consideration of the proposed 2017 monitoring frequencies. This would include once again splitting the 1.0-19.99 MGD flow tier into 1.0-4.99 MGD and 5.0-19.99 MGD tiers, reducing the monitoring frequency for the 1.0-4.99 MGD flow tier to the original 1/Week frequency, and reducing the monitoring frequency for the 0.5-0.99 MGD flow tier to 1/Week, maintaining an increase in frequency from the original 2/Month.

As part of this consideration, DEQ presented to EPA a summary of DEQ's 2016 statistical analyses as described above in support of the revised monitoring frequencies. Further, DEQ presented a comparison of the proposed monitoring frequencies to those in other Nutrient General Permits. Notably, EPA's Great Bay Total Nitrogen General Permit includes a 1/Week sampling frequency for facilities with design flows ranging up to 6.13 MGD. Further, Connecticut's General Permit for Nitrogen Discharges (Long Island Sound) includes 1/Week sampling for facilities less than 10 MGD. DEQ's proposed monitoring frequencies are as frequent or more frequent than those found in other states.

Given the supporting data provided and the comparison to similar permits across the nation, DEQ proposes the following monitoring frequencies for the 2027 permit reissuance, which mirror what was proposed in 2017. DEQ believes that the revised monitoring frequencies are sufficient to capture loading variability for accurate accounting of annual loads.

2027 (Proposed)					
< 0.040 MGD	0.040-0.499 MGD	0.5-0.99 MGD	1.0 - 4.99 MGD	5.0 – 19.99 MGD	20+ MGD
1/Month	2/Month	1/Week	1/Week	2/Week	3 Days/Week
Grab	8-HC	8-HC	24-HC	24-HC	24-HC

F. Annual submittal of discharge information by the permittee

Basis: §62.1-44.19:18.C of the Code of Virginia requires the submittal of the annual mass load of total nitrogen and total phosphorus loads discharged.

G. Requirement to register

Basis: §62.1-44.19:14.C.5 of the Code of Virginia outlines the registration requirements for existing, new and expanded facilities.

H. Registration statement

Basis: §62.1-44.19:14.C.6 of the Code of Virginia requires that the Department have a procedure for efficiently modifying the lists of facilities covered by the General Permit. This subdivision includes a provision requiring that at the time of registration, new or expanding facilities provide WLAs to offset any increase in nutrient loads for a period of at least 5 years.

In 2015, the EPA published the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule. The federal rule requires the use of electronic reporting instead of paper-based reporting. Effective July 2017, the VPDES Permit Regulation was amended to incorporate the federal Electronic Reporting Rule. Part XI of the VPDES Permit Regulation (9VAC 25-31-950 through -1030) establishes requirements for the electronic reporting of information by VPDES permittees, including facilities or entities seeking coverage under VPDES general permits.

I. Public Notice for registration statements proposing modifications or incorporations of new waste load allocations or delivery factors

Basis: §62.1-44.19:14.C.6 of the Code of Virginia requires that the Department have a procedure for efficiently incorporating new waste load allocations or delivery factors, including the opportunity for public notice and comment.

J.1. Compliance by permitted facility with individual waste load allocations

Basis: §62.1-44.19:18.A of the Code of Virginia defines compliance as not exceeding the waste load allocations, or acquiring sufficient point source nitrogen or phosphorus credits to offset any exceedance of the waste load allocations, or acquiring credits through payment to the Nutrient Offset Fund.

J.2. Credit acquisition from permitted facilities

Basis: §62.1-44.19:18.A.1 of the Code of Virginia outlines the conditions under which credits may be exchanged between point sources covered by the general permit. This subdivision carries forward a 2017 general permit provision allowing for Eastern Shore facilities to acquire credits from facilities in the Potomac and Rappahannock tributaries in accordance with §62.1-44.19:18.A.1(ii). Eastern Shore trading ratios have been established so that credits acquired from the

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Rappahannock or Potomac Basins provide a water quality benefit equivalent to the impact of the excess load from the Eastern Shore facility in need of the credits.

J.3. Detail of payment to Nutrient Offset Fund

Basis: §62.1-44.19:18.A.2. of the Code of Virginia outlines the procedures by which a permittee may purchase credits through payment to the Nutrient Offset Fund. Prices of credits purchased from the Fund have been updated based on staff judgement of an increase in unit costs relative to the previous permit cycle.

J.4. Pretreatment program modifications by POTWs

Basis: §62.1-44.19:14.C.7. of the Code of Virginia authorizes DEQ to include “such other conditions as the Board deems necessary to carry out the provisions of this Chapter and Section 402 of the Clean Water Act”. This condition is being carried forward from the previous permit cycle. During the development of the 2017 general permit, several indirect dischargers requested the inclusion of this condition to allow the extension of market-based compliance flexibility to pretreatment programs, where the POTW imposed additional requirements as part of compliance with this general permit.

Basis for Part II Special Conditions

These special conditions apply only to new and expanding facilities that are subject to this general permit.

A. Offset requirements for expanding and new facilities

Basis: §62.1-44.19:15 of the Code of Virginia requires expanding facilities to obtain offsets above and beyond their currently permitted allocation, and new facilities to obtain offsets for any total nitrogen and total phosphorus discharged. A.1. describes the types of facilities required to offset new and expanded discharges, and A.2. specifies the baselines from which the offset requirements are to be calculated.

B. Acquisition of waste load allocations to offset new or increased delivered Total Nitrogen and delivered Total Phosphorus loads

Basis: §62.1-44.19:15.B of the Code of Virginia prescribes the acquisition of nitrogen and phosphorus WLAs to offset new or increased loads. Allocations may be provided in the form of WLAs acquired from other point sources; point source nitrogen or phosphorus credits; nonpoint credits certified by the Board pursuant to §62.1-44.19:20; allocations acquired through payments to the Nutrient Offset Fund; or allocations acquired through other means as may be approved by the department on a case-by-case basis. This subdivision carries forward Part II.B.1.b.(1) provisions added during the 2017 general permit cycle allowing for nonpoint source to point source trading ratios of less than 2:1 when specific criteria are met. Allocations to offset new or increased nutrient loads must be provided for a period of five years with each registration under the general permit.

Basis for Part III Special Conditions

Basis: These conditions are applicable to all VPDES permits in accordance with 9 VAC 25-31-190. These conditions were modified to account for activities not applicable to this general permit.

Environmental Justice and Climate Change

DEQ is in the process of addressing these concerns at a much higher level than specific permit requirements related to environmental justice and climate change. The Commonwealth of Virginia has proactively worked on the topics of environmental justice and climate resiliency within and outside the permitting process.

In 2020, the Commonwealth enacted the Virginia Environmental Justice Act (Act), codified at §§ 2.2-234 and 2.2-235 of the Code of Virginia, which states that it is Virginia's policy “to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice and fence line communities.” Further, DEQ's enabling statute, § 10.1-1183 of the Code of Virginia, was amended to include in its statement of policy that DEQ's purpose, among others, is “[t]o ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, faith, disability, or income with respect to the administration of environmental laws, regulations, and policies.” The policy statement was also amended to include a statement affirming that agency would “further environmental justice and enhance public participation in the regulatory and permitting processes.” A detailed overview of ongoing activities is available on DEQ's Environmental Justice webpage. DEQ has recently released draft guidance, Environmental Justice in the Permitting Process for public comment. Once finalized in accordance with Virginia's Administration Process Act, this guidance document will serve as the guidepost for ensuring environmental justice is included in the permitting process.

The Commonwealth of Virginia has established the Office of Commonwealth Resilience as the primary coordinator of resilience and adaptation initiatives in Virginia pursuant to § 2.2-220.5 of the Code of Virginia. As such they are the primary point of

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contact regarding recurrent flooding, all flooding related pre-disaster hazard mitigation, and adaptation. One of the primary responsibilities of the Office of Commonwealth Resilience is to create and oversee the implementation of a Virginia Flood Protection Master Plan and a Virginia Coastal Resilience Master Plan in accordance with § 10.1602 of the Code of Virginia to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment. The Office of Commonwealth Resilience coordinates these activities through the Department of Conservation and Recreation, specifically the Department of Conservation and Recreation's Office of Resilience Planning.

DRAFT

Office of Regulatory Management

Economic Review Form

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-820
VAC Chapter title(s)	General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia
Action title	CH 820-2026 Amendment and Reissuance of the Existing Regulation
Date this document prepared	August 1, 2025
Regulatory Stage (including Issuance of Guidance Documents)	Proposed

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	<u>Background</u> This general permit regulation governs facilities that hold individual VPDES permits and discharge or propose to discharge total nitrogen or total phosphorus, or both, to the Chesapeake Bay or its tributaries. The
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	facilities are authorized to discharge to surface waters and exchange credits for total nitrogen or total phosphorus, or both. Nitrogen and phosphorus are both nutrients. This regulatory action is proposed to amend and reissue the existing general permit which expires on December 31, 2026. VPDES general permit regulations expire every 5 years and must be re-issued in order for permit coverage to be available to existing facilities to continue coverage and new entities to be able to obtain coverage for conducting this regulated activity. Presently there are 142 regulated entities covered by this general permit. Reissuance of this general permit allows existing facilities to continue coverage and new entities to be able to obtain coverage for conducting this regulated activity. The proposed amendments update the permit term, and include revising monitoring frequencies requirements, removal of outdated compliance schedules, addition of language for terminated wasteload allocations, addition of a new option to receive point source credits from the Virginia Nutrient Credit Exchange Association, and other clarifying language throughout Direct Costs: The proposed changes are not expected to result in any additional direct costs to the regulated community since they provide an optional approach for some members of the regulated community (based on the facility's design flow range) to reduce their monitoring frequencies. Indirect Costs: The proposed changes are not expected to result in any additional indirect costs to the regulated community since they provide an optional approach for some members of the regulated community to reduce their monitoring frequencies. Direct Benefits: The reissuance of this general permit provides the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity while continuing to be protective of human health and the environment. It also lowers the monitoring frequency requirements for some permittees, which will result in reduced costs and lower burdens. Reducing the monitoring requirements for permittees will result in a decreased regulatory burden. Lowering the monitoring frequencies will save staff and administrative time. Facilities with design flow ranges between 0.5-0.999 million gallons per day (MGD) (24 facilities) and 1.0 – 4.99 MGD (41 facilities) that currently sample twice a week will only be required to collect one
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	composite sample that is sent to the lab. Reducing the frequency to once per week will save approximately \$5,500 per year for each affected facility. Indirect Benefits: The reissuance of the regulation will indirectly benefit economic development because it enables permittees to conduct activities under a general permit that is protective of human health and the environment. Regulating discharges also benefits tourism and multiple industries by protecting water quality, aquatic habitats, and recreational use of state waters.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See above regarding direct costs. No direct or indirect costs are expected due to the limited extent of the changes being made to the general permit regulation	(b) See above regarding direct and indirect benefits.
(3) Net Monetized Benefit	Reducing monitoring frequency will result in lessened costs and burdens on the related facilities. A cost savings of approximately \$5,500 per year per facility for both the 0.5-0.999 MGD and 1.0- 4.99 MGD flow ranges would be gained from sampling once per week versus twice per week. (If all 24 of the facilities in the 0.5-0.999 MGD flow range opted for reduce monitoring frequencies there would be a cost savings of \$137,500 and if all 41 of the facilities in the 1.0 – 4.99 flow range opted for reduced monitoring frequencies there would be a savings of \$225,500 for a total of \$363,000.)	
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources	Members of the Technical Advisory Committee reported their typical compliance monitoring costs.	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	None. The general permit regulation expires on December 31, 2026, ending coverage for all currently regulated facilities.
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See information in Table 1a.	(b) See information in Table 1a
(3) Net Monetized Benefit	None. Continuing under the status quo would not revise the monitoring frequency requirements for the regulated community. This would prevent the regulated community from seeing any savings from a revised monitoring frequency.	
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources	See Table 1a	

Table 1c: Costs and Benefits under Alternative Approach

(1) Direct & Indirect Costs & Benefits (Monetized)	§ 62.1-44.19:14 of the Code of Virginia directs the Board to issue a Watershed General Virginia Pollutant Discharge Elimination System Permit (i.e., a general permit) authorizing point source discharges of total nitrogen and total phosphorus to the waters of the Chesapeake Bay and its tributaries. Because this is a statutory directive, there is not an alternative approach to issuing this regulation.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	N/A	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	All counties, cities and incorporated towns located in the Chesapeake Bay watershed that operate a facility subject to this regulation would be affected by the amendments regulatory change. Localities would have the same benefits as other entities. See Table 1a. However, there is the potential for the proposed changes to have direct and indirect benefits to the economies of local communities where the regulated facilities are located.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a.	See Table 1a.
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(4) Assistance	N/A	
(5) Information Sources	N/A	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	The proposed changes are not expected to result in any additional direct costs to families as they do not add any additional requirements or place any burdens on them. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage from conducting a specific regulated activity.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) None	(b) See Table 1a.
(3) Other Costs & Benefits (Non-Monetized)	None.	
(4) Information Sources	See Table 1a.	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	The proposed changes are not expected to result in any direct costs to small businesses as there are no additional requirements or burdens being placed on them. Small businesses will directly benefit from a reduced monitoring frequency. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a.	(b) See Table 1a.
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(4) Alternatives		
(5) Information Sources		

Changes to Number of Regulatory Requirements**Table 5: Regulatory Reduction**

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC25-820-10	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
9VAC25-820-15	(M/A):	1	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
9VAC25-820-20	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
9VAC25-820-30	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	3	0	0	0
	(D/R):	0	0	0	0
9VAC25-820-40	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	2	0	-1	-1
	(D/R):	0	0	0	0
9VAC25-820-50	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	4	0	0	0
	(D/R):	0	0	0	0
9VAC25-820-60	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	1	0	0	0
	(D/R):	0	0	0	0
9VAC25-820-70	(M/A):	16	0	0	0
	(D/A):	13	0	0	0
	(M/R):	73	0	-2	-2
	(D/R):	10	0	0	0

9VAC25-820-80	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
				Grand Total of Changes in Requirements:	(M/A): 0*
					(D/A): 0*
					(M/R): -3*
					(D/R): 0*

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting the agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

* The proposed changes are not expected to result in any additional costs to the regulated community since they provide some members an optional approach to reduce their monitoring frequencies. Lowering the monitoring frequency requirements for permittees will result in reduced costs and lower burdens. Lowering the monitoring frequencies will save staff and administrative time

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
9VAC25-820-70	The facilities with design flow rates between 0.5-0.999 MGD and 1.0 – 4.99 MGD that currently sample twice a week will be required to collect one composite sample that is sent to the lab. This is expected to save approximately	\$11,000 per facility per year related to costs for sample preparation and collection.	Cost savings of \$5,500 per year for 66 facilities with flow rates of 0.5 MGD to 4.99 MGD.	\$5,500 * 66 facilities = \$363,000 total cost savings per year.

	\$5,500 per year per facility for both flow ranges.			

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
9VAC25-820-70	The facilities with design flow rates between 0.5-0.999 MGD and 1.0 – 4.99 MGD that currently sample twice a week are allowed to combine these two samples into one composite sample that is sent to the lab. The reduction of sampling frequency from twice a week to once a week would remove the need for this option.	Reducing the frequency to once per week will not provide a relief from lab costs, but will provide savings from the facilities' personnel time and resources. Reducing the need for sample equipment preparation, sampler set-up and sample collection would save approximately \$5,500 per year per facility for both flow ranges.
9VAC25-820-40	Removed requirements for compliance with chlorophyll-a based total phosphorus wasteload allocations and individual dates for compliance since the deadline to achieve these requirements will have passed when the proposed permit will become effective.	Removing outdated regulatory requirements makes the regulation easier to read and follow for regulated entities.

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count
N/A			

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).

TAB C



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Stefanie K. Taillon
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

MEMORANDUM

TO: State Water Control Board Members

FROM: Neil Zahradka, Manager, Office of Land Application Programs 

DATE: August 1, 2025

SUBJECT: Proposed Amendments to the Virginia Pollution Abatement (VPA) Permit Regulation: Implementation of Chapter 209 of the 2024 Acts of Assembly (HB 870) – Procedures for Emergency Management of Biosolids to Protect Against the Release of Biosolids into State Waters, and to Account for Increased Intensity, Frequency, and Duration of Storm Events

At the August 20, 2025, meeting of the State Water Control Board (Board), the Board will consider proposed amendments to the VPA Permit Regulation, 9VAC25-32.

Background

Chapter 209 of the 2024 Acts of Assembly (HB 870, Del. Bulova) requires the Board, with the assistance of the Departments of Conservation and Recreation and Health, to adopt regulations that include procedures

for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded for the purpose of protecting against the release of sewage sludge into state waters, and to account for increased intensity, frequency, and duration of storm events.

The legislation and state law refer to “sewage sludge.” Sewage sludge that has received an established treatment and is managed in a manner to meet the required pathogen control and vector attraction reduction, and contains concentrations of regulated pollutants below the ceiling limits established in 40 CFR Part 503 and 9VAC25-32-356, may be land applied, marketed, and distributed in accordance with the VPA Permit Regulation. This type of sewage sludge is known as “biosolids,” which are the subject of this regulatory action.

A Notice of Intended Regulatory Action (NOIRA) for the proposed amendments was published in the *Virginia Register of Regulations* on September 23, 2024, initiating a 30-day public comment period that ended October 23, 2024. Eleven persons submitted comments. A summary

of the comments received and the Department of Environmental Quality's (DEQ) responses to those comments are included in the attached Agency Background Document, Form TH-02.

Following the conclusion of the 30-day public comment period, DEQ formed a regulatory advisory panel (RAP) to assist in the development of the proposed amendments. Members of the RAP consisted of representatives of the regulated community, agribusiness organizations, environmental groups, and state and local government officials. The RAP members are listed in the table that follows this memorandum. The RAP met on April 7, 2025, and May 13, 2025, and provided feedback and recommendations that DEQ used to develop the proposed amendments that the Board will consider on August 20, 2025.

Proposed Amendments

In order to meet the requirements specified in Chapter 209 of the 2024 Acts of Assembly, the amendments propose a mechanism in which biosolids land appliers holding a VPA permit may submit an "emergency management plan" to DEQ for approval. The emergency management plan would outline the land applier's annual volume of biosolids managed, along with an accounting of their available biosolids storage. The plan would also include a description of conditions that might overwhelm their available biosolids storage capacity, and at what threshold(s) they may need to initiate an emergency management plan.

Each permit holder's emergency management plan would be unique to their individual context, and could identify additional emergency storage locations (subject to DEQ approval), as well as planned deviations from certain permit requirements, such as:

- 1) the land application of biosolids from on-site storage locations at additional locations;
- 2) increasing the volume of biosolids that may be stored at on-site storage locations;
- 3) increasing the time biosolids may be stored at on-site storage locations;
- 4) reducing the amount of time between posting of land application notice signs and commencement of land application activity (i.e. less than the required 5 business days); and
- 5) other changes to procedures specified in the permit holder's operations and maintenance manual not specified by the VPA permit.

DEQ would review the submitted emergency management plan for consistency with the regulatory allowances, and if the plan met the requirements, approve the plan for implementation if the weather and storage limitations specified in the plan were realized.

A permit holder would notify DEQ at such time that emergency conditions exist, initiate their approved emergency management plan, and be subject to additional reporting and notification requirements while the plan was active. An emergency management plan would conclude when the conditions causing limitations to land application cease.

Proposed amendments to the VPA Permit Regulation, include the following changes to sections 9VAC25-32-410 and 9VAC25-32-550:

Section 410: This section details the components of the “Biosolids Management Plan” that a biosolids land applier must develop and submit to DEQ for all permits. The current components include the site books in the permit application, nutrient management plans for each land application site, and an operations and maintenance manual. The proposed amendment adds the option to include an emergency management plan as part of the Biosolids Management Plan, and includes requirements for emergency management plan content, instructions for initiation, instructions for approval, and implementation procedures.

Section 550: This section currently details the specifications for two types of storage facilities: on-site and routine. The proposed amendment adds a third category describing the requirements for emergency storage and includes details on definitions, requirements, limits, reporting, access, and inspections. The requirements for emergency storage align closely with those for on-site storage.

Attorney General Certification

The Office of the Attorney General is currently reviewing the proposed regulation for certification of statutory authority.

Staff Recommendation

DEQ recommends the Board approve draft amendments to the biosolids storage requirements in the VPA Permit Regulation (9VAC25-32) as a proposed regulation and proceeding with public comment.

Presenter Contact Information

Name: Neil Zahradka

Phone: (804) 698-4102

Email: Neil.Zahradka@deq.virginia.gov

Attachments

Attachment A: List of Regulatory Advisory Panel members

Attachment B: Text of Proposed Amendments to the VPA Permit Regulation

Attachment C: Agency Background Document (TH-02)

Attachment D: ORM Economic Review Form

Regulatory Advisory Panel Membership for the RAP for the Virginia Pollution Abatement (VPA) Permit Regulation, 9VAC25-32, Implementation of Chapter 209 of the 2024 Acts of Assembly (HB870)

- **Representatives of the Regulated Community**

- Virginia Association of Municipal Wastewater Agencies (VAMWA): Milas E. Smith Jr., Director of Operations, Fauquier County Water and Sanitation Authority; Alternate: Lisa Ochsenhirt, AquaLaw
- Virginia Biosolids Council: John Uzupis, Technical Services Manager, Synagro Central, LLC; Alternate: Robert Crockett, Virginia Biosolids Council

- **Representatives of Agribusiness Organizations**

- Virginia Farm Bureau: Martha Moore, Senior Vice-President for Government Relations; Alternate: Bryan Johnson, Senior District Field Service Director
- Virginia Agribusiness Council: Trey Davis; Alternate: Brad Copenhaver

- **Representatives of Environmental Groups**

- Chesapeake Bay Foundation: Mike Gerel; Alternate: Patrick Fanning,
- Potomac Riverkeeper Network: David Flores
- James River Association: Tom Dunlap, James RiverKeeper; Alternate: Jamie Brunkow, Director of River Ecology

- **State and Local Government**

- Chesapeake Bay Commission: Adrienne Kotula
- Virginia Association of Counties: James Hutzler; Alternate: Joe Lerch

- **Other State Agencies**

- Virginia Department of Conservation and Recreation: Nicholas Moody, Nutrient Management Coordinator – Biosolids; Alternate: Seth Mullins, Nutrient Management Coordinator – Animal Waste
- Virginia Department of Health: Julie Henderson, Director, Office of Environmental Health Services

- **DEQ Staff**

- Bryan Cauthorn, Biosolids Program Coordinator; Alternate: John Thompson - Biosolids Permits Supervisor

VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

CHAPTER 209

An Act to amend and reenact § 62.1-44.19:3 of the Code of Virginia, relating to sewage sludge regulations; relief from administrative requirements; adverse and unusual weather events.

[H 870]

Approved March 28, 2024

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.19:3 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.19:3. Prohibition on land application, marketing and distribution of sewage sludge without permit; ordinances; notice requirement; fees.

A. 1. No owner of a sewage treatment works shall land apply, market or distribute sewage sludge from such treatment works except in compliance with a valid Virginia Pollutant Discharge Elimination System Permit or valid Virginia Pollution Abatement Permit.

2. Sewage sludge shall be treated to meet standards for land application as required by Board regulation prior to delivery at the land application site. No person shall alter the composition of sewage sludge at a site approved for land application of sewage sludge under a Virginia Pollution Abatement Permit or a Virginia Pollutant Discharge Elimination System. Any person who engages in the alteration of such sewage sludge shall be subject to the penalties provided in Article 6 (§ 62.1-44.31 et seq.) of this chapter. The addition of lime or deodorants to sewage sludge that has been treated to meet land application standards shall not constitute alteration of the composition of sewage sludge. The Department may authorize public institutions of higher education to conduct scientific research on the composition of sewage sludge that may be applied to land.

3. No person shall contract or propose to contract, with the owner of a sewage treatment works, to land apply, market or distribute sewage sludge in the Commonwealth, nor shall any person land apply, market or distribute sewage sludge in the Commonwealth without a current Virginia Pollution Abatement Permit authorizing land application, marketing or distribution of sewage sludge and specifying the location or locations, and the terms and conditions of such land application, marketing or distribution. The permit application shall not be complete unless it includes the landowner's written consent to apply sewage sludge on his property.

4. The land disposal of lime-stabilized septage and unstabilized septage is prohibited.

5. Beginning July 1, 2007, no application for a permit or variance to authorize the storage of sewage sludge shall be complete unless it contains certification from the governing body of the locality in which the sewage sludge is to be stored that the storage site is consistent with all applicable ordinances. The governing body shall confirm or deny consistency within 30 days of receiving a request for certification. If the governing body does not so respond, the site shall be deemed consistent.

B. The Board, with the assistance of the Department of Conservation and Recreation and the Department of Health, shall adopt regulations to ensure that (i) sewage sludge permitted for land application, marketing, or distribution is properly treated or stabilized; (ii) land application, marketing, and distribution of sewage sludge is performed in a manner that will protect public health and the environment; and (iii) the escape, flow or discharge of sewage sludge into state waters, in a manner that would cause pollution of state waters, as those terms are defined in § 62.1-44.3, shall be prevented.

C. Regulations adopted by the Board, with the assistance of the Department of Conservation and Recreation and the Department of Health pursuant to subsection B, shall include:

1. Requirements and procedures for the issuance and amendment of permits, including general permits, authorizing the land application, marketing or distribution of sewage sludge;

2. Procedures for amending land application permits to include additional application sites and sewage sludge types;

3. Standards for treatment or stabilization of sewage sludge prior to land application, marketing or distribution;

4. Requirements for determining the suitability of land application sites and facilities used in land application, marketing or distribution of sewage sludge;

5. Required procedures for land application, marketing, and distribution of sewage sludge;

6. Requirements for sampling, analysis, recordkeeping, and reporting in connection with land application, marketing, and distribution of sewage sludge;

7. Provisions for notification of local governing bodies to ensure compliance with §§ 62.1-44.15:3 and 62.1-44.19:3.4;

8. Requirements for site-specific nutrient management plans, which shall be developed by persons certified in accordance with § 10.1-104.2 prior to land application for all sites where sewage sludge is land applied, and approved by the Department of Conservation and Recreation prior to permit issuance

under specific conditions, including but not limited to, sites operated by an owner or lessee of a Confined Animal Feeding Operation, as defined in subsection A of § 62.1-44.17:1, or Confined Poultry Feeding Operation, as defined in § 62.1-44.17:1.1, sites where the permit authorizes land application more frequently than once every three years at greater than 50 percent of the annual agronomic rate, and other sites based on site-specific conditions that increase the risk that land application may adversely impact state waters;

9. Procedures for the prompt investigation and disposition of complaints concerning land application of sewage sludge, including the requirements that (i) holders of permits issued under this section shall report all complaints received by them to the Department and to the local governing body of the jurisdiction in which the complaint originates, and (ii) localities receiving complaints concerning land application of sewage sludge shall notify the Department and the permit holder. The Department shall maintain a searchable electronic database of complaints received during the current and preceding calendar year, which shall include information detailing each complaint and how it was resolved; ~~and~~

10. Procedures for receiving and responding to public comments on applications for permits and for permit amendments authorizing land application at additional sites. Such procedures shall provide that an application for any permit amendments to increase the acreage authorized by the initial permit by 50 percent or more shall be treated as a new application for purposes of public notice and public hearings; ~~and~~

11. *Procedures for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded for the purpose of protecting against the release of sewage sludge into state waters, and to account for increased intensity, frequency, and duration of storm events.*

D. Prior to issuance of a permit authorizing the land application, marketing or distribution of sewage sludge, the Department shall consult with, and give full consideration to the written recommendations of the Department of Health and the Department of Conservation and Recreation. Such consultation shall include any public health risks or water quality impacts associated with the permitted activity. The Department of Health and the Department of Conservation and Recreation may submit written comments on proposed permits within 30 days after notification by the Department.

E. Where, because of site-specific conditions, including soil type, identified during the permit application review process, the Department determines that special requirements are necessary to protect the environment or the health, safety or welfare of persons residing in the vicinity of a proposed land application site, the Department may incorporate in the permit at the time it is issued reasonable special conditions regarding buffering, transportation routes, slope, material source, methods of handling and application, and time of day restrictions exceeding those required by the regulations adopted under this section. Before incorporating any such conditions into the permit, the Department shall provide written notice to the permit applicant, specifying the reasons therefor and identifying the site-specific conditions justifying the additional requirements. The Department shall incorporate into the notice any written requests or recommendations concerning such site-specific conditions submitted by the local governing body where the land application is to take place. The permit applicant shall have at least 14 days in which to review and respond to the proposed conditions.

F. The Board shall adopt regulations prescribing a fee to be charged to all permit holders and persons applying for permits and permit modifications pursuant to this section. All fees collected pursuant to this subsection shall be deposited into the Sludge Management Fund. The fee for the initial issuance of a permit shall be \$5,000. The fee for the reissuance, amendment, or modification of a permit for an existing site shall not exceed \$1,000 and shall be charged only for permit actions initiated by the permit holder. Fees collected under this section shall be exempt from statewide indirect costs charged and collected by the Department of Accounts and shall not supplant or reduce the general fund appropriation to the Department.

G. There is hereby established in the treasury a special fund to be known as the Sludge Management Fund, hereinafter referred to as the Fund. The fees required by this section and by subsection E of § 62.1-44.16 shall be transmitted to the Comptroller to be deposited into the Fund. The income and principal of the Fund shall be used only and exclusively (i) for the Department's direct and indirect costs associated with the processing of an application to issue, reissue, amend, or modify any permit to land apply, distribute, or market sewage sludge or industrial wastes, the administration and management of the Department's sewage sludge and industrial wastes land application programs, including monitoring and inspecting, and the Department of Conservation and Recreation's costs for implementation of the sewage sludge application program and (ii) to reimburse localities with duly adopted ordinances providing for the testing and monitoring of the land application of sewage sludge or solid or semisolid industrial wastes. The State Treasurer shall be the custodian of the moneys deposited in the Fund. No part of the Fund, either principal or interest earned thereon, shall revert to the general fund of the state treasury.

H. All persons holding or applying for a permit authorizing the land application of sewage sludge shall provide to the Board written evidence of financial responsibility, which shall be available to pay claims for cleanup costs, personal injury, and property damages resulting from the transportation, storage

or land application of sewage sludge. The Board shall, by regulation, establish and prescribe mechanisms for meeting the financial responsibility requirements of this section.

I. Any county, city or town may adopt an ordinance that provides for the testing and monitoring of the land application of sewage sludge within its political boundaries to ensure compliance with applicable laws and regulations.

J. The Department, upon the timely request of any individual to test the sewage sludge at a specific site, shall collect samples of the sewage sludge at the site prior to the land application and submit such samples to a laboratory. The testing shall include an analysis of the (i) concentration of trace elements, (ii) coliform count, and (iii) pH level. The results of the laboratory analysis shall be (a) furnished to the individual requesting that the test be conducted and (b) reviewed by the Department. The person requesting the test and analysis of the sewage sludge shall pay the costs of sampling, testing, and analysis.

K. At least 100 days prior to commencing land application of sewage sludge at a permitted site, the permit holder shall deliver or cause to be delivered written notification to the chief executive officer or his designee for the local government where the site is located. The notice shall identify the location of the permitted site and the expected sources of the sewage sludge to be applied to the site. This requirement may be satisfied by providing a list of all available permitted sites in the locality at least 100 days prior to commencing the application at any site on the list. This requirement shall not apply to any application commenced prior to October 10, 2005. If the site is located in more than one county, the notice shall be provided to all jurisdictions where the site is located.

L. The permit holder shall deliver or cause to be delivered written notification to the Department at least 14 days prior to commencing land application of sewage sludge at a permitted site. The notice shall identify the location of the permitted site and the expected sources of the sewage sludge to be applied to the site.

M. The Department shall randomly conduct unannounced site inspections while land application of sewage sludge is in progress at a sufficient frequency to determine compliance with the requirements of this section, § 62.1-44.19:3.1, or regulations adopted under those sections.

N. Surface incorporation into the soil of sewage sludge applied to cropland may be required when practicable and compatible with a soil conservation plan meeting the standards and specifications of the U.S. Department of Agriculture Natural Resources Conservation Service.

O. The Board shall develop regulations specifying and providing for extended buffers to be employed for application of sewage sludge (i) to hay, pasture, and forestlands; or (ii) to croplands where surface incorporation is not practicable or is incompatible with a soil conservation plan meeting the standards and specifications of the U.S. Department of Agriculture Natural Resources Conservation Service. Such extended buffers may be included by the Department as site specific permit conditions pursuant to subsection E, as an alternative to surface incorporation when necessary to protect odor sensitive receptors as determined by the Department or the local monitor.

P. The Board shall adopt regulations requiring the payment of a fee for the land application of sewage sludge, pursuant to permits issued under this section. The person land applying sewage sludge shall (i) provide advance notice of the estimated fee to the generator of the sewage sludge unless notification is waived, (ii) collect the fee from the generator, and (iii) remit the fee to the Department as provided for by regulation. The fee shall be imposed on each dry ton of sewage sludge that is land applied in the Commonwealth. The regulations shall include requirements and procedures for:

1. Collection of fees by the Department;
2. Deposit of the fees into the Fund; and
3. Disbursement of proceeds by the Department pursuant to subsection G.

Q. The Department, in consultation with the Department of Health, the Department of Conservation and Recreation, the Department of Agriculture and Consumer Services, and the Virginia Cooperative Extension Service, shall establish and implement a program to train persons employed by those local governments that have adopted ordinances, pursuant to this section, to test and monitor the land application of sewage sludge. The program shall include, at a minimum, instruction in: (i) the provisions of the Virginia Biosolids Use Regulations; (ii) land application methods and equipment, including methods and processes for preparation and stabilization of sewage sludge that is land applied; (iii) sampling and chain of custody control; (iv) preparation and implementation of nutrient management plans for land application sites; (v) complaint response and preparation of complaint and inspection reports; (vi) enforcement authority and procedures; (vii) interaction and communication with the public; and (viii) preparation of applications for reimbursement of local monitoring costs disbursed pursuant to subsection G. To the extent feasible, the program shall emphasize in-field instruction and practical training. Persons employed by local governments shall successfully complete such training before the local government may request reimbursement from the Board for testing and monitoring of land application of sewage sludge performed by the person. The completion of training shall not be a prerequisite to the exercise of authority granted to local governments by any applicable provision of law.

The Department may:

1. Charge attendees a reasonable fee to recover the actual costs of preparing course materials and

providing facilities and instructors for the program. The fee shall be reimbursable from the Fund established pursuant to this section; and

2. Request and accept the assistance and participation of other state agencies and institutions in preparing and presenting the course of training established by this subsection.

R. Localities, as part of their zoning ordinances, may designate or reasonably restrict the storage of sewage sludge based on criteria directly related to the public health, safety, and welfare of its citizens and the environment. Notwithstanding any contrary provision of law, a locality may by ordinance require that a special exception or a special use permit be obtained to begin the storage of sewage sludge on any property in its jurisdiction, including any area that is zoned as an agricultural district or classification. Such ordinances shall not restrict the storage of sewage sludge on a farm as long as such sludge is being stored (i) solely for land application on that farm and (ii) for a period no longer than 45 days. No person shall apply to the State Health Commissioner or the Department of Environmental Quality for a permit, a variance, or a permit modification authorizing such storage without first complying with all requirements adopted pursuant to this subsection.

2. That the State Water Control Board shall update the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) in accordance with this act.

3. That prior to the State Water Control Board (the Board) adopting regulations as required by this act, the Department of Environmental Quality (the Department) shall form a regulatory advisory panel consisting of representatives from the Virginia Biosolids Council, Virginia Association of Municipal Wastewater Agencies, Chesapeake Bay Foundation, James River Association, and any other relevant organization that the Department deems necessary for the purpose of assisting the Board in developing the regulations as required by this act.

Project 8036 - Proposed

State Water Control Board

Implementation of Chapter 209 of the 2024 Acts of Assembly (HB870)

9VAC25-32-410. Biosolids management plan.

A. The permit holder shall maintain and implement a Biosolids Management Plan that shall consist of three components:

1. The materials, including site booklets, developed and submitted at the time of permit application or permit modification adding a farm to the permit in accordance with 9VAC25-32-60 F;
2. Nutrient management plan developed for each site, prior to biosolids application; and
3. Operations and maintenance (O&M) manual, developed and submitted to the department within 90 days of the effective date of the permit.

B. ~~The biosolids management plan and all of its components shall be incorporated as an enforceable part of the permit.~~ may also include an emergency management plan, developed and submitted to the department for approval at any point during the permit term. The requirements for an emergency management plan are set out in subsection F of this section.

C. ~~Nutrient management plan:~~ The biosolids management plan and all of its components shall be incorporated as an enforceable part of the permit.

D. Nutrient management plan:

1. A nutrient management plan approved by the Department of Conservation and Recreation shall be required for application sites prior to department authorization under specific conditions, including but not limited to:

- a. Sites operated by an owner or lessee of a confined animal feeding operation as defined in subsection A of § 62.1-44.17:1 of the Code of Virginia, or confined poultry feeding operation as defined in subsection A of § 62.1-44.17:1.1 of the Code of Virginia;
- b. Sites where land application more frequently than once every three years at greater than 50% of the annual agronomic rate is proposed;
- c. Mined or disturbed land sites where land application is proposed at greater than agronomic rates; and
- d. Other sites based on site-specific conditions that increase the risk that land application may adversely impact state waters.

2. Where conditions at the land application site change so that it meets one or more of the specific conditions identified in subdivisions 1 a through d of this subsection, an approved nutrient management plan shall be submitted prior to any future land application at the site.

3. The nutrient management plan shall be available for review by the department at the land application site during biosolids land application.

4. Within 30 days after land application at the site has commenced, the permit holder shall provide a copy of the nutrient management plan to the farm operator of the site, the Department of Conservation and Recreation and the chief executive officer or designee for the local government unless they request in writing not to receive the nutrient management plan.

5. The nutrient management plan must be approved by the Department of Conservation and Recreation prior to land application for application sites where the soil test phosphorus levels exceed the values in Table 1 of this section. For purposes of approval, permittees should submit the nutrient management plan to the Department of Conservation and Recreation at least 30 days prior to the anticipated date of land application to ensure adequate time for the approval process.

TABLE 1 SOIL PHOSPHORUS LEVELS REQUIRING NMP APPROVAL	
Region	Soil Test P (ppm) VPI & SU Test (Mehlich I)*
Eastern Shore and Lower Coastal Plain	135
Middle and Upper Coastal Plain and Piedmont	136
Ridge and Valley	162
*If results are from another laboratory, the Department of Conservation and Recreation approved conversion factors must be used.	

~~D.~~ E. The O&M manual shall include at a minimum:

1. Equipment maintenance and calibration procedures and schedules;
2. Storage facility maintenance procedures and schedules;
3. Sampling schedules for:
 - a. Required monitoring; and
 - b. Operational control testing;
4. Sample collection, preservation, and analysis procedures, including laboratories and methods used; and
5. Instructions for recording and reporting of all monitoring activities.

F. Emergency management plan: The emergency management plan specifies the procedures a permit holder will follow to address administrative, staging, signage, and additional on-site and emergency storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded. The purpose of the emergency management plan is to protect against the release of biosolids into state waters, and to account for increased intensity, frequency, and duration of storm events.

1. The emergency management plan shall include the following:

- a. An outline of existing routine storage capacity, onsite storage capacity, storage at generating facilities (as applicable), and any other storage capacity authorized and available to the permit holder;
- b. Documentation of total volume of biosolids contracted or expected to be land applied annually;
- c. Based on the information provided in subdivisions F 1 a and F 1 b of this section, a calculation of the estimated total number of days of storage available annually;
- d. Procedures and thresholds for requesting the initiation of the emergency management plan;

75 e. Record keeping and reporting procedures when an emergency management plan
76 is active; and

77 f. Procedures for concluding emergency management plan implementation.

78 2. The emergency management plan shall also include at least one of the following
79 procedures:

80 a. Emergency storage locations that the permit holder may only use after the
81 emergency management plan is initiated in accordance with 9VAC25-32-550 F;

82 b. Planned deviations from on-site storage requirements specified in the biosolids
83 management plan including:

84 (1) The application of biosolids at permitted sites other than those under the
85 operational control of the same owner or operator of the site where the on-site storage
86 is located as specified in 9VAC25-32-550 D;

87 (2) The amount of biosolids stored as specified in 9VAC25-32-550 D 3; or

88 (3) The storage time limitations as specified in 9VAC25-32-550 D;

89 c. Planned deviations from or reduction of sign posting requirements specified in
90 9VAC25-32-515 B; or

91 d. Planned deviations from procedures specified in the O&M manual.

92 3. Procedural deviations specified in the emergency management plan may not include
93 additional deviations from permit requirements other than those listed in 9VAC25-32-410
94 F 2 a through d.

95 4. The emergency management plan shall be kept current and updated within 30 days of
96 changes in available storage sites or volume of biosolids managed. Changes to
97 procedures or the addition of emergency storage sites shall be approved by the
98 department prior to implementation.

99 5. A request to initiate the emergency management plan shall include:

100 a. A description of conditions causing limitations to land application that may include:

101 (1) Saturated land due to prolonged precipitation or flooding;

102 (2) Governor-issued emergency declarations related to the intensity, frequency, or
103 duration of storm events;

104 (3) Measured, regional precipitation thresholds;

105 (4) Influx of additional biosolids to be managed due to the intensity, frequency, or
106 duration of storm events; or

107 (5) Unreasonably burdensome geographic and transportation constraints.
108 Unreasonably burdensome geographic and transportation constraints alone, without
109 other conditions that are causing limitations to land application, are not sufficient cause
110 to initiate an emergency management plan.

111 b. Efforts to utilize all available storage capacity including, the total capacity of storage
112 available at the time of the request to initiate the emergency management plan;

113 c. Documentation that landfills are further limiting biosolids disposal and a description
114 of landfill limitations at the time of the request to initiate the emergency management
115 plan; and

116 d. Any additional information determining whether cause exists for initiating the
117 emergency management plan.

118 6. Approval and implementation procedures.

a. A permit holder shall submit the emergency management plan to the department for approval and may not initiate the emergency management plan until it has been approved.

b. A permit holder may initiate the approved emergency management plan when the thresholds specified in the emergency management plan have been met.

c. Upon initiation of the emergency management plan, the permit holder shall notify the department in writing and follow the procedures described in the plan.

d. The active phase of an emergency management plan begins upon initiation and ends when the conditions causing limitations to land application cease.

e. During an active emergency management plan, a permit holder shall include an addendum to monthly reports required by the permit that includes the following:

(1) Date the permit holder initiated the emergency management plan;

(2) A description of the deviations authorized in the emergency management plan from permit requirements, and deviations in O&M manual procedures implemented;

(3) A description of efforts to phase out emergency management plan implementation, which may include emptying of emergency storage, bringing on-site storage back into compliance with permit requirements, and other reductions in emergency procedures;

(4) An inventory for each storage location to include:

(a) Dates and amounts of each biosolids source placed and removed; and

(b) Destination permit and field identification for the sources removed;

(5) Any conditions or activities that deviated from the approved emergency management plan;

(6) Changes in availability of landfill disposal; and

(7) Date the permit holder concluded the emergency management plan implementation, when applicable.

f. The permit holder shall follow the procedures for concluding emergency management plan implementation as specified in the approved emergency management plan.

7. The active phase of the emergency management plan will conclude when the conditions causing limitations to land application cease.

9VAC25-32-550. Storage facilities.

A. No person shall apply to the department for a permit, a variance, or a permit modification authorizing storage of biosolids without first complying with all requirements adopted pursuant to § 62.1-44.19:3 R of the Code of Virginia.

B. ~~Two~~ Three types of storage may be integrated into a complete biosolids management plan:

1. ~~On-site storage, or ;~~

2. Routine storage. Only routine storage facilities shall be considered a facility under this regulation- ; and

3. Emergency storage.

C. All on-site storage and routine storage facilities shall comply with the requirements of this section by 12 months from the effective date of this regulation.

D. On-site storage. On-site storage is the short-term storage of biosolids on a constructed surface within a site approved for land application at a location preapproved by the department. These stored biosolids shall be applied only to sites under the operational control of the same

owner or operator of the site where the on-site storage is located. Requirements for on-site storage include the following:

1. The certified land applier shall notify the department within the same working day whenever it is necessary to implement on-site storage. Notification shall include the source or sources, location, and amounts;
2. A surface shall be constructed with sufficient strength to support operational equipment and with a maximum permeability of 10^{-7} cm/sec;
3. Storage shall be limited to the amount of biosolids specified in the nutrient management plan to be applied at sites under the operational control of the same owner or operator of the site where the on-site storage is located;
4. If malodors related to the stored biosolids are verified by the department at any occupied dwelling on surrounding property, the problem must be corrected within 48 hours. If the problem is not corrected within 48 hours, the biosolids must be removed from the storage site;
5. All biosolids stored on the on-site storage pad shall be land applied by the 45th day from the first day of on-site storage;
6. Biosolids storage shall be located to provide minimum visibility from adjacent properties;
7. Best management practices shall be utilized as appropriate to prevent contact with storm water run on or runoff;
8. Stored biosolids are to be inspected by the certified land applier at least every seven days and after precipitation events of 0.1 inches or greater to ensure that runoff controls are in good working order. Observed excessive slumping, erosion, or movement of biosolids is to be corrected within 24 hours. Any ponding or malodor at the storage site is to be corrected. The certified land applier shall maintain documentation of inspections of stored biosolids;
9. The department may prohibit or require additional restrictions for on-site storage in areas of ~~Karst~~ karst topography and environmentally sensitive sites; and
10. Storage of biosolids shall be managed so as to prevent adverse impacts to water quality or public health.

E. Routine storage. Routine storage is the long-term storage of biosolids at a facility not located at the site of the wastewater treatment plant, preapproved by the department and constructed specifically for the storage of biosolids to be applied at any permitted site. Routine storage facilities shall be provided for all land application projects if no alternative means of management is available during nonapplication periods. No person shall apply to the department for a permit, a variance, or a permit modification authorizing storage of biosolids without first complying with all requirements adopted pursuant to § 62.1-44.19:3 A 5 of the Code of Virginia. Plans and specifications for any surface storage facilities (pits, ponds, lagoons) or aboveground facilities (tanks, pads) shall be submitted as part of the minimum information requirements. The minimum information requirements include:

1. Location.
 - a. The facility shall be located at an elevation that is not subject to, or is otherwise protected against, inundation produced by the 100-year flood/wave action as defined by U.S. Geological Survey or equivalent information.
 - b. Storage facilities should be located to provide minimum visibility.
 - c. All storage facilities located offsite of property owned by the generator shall be provided with a minimum 750-foot setback area. The length of the setback area considered will be the distance measured from the perimeter of the storage facility.

Residential uses, high-density human activities and activities involving food preparation are prohibited within the setback area. The department may reduce the setback requirements based on site-specific factors, such as facility size, topography, prevailing wind direction, and the inclusion of an effective windbreak in the overall design.

2. Design capacity.

a. The design capacity for storage of liquid biosolids shall be sufficient to store a minimum volume equivalent to 60 days or more average production of biosolids and the incidental wastewater generated by operation of the treatment works plus sufficient capacity necessary for: (i) the 25 year-24 hour design storm (incident rainfall and any runoff as may be present); (ii) net precipitation excess during the storage period; and (iii) an additional one foot freeboard from the maximum water level (attributed to the sum of the above factors) to the top berm elevation. Storage capacity of less than that specified above will be considered on a case-by-case basis only if sufficient justification warrants such a reduction.

b. If alternative methods of management cannot be adequately verified, contractors shall provide for a minimum of 30 days of in-state routine storage capacity for the average quantity of biosolids transported into Virginia from out-of-state treatment works generating at least a Class B biosolids.

3. Facility design.

a. All drawings and specifications shall be submitted in accordance with 9VAC25-790-160.

b. The biosolids shall be stored on an engineered surface with a maximum permeability of 10^{-7} cm/sec and of sufficient strength to support operational equipment.

c. Storage facilities designed to hold dewatered biosolids shall be constructed with a cover to prevent contact with precipitation.

d. Existing facilities permitted as routine storage facilities and designed to contain liquid biosolids may be used to store dewatered biosolids. The supernatant shall be managed as liquid biosolids in accordance with 9VAC25-32-550 E 5 d. Freeboard shall be maintained in accordance with 9VAC25-32-550 E 5 c. The department may require additional monitoring prior to land application.

e. Storage facilities shall be of uniform shape (round, square, rectangular) with no narrow or elongated portions.

f. The facilities shall also be designed to permit access of equipment necessary for loading and unloading biosolids, and shall be designed with receiving facilities to allow for even distribution of biosolids into the facility.

g. The design shall also provide for truck cleaning facilities.

4. Monitoring. All biosolids storage facilities shall be monitored in accordance with the requirements of this regulation. Plans and specifications shall be provided for such a monitoring program in accordance with the minimum information specified in 9VAC25-32-60 F and 9VAC25-32-410.

5. Operation.

a. Only biosolids suitable for land application (Class A or B biosolids) shall be placed into permitted routine storage facilities.

b. Storage of biosolids located offsite or remote from the wastewater treatment works during the summer months shall be avoided whenever possible so that the routine storage facility remains as empty as possible during the summer months.

c. Storage facilities shall be operated in a manner such that sufficient freeboard is provided to ensure that the maximum anticipated high water elevation due to any and all design storm inputs is not less than one foot below the top berm elevation.

d. Complete plans for supernatant disposal shall be provided in accordance with 9VAC25-32-60 F. Plans for supernatant disposal may include transport to the sewage treatment works, mixing with the biosolids for land application or land application separately. However, separate land application of supernatant will be regulated as liquid biosolids; additional testing, monitoring and treatment (disinfection) may be required.

e. The facility site shall be fenced to a minimum height of five feet; gates and locks shall be provided to control access. The fence shall be posted with signs identifying the facility. The fence shall not be constructed closer than 10 feet to the outside edge of the facility or appurtenances, to allow adequate accessibility.

f. If malodors related to the stored biosolids are verified by the department at any occupied dwelling on surrounding property, the malodor must be corrected within 48 hours.

6. Closure. An appropriate plan of closure or abandonment shall be developed by the permittee when the facility ceases to be utilized and approved by the department. Such plans may also be reviewed by the Department of Health.

7. Recordkeeping. A manifest system shall be developed, implemented and maintained and be available for inspection during operations as part of the overall daily recordkeeping for the project (9VAC25-32-60 F).

F. Emergency storage. Emergency storage is the short-term storage of biosolids at a location identified in an emergency management plan that has been approved by the department. Emergency storage sites may be added to an emergency management plan at any point during the permit term. Emergency storage sites may only be utilized after an emergency management plan has been initiated following the procedures in 9VAC25-32-410. Requirements for emergency storage include the following:

1. The permit holder shall notify or cause to be notified the locality in which the emergency storage site is located when the request to add the site to an emergency management plan is approved;

2. Prior to delivering biosolids to an emergency storage site, the permit holder shall obtain the written permission of the landowner authorizing placement of biosolids at the emergency storage site. The written permission shall include a legible map or tax parcel identification number specifying the location of the emergency storage site;

3. Not more than 24 hours prior to delivery of biosolids to an emergency storage site, the permit holder shall notify in writing the department and the chief executive officer or designee of the local government where the site is located. This notification shall include the site location and the source or sources of biosolids stored;

4. A certified land applier shall be present at the emergency storage site when biosolids are delivered. The certified land applier shall maintain documentation of the amount of each source of biosolids delivered and removed daily;

5. An emergency storage site shall include a surface with sufficient strength to support operational equipment;

6. If malodors related to the stored biosolids are verified by the department at any occupied dwelling on surrounding property, the permit holder shall correct the problem within 48 hours. If the problem is not corrected within 48 hours, the permit holder must remove the biosolids from the storage site;

305 7. All biosolids stored at the emergency storage site shall be prioritized for removal prior
306 to biosolids stored at on-site or routine storage facilities;

307 8. Best management practices shall be utilized as appropriate to prevent contact with
308 storm water run on or runoff;

309 9. Stored biosolids are to be inspected by the certified land applier at least every seven
310 days and after precipitation events of 0.1 inches or greater to ensure that runoff controls
311 are in good working order. Observed excessive slumping, erosion, or movement of
312 biosolids is to be corrected within 24 hours. Any ponding or malodor at the storage site is
313 to be corrected. The certified land applier shall maintain documentation of inspections of
314 stored biosolids;

315 10. The department may prohibit or require additional restrictions, for emergency storage
316 in areas including karst topography and environmentally sensitive sites;

317 11. Storage of biosolids shall be managed so as to prevent adverse impacts to water
318 quality or public health;

319 12. The certified land applier shall maintain documentation of any conditions or activities
320 at the emergency storage site that are not in accordance with the approved emergency
321 management plan; and

322 13. Upon presentation of credentials, any duly authorized agent of the department may,
323 at reasonable times and under reasonable circumstances during the active phase of an
324 emergency management plan, enter upon the property, public or private, where an
325 emergency storage site is located, for the purpose of inspecting the emergency storage
326 site for compliance with the conditions specified in this subsection.



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Proposed Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-32
VAC Chapter title(s)	Virginia Pollution Abatement (VPA) Permit Regulation
Action title	Implementation of Chapter 209 of the 2024 Acts of Assembly (HB 870)
Date this document prepared	July 31, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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.

The Virginia Pollution Abatement (VPA) Permit Regulation, 9VAC25-32, prescribes conditions for the proper treatment, stabilization, storage, and use of biosolids (treated sewage sludge), that are or will be land applied, marketed, and distributed. Chapter 209 of the 2024 Acts of Assembly (HB 870) amended § 62.1-44.19:3 of the Code of Virginia by adding a requirement for the State Water Control Board (Board) to include in its regulations for biosolids that are permitted for land application, marketing, or distribution: "Procedures for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded for the purpose of protecting against the release of sewage sludge into state waters, and to account for increased intensity, frequency, and duration of storm events."

This regulatory action will establish standards for additional on-site and alternative storage site requirements the regulated community may choose to include in their permits to address situations when routine and on-site storage facility capacity and holding times are anticipated to be exceeded due to

extended periods of precipitation. The standards will account for increased intensity, frequency, and duration of storm events and continue to protect against the release of biosolids (treated sewage sludge) into state waters. The inclusion of emergency action plans by the regulated community is not required and inclusion of these plans is optional.

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.

Board: State Water Control Board

Biosolids: a sewage sludge that has received an established treatment and is managed in a manner to meet the required pathogen control and vector attraction reduction, and contains concentrations of regulated pollutants below the ceiling limits established in 40 CFR Part 503 and 9VAC25-32-356, such that it meets the standards established for use of biosolids for land application, marketing, or distribution in accordance with the VPA Permit Regulation. (9VAC25-32-10).

DEQ: Department of Environmental Quality

NOIRA: Notice of Intended Regulatory Action

Sewage sludge: any solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. (9VAC25-32-10).

VAC: Virginia Administrative Code

VPA: Virginia Pollution Abatement

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, 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."

The mandate for this regulatory change is Chapter 209 of the 2024 Virginia Acts of Assembly (HB 870), approved March 28, 2024, which amended and reenacted § 62.1-44.19:3 of the Code of Virginia by adding a requirement for the Board to include in its regulations for biosolids that are permitted for land application, marketing, or distribution: "Procedures for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded for the purpose of protecting against the release of sewage sludge into state waters, and to account for increased intensity, frequency, and duration of storm events."

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The basis for this regulation is Articles 2; 3, 4 and 5 of the State Water Control Law (Chapter 3.1 of Title 62.1 of the Code of Virginia, §§ 62.1-44.2 et seq.). Specifically, § 62.1-44.15(5) authorizes the Board to issue, revoke, or amend certificates and certificates and land-disturbing permits under prescribed conditions for the discharge of treated sewage, stormwater, industrial wastes and other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program and § 62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes. § 62.1-44.16 specifies the Board's authority to regulate discharges of industrial wastes; § 62.1-44.19:3 requires the Board to include in regulation certain requirements pertaining to the land application of biosolids; § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

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 is intended to solve.

Chapter 209 of the 2024 Acts of Assembly (HB 870) amended § 62.1-44.19:3 of the Code of Virginia by adding a requirement for the State Water Control Board (Board) to include in its regulations for biosolids that are permitted for land application, marketing, or distribution: "Procedures for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded for the purpose of protecting against the release of sewage sludge into state waters, and to account for increased intensity, frequency, and duration of storm events."

Extended periods of precipitation affect the timing of land-application of biosolids (treated sewage sludge). During 2018-2019, a record-year for precipitation in some parts of the Commonwealth, many biosolids storage facilities reached or exceeded their capacity because biosolids could not be applied on saturated ground. This regulatory action is needed to establish procedures for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements for biosolids when extreme weather conditions, over an extended period of time, affect routine and on-site storage facility capacity and holding times. Establishing regulatory requirements helps to prevent and protect against the release of biosolids into state waters and accounts for increased intensity, frequency, and duration of storm events.

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.

This regulatory amendment will establish procedures for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded. Typically, wastewater treatment facilities and permitted biosolids land appliers have sufficient capacity to store biosolids for several months, allowing end-users to land-apply during optimal times for nutrient application and uptake. Extended periods of precipitation affect the timing of land-application. During 2018-2019, a record-year for precipitation in some parts of the Commonwealth, many biosolids storage facilities reached or exceeded their capacity. At the time, owners of those facilities applied to DEQ on a case-by-case basis for variances to their permits to store and manage biosolids that could not be land-applied or stored in the usual manner. Processing variances does not provide a timely solution for acute weather-related storage issues. DEQ also has the option to exercise enforcement discretion based on weather related circumstances and where non-compliance would pose minimal risk to the environment and human health. DEQ could initiate enforcement action where non-compliance with storage requirements would result in a discharge to state waters. However, neither variances nor enforcement discretion provide regulatory certainty for the permittees or the public. The amendments to the VPA Permit Regulation will provide permittees a way to plan in advance with regulatory certainty for alternative storage and handling solutions when extreme weather conditions result in long periods of time when biosolids cannot be land-applied, authorizing management actions that protect human health and the environment while providing more flexibility with storage and land application when the amount of biosolids exceeds normal storage facility capacity. This regulatory action provides an option for permittees that will reduce or eliminate the need to apply for a variance from the regulation and allow them to have an approved alternative that can be quickly implemented in the event acute weather-related storage issues arise.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage to the public is improved readiness by regulated entities for severe weather events, reducing the risk of discharges from inadequately stored biosolids and thus improved protection of human health and the environment. Regulated entities will also benefit from improved operational continuity and additional regulatory certainty during periods when weather conditions pose challenges to routine biosolids management practices, as well as reduced staff time expended to resolve case-by-case issues with DEQ.

Disadvantages to the public may include reduced scope of notification for pending land application activities if the permit holder chooses to cite reductions in the amount of time required for 5-day land application notice signs to be placed.

The primary advantage to DEQ and the Commonwealth is reduced time spent on handling case-by-case issues of potential non-compliance and instead working with permit holders to pre-plan for weather emergencies through submittal of emergency management plans. There is a disadvantage in the staff time necessary to review plans; however, this is offset by the value of timely emergency preparedness.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:

There are no state agencies particularly affected by the proposed regulation as the regulation applies statewide and does not alter existing permitting requirements for biosolids land applications.

Localities Particularly Affected:

There are no localities particularly affected by the proposed regulation as the regulation applies statewide and does not alter existing permitting requirements for biosolids land applications.

Other Entities Particularly Affected:

There are no other entities particularly affected by the proposed regulation as the regulation applies statewide and does not alter existing permitting requirements for biosolids land applications.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.	DEQ biosolids staff are primarily funded through the Sludge Management Fund, which receives income from fees charged to wastewater treatment facilities producing biosolids for land application, as well as permitting fees charged to land appliers. The impacts of the proposed changes to DEQ involve primarily time expended to process emergency management plans (proposed)
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	versus case-by-case evaluations of potential non-compliance during severe weather events (status quo). The expenses to the agency will be ongoing as land appliers submit emergency management plans for approval. The costs are expected to be absorbed within existing resources, as the status quo would still require staff time expenditures, albeit in an emergency setting.
<i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	The proposed changes are not expected to result in either cost savings or revenues to other state agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The changes are designed to produce all of the benefits associated with emergency preparedness, including additional protection of human health and the environment, and reduced time spent during the actual emergency determining appropriate responses,

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	(See Table 2 of the ORM Economic Impact Form)
Benefits the regulatory change is designed to produce.	(See Table 2 of the ORM Economic Impact Form)?

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	(See Table 1a, 3, and 4 of the ORM Economic Impact Form)
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	(See Table 1a, 3, and 4 of the ORM Economic Impact Form)
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;	(See Table 1a, 3, and 4 of the ORM Economic Impact Form)

b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	
Benefits the regulatory change is designed to produce.	(See Table 1a, 3, and 4 of the ORM Economic Impact Form)

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

Alternatives to the regulatory change were not considered because Chapter 209 of the 2024 Virginia Acts of Assembly (HB 870) mandates the development of regulatory requirements.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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.

Alternative regulatory methods are not applicable because this regulatory action implements legislation passed by the General Assembly and signed by the Governor, leaving no discretion for alternative regulatory methods.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

A periodic review or a small business impact review is not being conducted as part of this regulatory action.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

DEQ received eleven comments during the public comment period ending October 23, 2024.

Commenter	Comment	Agency response
Adrienne Kotula (Chesapeake Bay Commission)	Request to serve on the regulatory advisory panel	These requests resulted in appointments to the regulatory advisory panel
David Flores (Potomac Riverkeeper Network)		
Virginia Association of Municipal Water Authorities		
Patrick Fanning (Chesapeake Bay Foundation)	Emphasized importance of properly managing biosolids during extreme weather to protect water quality; regulatory amendments developed should reflected heightened level of protection against extreme weather; requested to serve on the regulatory advisory panel	The regulatory advisory panel will consider the threats posed by severe weather in the development of the regulatory amendments. The request resulted in appointment to the regulatory advisory panel.

Scott Latshaw Carol Mattingly	Requested public hearings	DEQ will not hold a public hearing. The Notice of Intended Regulatory Action specified that a public hearing would not be held following the publication of the proposed stage of this regulatory action unless requests for a public hearing are received during the NOIRA public comment period from at least 25 persons.
Joe Dinardo Holly Hammond Carol Mattingly Dolores Dwyer S. Overbey	Concerns regarding "toxic chemicals, including PFAS, in biosolids; request for testing	The comments address issues that are beyond the scope specified in the Notice of Intended Regulatory Action.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document. Also, the Board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: 1) projected reporting, recordkeeping and other administrative costs; 2) probable effect of the regulation on affected small businesses; and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Jeanette Ruiz, Regulatory and Guidance Analyst, DEQ Office of Water Permitting, P.O. Box 1105, Richmond, Virginia 23218, 804-494-9636, and jeanette.ruiz@deq.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. 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. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-32-410	F. Emergency Management Plan	None	This regulatory action allows permittees to submit an emergency management plan as part of their biosolids management plan and sets out the requirements for the plan, these requirements include: • Essential components of the plan • Procedures for deviating from permit requirements during an emergency • Requirements to keep the plan current • Plan initiation procedures • Approval, implementation, and conclusion of plan implementation procedures This action increases opportunities for permittees to plan for emergencies and communicate the plan with DEQ by offering permittees the option to add an emergency management plan to their biosolids management plan. This gives permittees the ability to address administrative, staging, signage, and additional on-site and emergency storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded.

9VAC25-32-550	F. Emergency Storage	None	This section describes the requirements for the emergency storage site including approval, notifications and reporting. This pre-planning process provides certainty to the regulated community and the public concerning how emergency storage of biosolids will be conducted in response to extreme weather events.
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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 proposed regulatory action is not expected to have direct impact on the institution of family and family stability.

Office of Regulatory Management
Economic Review Form

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-32
VAC Chapter title(s)	Virginia Pollution Abatement (VPA) Permit Regulation
Action title	Implementation of Chapter 209 of the 2024 Acts of Assembly (HB 870)
Date this document prepared	July 30, 2025
Regulatory Stage (including Issuance of Guidance Documents)	Proposed

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes

(1a) Direct & Indirect Costs (Monetized)	Background: This regulatory action is the result of Chapter 209 of the 2024 Acts of Assembly (HB870). The legislation amended § 62.1-44.19:3 of the Code of Virginia by adding a requirement for the State Water Control Board (Board) to include in its regulations for biosolids that are permitted for land application, marketing, or distribution: “Procedures for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded for the purpose of protecting against the release of sewage
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	sludge into state waters, and to account for increased intensity, frequency, and duration of storm events.” Amendments to 9VAC25-32-410 and 9VAC25-32-550 allow (but do not require) permittees to include an emergency management plan as part of their biosolids management plan (BSMP) and establish provisions for emergency storage procedures under the Storage Facilities section (9VAC25-32-550). The emergency management plan, which is subject to pre-approval by the Department of Environmental Quality (Department) before it can be implemented, outlines alternate biosolids storage options to be used during or following extreme storm events when routine or on-site capacity is exceeded. These amendments aim to improve readiness, clarity, and certainty for the public and regulated community while protecting public and environmental health. Direct Costs: The emergency management plan is optional, not mandatory, and only applies to permittees who elect to include this alternative in the required BSMP (see 9VAC25-32-410). As such, the estimated cost to develop an emergency management plan is expected to vary widely depending upon the level of detail included in the plan, options chosen, and number of emergency storage sites identified. For land appliers operating multiple biosolids land application sites under multiple permits, the land applier may develop a single emergency management plan that may be applicable to multiple permits. There may be county-by-county specifics for which to account; however, shared elements include procedures and general plan structure. Site-specific analysis would still need to be completed for each emergency storage site and costs would increase with the number of storage sites identified in the plan. Because the emergency management plan is optional, there are not any new mandatory requirements being imposed on the regulated community through this action. Indirect costs: None
2 (a). Direct & Indirect Benefits (Monetized)	Direct benefits: Land appliers that develop emergency management plans and get them approved by the Department will be able to implement the plan when adverse weather conditions prevent land application, instead of having to divert resources to transport biosolids to temporary storage locations, pay fees for landfill disposal, seek permit variances from the Department, and/or face enforcement action for improper management practices. Indirect benefits: Permittees are able to plan for emergencies and mitigate risks, thus improving their operational resilience and reducing service disruptions for both land appliers and treatment facilities that

	generate biosolids. The public benefits would be reducing environmental and public health risks caused by a spill or polluted runoff from improperly stored biosolids caused by extreme weather conditions.
3 (a) Net monetized benefit	For permittees who choose to include an emergency management plan in their BSMP – and conditions exist such that permittees need to implement an approved emergency management plan – the estimated net benefits will vary. Permittees who do not opt to use an emergency management plan do not incur any additional benefits.
4 (a) Other costs and benefits that cannot be monetized	Reduced environmental and public health risks in storm-prone areas. Increased community confidence and resilience; improved operational continuity for regulated entities.
5 (a) Information Sources Used	The Department used a Regulatory Advisory Panel to develop the proposed amendments to 9VAC25-32. Members of the panel included representatives from the regulated community, agribusiness organizations, environmental groups, state and local governments, and other state agencies. Information panel members provided during meetings has been used to complete this form.

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

1 (b) Direct & Indirect Costs (Monetized)	Under the current regulations, biosolids permittees must follow an approved BSMP without an explicit mechanism for pre-approved emergency storage in the event of extreme weather conditions inhibiting their ability to land apply biosolids. If severe weather causes storage or application disruptions, permittees must use best professional judgement as to the measures they must take to avoid environmental impacts and incur potential enforcement action if the measures are not in compliance with their permit. The Department would conduct case-by-case coordination with the permittee to determine if enforcement discretion was warranted. Land applicators may also need to haul biosolids a significant distance for disposal during periods when nearby landfills may not take sewage sludge or biosolids (because they have high moisture content) or be at capacity.
2 (b). Direct & Indirect Benefits (Monetized)	Direct benefits: None Indirect benefits: None
3 (b) Net monetized benefit	None
4 (b) Other costs and benefits that cannot be monetized	Other costs: Status quo maintains uncertainty about the land application of biosolids or storage during extreme weather resulting in unanticipated costs for land applicators and uncertainty for the public about biosolids handling during extreme weather. Other benefits: None
5 (b) Information Sources Used	Regulatory Advisory Panel; Chapter 209 of the 2024 Acts of Assembly

Table 1c: Costs and Benefits under Alternative Approach(es)

This regulatory action is required by changes to state statute (Chapter 209 of the 2024 Acts of Assembly). No alternatives were considered because of the statutory requirement.

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Localities that either generate biosolids because they operate a publicly owned treatment works (POTW), or land apply biosolids pursuant to a permit issued under 9VAC25-32 may incur costs if they choose to develop an emergency plan as described above in Table 1a. However, the estimated cost to develop an emergency management plan is expected to vary widely depending upon the level of detail included in the plan, options chosen, and number of emergency storage sites identified. Indirect Costs: None Direct Benefits: See Table 1a. Indirect Benefits: See Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Direct costs: If land appliers choose to adopt an emergency management plan, their costs for plan development will vary depending upon complexity and scope of the plan. Local governments and POTWs will not incur costs if they do not land apply their own biosolids. For a locality that land applies their own biosolids, the costs would be similar as for a land applier. Indirect costs: Local governments may incur costs responding to public inquiries about storage and land application	(b) Direct benefits: Localities and POTWs that land apply biosolids – and choose to adopt an emergency management plan – may avoid penalties or emergency hauling fees in the event that extreme weather conditions restrict land application and/or storage. The avoided costs would depend upon the circumstances of the non-compliance and amounts of biosolids to be hauled, both of which are too speculative to monetize. Indirect benefits: None

	of biosolids, which may vary widely.	
(3) Other Costs & Benefits (Non-Monetized)	Indirect benefit: Local governments may benefit from an improved public perception and trust in local biosolids programs. POTWs may benefit from operational flexibility during extreme weather.	
(4) Assistance	Local governments may need templates to communicate to the public during weather-related events. POTWs may need regulatory guidance on communication with haulers and scheduling. Land applicators may need technical support on approved emergency storage site criteria.	
(5) Information Sources	Regulatory Advisory Panel	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	No direct or indirect costs are expected to impact families because the changes do not impose any fees or requirements on households. No direct benefits are expected.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None	(b) None.
(3) Other Costs & Benefits (Non-Monetized)	Indirect benefits that cannot be monetized may include increased trust in the Department, local governments, and local biosolids programs because emergency management plans are in place for extreme weather-related events.	
(4) Information Sources	Department program staff interactions with concerned citizens	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Some land appliers are small businesses and will incur costs and benefits as described in Table 1a. Other impacts to small businesses are not expected. Indirect Costs: None Direct Benefits: (See Table 1a) Indirect benefits: (See Table 1a)	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) (See Table 1a)	(b) (See Table 1a)
(3) Other Costs & Benefits (Non-Monetized)	(See Table 1a)	
(4) Alternatives	None. This regulatory effort is an optional choice for permittees. It is not mandatory. This means it offers flexibility and minimizes burden on small businesses.	
(5) Information Sources	Regulatory Advisory Panel	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions¹	Subtractions	Total Net Change in Requirements
9VAC25-32-410 Biosolids Management Plan	(M/A):	2	0	0	0
	(D/A):	0	0	0	0
	(M/R):	11	0	0	0
	(D/R):	0	0	0	0
9VAC25-32-550 Storage Facilities	(M/A):	11	0	0	0
	(D/A):	2	0	0	0
	(M/R):	41	0	0	0
	(D/R):	5	0	0	0
				Grand Total of Changes in Requirements:	(M/A): 0
					(D/A): 0
					(M/R): 0
					(D/R): 0

¹ Chapter 209 of the 2024 Acts of Assembly, directs the State Water Control Board to develop procedures for addressing administrative, staging, signage, and additional on-site and alternative storage site requirements when routine and on-site storage facility capacity and holding times are anticipated to be exceeded for the purpose of protecting against the release of sewage sludge into state waters, and to account for increased intensity, frequency, and duration of storm events.

The proposed regulations achieve the statutory requirement by giving permittees the option to (1) create an emergency management plan and (2) subject to the plan, use emergency storage sites and other procedures when adverse weather conditions prevent or restrict land application of biosolids. Because the emergency management plan is optional, there are not any new mandatory requirements being imposed on the regulated community through this action.

Developing and getting approval for an emergency management plan can benefit permittees because it improves their readiness, provides clarity and certainty, and, for both them and the public, helps to protect public and environmental health by establishing standards for how to manage biosolids during extreme weather conditions.

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
9VAC25-32-410 Biosolids Management Plan	This regulatory amendment will establish procedures for addressing administrative, staging, signage, and additional on-site when routine and on-site storage facility capacity and holding times are anticipated to be exceeded.	Unknown	Varies	Varies
9VAC25-32-550 Storage Facilities	This regulatory change describes the identification, requirements, reporting, and access for emergency storage sites as part of a permittee's emergency management plan.	\$0	Varies	Varies

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
9VAC25-32-410 and 9VAC25-32-550	Adds option to develop an emergency management plan and designate emergency storage sites	This reduces the regulatory burden by giving permittees an option to plan ahead for extreme weather conditions, providing increased readiness, certainty, and environmental protection

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count
N/A			

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the app

TAB D



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Stefanie K. Taillon
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

MEMORANDUM

TO: State Water Control Board Members

FROM: Bryant Thomas, Acting Director, Division of Water 

DATE: July 14, 2025

SUBJECT: 9VAC25-151 – Amend and update the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity

At the August 20, 2025, meeting of the State Water Control Board (Board), the Board will consider the approval of amendments to the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity (ISWGP)ⁱ using the fast-track rulemaking process. The amendments update the ISWGP so that it is consistent with recent amendments to the Virginia Erosion and Stormwater Management (VESM) Regulation.ⁱⁱ

Background

This rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because the amendments improve clarity and certainty for the regulated community and DEQ by making requirements in the ISWGP consistent with the recent amendments to the VESM Regulation. They also clarify water quality design criteria and sources for information about best management practices (BMPs).

Amendments

Amendments to the ISWGP and the Agency Background Document (Form TH-04) are attached. Detailed changes to the ISWGP are listed in the TH-04 and are summarized below:

- Update the total phosphorus load for new development from 0.41 pounds per acre per year to 0.26 pounds per acre per year to be consistent with 9VAC25-875-580. This amendment is in 9VAC25-151-60 and 9VAC25-151-70.

- Specify the requirement to determine compliance with water quality standards by citing to the VESM Regulation in 9VAC25-151-60 and 9VAC25-151-70.
- Specify that information about BMPs design specifications and pollutant removal efficiencies is available through the Virginia Stormwater BMP Clearinghouse. This amendment is in 9VAC25-151-60, 9VAC25-151-70, and 9VAC25-151-400.

Attorney General Certification

The Office of the Attorney General will be sent the final regulation for certification of statutory authority.

Staff Recommendation

Staff recommends the Board authorize the Department to promulgate the amendments to the ISWGP for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The Board's authorization constitutes its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the amendments.

Staff also recommends that the Board authorize the Department to set an effective date no earlier than 15 days after the close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the amendments.

Presenter Contact Information

Name: Joseph Bryan
Phone: 804-659-2659
Email: joseph.bryan@deq.virginia.gov

Attachments

Attachment A: Text of Regulatory Amendments
Attachment B: Agency Background Document (TH-04)
Attachment C: Office of Regulatory Management Economic Review Form

ⁱ 9VAC25-151, effective July 1, 2024.

ⁱⁱ 9VAC25-875-580 and 590, see 41:10 VA.R. 1200-1205 December 30, 2024 (effective July 1, 2024).

Project 8352 - Fast-Track

State Water Control Board

Updates to CH151 for consistency with the Virginia Erosion and Stormwater Management Regulation

9VAC25-151-60. Registration statement and stormwater pollution prevention plan (SWPPP).

A. An owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the VPDES general permit regulation for discharges of stormwater associated with industrial activity.

Any owner that was authorized to discharge under the industrial stormwater general permit that became effective on July 1, 2019, and that intends to continue coverage under this general permit shall review and update the stormwater pollution prevention plan (SWPPP) to meet all provisions of the general permit (9VAC25-151-70 et seq.) within 90 days of the department granting coverage under this permit. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit that wish to obtain coverage under this general permit shall prepare and implement a written SWPPP for the facility in accordance with the general permit (9VAC25-151-70 et seq.) before submitting the registration statement.

B. Deadlines for submitting registration statements.

1. Existing facilities.

a. Any owner that was authorized to discharge under the industrial stormwater general permit that became effective on July 1, 2019, and that intends to continue coverage under this general permit shall submit a complete registration statement to the department on or before May 1, 2024.

b. Any owner covered by a VPDES individual permit for stormwater discharges associated with industrial activity that is proposing to be covered under this general permit shall submit a complete registration statement at least 240 days before the expiration date of the VPDES individual permit.

c. Any owner of an existing facility with stormwater discharges associated with industrial activity, not currently covered by a VPDES permit, that is proposing to be covered under this general permit shall submit a complete registration statement to the department.

2. New facilities. Any owner proposing a new discharge of stormwater associated with industrial activity shall submit a complete registration statement at least 60 days before the date planned for the beginning of the industrial activity at the facility.

3. New owners of existing facilities. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall submit a complete registration statement within 30 days of the ownership change.

4. Late registration statements. Registration statements for existing facilities covered under subdivision 1 a of this subsection will be accepted after June 30, 2024, but authorization to discharge will not be retroactive.

C. The required registration statement shall contain the following information:

1. Facility name and mailing address, owner name and mailing address, telephone number, and email address;

2. Facility street address (if different from mailing address) or location (if the facility location does not have a mailing address);
3. Facility operator (local contact) name, address, telephone number, and email address (if available) if different than owner;
4. The nature of the business conducted at the facility to be covered under this general permit, including a description of the primary industrial activity and all other industrial activities that take place;
5. The receiving waters of the industrial activity discharges;
6. A determination of whether the facility will discharge to an MS4. If the facility discharges to an MS4, the facility owner must notify the owner of the MS4 of the existence of the discharge information and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person and telephone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number (if assigned by DEQ);
7. The permit number for any existing VPDES permit assigned to the facility;
8. An indication that an SWPPP has been prepared before submitting this registration statement by the owner of a new facility, a facility previously covered by an expiring individual permit, or an existing facility not currently covered by a VPDES permit;
9. For each outfall, identification of up to four four-digit Standard Industrial Classification (SIC) Codes or two-letter Industrial Activity Codes that best represent the principal products or services rendered by the facility and major colocated industrial activities (two-letter Industrial Activity Codes are: HZ – hazardous waste treatment, storage, or disposal facilities; LF – landfills and disposal facilities that receive or have received any industrial wastes; SE – steam electric power generating facilities; or TW – treatment works treating domestic sewage);
10. Identification of all applicable industrial sectors in this permit (as designated in Table 50-2) that cover the industrial activities at the facility, and major colocated industrial activities to be covered under this permit, and the stormwater outfalls associated with each industrial sector.
 - a. If the facility is a landfill (sector L), state the type of landfill (i.e., MSWLF (municipal solid waste landfill), CDD (construction debris and demolition), or other), and which outfalls (if any) receive contaminated stormwater runoff;
 - b. If the facility is a timber products operation (sector A), state which outfalls (if any) receive discharges from wet decking areas, and which outfalls (if any) collect runoff from areas where mulch dyeing operations (including loading, transporting, and storage) occur;
 - c. For all facilities, state any outfalls receiving discharges from coal storage piles;
 - d. If the facility manufactures asphalt paving and roofing materials (sector D), state which outfalls (if any) receive discharges from areas where production of asphalt paving emulsions or roofing emulsions occurs;
 - e. If the facility manufactures cement (sector E), state which outfalls (if any) receive discharges from material storage piles;
 - f. If a scrap recycling and waste recycling facility (sector N - SIC 5093) only receives source-separated recyclable materials, state which outfalls (if any) receive discharges from this activity. List the metals (if any) that are received; or

g. For primary airports subject to 40 CFR 449 (1,000 or more annual departures of nonpropeller aircraft), list the average deicing season and state which outfalls (if any) receive discharges from deicing or anti-icing operations;

11. List the following facility area information:

- a. The total area of the facility in acres;
- b. The total area of industrial activity of the facility in acres;
- c. The total impervious surface area of the industrial activity of the facility in acres;
- d. The impervious and total areas in acres draining to each industrial activity outfall at the facility. Outfalls shall be numbered using a unique numerical identification code for each outfall. For example: Outfall Number 001 or Outfall Number 002; and
- e. The latitude and longitude of each outfall location;

12. A site map depicting the following shall be included with the registration statement:

- a. The property boundaries;
- b. All industrial activity outfalls labeled with unique numerical identification for each outfall. Outfall numbering shall be the same as that used for the facility area information in subdivision 11 of this subsection; and
- c. All water bodies or MS4 conveyances, labeled with names if applicable, receiving stormwater discharges from the site;

13. Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010) states that wasteloads for future growth for new facilities in the Chesapeake Bay watershed with industrial stormwater discharges cannot exceed the nutrient and sediment loadings that were discharged before the land was developed for the industrial activity. For purposes of this permit regulation, facilities that begin construction after June 30, 2024, must be consistent with this requirement to be eligible for coverage under this general permit.

If this is a new facility that began construction after June 30, 2024, in the Chesapeake Bay watershed and is applying for first time general permit coverage, attach documentation to the registration statement to demonstrate:

- a. That the total phosphorus load does not exceed the greater of (i) the total phosphorus load that was discharged from the industrial area of the property before the land was developed for the new industrial activity or (ii) ~~0.44~~ 0.26 pounds per acre per year (water quality design criteria, 9VAC25-875-580). The documentation must include the measures and controls that were employed to meet this requirement, along with the supporting calculations. The owner may include additional nonindustrial land on the site as part of any plan to comply with the no net increase requirement. Consistent with the definition of "site," this includes adjacent land used in connection with the facility. Compliance with the water quality design criteria may be determined utilizing ~~the Virginia Runoff Reduction Method or another equivalent methodology approved by the department~~ Article 3 (9VAC25-875-570 et seq.) of Part V (9VAC25-875-470 et seq.) of the Virginia Erosion and Stormwater Management Regulation. Design specifications and pollutant removal efficiencies for specific BMPs can be found ~~on~~ through the Virginia Stormwater BMP Clearinghouse ~~website~~ (<http://www.deq.virginia.gov/our-programs/water/stormwater/stormwater-construction/bmp-clearinghouse>); or

- b. The owner may consider utilization of any pollutant trading or offset program in accordance with §§ 62.1-44.19:20 through 62.1-44.19:23 of the Code of Virginia, governing trading and offsetting, to meet the no net increase requirement;

14. State Corporation Commission entity identification number if the facility is required to obtain an entity identification number by law; and

15. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

D. The registration statement shall be signed in accordance with 9VAC25-31-110 A.

E. Where to submit. The registration statement may be delivered to the department by either postal or electronic mail and shall be submitted to the DEQ regional office serving the area where the industrial facility is located. Following notification from the department of the start date for the required electronic submission of Notices of Intent to Discharge forms (i.e., registration statements) as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms must be submitted electronically.

9VAC25-151-70. General permit.

Any owner whose registration statement is accepted by the director will receive the following general permit and shall comply with the requirements therein and be subject to the VPDES Permit Regulation, 9VAC25-31. Facilities with colocated industrial activities shall comply with all applicable monitoring and SWPPP requirements of each industrial activity sector of this chapter in which a colocated industrial activity is described. All pages of 9VAC25-151-70 and 9VAC25-151-80 apply to all stormwater discharges associated with industrial activity covered under this general permit. Not all pages of 9VAC25-151-90 et seq. will apply to every permittee. The determination of which pages apply will be based on an evaluation of the regulated activities located at the facility.

General Permit No.: VAR05

Effective Date: July 1, 2024

Expiration Date: June 30, 2029

VPDES GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of facilities with stormwater discharges associated with industrial activity are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in board regulation that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, the registration statement, Part I-Effluent Limitations, Monitoring Requirements and Special Conditions, Part II-Conditions Applicable to All VPDES Permits, Part III-Stormwater Pollution Prevention Plan, Part IV-Sector-Specific Permit Requirements, and Part V-Chesapeake Bay Total Maximum Daily Load Compliance as set forth in this general permit.

Part I

Effluent Limitations, Monitoring Requirements and Special Conditions

A. Effluent limitations and monitoring requirements.

There are four individual and separate categories of monitoring requirements that a facility may be subject to under this permit: (i) quarterly visual monitoring; (ii) benchmark monitoring of discharges associated with specific industrial activities; (iii) compliance monitoring for discharges subject to numerical effluent limitations; and (iv) monitoring of discharges to impaired waters, both those with an approved TMDL and those without an approved TMDL. The monitoring requirements and numeric effluent limitations applicable to a facility depend on the types of industrial activities generating stormwater runoff from the facility, and for TMDL monitoring, the location of the facility's discharge. Part IV of the permit identifies monitoring requirements applicable to specific sectors of industrial activity. The permittee shall review Part I A 1 and Part IV of the permit to determine which monitoring requirements and numeric limitations apply to the permittee's facility. Unless otherwise specified, limitations and monitoring requirements under Part I A 1 and Part IV are additive.

Sector-specific monitoring requirements and limitations are applied discharge by discharge at facilities with colocated activities. Where stormwater from the colocated activities is commingled, the monitoring requirements and limitations are additive. Where more than one numeric limitation for a specific parameter applies to a discharge, compliance with the more restrictive limitation is required. Where benchmark, numerical effluent limitations, or TMDL monitoring requirements for a monitoring period overlap, the permittee may use a single sample to satisfy monitoring requirements.

1. Types of monitoring requirements and limitations.

a. Quarterly visual monitoring. The requirements and procedures for quarterly visual monitoring are applicable to all facilities covered under this permit, regardless of the facility's sector of industrial activity.

(1) The permittee shall perform and document a quarterly visual examination of a stormwater discharge associated with industrial activity from each outfall, except discharges exempted in Part I A 3 or A 4. The visual examinations shall be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The visual examination shall be made during normal working hours, where practicable, and when considerations for safety and feasibility allow. If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred.

(2) Samples shall be collected in accordance with Part I A 2. Sample examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. The visual examination of the sample shall be conducted in a well-lit area. No analytical tests are required to be performed on the samples.

(3) The visual examination documentation shall be maintained on-site with the SWPPP. The documentation shall include the outfall location, the examination date and time, examination staff, the nature of the discharge (i.e., runoff or snow melt), visual quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution), and probable sources of any observed stormwater contamination.

b. Benchmark monitoring of discharges associated with specific industrial activities.

Table 70-1 identifies the specific industrial sectors subject to the benchmark monitoring requirements of this permit and the industry-specific pollutants of concern. The permittee shall refer to the tables found in the individual sectors in Part IV for benchmark monitoring concentration values. Colocated industrial activities at the facility that are described in more than one sector in Part IV shall comply with all applicable benchmark monitoring requirements from each sector.

The results of benchmark monitoring are primarily for the permittee to use to determine the overall effectiveness of the SWPPP in controlling the discharge of pollutants to receiving waters. Benchmark concentration values, included in Part IV of this permit, are not effluent limitations. Exceedance of a benchmark concentration does not constitute a violation of this permit and does not show that violation of a water quality standard has occurred; however, it does signal that modifications to the SWPPP are necessary, unless justification is provided in a routine facility inspection. In addition, exceedance of benchmark concentrations may identify facilities that would be more appropriately covered under an individual, or alternative general permit where more specific pollution prevention controls could be required.

TABLE 70-1 INDUSTRIAL SECTORS SUBJECT TO BENCHMARK MONITORING		
Industry Sector ¹	SIC Code or Activity Code	Benchmark Monitoring Parameters
A	2421	TSS.
	2491	Arsenic, Chromium, Copper.
	2411	TSS.
	2426	TSS.
	2499 (24991303)	COD, TSS.
	2499 (Mulch Dyeing)	BOD, TSS, COD, Aluminum, Arsenic, Cadmium, Chromium, Copper, Selenium, Silver, Zinc, Total N, Total P.
B	2631	BOD.
C	2812-2819	Aluminum, Iron, Total N.

	2821-2824	Zinc.
	2841-2844	Total N, Zinc.
	2873-2879	Total N, Zinc, Total P.
	2875 (Composting Facilities)	TSS, BOD, COD, Ammonia, Total N, Total P.
D	2951, 2952	TSS.
E	3251-3259, 3261-3269	Aluminum.
	3274, 3275	TSS, pH.
F	3312-3317	Aluminum, Zinc.
	3321-3325	Aluminum, TSS, Copper, Zinc.
	3351-3357	Copper, Zinc.
	3363-3369	Copper, Zinc.
G ²	1021	TSS.
H	1221-1241	TSS, Aluminum.
K	HZ (Hazardous Waste Treatment, Storage, or Disposal)	TKN, TSS, TOC, Arsenic, Cadmium, Cyanide, Lead, Mercury, Selenium, Silver.
L	LF (Landfills, Land Application Sites, and Open Dumps)	TSS.
M	5015	TSS, Aluminum, Lead.
N	5093	Copper, Aluminum, Lead, Zinc, TSS, Cadmium, Chromium.
	4499	Aluminum, Cadmium, Chromium, Copper, Lead, Zinc, TSS.
O	SE (Steam Electric Generating Facilities)	Facilities in Sector O are not subject to benchmark requirements.
Q	4412-4499 (except 4499 facilities as specified in Sector N)	TSS, Copper, Zinc.
	3731, 3732	TSS, Copper, Zinc.

U	2021-2026	BOD, TSS.
	2041-2048	TSS, TKN.
	2074-2079	BOD, Total N, TSS.
Y	3011-3069	Zinc.
AA	3411-3471, 3482-3499, 3911-3915	Aluminum, Copper, Zinc.
	3479	Zinc.
AB	3511-3599 (except 3571-3579)	TSS, TPH, Copper, Zinc.
AD	Nonclassified Facilities/Stormwater Discharges Designated by the department as Requiring Permits	As determined by the director.
AE	2611, 2621, 2652-2657, 2671-2679, 2833-2836, 2851, 2861-2869, 2891-2899, 3952, 3211, 3221, 3229, 3231, 3241, 3281, 3291-3299, 3331-3339, 3398, 3399, 3341, 1311, 1321, 1381-1389, 2911, 4512-4581, (TW) Treatment Works, 2011-2015, 2032-2038, 2051-2053, 2061-2068, 2082-2087, 2091-2099, 2111-2141, 2211-2299, 2311-2399, 3131-3199, 2434, 2511-2599, 2711-2796, 3081-3089, 3931, 3942-3949, 3951-3955 (except 3952), 3961, 3965, 3991-3999, 3111, 3711-3799 (except 3731, 3732 see Sector Q), 3571-3579, 3612-3699, 3812-3873	Facilities in Sector AE are not subject to benchmark monitoring requirements.
AF	4011, 4013, 4111-4173, 4212-4231, 4311, 5171	TSS.
¹ Table does not include parameters for compliance monitoring under effluent limitations guidelines. ² See Sector G (Part IV G) for additional monitoring discharges from waste rock and overburden piles from active ore mining or dressing facilities, inactive ore mining or dressing facilities, and sites undergoing reclamation.		

(1) Benchmark monitoring shall be performed for all benchmark parameters specified for the industrial sector applicable to a facility's discharge. Monitoring shall be performed at least once during each of the first four, and potentially all, monitoring periods after coverage under the permit begins. Monitoring begins with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.

(2) Benchmark monitoring waivers for facilities testing below benchmark concentration values. Waivers from benchmark monitoring are available to facilities whose discharges are below benchmark concentration values on an outfall by outfall basis. Sector-specific benchmark monitoring is not required to be conducted in subsequent monitoring periods during the term of this permit provided:

(a) Samples were collected in four consecutive monitoring periods, and the average of the four samples for all parameters at the outfall is below the applicable benchmark

concentration value in Part IV. Facilities that were covered under the 2019 industrial stormwater general permit may use sampling data from the last two monitoring periods of that permit and the first two monitoring periods of this permit to satisfy the four consecutive monitoring periods requirement;

(b) The facility is not subject to a numeric effluent limitation established in Part I A 1 c (1) (stormwater effluent limitations), Part I A 1 c (2) (coal pile runoff), or Part IV (Sector Specific Permit Requirements) for any of the parameters at that outfall; and

(c) A waiver request is submitted to and approved by the department. The waiver request shall be sent to the appropriate DEQ regional office, along with the supporting monitoring data for four consecutive monitoring periods, and a certification that, based on current potential pollutant sources and control measures used, discharges from the facility are reasonably expected to be substantially similar or cleaner compared to when the benchmark monitoring for the four consecutive monitoring periods was done.

Waiver requests will be evaluated by the department based on (i) benchmark monitoring results below the benchmark concentration values; (ii) a favorable compliance history (including inspection results); and (iii) no outstanding enforcement actions.

The monitoring waiver may be revoked by the department for cause. The permittee will be notified in writing that the monitoring waiver is revoked, and that the benchmark monitoring requirements are again in force and will remain in effect until the permit's expiration date.

(3) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C and retained in accordance with Part II B.

c. Compliance monitoring for discharges subject to numerical effluent limitations or discharges to impaired waters.

(1) Facilities subject to stormwater effluent limitation guidelines.

(a) Facilities subject to stormwater effluent limitation guidelines (see Table 70-2) are required to monitor the discharges to evaluate compliance with numerical effluent limitations. Industry-specific numerical limitations and compliance monitoring requirements are described in Part IV of the permit. Permittees with colocated industrial activities at the facility that are described in more than one sector in Part IV shall comply on a discharge-by-discharge basis with all applicable effluent limitations from each sector.

(b) Permittees shall monitor the discharges for the presence of the pollutant subject to the effluent limitation at least once during each of the monitoring periods after coverage under the permit begins. Monitoring begins with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2. The substantially identical outfall monitoring provisions (Part I A 2 f) are not available for numeric effluent limits monitoring.

(c) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.

TABLE 70-2
STORMWATER-SPECIFIC EFFLUENT LIMITATION GUIDELINES

Effluent Limitation Guideline	Sectors with Affected Facilities
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Runoff from material storage piles at cement manufacturing facilities (40 CFR Part 411 Subpart C (established February 20, 1974))	E
Contaminated runoff from phosphate fertilizer manufacturing facilities (40 CFR Part 418 Subpart A (established April 8, 1974))	C
Coal pile runoff at steam electric generating facilities (40 CFR Part 423 (established November 19, 1982))	O
Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas (40 CFR Part 429, Subpart I (established January 26, 1981))	A
Runoff from asphalt emulsion facilities (40 CFR Part 443 Subpart A (established July 24, 1975))	D
Runoff from landfills (40 CFR Part 445, Subpart A and B (established January 19, 2000))	K and L
Discharges from airport deicing operations (40 CFR Part 449 (established May 16, 2012))	Facilities subject to the effluent limitation guidelines in 40 CFR Part 449 may be covered under Sector AD.

(2) Facilities subject to coal pile runoff monitoring.

(a) Facilities with discharges of stormwater from coal storage piles shall comply with the limitations and monitoring requirements of Table 70-3 for all discharges containing the coal pile runoff, regardless of the facility's sector of industrial activity.

(b) Permittees shall monitor the stormwater discharges at least once during each of the monitoring periods after coverage under the permit begins. Monitoring begins with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2. The substantially identical outfall monitoring provisions (Part I A 2 f) are not available for coal pile numeric effluent limits monitoring.

(c) The coal pile runoff shall not be diluted with other stormwater or other flows to meet this limitation.

(d) If a facility is designed, constructed, and operated to treat the volume of coal pile runoff that is associated with a 10-year, 24-hour rainfall event, any untreated overflow of coal pile runoff from the treatment unit is not subject to the 50 mg/L limitation for total suspended solids.

(e) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.

TABLE 70-3
NUMERIC LIMITATIONS FOR COAL PILE RUNOFF

Parameter	Limit	Monitoring Frequency	Sample Type
Total Suspended Solids (TSS)	50 mg/l, max.	1/6 months	Grab
pH	6.0 min. - 9.0 max.	1/6 months	Grab

(3) Facilities discharging to an impaired water with an approved TMDL wasteload allocation. Owners of facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved by the U.S. Environmental Protection Agency (EPA) before the term of this permit will be notified by the department when they are approved for coverage under the general permit.

(a) Upon written notification from the department, permittees shall monitor the discharges for the pollutant subject to TMDL wasteload allocation once every six months after coverage under the permit begins, unless another sampling frequency is determined by the department for polychlorinated biphenyls (PCBs). Monitoring begins with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.

(b) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.

(c) If the pollutant subject to the TMDL wasteload allocation is below the quantitation level in all of the samples from the first four monitoring periods, the permittee may request to the department in writing that further sampling be discontinued, unless the TMDL has specific instructions to the contrary (in which case those instructions shall be followed). The laboratory certificate of analysis shall be submitted with the request. If approved, documentation of this shall be kept with the SWPPP.

If the pollutant subject to the TMDL wasteload allocation is above the quantitation level in any of the samples from the first four monitoring periods, the permittee shall continue the scheduled TMDL monitoring throughout the term of the permit. Applicable sampling data collected during the 2019 industrial stormwater general permit term may be used to satisfy all or part of the four monitoring periods requirement.

(d) Upon written notification from the department, facilities exceeding the TMDL wasteload allocation shall prepare and submit a pollutant minimization plan (PMP) designed to investigate the location and potential reduction of sources in the facility's stormwater discharges. The PMP shall be developed and submitted to the department for approval within 180 days of the receipt of notification from the department. The PMP shall include the following items, as appropriate:

(i) Facility contact for the contents of the PMP and any activities associated with the PMP;

(ii) A proposed implementation schedule for minimization activities and prospective milestones;

(iii) Proposed actions for known or probable sources;

(iv) Proposed action to find and control unknown sources;

(v) A summary of any previous minimization activities; and

(vi) Information on continuing assessment of progress, which may include establishment of criteria to evaluate whether the location and potential reduction of sources have been addressed.

(4) Facilities discharging to an impaired water without an approved TMDL wasteload allocation. Owners of facilities that discharge to waters listed as impaired in the 2022 Final 305(b)/303(d) Water Quality Assessment Integrated Report, and for which a TMDL wasteload allocation has not been approved before the term of this permit, will be notified by the department when they are approved for coverage under the general permit.

(a) Upon written notification from the department, permittees shall monitor the discharges for all pollutants for which the waterbody is impaired, and for which a standard analytical method exists, at least once every six months after coverage under the permit begins, unless otherwise determined by the department for polychlorinated biphenyls (PCBs). Monitoring begins with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.

(b) If the pollutant for which the waterbody is impaired is suspended solids, turbidity, or sediment, or sedimentation, monitor for total suspended solids (TSS). If the pollutant for which the waterbody is impaired is expressed in the form of an indicator or surrogate pollutant, monitor for that indicator or surrogate pollutant. No monitoring is required when a waterbody's biological communities are impaired but no pollutant, including indicator or surrogate pollutants, is specified as causing the impairment, or when a waterbody's impairment is related to hydrologic modifications, impaired hydrology, or temperature. Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.

(c) If the pollutant for which the water is impaired is below the quantitation level in the discharges from the facility, or it is above the quantitation level but its presence is caused solely by natural background sources, the permittee may request to the department in writing that further impaired water monitoring be discontinued. The laboratory certificate of analysis shall be submitted with the request. If approved, documentation of this shall be kept with the SWPPP.

To support a determination that the pollutant's presence is caused solely by natural background sources, the following documentation shall be submitted with the request and kept with the SWPPP: (i) an explanation of why it is believed that the presence of the impairment pollutant in the facility's discharge is not related to the activities at the facility; and (ii) data or studies that tie the presence of the impairment pollutant in the facility's discharge to natural background sources in the watershed. Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity at the facility's site or pollutants in run-on from neighboring sources that are not naturally occurring.

2. Monitoring instructions.

a. Collection and analysis of samples. Sampling requirements shall be assessed on an outfall by outfall basis. Samples shall be collected and analyzed in accordance with the requirements of Part II A.

b. When and how to sample. A minimum of one grab sample shall be taken from the discharge associated with industrial activity resulting from a storm event that results in a discharge from the site, providing the interval from the preceding storm event

discharge is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring shall be performed at a time when a measurable discharge occurs at the site. For discharges from a stormwater management structure, the monitoring shall be performed at a time when a measurable discharge occurs from the structure.

The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of the discharge, provided that the permittee explains why a grab sample during the first 30 minutes was impracticable. This information shall be submitted in the department's electronic discharge monitoring report (e-DMR) system, and maintained with the SWPPP. If the sampled discharge commingles with process or nonprocess water, the permittee shall attempt to sample the stormwater discharge before it mixes with the nonstormwater.

c. Storm event data. For each monitoring event (except snowmelt monitoring), along with the monitoring results, the permittee shall identify the date of the storm event sampled; rainfall total (in inches) of the storm event that generated the sampled runoff; and the interval between the storm event sampled and the end of the previous storm event discharge. For snowmelt monitoring, the permittee shall identify the date of the sampling event.

d. Monitoring periods.

(1) Quarterly visual monitoring. The quarterly visual examinations shall be made at least once in each of the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December.

(2) Benchmark monitoring, effluent limitation monitoring, and impaired waters monitoring (for waters both with and without an approved TMDL). Monitoring shall be conducted at least once in each of the following semiannual periods each year of permit coverage: January through June, and July through December.

e. Documentation explaining a facility's inability to obtain a sample (including dates and times the outfalls were viewed or sampling was attempted), of no rain event, or of deviation from the 72-hour storm interval shall be submitted with the e-DMR and maintained with the SWPPP. Acceptable documentation includes National Climatic Data Center (NCDC) weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data.

f. Representative outfalls - substantially identical discharges. If the facility has two or more outfalls that discharge substantially identical effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, and stormwater management practices occurring within the drainage areas of the outfalls, frequency of discharges, and stormwater management practices occurring within the drainage areas of the outfalls, the permittee may conduct monitoring on the effluent of just one of the outfalls and report that the observations also apply to the substantially identical outfall. The substantially identical outfall monitoring provisions apply to quarterly visual monitoring, benchmark monitoring, and impaired waters monitoring (both those with and without an approved TMDL). The substantially identical outfall monitoring provisions are not available for numeric effluent limits monitoring. The permittee shall include the following information in the SWPPP:

(1) The locations of the outfalls;

(2) An evaluation, including available monitoring data, indicating the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data where available; and

(3) An estimate of the size of each outfall's drainage area in acres.

3. Adverse climatic conditions waiver. When adverse weather conditions prevent the collection of samples, a substitute sample may be taken during a qualifying storm event in the next monitoring period. Adverse weather conditions are those that are dangerous or create inaccessibility for staff and may include local flooding, high winds, electrical storms, or situations that otherwise make sampling impracticable (e.g., drought or extended frozen conditions). Unless specifically stated otherwise, this waiver may be applied to any monitoring required under this permit. Narrative documentation of conditions necessitating the use of the waiver shall be kept with the SWPPP.

4. Inactive and unstaffed sites (including temporarily inactive sites).

a. A waiver of the quarterly visual monitoring, routine facility inspections, and monitoring requirements (including benchmark, effluent limitation, and impaired waters monitoring) may be granted by the department at a facility that is both inactive and unstaffed, as long as the facility remains inactive and unstaffed and there are no industrial materials or activities exposed to stormwater. The owner of the facility is only required to conduct an annual routine site inspection in accordance with the requirements in Part III B 5.

b. An inactive and unstaffed sites waiver request shall be submitted to the department for approval and shall include the name of the facility; the facility's VPDES general permit registration number; a contact person, telephone number, and email address; the reason for the request; and the date the facility became or will become inactive and unstaffed. The waiver request shall be signed and certified in accordance with Part II K. If this waiver is granted, a copy of the request and the department's written approval of the waiver shall be maintained with the SWPPP.

c. If circumstances change and industrial materials or activities become exposed to stormwater or the facility becomes either active or staffed, the permittee shall notify the department within 30 days, and all quarterly visual monitoring, routine facility inspections, and monitoring requirements shall be resumed immediately.

d. The department retains the right to revoke this waiver when it is determined that the discharge is causing, has a reasonable potential to cause, or contributes to a water quality standards violation.

e. Inactive and unstaffed facilities covered under Sector G (Metal Mining) and Sector H (Coal Mines and Coal Mining-Related Facilities) are not required to meet the "no industrial materials or activities exposed to stormwater" standard to be eligible for this waiver, consistent with the conditional exemption requirements established in Part IV Sector G and Part IV Sector H.

5. Reporting monitoring results.

a. Reporting to the department. The permittee shall follow the reporting requirements and deadlines in Table 70-4 for the types of monitoring that apply to the facility:

TABLE 70-4 MONITORING REPORTING REQUIREMENTS	
Semiannual Monitoring	Submit the results by January 10 and by July 10.

Quarterly Visual Monitoring	Retain results with SWPPP - do not submit unless requested to do so by the department.
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Permittees shall submit results for each outfall associated with industrial activity according to the requirements of Part II C.

b. Significant digits. The permittee shall report at least the same number of significant digits as a numeric effluent limitation or TMDL wasteload allocation for a given parameter; otherwise, at least two significant digits shall be reported for a given parameter. Regardless of the rounding convention used by the permittee (i.e., five always rounding up or to the nearest even number), the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

6. Corrective actions.

a. The permittee shall take corrective action whenever:

(1) Routine facility inspections, inspections by local, state or federal officials, or any other process, observation or event result in a determination that modifications to the stormwater control measures are necessary to meet the permit requirements;

(2) There is any exceedance of an effluent limitation (including coal pile runoff), TMDL wasteload allocation, or a reduction required by a local ordinance established by a municipality to meet Chesapeake Bay TMDL requirements;

(3) The department determines, or the permittee becomes aware, that the stormwater control measures are not stringent enough for the discharge to meet applicable water quality standards; or

(4) Benchmark monitoring results exceed the benchmark concentration value for a parameter.

The permittee shall review the SWPPP and modify it as necessary to address any deficiencies. Revisions to the SWPPP shall be completed within 60 days following the discovery of the deficiency. When control measures need to be modified or added (distinct from regular preventive maintenance of existing control measures described in Part III C), implementation shall be completed before the next anticipated storm event if possible, but no later than 60 days after the deficiency is discovered, or as otherwise provided or approved by the department. In cases where construction is necessary to implement control measures, the permittee shall include a schedule in the SWPPP that provides for the completion of the control measures as expeditiously as practicable, but no later than three years after the deficiency is discovered. Where a construction compliance schedule is included in the SWPPP, the SWPPP shall include appropriate nonstructural and temporary controls to be implemented in the affected portion of the facility before completion of the permanent control measure. Any corrective actions taken shall be documented and retained with the SWPPP. Any control measure modifications shall be dated and document the amount of time taken to modify the applicable control measures or implement additional control measures.

b. Natural background pollutant levels. If the concentration of a pollutant exceeds a benchmark concentration value and the permittee determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background, corrective action is not required provided that:

(1) The concentration of the benchmark monitoring result is less than or equal to the concentration of that pollutant in the natural background;

(2) The permittee documents and maintains with the SWPPP the supporting rationale for concluding that benchmark exceedances are in fact attributable solely to natural background pollutant levels. The supporting rationale shall include any data previously collected by the facility or others (including literature studies) that describe the levels of natural background pollutants in the facility's stormwater discharges; and

(3) The permittee notifies the department on the benchmark monitoring DMR that the benchmark exceedances are attributable solely to natural background pollutant levels. Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity on the facility's site, or pollutants in run-on from neighboring sources that are not naturally occurring.

c. Follow-up reporting. If at any time monitoring results show that discharges from the facility exceed an effluent limitation or a TMDL wasteload allocation, or the department determines that discharges from the facility are causing or contributing to an exceedance of a water quality standard, immediate steps shall be taken to eliminate the exceedances in accordance with Part I A 6. Within 30 calendar days of implementing the relevant corrective action, an exceedance report shall be submitted to the department and shall be signed in accordance with Part II K. The following information shall be included in the report:

(1) General permit registration number;

(2) Facility name and address;

(3) Receiving water for each outfall exceeding an effluent limitation of TMDL wasteload allocation;

(4) Monitoring data from the event being reported;

(5) A narrative description of the situation;

(6) A description of actions taken since the event was discovered and steps taken to minimize to the extent feasible pollutants in the discharge; and

(7) A local facility contact name, email address, and phone number.

B. Special conditions.

1. Authorized nonstormwater discharges. Except as provided in this section or in Part IV, all discharges covered by this permit shall be composed entirely of stormwater. The following nonstormwater discharges are authorized by this permit:

a. Discharges from emergency firefighting activities or firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia;

b. Fire hydrant flushings, managed in a manner to avoid an instream impact;

c. Potable water, including water line flushings, managed in a manner to avoid an instream impact;

d. Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;

e. Irrigation drainage;

f. Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling;

g. Routine external building washdown, provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the washwater is filtered, settled, or similarly treated prior to discharge;

- h. Pavement washwaters, provided no soaps, solvents, detergents, or hazardous cleaning products are used, and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled or leaked material is removed prior to washing), and the washwater is filtered, settled, or similarly treated prior to discharge;
- i. Uncontaminated groundwater or spring water;
- j. Foundation or footing drains where flows are not contaminated with process materials; and
- k. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

All other nonstormwater discharges are not authorized and shall either be eliminated or covered under a separate VPDES permit.

2. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the stormwater discharges from the facility shall be prevented or minimized in accordance with the SWPPP for the facility. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 or § 62.1-44.34:19 of the Code of Virginia.

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 occurs during a 24-hour period:

- a. The permittee is required to notify the department in accordance with the requirements of Part II G as soon as he has knowledge of the discharge;
- b. Where a release enters an MS4, the permittee shall also notify the owner of the MS4; and
- c. The SWPPP required under Part III shall be reviewed to identify measures to prevent the reoccurrence of the releases and to respond to the releases, and the SWPPP shall be modified where appropriate.

3. Colocated industrial activity. If the facility has industrial activities occurring on-site that are described by any of the activities in Part IV of the permit, those industrial activities are considered to be colocated industrial activities. Stormwater discharges from colocated industrial activities are authorized by this permit, provided that the permittee complies with any and all additional SWPPP and monitoring requirements from Part IV applicable to that particular colocated industrial activity. The permittee shall be responsible for additional SWPPP and monitoring requirements applicable to the colocated industrial activity by examining the narrative descriptions of all discharges covered under this section.

4. The stormwater discharges authorized by this permit may be combined with other sources of stormwater that are not required to be covered under a VPDES permit, so long as the combined discharge is in compliance with this permit.

5. There shall be no discharge of waste, garbage, or floating debris in other than trace amounts.

6. Approval for coverage under this general permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

7. Discharges to waters subject to TMDL wasteload allocations. Owners of facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload

allocation has been approved by EPA before the term of this permit shall incorporate measures and controls into the SWPPP required by Part III that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. The facility's SWPPP shall specifically address any conditions or requirements included in the TMDL that are applicable to discharges from the facility. If the TMDL establishes a specific numeric wasteload allocation that applies to discharges from the facility, the owner shall perform any required monitoring in accordance with Part I A 1 c (3), and implement control measures designed to meet that allocation.

8. Discharges through a regulated MS4 to waters subject to the Chesapeake Bay TMDL. In addition to the requirements of this permit, any facility with industrial activity stormwater discharges through a regulated MS4 that is notified by the MS4 operator that the locality has adopted ordinances to meet the Chesapeake Bay TMDL shall incorporate measures and controls into its SWPPP to comply with applicable local TMDL ordinance requirements.

9. Expansion of facilities that discharge to waters subject to the Chesapeake Bay TMDL. Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010), states that the wasteloads from any expansion of an existing permitted facility discharging stormwater in the Chesapeake Bay watershed cannot exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the expanded industrial activity.

a. For any industrial activity area expansions (i.e., construction activities, including clearing, grading, and excavation activities) that begin on or after July 1, 2024, the permittee shall document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded land area before the land was developed, and the measures and controls that were employed to meet the no net increase of stormwater nutrient and sediment load as a result of the expansion of the industrial activity. Any land disturbance that is exempt from permitting under the VPDES construction stormwater general permit regulation (9VAC25-880) is exempt from this requirement.

b. The permittee may use the water quality design criteria, 9VAC25-875-580, to meet the requirements of Part I B 10 a. Under this criteria, the total phosphorus load shall not exceed the greater of (i) the total phosphorus load that was discharged from the expanded portion of the land before the land being developed for the industrial activity or (ii) 0.44 0.26 pounds per acre per year. Compliance with the water quality design criteria may be determined utilizing ~~the Virginia Runoff Reduction Method or another equivalent methodology approved by the department~~ Article 3 (9VAC25-875-570 et seq.) of Part V (9VAC25-875-470 et seq.) of the Virginia Erosion and Stormwater Management Regulation. Design specifications and pollutant removal efficiencies for specific BMPs can be found ~~on~~ through the Virginia Stormwater BMP Clearinghouse website (<http://www.deq.virginia.gov/our-programs/water/stormwater/stormwater-construction/bmp-clearinghouse>).

c. The permittee may consider utilization of any pollutant trading or offset program in accordance with §§ 62.1-44.19:20 through 62.1-44.19:23 of the Code of Virginia, governing trading and offsetting, to meet the no net increase requirement.

10. Water quality protection. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards. The department expects that compliance with the conditions in this permit will control discharges as necessary to meet applicable water quality standards.

11. Adding or deleting stormwater outfalls. The permittee may add new or delete existing stormwater outfalls at the facility as necessary and appropriate. The permittee shall update the SWPPP and notify the department of all outfall changes within 30 days of the change. The permittee shall submit a copy of the updated SWPPP site map with this notification.

12. Antidegradation requirements for new or increased discharges to high quality waters. Facilities that add new outfalls, or increase their discharges from existing outfalls that discharge directly to high quality waters designated under Virginia's water quality standards antidegradation policy under 9VAC25-260-30 A 2 may be notified by the department that additional control measures, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or may be notified that an individual permit is required in accordance with 9VAC25-31-170 B 3.

13. Termination of permit coverage.

a. The owner may terminate coverage under this general permit by filing a notice of termination with the department. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer discharges of stormwater associated with industrial activity from the facility;

(2) A new owner has assumed responsibility for the facility. A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted;

(3) All stormwater discharges associated with industrial activity have been covered by an individual VPDES permit; or

(4) Termination of coverage is being requested for another reason, provided the department agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES industrial stormwater general permit registration number;

(4) 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 discharges of stormwater associated with industrial activity from the facility;

(c) A statement indicating that all stormwater discharges associated with industrial activity have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason and a description of the reason; and

(5) The following certification: "I certify under penalty of law that all stormwater discharges associated with industrial activity from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual permit, or that I am no longer the owner of the industrial activity, 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 discharge stormwater associated with industrial activity in accordance with the general permit, and that discharging pollutants in stormwater associated with industrial activity to surface waters is unlawful where the discharge is not authorized by a VPDES permit.

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 Clean Water Act."

c. The notice of termination shall be signed in accordance with Part II K.

d. The notice of termination shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

Part II

Conditions Applicable to All VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45 (Certification for Noncommercial Environmental Laboratories) or 1VAC30-46 (Accreditation for Commercial Environmental Laboratories).

B. Records.

1. Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individuals who performed the sampling or measurements;
- c. The dates and times analyses were performed;
- d. The individuals who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of the analyses.

2. The permittee shall retain copies of the SWPPP, including any modifications made during the term of this permit, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date that coverage under this permit expires or is terminated. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the department.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported in the department's electronic discharge monitoring report (e-DMR) system. All reports and forms submitted in compliance with this permit shall be submitted electronically by the permittee in accordance with 9VAC25-31-1020.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part

136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in e-DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The department may require the permittee to furnish on request plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from the discharge on the quality of state waters, or other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department on request copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the department, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of state waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after the discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate, and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than

24 hours, the department after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 1 b. Unusual and extraordinary discharges include any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance.

1. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

a. A report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under Part II I:

- (1) Any unanticipated bypass; and
- (2) Any upset that causes a discharge to surface waters.

b. A written report shall be submitted within five days and shall contain:

- (1) A description of the noncompliance and its cause;
- (2) The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The department may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

2. The permittee shall report all instances of noncompliance not reported under Part II I 1 in writing at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 1.

3. The immediate (within 24 hours) reports required in Part II G, H and I shall be made to the department's regional office. Reports may be made by telephone or online at <https://www.deq.virginia.gov/our-programs/pollution-response>. For reports outside normal working hours, the online portal shall be used. For emergencies, call the Virginia Department of Emergency Management's Emergency Operations Center (24-hours) at 1-800-468-8892.

J. Notice of planned changes.

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 only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which began:

- (1) After promulgation of standards of performance under § 306 of the Clean Water Act which are applicable to the source; or

- 870 (2) After proposal of standards of performance in accordance with § 306 of the Clean
871 Water Act that are applicable to the source, but only if the standards are promulgated
872 in accordance with § 306 within 120 days of their proposal;
- 873 b. The alteration or addition could significantly change the nature or increase the
874 quantity of pollutants discharged. This notification applies to pollutants that are subject
875 neither to effluent limitations nor to notification requirements specified elsewhere in
876 this permit; or
- 877 c. The alteration or addition results in a significant change in the permittee's sludge
878 use or disposal practices, and the alteration, addition, or change may justify the
879 application of permit conditions that are different from or absent in the existing permit,
880 including notification of additional use or disposal sites not reported during the permit
881 application process or not reported pursuant to an approved land application plan.
- 882 2. The permittee shall give advance notice to the department of any planned changes in
883 the permitted facility or activity that may result in noncompliance with permit requirements.
- 884 K. Signatory requirements.
- 885 1. Registration statement. All registration statements shall be signed as follows:
- 886 a. For a corporation: by a responsible corporate officer. For the purpose of this section,
887 a responsible corporate officer means (i) a president, secretary, treasurer, or vice-
888 president of the corporation in charge of a principal business function, or any other
889 person who performs similar policy-making or decision-making functions for the
890 corporation; or (ii) the manager of one or more manufacturing, production, or operating
891 facilities, provided the manager is authorized to make management decisions that
892 govern the operation of the regulated facility including having the explicit or implicit
893 duty of making major capital investment recommendations, and initiating and directing
894 other comprehensive measures to ensure long-term environmental compliance with
895 environmental laws and regulations; the manager can ensure that the necessary
896 systems are established or actions taken to gather complete and accurate information
897 for permit registration requirements; and where authority to sign documents has been
898 assigned or delegated to the manager in accordance with corporate procedures;
- 899 b. For a partnership or sole proprietorship: by a general partner or the proprietor,
900 respectively; or
- 901 c. For a municipality, state, federal, or other public agency: by either a principal
902 executive officer or ranking elected official. For purposes of this section, a principal
903 executive officer of a public agency includes (i) the chief executive officer of the
904 agency, or (ii) a senior executive officer having responsibility for the overall operations
905 of a principal geographic unit of the agency.
- 906 2. Reports. All reports required by permits, and other information requested by the
907 department shall be signed by a person described in Part II K 1 or by a duly authorized
908 representative of that person. A person is a duly authorized representative only if:
- 909 a. The authorization is made in writing by a person described in Part II K 1;
- 910 b. The authorization specifies either an individual or a position having responsibility for
911 the overall operation of the regulated facility or activity (e.g., the position of plant
912 manager, operator of a well or a well field, superintendent, position of equivalent
913 responsibility, or an individual or position having overall responsibility for
914 environmental matters for the company). A duly authorized representative may be a
915 named individual or any individual occupying a named position; and
- 916 c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department before or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit coverage termination or denial of a permit coverage renewal.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards even if this permit has not yet been modified to incorporate the requirement.

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 submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the department. The department shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit neither conveys any property rights in either real or personal property or any exclusive privileges nor authorizes any injury to private property or invasion of personal rights, or any infringement of federal, state, or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on bypassing as described in Part II U and upset as described in Part II V, nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from the materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass (e.g., the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime). This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three conditions listed in Part II U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the causes of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part II I; and

d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, including an authorized contractor acting as a representative of the administrator, upon presentation of credentials and other documents as may be required by law, to:

1. Enter on the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained in this general permit shall make an inspection unreasonable during an emergency.

X. Permit actions. Permit coverages may be terminated for cause. The filing of a request by the permittee for a permit termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. 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 transfer of the title to the facility or property, unless permission for a later date has been granted by the department;

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 department 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 Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9VAC25-151-400. Chesapeake Bay total maximum daily load compliance.

A. Chesapeake Bay TMDL Compliance. EPA's Chesapeake Bay TMDL (December 29, 2010) includes wasteload allocations for VPDES permitted industrial stormwater facilities as part of the regulated stormwater aggregate load. EPA used data submitted by Virginia with the Phase I Chesapeake Bay TMDL Watershed Implementation Plan, including the number of industrial stormwater permits per county and the number of urban acres regulated by industrial stormwater permits, as part of their development of the aggregate load. Aggregate loads for industrial

stormwater facilities were appropriate because actual facility loading data were not available to develop individual facility wasteload allocations.

Virginia estimated the loadings from industrial stormwater facilities using actual and estimated facility acreage information and total phosphorus (TP) and total nitrogen (TN) loading rates from the Northern Virginia Planning District Commission (NVPDC) Guidebook for Screening Urban Nonpoint Pollution Management Strategies (Annandale, VA November 1979), prepared for the Metropolitan Washington Council of Governments. The loading rates used were as follows:

TP - High (80%) imperviousness industrial; 1.5 lb/ac/yr

TN - High (80%) imperviousness industrial; 12.3 lb/ac/yr

Actual facility area information and TP and TN data collected for facilities subject to Part V of this permit will be used by the department to quantify the nutrient and sediment loads from those VPDES permitted industrial stormwater facilities.

1. Facilities that obtained coverage under the 2019 industrial stormwater general permit that demonstrated compliance with the Chesapeake Bay TMDL loading rates.

Owners shall maintain documentation of their demonstration of compliance with the Chesapeake Bay TMDL loading rates with the SWPPP and shall continue implementing any BMPs that may have been developed as part of that demonstration.

Documentation may include:

a. Calculations submitted to the department indicating that reductions were not necessary;

b. A completed TMDL Action Plan, including a description of the means and methods, such as management practices and retrofit programs that were utilized to meet the required reductions;

c. Other means accepted by the department indicating compliance with the Chesapeake Bay TMDL loading rates.

2. Facilities that obtained coverage under the 2019 industrial stormwater general permit that did not demonstrate compliance with the Chesapeake Bay TMDL loading rates shall submit a demonstration to the department.

a. Owners of facilities that submitted a Chesapeake Bay TMDL action plan during the 2019 industrial stormwater general permit term that did not achieve reductions by the end of the 2019 permit term shall update and resubmit their action plan to the department for approval no later than 60 days following coverage under this general permit. Permittees shall achieve 10% of the remaining reductions by December 31, 2024, and all remaining reductions by December 31, 2025. An annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the interim and final reductions. A final report to demonstrate compliance shall be submitted to the department no later than January 10, 2026. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.

b. Owners of facilities that completed four samples for each outfall for TN and TP during the 2019 industrial stormwater general permit term that did not submit calculations by the end of the 2019 permit term shall utilize the procedures in Part V D to calculate their facility stormwater loads. The permittee shall submit a copy of the calculations, and a Chesapeake Bay TMDL action plan if required under Part V E, no later than 60 days following coverage under this general permit to the DEQ regional office serving the area where the industrial facility is located on a form provided by the department. Reductions, if applicable, shall be achieved by December 31, 2025, and an annual report shall be submitted to the department by June 30 of each year

describing the progress in meeting the required reductions until such time that the demonstration is completed. The demonstration shall be submitted to the department no later than January 10, 2026. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.

c. Owners of facilities registered prior to July 1, 2022, that did not complete four samples for each outfall for TN and TP by the end of the 2019 industrial stormwater general permit term shall monitor their discharges for TN and TP to characterize the contributions from their facility's specific industrial sector for these parameters. Total nitrogen is the sum of total Kjeldahl nitrogen (TKN) and nitrite + nitrate and shall be derived from the results of those tests. After the facility is granted coverage under the permit, samples shall be collected during each of the first four quarters of permit coverage. Samples shall be collected and analyzed in accordance with Part V B. Monitoring results shall be reported in accordance with Part V C and Part II C, and retained in accordance with Part II B. Calculations utilizing the procedures in Part V D, and a Chesapeake Bay TMDL action plan if required under Part V E, shall be submitted no later than 60 days following the completion of the fourth quarterly monitoring period to the DEQ regional office serving the area where the industrial facility is located on a form provided by the department. Reductions, if applicable, shall be achieved by December 31, 2025, and an annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the required reductions until such time that the demonstration is completed. The demonstration shall be submitted to the department no later than January 10, 2026. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.

Facilities may use the applicable sampling data collected during the 2019 industrial stormwater general permit term to satisfy all or part of the four monitoring periods requirement in accordance with Part V A 2 c.

d. Owners of facilities registered after June 30, 2022, that did not complete four samples for each outfall for TN and TP by the end of the 2019 industrial stormwater general permit term shall monitor their discharges in accordance with Part V A 3.

Facilities may use the applicable sampling data collected during the 2019 industrial stormwater general permit term to satisfy all or part of the four monitoring periods requirements in accordance with Part V A 3.

3. Facilities that obtain initial coverage under the 2024 industrial stormwater general permit, but are not newly constructed facilities as identified in 9VAC25-151-60 C 13.

Owners of facilities in the Chesapeake Bay watershed that obtain initial coverage under the 2024 industrial stormwater general permit shall monitor their discharges for TN and TP to characterize the contributions from their facility's specific industrial sector for these parameters. Total nitrogen is the sum of total Kjeldahl nitrogen (TKN) and nitrite + nitrate and shall be derived from the results of those tests. After the facility is granted coverage under the permit, samples shall be collected during each of the first four quarters of permit coverage. Samples shall be collected and analyzed in accordance with Part V B. Monitoring results shall be reported in accordance with Part V C and Part II C, and retained in accordance with Part II B. Calculations utilizing the procedures in Part V D and a Chesapeake Bay TMDL action plan if required under Part V E shall be submitted no later than 60 days following the completion of the fourth quarterly monitoring period to the DEQ regional office serving the area where the industrial facility is located on a form provided by the department. Reductions, if applicable, shall be achieved by two years following the end of the fourth quarterly

monitoring period, and an annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the required reductions until such time that the demonstration is completed. The demonstration shall be submitted to the department no later than the 10th of the month directly following the two year period. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.

B. Monitoring instructions.

1. Collection and analysis of samples. Sampling requirements shall be assessed on an outfall by outfall basis. Samples shall be collected and analyzed in accordance with the requirements of Part II A.

2. When and how to sample. A minimum of one grab sample shall be taken from the discharge associated with industrial activity resulting from a storm event that results in a discharge from the site providing the interval from the preceding storm event discharge is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring shall be performed at a time when a measurable discharge occurs at the site. For discharges from a stormwater management structure, the monitoring shall be performed at a time when a measurable discharge occurs from the structure.

The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of the discharge, provided that the permittee explains why a grab sample during the first 30 minutes was impracticable. This information shall be submitted in the department's electronic discharge monitoring report (e-DMR) system and maintained with the SWPPP. If the sampled discharge commingles with process or nonprocess water, the permittee shall attempt to sample the stormwater discharge before it mixes with the nonstormwater.

3. Storm event data. For each monitoring event, except snowmelt monitoring, along with the monitoring results, the permittee shall identify the date of the storm event sampled; rainfall total (in inches) of the storm event that generated the sampled runoff; and the interval between the storm event sampled and the end of the previous storm event discharge. For snowmelt monitoring, the permittee shall identify the date of the sampling event.

4. Monitoring periods. Quarterly monitoring shall be conducted in each of the following three-month periods: January through March, April through June, July through September, and October through December.

5. Documentation explaining a facility's inability to obtain a sample (including dates and times the outfalls were viewed or sampling was attempted), of no rain event, or of deviation from the 72-hour storm interval shall be submitted with the e-DMR and maintained with the SWPPP. Acceptable documentation includes National Climatic Data Center (NCDC) weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data.

6. Representative outfalls may be used in accordance with Part I A 2 f.

C. Reporting monitoring results.

1. Reporting to the department. The permittee shall follow the reporting requirements and deadlines in Table 400-1 if required by Part V A 2 or A 3:

Table 400-1

Monitoring Reporting Requirements	
Quarterly Chesapeake Bay TMDL Monitoring	Submit the results by January 10, April 10, July 10, and October 10

2. Permittees shall submit results for each outfall associated with industrial activity according to the requirements of Part II C.

3. Significant digits. The permittee shall report at least the same number of significant digits as a numeric effluent limitation or TMDL wasteload allocation for a given parameter; otherwise, at least two significant digits shall be reported for a given parameter. Regardless of the rounding convention used by the permittee (i.e., five always rounding up or to the nearest even number), the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

D. Calculation of facility loads.

Permittees required to collect nutrient and sediment data in accordance with Part V A 2 or A 3 shall analyze the data collected to determine if pollution reductions are required. The permittee shall average the data collected at the facility for each of the pollutants of concern (POC) (e.g., TP and TN) and compare the results to the loading rates for TP and TN presented in Part V A.

The following formula may be used to determine the loading rate:

$$L = 0.226 \times P \times P_j \times (0.05 + (0.9 \times I_a)) \times C$$

where:

L = the POC loading rate (lb/acre/year)

P = the annual rainfall (inches/year) - The permittee may use either actual annual average rainfall data for the facility location (in inches/year), the Virginia annual average rainfall of 44.3 inches/year, or another method approved by the department.

P_j = the fraction of annual events that produce runoff - The permittee shall use 0.9 unless the department approves another rate.

I_a = the impervious fraction of the facility impervious area of industrial activity to the facility industrial activity area.

C = the POC average concentration of all facility samples (mg/L) - Facilities with multiple outfalls shall calculate a weighted average concentration for each outfall using the drainage area of each outfall.

For total phosphorus, all daily concentration data below the quantitation level (QL) for the analytical method used shall be treated as half the QL. All daily concentration data equal to or above the QL for the analytical method used shall be treated as it is reported.

For total nitrogen, if none of the daily concentration data for the respective species (i.e., TKN, nitrate, or nitrite) are equal to or above the QL for the respective analytical methods used, the daily TN concentration value reported shall equal one half of the largest QL used for the respective species. If one of the data is equal to or above the QL, the daily TN concentration value shall be treated as that data point is reported. If more than one of the data is above the QL, the daily TN concentration value shall equal the sum of the data points as reported.

Calculations shall be submitted to the department within 60 days from the end of the last monitoring period that satisfies the monitoring requirements in Part V A 2 or A 3. Calculations shall be submitted to the DEQ regional office serving the area where the

1243 industrial facility is located, on a form provided by the department, and maintained with
1244 the facility's SWPPP.

1245 Alternative calculations may be accepted on a case by case basis by the department to
1246 accommodate facilities with outfalls that rarely discharge.

1247 E. Chesapeake Bay TMDL action plan requirements. For permittees required to submit
1248 calculations in accordance with Part V D, if the calculated facility loading rate for TP or TN is
1249 above the loading rates for TP or TN presented in Part V A, then the permittee shall develop and
1250 submit a Chesapeake Bay TMDL action plan to the department.

1251 The Chesapeake Bay TMDL action plan shall be submitted on a form provided by the
1252 department to the regional office serving the area where the industrial facility is located within 60
1253 days following the completion of the fourth quarterly monitoring period. A copy of the current
1254 Chesapeake Bay TMDL action plan and all facility loading rate calculations shall be maintained
1255 with the facility's SWPPP. The Chesapeake Bay TMDL action plan shall include:

1256 1. A determination of the total pollutant load reductions for TP and TN (as appropriate)
1257 necessary to reduce the annual loads from industrial activities. This shall be determined
1258 by multiplying the industrial average times the difference between the TMDL loading rates
1259 listed in Part V A and the actual facility loading rates calculated in accordance with Part V
1260 D. The reduction applies to the total difference calculated for each pollutant of concern;
1261 and

1262 2. The means and methods, such as management practices and retrofit programs that will
1263 be utilized to meet the required reductions determined in Part V E 1 and a schedule to
1264 achieve those reductions by the applicable deadline set in Part V A 2 or A 3. Pollutant
1265 reductions may be achieved using a combination of the following alternatives:

1266 a. Reductions provided by one or more of the BMPs ~~from found through~~ the Virginia
1267 Stormwater BMP Clearinghouse ~~listed in 9VAC25-875-590, approved BMPs found on~~
1268 ~~the Virginia Stormwater Clearinghouse website~~ ([http://www.deq.virginia.gov/our-](http://www.deq.virginia.gov/our-programs/water/stormwater/stormwater-construction/bmp-clearinghouse)
1269 [programs/water/stormwater/stormwater-construction/bmp-clearinghouse](http://www.deq.virginia.gov/our-programs/water/stormwater/stormwater-construction/bmp-clearinghouse)), or BMPs
1270 approved by the Chesapeake Bay Program. Any BMPs implemented to provide the
1271 required pollutant reductions shall be incorporated in the SWPPP and be permanently
1272 maintained by the permittee;

1273 b. Implementation of site-specific BMPs followed by a minimum of four stormwater
1274 samples collected in accordance with sampling requirements in Part V B that
1275 demonstrate pollutant loadings have been reduced below those calculated under Part
1276 V D. Any BMPs implemented to provide the required pollutant reductions shall be
1277 incorporated in the SWPPP and be permanently maintained by the permittee; or

1278 c. Acquisition of nonpoint source credits certified by the board as perpetual in
1279 accordance with § 62.1-44.19:20 of the Code of Virginia.



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Fast-Track Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC 25-151
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity
Action title	Amend and update the VPDES General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity to be consistent with recent amendments to the Virginia Erosion and Stormwater Management Regulation
Date this document prepared	July 30, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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.

The intent of this fast-track regulatory action is to amend and update the VPDES General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity (9VAC25-151, ISWGP) to be consistent with recent amendments to the Virginia Erosion and Stormwater Management Regulation (9VAC25-875, effective July 1, 2025).

The updates will improve clarity and certainty by making the ISWGP internally consistent with applicable requirements that were recently updated in the Virginia Erosion and Stormwater Management Regulation.

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.

BMP: Best management practice

DEQ (or Department): Department of Environmental Quality

ISWGP: VPDES General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity

ORM: Office of Regulatory Management

VAC: Virginia Administrative Code

VESM Regulation: Virginia Erosion and Stormwater Management Regulation, 9VAC25-875

VPDES: Virginia Pollutant Discharge Elimination System

VRRM: Virginia Runoff Reduction Method

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)]."

On August 20, 2025, the State Water Control Board:

1. Authorized DEQ to promulgate the proposed changes to the VPDES General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity (9VAC25-151) for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The Board's authorization constituted its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) DEQ does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

2. Authorized DEQ to set an effective date no earlier than 15 days after the close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) DEQ does not find it necessary to make any changes to the proposal.

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, 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."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

Section 62.1-44.15 (3a) of the Code of Virginia (effective July 1, 2024) requires the Board to establish such standards of quality and policies for any state waters consistent with the general policy set forth in the State Water Control Law; and subsection (5) requires the Board to issue, revoke, or amend certificates and land-disturbance approvals under prescribed conditions for (a) the discharge of sewage, stormwater, industrial wastes, and other wastes into or adjacent to state waters.

This rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because the amendments improve clarity and certainty for the regulated community and DEQ by making requirements in the ISWGP consistent with the recent amendments to the VESM Regulation. They also clarify water quality design criteria and sources for information about best management practices (BMPs).

The limited scope of this rulemaking benefits the regulated community, DEQ, and other stakeholders by updating the regulation and improving clarity in a timely manner.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Promulgating Entity

The promulgating entity for this regulation is the State Water Control Board.

State Requirements

Section 62.1-44.15 (3a) of the Code of Virginia (effective July 1, 2024) requires the Board to establish such standards of quality and policies for any state waters consistent with the general policy set forth in the State Water Control Law; and subsection (5) requires the Board to issue, revoke, or amend certificates and land-disturbance approvals under prescribed conditions for (a) the discharge of sewage, stormwater, industrial wastes, and other wastes into or adjacent to state waters.

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 is intended to solve.

The proposed regulatory action protects water quality in the Commonwealth of Virginia which is essential to the health, safety and welfare of Virginia's citizens and is needed in order to establish appropriate and necessary permitting requirements for discharges of stormwater. The goal of this regulatory action is to amend Chapter 151 to improve clarity and certainty by making the ISWGP consistent with recent changes to the VESM Regulation

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.

Technical corrections and changes to the ISWGP include:

- Update the total phosphorus load for new development from 0.41 pounds per acre per year to 0.26 pounds per acre per year to be consistent with 9VAC25-875-580. This amendment is in 9VAC25-151-60, 9VAC25-151-70, and 9VAC25-151-400.
- Specify the requirement to determine compliance with water quality standards by citing to the VESM Regulation in 9VAC25-151-60 and 9VAC25-151-70.
- Specify that information about BMPs design specifications and pollutant removal efficiencies is available through the Virginia Stormwater BMP Clearinghouse and provide a web address for the Clearinghouse. This amendment is in 9VAC25-151-60, 9VAC25-151-70, and 9VAC25-151-400.

Collectively, these amendments will provide clarity and improve understanding of the regulation.

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.

1. Public: There are no direct impacts on the public as the amendments update existing regulatory requirements, so they reflect current requirements in the State Water Control Law and VESM Regulation, clarify requirements, and improve understanding of the regulation, which in turn contributes to the efficient and effective functioning of government. There are no disadvantages to the public.

2. DEQ: The amendments update existing regulatory requirements and will allow DEQ and owners of facilities that have a stormwater discharge associated with industrial activity from that facility's primary industrial activity to utilize regulations that reflect current requirements in the State Water Control Law and VESM Regulation, and improve the understanding of the regulation, which in turn contributes to the efficient and effective functioning of government. This is an advantage. There are no disadvantages to the agency or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements and therefore no requirements that exceed federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations.

“Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

There is no state agency which will bear any identified disproportionate material water quality impact due to the proposal which would not be experienced by other state agencies.

Localities Particularly Affected

There is no locality which will bear any identified disproportionate material water quality impact due to the proposal which would not be experienced by other localities.

Other Entities Particularly Affected

There is no entity which will bear any identified disproportionate material water quality impact due to the proposal which would not be experienced by other entities.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail. b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	The regulatory change will not result in any cost to DEQ.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	The regulatory change will not result in any cost to any state agency.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The direct benefit to state agencies of updating the ISWGP to be consistent with recent changes in the VESM Regulation is to improve clarity of requirements and save time for the regulated community, improve understanding of regulatory requirements, and result in better compliance.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	No impacts to any locality are anticipated.
Benefits the regulatory change is designed to produce.	ORM Economic Impact form, Table 2

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	ORM Economic Impact form, Tables 1a, 3 and 4
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	ORM Economic Impact form, Tables 1a, 3 and 4
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	ORM Economic Impact form, Tables 1a, 3 and 4
Benefits the regulatory change is designed to produce.	Updating regulations will allow owners of facilities that have a stormwater discharge associated with industrial activity from that facility's primary industrial activity to perform better for a lower cost in many cases; promoting the efficient and effective functioning of government.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the

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

There are no practical alternatives. Leaving technical errors in the ISWGP (i.e., outdated references to applicable requirements in the VESM Regulation and sources of information about BMPs) will likely cause misunderstanding, confusion, and inconsistent application of regulatory requirements for DEQ and the owners of facilities that have a stormwater discharge associated with industrial activity from that facility's primary industrial activity.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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.

There are no alternatives to this regulatory action other than continuing to operate with the existing language with no updates.

This regulatory change is very limited in scope to include technical changes for consistency with related state regulations and/or to provide clarify and certainty. This action does not change the substantive requirements for owners and operators to obtain permit coverage and maintain compliance with requirements to control stormwater runoff from industrial activities. In addition, it does not change the technical requirements, such determining compliance with water quality criteria that protect public health and the environment.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

DEQ is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Joseph Bryan, Virginia Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia 23218, or joseph.bryan@deg.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. 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. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-151-60 C 13 a		a. That the total phosphorus load does not exceed the greater of (i) the total phosphorus load that was discharged from the industrial area of the property before the land was developed for the new industrial activity or (ii) 0.41 pounds per acre per year (water quality design criteria, 9VAC25-875-580). The documentation must include the measures and controls that were employed to meet this requirement, along with the supporting calculations. The owner may include additional nonindustrial land	Updated the total phosphorus load for new development from 0.41 pounds per acre per year to 0.26 pounds per acre per year to be consistent with 9VAC25-875-580. Specified the requirement to determine compliance with water quality standards by citing to the VESM Regulation. Specified that information about BMPs design specifications and pollutant removal efficiencies is available through the Virginia Stormwater BMP Clearinghouse. These are technical corrections to make the requirements in the ISWGP

		on the site as part of any plan to comply with the no net increase requirement. Consistent with the definition of "site," this includes adjacent land used in connection with the facility. Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another equivalent methodology approved by the department. Design specifications and pollutant removal efficiencies for specific BMPs can be found on the Virginia Stormwater BMP Clearinghouse website, or	consistent with the recent amendments to the VESM Regulation. They also clarify water quality design criteria and sources for information about best management practices (BMPs).
9VAC25-151-70 Part I B 9 b		b. The permittee may use the water quality design criteria, 9VAC25-875-580, to meet the requirements of Part I B 10 a. Under this criteria, the total phosphorus load shall not exceed the greater of (i) the total phosphorus load that was discharged from the expanded portion of the land before the land being developed for the industrial activity or (ii) 0.41 pounds per acre per year. Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another equivalent methodology approved by the department. Design specifications and pollutant removal efficiencies for specific BMPs can be found on the Virginia Stormwater BMP Clearinghouse website.	Updated the total phosphorus load for new development from 0.41 pounds per acre per year to 0.26 pounds per acre per year to be consistent with 9VAC25-875-580. Specified the requirement to determine compliance with water quality standards by citing to the VESM Regulation. Specified that information about BMPs design specifications and pollutant removal efficiencies is available through the Virginia Stormwater BMP Clearinghouse These are technical corrections to make the requirements in the ISWGP consistent with the recent amendments to the VESM Regulation. They also clarify water quality design criteria and sources for information about best management practices (BMPs).

9VAC25-151-400 E 2 a		a. Reductions provided by one or more of the BMPs from the Virginia Stormwater BMP Clearinghouse listed in 9VAC25-875-590, approved BMPs found on the Virginia Stormwater Clearinghouse website, or BMPs approved by the Chesapeake Bay Program. Any BMPs implemented to provide the required pollutant reductions shall be incorporated in the SWPPP and be permanently maintained by the permittee;	Specified that pollutant reductions may be achieved by one or more BMPs available through the Virginia Stormwater BMP Clearinghouse. This clarifies water quality design criteria and sources for information about best management practices (BMPs).
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Office of Regulatory Management

Economic Review Form

Agency name	Department of Environmental Quality (“Department”)
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-151
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity
Action title	Amend and update the VPDES Industrial Stormwater General Permit Regulation to correct technical errors
Date this document prepared	July 8, 2025
Regulatory Stage (including Issuance of Guidance Documents)	Fast-Track Regulation

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2.

Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	<u>Background</u> The proposed regulatory action protects water quality in the Commonwealth of Virginia which is essential to the health, safety and welfare of Virginia’s citizens and is needed in order to establish appropriate and necessary permitting requirements for discharges of stormwater. The goal of this regulatory action is to amend Chapter 151 to improve clarity and certainty by making the VPDES General Permit
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	Regulation for Discharges of Stormwater Associated with Industrial Activities (ISWGP) consistent with recent changes to the Virginia Erosion and Stormwater Management Regulation (VESM Regulation, 9VAC25-875, effective July 1, 2025). Direct & Indirect Costs: The amendments to the ISWGP will make it consistent with recent amendments to the VESM Regulation (9VAC25-875, effective July 1, 2025). They will improve clarity and certainty for members of the regulated community and the Department by making the ISWGP internally consistent with applicable requirements in the VESM Regulation. Since the amendments are to be consistent with other regulations that are currently effective there are no new direct or indirect costs associated with the proposed changes. Direct Benefits: The technical corrections ensure the ISWGP Regulation is consistent with state law and internally consistent to provide clarity and certainty to stakeholders and the localities that implement erosion and stormwater management or erosion and sediment control programs. This regulatory action makes the regulation easier to understand and implement, as well as providing certainty to stakeholders. The Department is unable to quantify these benefits because they do not make any substantive changes to the regulation or its requirements. Indirect Benefits: Improving clarity of requirements saves time for localities and the regulated community and improves understanding of regulatory requirements. Better understanding and compliance protects state waters, water quality, habitat, and recreational use.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) No monetized direct or indirect costs associated with these regulatory changes.	(b) The Department is unable to quantify these benefits.
(3) Net Monetized Benefit	Unknown (see discussion above).	
(4) Other Costs & Benefits (Non-Monetized)	Unknown (see discussion above).	
(5) Information Sources		

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: The “status quo” option would be to continue to use language that is inconsistent with other existing regulations of the Board. No direct costs will be occurred by the Department. Indirect Costs: The primary indirect costs with the “status quo” are the additional operator, consultant, Department, and local authority staff time to resolve inconsistencies between the ISWGP and VESM Regulation. The Department is unable to quantify these costs. Direct Benefits: There are no benefits to maintaining incorrect information and requirements in the regulation. Indirect Benefits: There are not any indirect benefits to maintaining the status quo.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Unable to monetize indirect costs associated with the status quo.	(b) Unable to monetize direct and indirect benefits.
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	N/A	

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	The Department is not aware of any alternatives to this regulatory change. The regulatory change is very limited in scope to include technical corrections for consistency with other effective regulations of the Board.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	N/A	N/A

(3) Net Monetized Benefit	N/A
(4) Other Costs & Benefits (Non-Monetized)	N/A
(5) Information Sources	N/A

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: There are no direct costs to local partners because this action does not change the existing responsibilities of the regulated communities or local governments. The amendments improve clarity and certainty for the regulated community and the Department by making the requirements in the ISWGP consistent with the recent amendments to the VESM Regulation. They also clarify water quality design criteria and sources for information about best management practices (BMPs). Indirect Costs: There are no known indirect costs associated with the proposed changes. Direct Benefits: The direct benefit to local partners is reduced confusion, which will result in less staff time in reviewing, inspecting, and working through issues before and during inspections. Indirect Benefits: The indirect benefits associated with this change are that the ISWGP is being updated in a timely manner and the requirements are being revised for consistency with other existing Board regulations.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Unable to monetize direct and indirect costs.	(b) Unable to monetize direct and indirect benefits.
(3) Other Costs & Benefits (Non-Monetized)	N/A	

(4) Assistance	N/A
(5) Information Sources	N/A

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: There are no direct costs that impact families associated with the proposed changes. Indirect Costs: There are no indirect costs that impact families associated with the proposed changes. Direct Benefits: There are no direct benefits that impact families associated with the proposed changes. Indirect Benefits: There are no indirect benefits that impact families associated with the proposed changes.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Information Sources	N/A	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	Small businesses would have the same impact as described in Table 1a above. The Department is unable to identify the number of small businesses that would benefit from this regulatory change.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) No monetized direct or indirect costs associated with the regulatory changes.	(b) Unable to monetize direct and indirect benefits.
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Alternatives	N/A	
(5) Information Sources	N/A	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC25-151-60	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	5	0	0	0
	(D/R):	0	0	0	0
9VAC25-151-70	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	120	0	0	0
	(D/R):	0	0	0	0
9VAC25-151-400	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	16	0	0	0
	(D/R):	0	0	0	0
					(M/A): 0
					(D/A): 0

	Grand Total of Changes in Requirements:	(M/R): 0
		(D/R): 0

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
N/A			

FACT SHEET
REISSUANCE OF A GENERAL VPDES PERMIT
FOR INDUSTRIAL ACTIVITY STORMWATER DISCHARGES

The Virginia State Water Control Board has under consideration the reissuance of a general VPDES permit for point source discharges of stormwater associated with industrial activity to surface waters.

Permit Number: VAR05

Name of Permittee: Any owner in the Commonwealth of Virginia agreeing to be regulated under the terms of this general permit.

Facility Location: Commonwealth of Virginia

Receiving Waters: Surface waters within the boundaries of the Commonwealth of Virginia, except waters specifically named in Board regulations or policies which prohibit such discharges.

On the basis of preliminary review and application of lawful standards and regulations, the State Water Control Board proposes to reissue the general permit subject to certain conditions and has prepared a draft permit. The category of discharges to be included involves stormwater discharges from subcategories of industrial facilities with the same or similar types of operations, and discharging the same or similar types of wastes. The Board has determined that this category of discharges is appropriately controlled under a general permit. The draft general permit requires that all covered facilities within a particular subcategory meet standardized permit conditions and monitoring requirements, and provides dates for submitting monitoring data. This permit will maintain the water quality standards adopted by the Board. This general permit will replace the general permit VAR05 which expires on June 30, 2024. Owners covered under the expiring general permit who wish to continue to discharge under a general permit must register for coverage under the new permit.

All pertinent information is on file and may be inspected, and arrangements made for copying by contacting:

Joseph Bryan
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, Virginia 23218
TEL: (804) 659-2659
joseph.bryan@deq.virginia.gov

Administrative

The general permit will have a fixed term of five (5) years effective, upon Board approval, July 1, 2024. Every authorization to discharge under this general permit will expire at the same time and all authorizations to discharge will be renewed on the same date. Discharges will be covered under the general permit upon approval of the Registration Statement and delivery of a copy of the general permit to the applicant.

This general permit does not apply to any new or increased discharge that will result in significant effects to the receiving waters. That determination is made in accordance with the State Water Control Board's Anti-degradation Policy contained in the Virginia Water Quality Standards, 9VAC25-260-30. Anti-backsliding will also be considered prior to granting coverage under this general permit to operations currently discharging stormwater under another VPDES permit.

If a discharge appears to qualify for this general permit, the operator must submit a general permit Registration Statement to apply for general permit coverage. The Department will either send a copy of the general permit to those applicants that qualify or send a copy of the VPDES individual permit application to those that do not qualify.

Activities Covered Under This General Permit

This permit covers point source discharges of stormwater associated with industrial activity to surface waters of the Commonwealth, including discharges through municipal or non-municipal separate storm sewer systems. This permit also covers stormwater discharges designated by the Board for permitting under the provisions of 9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.

To be eligible to discharge under the permit, an owner must (1) have a stormwater discharge associated with industrial activity from the facility's primary industrial activity, provided the primary industrial activity is included in Table 1 below, or (2) be notified that the stormwater discharges from the facility have been designated by the Board for permitting.

TABLE 1: SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT.

SIC Code or Activity Code	Activity Represented
Sector A: Timber Products	
2411	Log Storage and Handling (wet deck storage areas are only authorized if no chemical additives are used in the spray water or applied to the logs).
2421	General Sawmills and Planning Mills.
2426	Hardwood Dimension and Flooring Mills.
2429	Special Product Sawmills, Not Elsewhere Classified.
2431-2439 (except 2434 - see Sector W)	Millwork, Veneer, Plywood, and Structural Wood.
2441, 2448, 2449	Wood Containers.
2451, 2452	Wood Buildings and Mobile Homes.
2491	Wood Preserving.
2493	Reconstituted Wood Products.
2499	Wood Products, Not Elsewhere Classified (includes SIC Code 24991303 - Wood, Mulch and Bark facilities).
Sector B: Paper and Allied Products	
2631	Paperboard Mills.
Sector C: Chemical and Allied Products	
2812-2819	Industrial Inorganic Chemicals.
2821-2824	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Synthetic Fibers except Glass.

2841-2844	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
2873-2879	Agricultural Chemicals (includes SIC Code 2875 - Composting facilities).
Sector D: Asphalt Paving and Roofing Materials and Lubricants	
2951, 2952	Asphalt Paving and Roofing Materials.
2992, 2999	Miscellaneous Products of Petroleum and Coal.
Sector E: Glass Clay, Cement, Concrete, and Gypsum Products	
3251-3259	Structural Clay Products.
3261-3269	Pottery and Related Products.
3274, 3275	Concrete, Gypsum and Plaster Products, except: Concrete Block and Brick; Concrete Products, except Block and Brick; and Ready-Mixed Concrete Facilities (SIC 3271-3273) (Concrete Block and Brick; Concrete Products, except Block and Brick; and Ready-Mixed Concrete Facilities (SIC 3271-3273) are covered under the Concrete Products General Permit (VAG11)).
Sector F: Primary Metals	
3312-3317	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
3321-3325	Iron and Steel Foundries.
3351-3357	Rolling, Drawing, and Extruding of Nonferrous Metals.
3363-3369	Nonferrous Foundries (Castings).
Sector G: Metal Mining (Ore Mining and Dressing)	
1011	Iron Ores.
1021	Copper Ores.
1031	Lead and Zinc Ores.
1041, 1044	Gold and Silver Ores.
1061	Ferroalloy Ores, Except Vanadium.
1081	Metal Mining Services.
1094, 1099	Miscellaneous Metal Ores.
Sector H: Coal Mines and Coal Mining Related Facilities	
1221-1241	Coal Mines and Coal Mining-Related Facilities.
(Sector J: Mineral Mining and Dressing Facilities (SIC 1411-1499) are not authorized under this permit – see the Non-Metallic Mineral Mining General Permit (VAG84) for permit coverage.)	
Sector K: Hazardous Waste Treatment, Storage, or Disposal Facilities	
HZ	Hazardous Waste Treatment Storage or Disposal.
Sector L: Landfills and Land Application Sites	
LF	Landfills, Land Application Sites, and Open Dumps.
Sector M: Automobile Salvage Yards	
5015	Automobile Salvage Yards.
Sector N: Scrap Recycling Facilities	

5093	Scrap Recycling Facilities.
4499 (limited to list)	Dismantling Ships, Marine Salvaging, and Marine Wrecking - Ships for Scrap
Sector O: Steam Electric Generating Facilities	
SE	Steam Electric Generating Facilities.
Sector Q: Water Transportation and Ship and Boat Building or Repairing Yards	
4412-4499 (except 4499 facilities as specified in Sector N)	Water Transportation.
3731, 3732	Ship and Boat Building or Repairing Yards.
Sector U: Food and Kindred Products	
2021-2026	Dairy Products.
2041-2048	Grain Mill Products.
2074-2079	Fats and Oils.
Sector Y: Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries.	
3011	Tires and Inner Tubes.
3021	Rubber and Plastics Footwear.
3052, 3053	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
3061, 3069	Fabricated Rubber Products, Not Elsewhere Classified.
Sector AA: Fabricated Metal Products	
3411–3471, 3482-3499	Fabricated Metal Products, except Machinery and Transportation Equipment.
3479	Fabricated Metal Coating and Engraving
3911–3915	Jewelry, Silverware, and Plated Ware
Sector AB: Transportation Equipment, Industrial or Commercial Machinery	
3511-3599 (except 3571-3579)	Industrial and Commercial Machinery (except Computer and Office Equipment).
Sector AD: Non-classified Facilities/Stormwater Discharges Designated by the Department as Requiring Permits	
N/A	Stormwater Discharges Designated by the Department for Permitting under the Provisions of 9VAC25-31-120 A 1 c, or Under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation. Facilities may not elect to be covered under Sector AD. Only the department may assign a facility to Sector AD.
Sector AE: Facilities with No Analytical Benchmark Monitoring Requirements	
2611	Pulp Mills.
2621	Paper Mills.
2652-2657	Paperboard Containers and Boxes.

2671-2679	Converted Paper and Paperboard Products, except Containers and Boxes.
2833-2836	Medicinal Chemicals and Botanical Products; Pharmaceutical Preparations; In Vitro and In Vivo Diagnostic Substances; Biological Products, except Diagnostic Substances.
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
2861-2869	Industrial Organic Chemicals.
2891-2899	Miscellaneous Chemical Products.
3952 (limited to list)	Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's Paints and Artist's Watercolors.
3211	Flat Glass.
3221, 3229	Glass and Glassware, Pressed or Blown.
3231	Glass Products Made of Purchased Glass.
3241	Hydraulic Cement.
3281	Cut Stone and Stone Products
3291-3299	Abrasive, Asbestos, and Miscellaneous Non-Metallic Mineral Products.
3331-3339	Primary Smelting and Refining of Nonferrous Metals.
3398, 3399	Miscellaneous Primary Metal Products.
3341	Secondary Smelting and Refining of Nonferrous Metals.
1311	Crude Petroleum and Natural Gas.
1321	Natural Gas Liquids.
1381-1389	Oil and Gas Field Services.
2911	Petroleum Refineries.
4512-4581	Air Transportation Facilities.
TW	Treatment Works.
2011-2015	Meat Products.
2032-2038	Canned, Frozen and Preserved Fruits, Vegetables and Food Specialties.
2051-2053	Bakery Products.
2061-2068	Sugar and Confectionery Products.
2082-2087	Beverages.
2091-2099	Miscellaneous Food Preparations and Kindred Products.
2111-2141	Tobacco Products.
2211-2299	Textile Mill Products.
2311-2399	Apparel and Other Finished Products Made from Fabrics and Similar Materials.
3131-3199	Leather and Leather Products, except Leather Tanning and Finishing.
2434	Wood Kitchen Cabinets.
2511-2599	Furniture and Fixtures.
2711-2796	Printing, Publishing, and Allied Industries.
3081-3089	Miscellaneous Plastics Products.
3931	Musical Instruments.
3942-3949	Dolls, Toys, Games and Sporting and Athletic Goods.
3951-3955 (except 3952)	Pens, Pencils, and Other Artists' Materials.

3961, 3965	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal.
3991-3999	Miscellaneous Manufacturing Industries.
3111	Leather Tanning, Currying and Finishing.
3711-3799 (except 3731, 3732 - see Sector Q)	Transportation Equipment (except Ship and Boat Building and Repairing).
3571-3579	Computer and Office Equipment.
3612-3699	Electronic and Other Electrical Equipment and Components, except Computer Equipment.
3812-3873	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks.
Sector AF: Facilities Limited to Total Suspended Solids Benchmark Monitoring Requirements	
4011, 4013	Railroad Transportation.
4111-4173	Local and Highway Passenger Transportation.
4212-4231	Motor Freight Transportation and Warehousing.
4311	United States Postal Service.
5171	Petroleum Bulk Stations and Terminals.

Owners/operators of facilities currently covered under the 2019 Industrial Stormwater General Permit (ISWGP) who wish to continue coverage under this general permit must submit a new Registration Statement to the Department.

This permit covers stormwater discharges from a wide variety of industrial activities. Because the conditions which affect the presence of pollutants in stormwater discharges vary among industries, the permit contains both general SWPPP requirements that apply to all facilities, and industry-specific sections (sector specific requirements) that describe any additional SWPPP requirements, applicable numeric effluent limitation requirements, and any benchmark monitoring requirements for that industrial sector.

The volume and quality of stormwater discharges associated with industrial activity will depend on a number of factors, including the industrial activities occurring at the facility, the nature of precipitation, and the degree of surface imperviousness. Pollutants in stormwater discharges from industrial plants may be reduced using the following methods: eliminating pollution sources, implementing Best Management Practices (BMPs) to prevent pollution, using traditional stormwater management practices, and providing end-of-pipe treatment.

This VPDES general permit follows the basic framework of the U.S. EPA Multi-Sector General Permit (MSGP). The reader is referred to the most recent 2021 MSGP and Fact Sheet for details on the profiles of the various industrial sectors, reviews of pollutants found in stormwater, selection of analytical monitoring parameters, estimated costs for pollution prevention measures, and stormwater pollution control options for each industry type (<https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp>).

In the case where a facility has multiple industrial activities occurring on-site which are described by any of the subsectors in the general permit, those industrial activities are considered co-located industrial activities. Stormwater discharges from co-located industrial activities are authorized by this permit, provided that the permittee complies with any and all additional pollution prevention plan and monitoring requirements applicable to the co-located industrial activity. Permittees are required to determine which additional pollution prevention plan and monitoring requirements are applicable to the co-located industrial activity by examining the narrative descriptions of each sector specific coverage section of the permit (Discharges Covered Under This Section).

Limitations on Coverage

Because of the broad scope of this permit, most industrial activities regulated under the VPDES stormwater program are eligible to be covered under the permit. There are, however, several types of stormwater discharges which are not covered under this permit. Discharges into a waterbody where a discharge is prohibited by another regulation of the State Water Control Board are not authorized by this general permit. If an owner has been required to obtain an individual VPDES permit for their stormwater discharges pursuant to 9VAC25-31-170 B 3 (VPDES Permit Regulation), they are not authorized for coverage under this permit. Discharges from VPDES permitted construction activities are also not eligible for coverage under this permit.

Other discharges of stormwater that are not authorized under the general permit are:

1. Discharges that are not within the industrial sectors identified in Table 1 (unless they are designated by the Department for coverage under sector AD).
2. Discharges that violate or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30.
3. Discharges that are not consistent with the assumptions and requirements of an approved TMDL.
4. Discharges subject to stormwater effluent limitation guidelines not described in the permit.

Stormwater discharges from non-metallic mineral mining facilities (SIC Major Group 14), and concrete block and brick, concrete products (except block and brick), and ready-mixed concrete facilities (SIC codes 3271-3273) are not covered by this permit. Facilities in these SIC categories should seek coverage under separate VPDES general permits (VAG84 and VAG11) developed specifically for these industries.

Authorized non-stormwater discharges. The following non-stormwater discharges are authorized by this permit:

1. Discharges from emergency firefighting activities or firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia.
2. Fire hydrant flushing, managed in a manner to avoid an instream impact.
3. Potable water, including water line flushing, managed in a manner to avoid an instream impact.
4. Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids.
5. Irrigation drainage.
6. Landscape watering provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling.
7. Routine external building washdown provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and wash water is filtered, settled, or similarly treated prior to discharge.
8. Pavement wash waters provided no soaps, solvents, detergents or hazardous cleaning products are used, no spills or leaks of toxic or hazardous materials have occurred (unless all spilled or leaked material is removed prior to washing), and the wash water is filtered, settled, or similarly treated prior to discharge;
9. Uncontaminated groundwater or spring water.
10. Foundation or footing drains where flows are not contaminated with process materials.
11. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

All other non-stormwater discharges are not authorized and shall either be eliminated or covered under a separate VPDES permit.

Summary of Substantive Changes from the 2019 Industrial Stormwater General Permit

This general permit replaces the 2019 ISWGP which was issued for a five-year term on July 1, 2019. Following is a list of substantive changes included in the permit as compared to the 2019 permit:

Part I - Effluent Limitations, Monitoring Requirements and Special Conditions

- Quarterly visual monitoring: Removed requirement to sign documentation in accordance with Part II K given that visual monitoring documentation is not submitted to the department.
- Benchmark Monitoring: Sector-specific benchmark monitoring parameters listed in Table 70-1 were updated in accordance with EPA's 2021 MSGP, the Virginia Water Quality Standards (WQS), and the recommendations of the technical advisory committee (TAC).
- Effluent Limitation Guidelines: Table 70-2 (Stormwater-Specific Effluent Limitation Guidelines) was updated to clarify that facilities subject to 40 CFR Part 449 (discharges from primary airport deicing operations) may be covered under Sector AD of this permit.
- Facilities discharging to an impaired water with an approved TMDL wasteload allocation: Added language to allow sampling data collected during the 2019 permit term to be used to satisfy all or part of any monitoring required by this section. Added language requiring facilities exceeding the TMDL wasteload allocation to prepare and submit a pollutant minimization plan (PMP) upon notification from the department. The contents of a PMP are included in the new language.
- Facilities discharging to an impaired water without an approved TMDL wasteload allocation: Clarified that monitoring in accordance with this section is to be completed at least once every six months unless another sampling frequency is determined by the department for polychlorinated biphenyls (PCBs). PCB monitoring is expensive, so a reduced frequency (e.g., annual) may be more appropriate for initial impaired water monitoring.
- Monitoring Instructions: Replaced references to "measurable storm event" with "storm event discharge". Revised section to remove the requirement to report the duration (in hours) of storm events sampled. The language now requires the permittee to identify the date of the storm events sampled, total rainfall (in inches), and the interval between the storm event sampled and the end of the previous storm event discharge. Added requirement to submit documentation via e-DMR explaining a facility's inability to obtain a sample, of no rain event, or deviations from the 72-hour storm interval.
- Corrective actions: Section consolidated to remove repetition. Added requirement that exceedance reports submitted to the department must be signed in accordance with Part II K.
- Authorized nonstormwater discharges: Added firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia. Clarified that routine external building washdown must be managed in a manner to avoid instream impact.
- Chesapeake Bay TMDL conditions: The entirety of the Chesapeake Bay TMDL conditions are moved to Part V (see below).

Part II - Conditions Applicable to All VPDES Permits

- Reports of noncompliance: Updated link to the online Pollution Response Preparedness (PRoP) portal. Clarified that the online portal shall be used for reports outside of normal working hours.

Part III - Stormwater Pollution Prevention Plan

- Stormwater controls: Added airport deicing operations condition to clarify that deicing operations are covered under this permit and to provide some control measure options for consideration. The new condition is based on language previously used for Sector S.

Part IV – Sector Specific Permit Requirements

- Benchmark Monitoring: Sector-specific benchmark monitoring parameters were updated in accordance with EPA's 2021 MSGP and the Virginia Water Quality Standards (WQS).

Part V – Chesapeake Bay Total Maximum Daily Load Compliance

- Total Suspended Solids: The reduction requirements for TSS under the Chesapeake Bay TMDL Compliance section have been removed. This is in accordance with Virginia's Final Phase III Watershed Implementation Plan (WIP) based on the recommendations of the 2019 Chesapeake Bay Program Principals' Staff Committee, discussed later in this fact sheet. Nutrient (nitrogen and phosphorus) reduction requirements remain in place and BMPs installed for the purposes of meeting these requirements will continue to provide sediment reductions. Further, TSS benchmarks and numeric effluent limitations are included on a sector-specific basis under Part IV of this permit.
- Chesapeake Bay TMDL Compliance: Requirements are now separated into three distinct categories depending on the status of a facility's demonstration of compliance:
 1. Facilities that obtained coverage under the 2019 general permit that demonstrated compliance with the Chesapeake Bay TMDL loading rates.
 - a. Documentation of the demonstration of compliance is to be maintained with the stormwater pollution prevention plan (SWPPP) and permittees are to continue to implement any BMPs developed as part of the demonstration.
 2. Facilities that obtained coverage under the 2019 general permit that did not demonstrate compliance with the Chesapeake Bay TMDL loading rates.
 - a. If the required sampling was not completed under the 2019 permit, additional samples are to be collected during the first four quarters of permit coverage.
 - b. If stormwater load calculations and a Chesapeake Bay TMDL action plan (if required) were not submitted under the 2019 permit, they are to be submitted no later than 60 days following permit coverage (if sampling was already completed) or 60 days following the completion of the fourth sample collected during the first four quarters of permit coverage.
 - c. Reductions, if applicable, are to be achieved by December 31, 2025, and documentation that the reductions have been achieved is to be submitted to the department no later than February 1, 2026. Documentation of compliance with the Chesapeake Bay TMDL loading rates is to be maintained with the SWPPP.

Facilities registered under the 2019 industrial stormwater general permit after June 30, 2022, are treated the same as those that obtain initial coverage under the 2024 permit for the purposes of this section.

 3. Facilities that obtain initial coverage under the 2024 general permit (but are not newly constructed facilities).
 - a. Samples are to be collected during the first four quarters of permit coverage. Stormwater load calculations and a Chesapeake Bay TMDL action plan (if required) are to be submitted no later than 60 days following the completion of the fourth sample. Reductions, if applicable, are to be achieved two years following the end of the fourth quarterly monitoring period and documentation that the reductions have been achieved shall be submitted to the department no later than the 10th of the month directly following the two year period. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.
 - Reporting Monitoring Results: The Chesapeake Bay TMDL monitoring frequency is changed from semi-annual to quarterly in order to help facilitate meeting the December 31, 2025 deadline of the Chesapeake Bay TMDL.
 - Calculation of facility loads: Added language allowing for the proposal of alternative stormwater load calculations on a case-by-case basis to address facilities with outfalls that rarely discharge.

Part I.A - Permit Effluent Limitations and Monitoring Requirements

1. Discharge Monitoring Requirements. The permit contains four general types of monitoring requirements: (a) quarterly visual monitoring; (b) benchmark monitoring for specific industrial activities; (c) compliance monitoring for facilities subject to numerical effluent limitations, and (d) impaired waters monitoring, both for those with and without an approved TMDL. These are minimum monitoring requirements and if a permittee so chooses, additional sampling may be conducted to acquire more data to improve the statistical validity of the results. Through increased analytical or visual monitoring the permittee may be able to better ascertain the effectiveness of their SWPPP.

- a. Quarterly visual examination of stormwater quality.

Applicability: All facilities

Frequency: Quarterly each year of general permit coverage (January-March, April-June, July-September, October-December)

Due Date: By the end of the applicable quarter (March 31, June 30, September 30, and December 31)

Where to Submit: Report is kept with facility's SWPPP (not submitted to DEQ)

Facilities covered under this permit are required to conduct a quarterly visual examination of stormwater discharges associated with industrial activity from each outfall, except discharges exempted under the representative discharge provision. These visual examinations will assist with the evaluation of the SWPPP, and provides a simple, low cost means of assessing the quality of stormwater discharge with immediate feedback. The visual examination of stormwater outfalls must include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, other obvious indicators of stormwater pollution, and identification of probable sources of any observed stormwater contamination.

No analytical tests are required to be performed on these visual examination samples.

The visual examination of the sample must be made in well lit areas during normal working hours, where practicable, and when considerations for safety and feasibility allow. The visual examination is not required if there is insufficient rainfall or snow-melt to runoff, or if hazardous conditions prevent sampling during the monitoring period. Grab samples for the examination shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 3 hours) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the stormwater discharge, and probable sources of any observed stormwater contamination. The visual examination reports must be maintained on site with the SWPPP.

- b. Benchmark monitoring requirements.

Applicability: All facilities except those covered under Sector AE (see Table 2). Sector AE does not require benchmark monitoring.

Frequency: Every six months each year of general permit coverage (January-June and July-December). The semi-annual monitoring frequency, used since the original 2004 general permit, remains sufficient given the specific monitoring requirements (within 30 minutes of storm event, 72-hours since the last storm event) which are supported by quarterly visual monitoring and site inspections.

Due Date: July 10 for the January-June period and January 10 for the July-December period

Where to Submit: Submit results electronically through the eDMR system

Certain industrial sectors are required to conduct monitoring of their stormwater discharges associated with industrial activity for pollutants of concern. In some cases, the monitoring is applicable only to a subsector rather than the entire industrial sector. Benchmark monitoring requirements involve laboratory chemical analyses of samples collected by the permittee. Table 2 lists the industrial sectors, or subsectors, required to perform benchmark monitoring and the associated parameters.

TABLE 2. BENCHMARK MONITORING REQUIREMENTS.

Industry Sector ¹	SIC Code or Activity Code	Benchmark Monitoring Parameters
A	2421	TSS.
	2491	Arsenic, Chromium, Copper.
	2411	TSS.
	2426	TSS.
	2499 (24991303)	COD, TSS.
	2499 (Mulch Dyeing)	BOD, TSS, COD, Aluminum, Arsenic, Cadmium, Chromium, Copper, Selenium, Silver, Zinc, Total N, Total P.
B	2631	BOD.
C	2812-2819	Aluminum, Total N.
	2821-2824	Zinc.
	2841-2844	Total N, Zinc.
	2873-2879	Total N, Zinc, Total P.
	2875 (Composting Facilities)	TSS, BOD, COD, Ammonia, Total N, Total P.
D	2951, 2952	TSS.
E	3251-3259, 3261-3269	Aluminum.
	3274, 3275	TSS, pH.
F	3312-3317	Aluminum, Zinc.
	3321-3325	Aluminum, TSS, Copper, Zinc.
	3351-3357	Copper, Zinc.
	3363-3369	Copper, Zinc.
G ²	1021	TSS
H	1221-1241	TSS, Aluminum.
K	HZ (Hazardous Waste Treatment, Storage, or Disposal)	TKN, TSS, TOC, Arsenic, Cadmium, Cyanide, Lead, Mercury, Selenium, Silver.
L	LF (Landfills, Land Application Sites, and Open Dumps)	TSS.
M	5015	TSS, Aluminum, Lead.
N	5093	Aluminum, Cadmium, Chromium, Copper, Lead, Zinc, TSS.
	4499	Aluminum, Cadmium, Chromium, Copper, Lead, Zinc, TSS.
O	SE (Steam Electric Generating Facilities)	Facilities in Sector O are not subject to benchmark requirements.
Q	4412-4499 (except 4499 facilities as specified in Sector N)	TSS, Copper, Zinc.
	3731, 3732	TSS, Copper, Zinc.
U	2021-2026	BOD, TSS.
	2041-2048	TSS, TKN.

	2074-2079	BOD, Total N, TSS.
Y	3011-3069	Zinc.
AA	3411-3471, 3482-3499, 3911-3915	Aluminum, Copper, Zinc.
	3479	Zinc.
AB	3511-3599 (except 3571-3579)	TSS, TPH, Copper, Zinc.
AD	Nonclassified Facilities/Stormwater Discharges Designated By the Department As Requiring Permits	As determined by the director.
AE	2611, 2621, 2652-2657, 2671-2679, 2833-2836, 2851, 2861 2869, 2891 2899, 39523211, 3221, 3229, 3231, 3241, 3281, 3291 3299, 3331 3339, 3398, 3399, 3341, 1311, 1321, 1381 1389, 2911, 4512-4581, (TW) Treatment Works, 2011 2015, 2032 2038, 2051 2053, 2061 2068, 2082-2087, 2091 2099, 2111 2141, 2211 2299, 2311 2399, 3131 3199, 2434, 2511 2599, 2711 2796, 3081 3089, 3931, 3942 3949, 3951 3955 (except 3952), 3961, 3965, 3991 3999, 3111, 3711 3799 (except 3731, 3732 see Sector Q), 3571 3579, 3612 3699, 3812 3873	Facilities in Sector AE are not subject to benchmark monitoring requirements.
AF	4011, 4013, 4111 4173, 4212 4231, 4311, 5171	TSS.

¹ Table does not include parameters for compliance monitoring under effluent limitations guidelines.

² See Sector G (Part IV G) for additional monitoring discharges from waste rock and overburden piles from active ore mining or dressing facilities, inactive ore mining or dressing facilities, and sites undergoing reclamation.

Industries may reduce the level of pollutants in stormwater runoff from their sites through the development and proper implementation of a SWPPP. Benchmark monitoring is a means by which to measure the concentration of a pollutant in a stormwater discharge. Because these pollutants have been reported at or above benchmark levels, DEQ is requiring monitoring after the SWPPP has been implemented to assess the effectiveness of the SWPPP and to help ensure that a reduction of pollutants is realized. Analytical results are quantitative and therefore can be used to compare results from discharge to discharge and to quantify the improvement in stormwater quality attributable to the SWPPP, or to identify a pollutant that is not being successfully controlled by the plan. The results of the benchmark monitoring are not intended to be used to evaluate actual or potential exceedances of instream water quality criteria.

Development of Benchmark Values

To determine the industry sectors and subsectors that would be subject to benchmark monitoring requirements contained in the general permit, DEQ initially relied primarily upon the fact sheet prepared for the 1995 EPA MSGP and, in the years following, has continued to evaluate benchmarks in accordance with updates to the EPA MSGP, as deemed appropriate.

In developing the 1995 MSGP, EPA reviewed the data submitted in accordance with the 1990 group stormwater permit application process. EPA established benchmark concentrations for the pollutant parameters on which monitoring results had been received. EPA continued those benchmark requirements for their 2000 MSGP, but for the 2008 MSGP, EPA undertook an analysis of the monitoring requirements of the 2000 MSGP that included: how effective existing controls on these discharges have been based on the history of discharge monitoring data; Toxics Release Inventory (TRI) data; and results and conclusions from the University of California Los Angeles Final Report, *Industrial Stormwater Monitoring Program Existing Statewide Permit Utility and Proposed Modifications*. One of the primary purposes of these analyses was to determine if elimination of, or modification or addition to, benchmark monitoring requirements was warranted. This information helped EPA identify potential pollutants that may be present in the stormwater discharges.

The resulting benchmarks are the pollutant concentrations above which EPA views as levels of concern. The level of concern is a concentration at which a stormwater discharge could potentially impair or contribute to impairing water quality or affect human health from ingestion of water or fish. The benchmarks are also viewed by EPA as a level below which there is little potential for water quality concern.

The benchmark concentrations are not effluent limitations and should not be interpreted as such. These values are merely levels which EPA and DEQ have used to determine if a stormwater discharge from any given facility merits further monitoring to ensure that the facility has been successful in implementing a SWPPP. As such, these levels represent a target concentration for a facility to achieve through implementation of pollution prevention measures at the facility.

The reader is referred to the fact sheets of each iteration of the EPA MSGP and previous fact sheets of this general permit for more information on the periodic reevaluation of benchmarks. Changes for the 2024 general permit are discussed following Table 3 below.

Table 3 lists the parameter benchmark values and sources for the 2024 general permit. These values are based on an evaluation of the EPA fact sheets for the 1995, 2000, 2008, 2015 and 2021 MSGPs, the sector-specific analytical monitoring requirements, and the most recent Virginia WQS.

TABLE 3. PARAMETER BENCHMARK VALUES

Parameter Name	Benchmark Level	Source(s)
Aluminum, Total (pH 6.5-9)	1.10 mg/L	14
Ammonia	2.14 mg/L	12
Antimony, Total	0.64 mg/L	4
Arsenic, Total (c)	0.150 mg/L	2, 12
Beryllium, Total (c)	0.13 mg/L	3
Biochemical Oxygen Demand (5 day)	30 mg/L	5
Cadmium, Total (H)	0.0018 mg/L	1, 12
Chromium, Total	0.016 mg/L	12
Chemical Oxygen Demand	120 mg/L	6
Copper, Total (H)	0.013 mg/L	12
Cyanide	0.022 mg/L	1, 12
Lead, Total (H)	0.082 mg/L	2
Mercury, Total	0.0014 mg/L	1
Nickel, Total (H)	0.47 mg/L	1
pH	6.0-9.0 SU	5
Selenium, Total (*)	0.005 mg/L	12
Silver, Total (H)	0.0032 mg/L	1
Total Kjeldahl Nitrogen (added by DEQ)	1.5 mg/L	8
Total Nitrogen (added by DEQ)	2.2 mg/L	8
Total Organic Carbon (added by DEQ)	110 mg/L	11
Total Phosphorus	2.0 mg/L	7, 13
Total Petroleum Hydrocarbons (added by DEQ)	15 mg/L	10
Total Suspended Solids	100 mg/L	8
Turbidity	50 NTU	9

Zinc, Total (H)	0.120 mg/L	12
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Sources:

1. EPA Recommended Ambient Water Quality Criteria (acute, or low observed effect level (LOEL))
2. EPA Recommended Ambient Water Quality Criteria (chronic)
3. EPA Recommended Ambient Water Quality Criteria (Beryllium)
4. EPA Recommended Ambient Water Quality Criteria (Human Health)
5. Secondary Treatment Regulations (40 CFR 133)
6. North Carolina WQS - Factor of 4 times BOD5 concentration
7. North Carolina WQS - stormwater benchmark
8. National Urban Runoff Program (NURP) median concentration
9. Combination of Stormwater Effects Handbook (Burton and Pitt, 2001), Idaho WQS, and DMR data review
10. Discharge limitations and compliance data
11. Stormwater Effluent Limitation Guidelines (40 CFR Part 419) - Median Concentration
12. Virginia Water Quality Standards
13. Virginia policy for Nutrient Enriched Waters, 9VAC25-40-10 et seq
14. Industrial Stormwater Technical Memo for aluminum and copper criteria percentiles (EPA, 2019)

Notes:

- (*) Limit established for oil and gas exploration and production facilities only.
(c) carcinogen
(H) hardness dependent

Assumptions:

- Receiving water temperature - 20 C
Receiving water pH - 7.8
Receiving water hardness CaCO₃ - 100 mg/L
Receiving water salinity - 20 g/kg
Acute to Chronic Ratio (ACR) - 10

There were several benchmark changes for the 2024 general permit in accordance with the recommendations of the Technical Advisory Committee, as noted below.

- Aluminum: Updated to match the 2021 MSGP benchmark (1.10 mg/L). There is no Virginia WQS for aluminum.
- Arsenic: Updated to match the 2021 MSGP benchmark, which matches the chronic criteria in the current Virginia WQS (0.150 mg/L).
- Cadmium: Updated to match the 2021 MSGP benchmark, which matches the acute criteria in the current Virginia WQS (0.0018 mg/L).
- Copper: EPA's copper benchmark (0.00519 mg/L) in the 2021 MSGP is based on the biotic ligand model. This model was not adopted by Virginia for copper in the 2022 rulemaking (Triennial Review) of the WQS. Thus, the copper benchmark was updated to match the current acute criteria in the Virginia WQS (0.013 mg/L).
- Iron: Removed. EPA removed iron as a benchmark in the 2021 MSGP due to lack of acute toxicity. There is no acute criteria for iron in the Virginia WQS.
- Lead: Updated to match the 2021 MSGP benchmark (0.082 mg/L), which is slightly lower than the acute criteria in the current Virginia WQS (0.094 mg/L).
- Magnesium: Removed. EPA removed magnesium as a benchmark in the 2021 MSGP due to lack of acute toxicity. There is no Virginia WQS for magnesium.
- Silver: Updated to match the 2021 MSGP benchmark (0.0032 mg/L), which is slightly lower than the acute criteria in the current Virginia WQS (0.0034 mg/L).

To reiterate, benchmark concentrations are not effluent limitations and should not be interpreted as such. These values are merely levels to determine if a stormwater discharge from any given facility merits further monitoring to ensure that the facility has been successful in implementing a SWPPP. As such, these levels represent a target concentration for a facility to achieve through implementation of pollution prevention measures at the facility.

c. Compliance Monitoring for Facilities Subject to Numeric Effluent Limitations.

Applicability: Facility-specific (see Table 4)

Frequency: Every six months each year of general permit coverage (January-June and July-December)

Due Date: July 10 for the January-June period and January 10 for the July-December period

Where to Submit: Submit results electronically through eDMR system

Two types of effluent limitation compliance monitoring have been identified in the permit: (1) facilities subject to stormwater effluent limitation guidelines; and (2) coal pile runoff monitoring.

- (1) Facilities Subject to Stormwater Effluent Limitation Guidelines. Compliance monitoring requirements are imposed under this permit to ensure that discharges subject to numerical effluent limitations under the stormwater effluent limitations guidelines are in compliance with those limitations. Eight types of stormwater discharges subject to effluent limitation guidelines may be covered under this general permit. These discharges include contaminated stormwater runoff from timber products facilities, phosphate fertilizer manufacturing facilities, runoff associated with asphalt paving or roofing emulsion production, runoff from material storage piles at cement manufacturing facilities, contaminated runoff from hazardous waste landfills, contaminated runoff from municipal solid waste landfills, coal pile runoff at steam electric generating facilities, and airport deicing at primary airports (if covered under Sector AD). Effluent limitations are listed in the Sector-Specific Permit Requirements section of the permit (Part IV). These limitations are required under the VPDES permit regulation, 9VAC25-31-220 A, and EPA's stormwater effluent limitation guidelines in the Code of Federal Regulations at 40 CFR Part 429, Part 418, Part 443, Part 411, Part 445 Subparts A and B, Part 449, and Part 423. The effluent limitations for the eight discharge categories are listed in Table 4.

TABLE 4. NUMERIC EFFLUENT LIMITATIONS

Industrial Sector	Parameter	Effluent Limitation
Sector A - Timber Products. Wet Decking Discharges at Log Storage and Handling Areas (40 CFR Part 429 Subpart I) (SIC 2411).	pH	6.0 - 9.0 s.u.
	Debris, woody material (e.g., bark, twigs, branches, heartwood, or sapwood)	No discharge of debris that will not pass through a 2.54 cm (1") diameter round opening.
Sector C - Chemical and Allied Products Manufacturing. Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category (40 CFR 418.10) (SIC 2874).	Total Phosphorus (as P)	105 mg/L, Daily Maximum 35 mg/L, 30-day Average
	Fluoride	75 mg/L, Daily Maximum 25 mg/L, 30-day Average
Sector D - Asphalt Paving and Roofing Materials. Discharges from areas where production of asphalt paving and roofing emulsions occurs (40 CFR Part 443 Subpart A) (SIC 2951, 2952).	Total Suspended Solids (TSS)	23 mg/L, Daily Maximum 15 mg/L, 30-day Average
	Oil and Grease	15 mg/L, Daily Maximum 10 mg/L, 30-day Average
	pH	6.0 - 9.0 s.u.

Sector E - Glass, Clay, Cement, Concrete and Gypsum Products. Cement Manufacturing Facility, Material Storage Run-off (40 CFR Part 411 Subpart C).	Total Suspended Solids (TSS)	50 mg/L, Daily Maximum
	pH	6.0 - 9.0 s.u.
Sector K - Hazardous Waste TSD Facilities. Hazardous Waste Treatment, Storage, or Disposal Facilities (Industrial Activity Code "HZ") Subject to the Provisions of 40 CFR Part 445 Subpart A.	Biochemical Oxygen Demand (BOD ₅)	220 mg/L, Daily Maximum 56 mg/L, 30-day Average
	Total Suspended Solids (TSS)	88 mg/L, Daily Maximum 27 mg/L, 30-day Average
	Ammonia	10, Daily Maximum mg/L 4.9 mg/L, 30-day Average
	Alpha Terpineol	0.042, Daily Maximum mg/L 0.019 mg/L, 30-day Average
	Aniline	0.024, Daily Maximum mg/L 0.015 mg/L, 30-day Average
	Benzoic Acid	0.119, Daily Maximum mg/L 0.073 mg/L, 30-day Average
	Naphthalene	0.059, Daily Maximum mg/L 0.022 mg/L, 30-day Average
	p-Cresol	0.024, Daily Maximum 0.015 mg/L, 30-day Average
	Phenol	0.048, Daily Maximum mg/L 0.029 mg/L, 30-day Average
	Pyridine	0.072, Daily Maximum mg/L 0.025 mg/L, 30-day Average
	Arsenic (Total)	1.1, Daily Maximum mg/L 0.54 mg/L, 30-day Average
	Chromium (Total)	1.1, Daily Maximum mg/L 0.46 mg/L, 30-day Average
	Zinc (Total)	0.535, Daily Maximum mg/L 0.296 mg/L, 30-day Average

	pH	Within the range of 6.0 - 9.0 s.u.
Sector L – Landfills. Landfills (Industrial Activity Code "LF") Which Are Subject to the Requirements of 40 CFR Part 445 Subpart B.	Biochemical Oxygen Demand (BOD ₅)	140 mg/L, Daily Maximum 37 mg/L, 30-day Average
	Total Suspended Solids (TSS)	88 mg/L, Daily Maximum 27 mg/L, 30-day Average
	Ammonia	10, Daily Maximum mg/L 4.9 mg/L, 30-day Average
	Alpha Terpineol	0.033, Daily Maximum mg/L 0.016 mg/L, 30-day Average
	Benzoic Acid	0.12, Daily Maximum mg/L 0.071 mg/L, 30-day Average
	p-Cresol	0.025, Daily Maximum mg/L 0.014 mg/L, 30-day Average
	Phenol	0.026, Daily Maximum mg/L 0.015 mg/L, 30-day Average
	Zinc (Total)	0.20, Daily Maximum mg/L 0.11 mg/L, 30-day Average
	pH	Within the range of 6.0 - 9.0 s.u.
Sector O – Steam Electric. Coal pile runoff at steam electric generating facilities (40 CFR Part 423).	Total Suspended Solids (TSS)	50 mg/l, max
	pH	6.0 - 9.0 min. and max.
Sector AD (As needed for primary airports). Discharges from deicing operations at primary airports, (40 CFR Part 449)	Airfield Pavement Deicing, Ammonia as Nitrogen	14.7 mg/L, Daily Maximum
	Aircraft Deicing (NSPS), Chemical Oxygen Demand (COD)	271 mg/L, Daily Maximum 154 mg/L, Weekly Average

- (2) Coal Pile Runoff Monitoring. This permit establishes effluent limitations of 50 mg/L total suspended solids and a pH range of 6.0-9.0 for coal pile runoff. Any untreated overflow from facilities designed, constructed, and operated to treat the volume of coal pile runoff associated with a 10-year, 24-hour rainfall event (maximum design criteria, 9VAC25-875 et seq.) is not subject

to the 50 mg/L limitation for total suspended solids. The permit extends these effluent limitations to all industrial operations that discharge coal pile runoff, where the coal pile runoff can be defined as a stormwater discharge associated with industrial activity (i.e., at a plant in one of the industrial sectors listed in Table 1). DEQ has adopted these technology-based pH limitations in this general permit in accordance with setting limits on a case-by-case basis as allowed under 9VAC25-31-220 A. These case-by-case limits are derived by transferring the known achievable technology from an effluent guideline to a similar type of discharge. When developing these technology-based limitations, variables such as rainfall pH, sizes of coal piles, pollutant characteristics, and runoff volume were considered. Therefore, these variables need not be considered again. As discussed above, these pH limitations are technology-based and are not based on water quality. Facilities must comply with these limitations upon submittal of the registration statement. Facilities with treatment works for coal pile runoff are expected to meet the limitations.

d. Impaired Waters Monitoring, For Both Facilities With and Without an Approved TMDL.

Applicability: If notified by DEQ

Frequency: Every six months each year of general permit coverage (January-June and July-December)

Due Date: July 10 for the January-June period and January 10 for the July-December period

Where to Submit: Submit results electronically through eDMR system

Two types of impaired waters monitoring have been identified in the permit: (1) facilities discharging to impaired waters with an approved TMDL wasteload allocation; and (2) facilities discharging to impaired waters without an approved TMDL wasteload allocation.

- (1) Facilities Discharging to Impaired Waters with an Approved TMDL Wasteload Allocation. Monitoring requirements for facilities subject to TMDL wasteload allocations are included in permit to ensure that discharges are in compliance with those allocations. DEQ will notify facilities in writing that they are subject to a TMDL wasteload allocation and that they are required to monitor their discharges for the pollutant of concern to evaluate compliance with the TMDL allocation. Monitoring must be performed at least semiannually (twice per year), and the monitoring periods are January through June, and July through December, unless another sampling frequency is determined by the department for polychlorinated biphenyls (PCBs). Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit.

If the pollutant subject to the TMDL wasteload allocation is below the quantitation level in all of the samples from the first four monitoring periods, the permittee may request to the Department in writing that further sampling be discontinued, unless the TMDL has specific instructions to the contrary (in which case those instructions shall be followed). The laboratory certificate of analysis shall be submitted with the request. If approved, documentation of this shall be kept with the SWPPP.

If the pollutant subject to the TMDL wasteload allocation is above the quantitation level in any of the samples from the first four monitoring periods, the permittee must continue the scheduled TMDL monitoring throughout the term of the permit.

Upon written notification from the department, facilities exceeding the TMDL wasteload allocation shall prepare and submit a pollutant minimization plan (PMP) designed to investigate the location and potential reduction of sources in the facility's stormwater discharges. The PMP shall be developed and submitted to the department for approval within 180 days of the receipt of notification from the department.

The PMP shall include the following items, as appropriate:

- (a) Facility contact for the contents of the PMP and any activities associated with the PMP;
- (b) A proposed implementation schedule for minimization activities and prospective milestones;
- (c) Proposed actions for known or probable sources;

- (d) Proposed action to find and control unknown sources;
- (e) A summary of any previous minimization activities; and,
- (f) Information on continuing assessment of progress, which may include establishment of criteria to evaluate whether the location and potential reduction of sources have been addressed.

Chesapeake Bay TMDL requirements can be found in the final section of this fact sheet.

- (2) Facilities Discharging to Impaired Waters without an Approved TMDL Wasteload Allocation. Monitoring requirements for facilities discharging to impaired waters without an approved TMDL wasteload allocation are included in this permit to ensure that the facility is not causing or contributing to the water quality impairment. DEQ will notify facilities in writing that they are subject to the impaired waters monitoring, and that they are required to monitor their discharges for the pollutants that are causing the impairment. Monitoring must be performed at least semiannually (twice per year), and the monitoring periods are January through June, and July through December, unless another sampling frequency is determined by the department for polychlorinated biphenyls (PCBs). Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit.

If the pollutant for which the waterbody is impaired is suspended solids, turbidity or sediment/sedimentation, the permittee must monitor for Total Suspended Solids (TSS). If the pollutant for which the waterbody is impaired is expressed in the form of an indicator or surrogate pollutant, the permittee must monitor for that indicator or surrogate pollutant. No monitoring is required when a waterbody's biological communities are impaired but no pollutant, including indicator or surrogate pollutants, is specified as causing the impairment, or when a waterbody's impairment is related to hydrologic modifications, impaired hydrology, or temperature.

If the pollutant for which the water is impaired is below the quantitation level in the discharges from the facility, or it is above the quantitation level but its presence is caused solely by natural background sources, the permittee may request to the Board that the impaired water monitoring be discontinued. To support a determination that the pollutant's presence is caused solely by natural background sources, the permittee must submit the following documentation with the request and keep a copy with the SWPPP: (i) an explanation of why the permittee believed that the presence of the impairment pollutant in the facility's discharge is not related to the activities at the facility; and (ii) data or studies that tie the presence of the impairment pollutant in the facility's discharge to natural background sources in the watershed. Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity at the facility's site, or pollutants in run-on from neighboring sources which are not naturally occurring.

e. Monitoring Requirements:

- (1) Collection and analysis of samples. Sampling requirements are to be assessed on an outfall-by-outfall basis and are to be collected and analyzed in accordance with the requirements of Part II A (Monitoring, Conditions Applicable to All VPDES Permits).
- (2) When and how to sample. A minimum of one grab sample is to be taken from each discharge associated with industrial activity resulting from a storm event that produces a discharge from the site, providing the interval from the preceding storm event discharge is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring is to be performed at a time when a measurable discharge occurs at the site. For discharges from a stormwater management structure, the monitoring shall be performed at a time when a measurable discharge occurs from the structure.

The grab sample is to be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of the discharge, provided that the permittee explains why a grab sample during the first 30 minutes was impracticable. This information is to be submitted with the e-DMR and maintained with the SWPPP. If the sampled discharge commingles with process or nonprocess water, the

permittee must attempt to sample the stormwater discharge before it mixes with the nonstormwater.

- (3) Storm Event Data. For each monitoring event (except snowmelt monitoring), along with the monitoring results, the permittee must identify the date of the storm event sampled; rainfall total (in inches) of the storm event that generated the sampled runoff; and the interval between the storm event sampled and the end of the previous storm event discharge. For snowmelt monitoring, the permittee must identify the date of the sampling event.
- (4) Monitoring periods. As noted in the sections above, visual monitoring is quarterly (Jan-Mar, Apr-Jun, July-Nov, Oct-Dec) while benchmark, effluent limitation, and impaired waters monitoring is semi-annual (Jan-June and July-Dec).

Chesapeake Bay TMDL sampling is quarterly and is discussed later in this fact sheet.

f. Monitoring Waivers, Inactive and Unstaffed Sites, Representative Outfalls, Record Keeping:

- (1) Monitoring Waivers: The general permit allows permittees to request a waiver of the benchmark monitoring requirements under certain circumstances. Permittees may request a waiver of the benchmark monitoring requirements on a outfall-by-outfall basis if they can demonstrate that the average of the samples at the outfall for four consecutive monitoring periods are all below the pollutant-specific benchmark concentration values. If so, then monitoring during the remaining permit monitoring periods may be waived. The waiver is conditional on the facility maintaining industrial operations and best management practices that will ensure a quality of stormwater discharges consistent with the average concentrations recorded during the earlier monitoring period. The waiver request must be submitted to the Department, along with the supporting monitoring data, and a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which the sampling waiver is requested. Waiver requests are evaluated by the Department based upon: (i) benchmark monitoring results below the benchmark concentration values; (ii) a favorable compliance history (including inspection results); and (iii) no outstanding enforcement actions. The monitoring waiver may be revoked by the Department for just cause. The permittee will be notified in writing that the monitoring waiver is revoked, and that the benchmark monitoring requirements are again in force and will remain in effect until the permit's expiration date.

Permittees may take a substitute sample during the next qualifying storm event if adverse weather conditions make it unsafe or impossible to collect the sample.

- (2) Inactive and unstaffed sites (including temporarily inactive sites). A waiver of the quarterly visual assessments, routine facility inspections, and monitoring requirements (including benchmark, effluent limitation, and impaired waters monitoring) may be granted by the Department at a facility that is both inactive and unstaffed, as long as the facility remains inactive and unstaffed and there are no industrial materials or activities exposed to stormwater. The owner is only required to conduct an annual comprehensive site inspection. An inactive and unstaffed sites waiver request has to be submitted to the Department for approval. If circumstances change and industrial materials or activities become exposed to stormwater, or the facility becomes either active or staffed, the permittee has to notify the Department within 30 days, and all quarterly visual assessments, routine facility inspections, and monitoring requirements must resume immediately.

Inactive and unstaffed facilities covered under Sector G (Metal Mining) and Sector H (Coal Mines and Coal Mining-Related Facilities) are not required to meet the "no industrial materials or activities exposed to stormwater" standard to be eligible for this waiver, consistent with the conditional exemption requirements established in Part IV Sector G and Part IV Sector H of the permit.

- (3) Representative Outfalls - Substantially Identical Discharges. If a facility has two or more outfalls that discharge substantially identical effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, and stormwater management practices occurring within the drainage areas of the outfalls, the permittee may conduct monitoring on the effluent of just one of the outfalls and report that the observations also apply to the substantially identical outfall or outfalls. The substantially identical outfall monitoring provisions apply to quarterly visual monitoring, benchmark monitoring, and impaired waters monitoring (both those with and without

an approved TMDL). The substantially identical outfall monitoring provisions are not available for numeric effluent limits monitoring.

The permittee has to include the following information in the SWPPP:

- (a) The locations of the outfalls;
 - (b) Why the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data where available; and
 - (c) Estimates of the size of the drainage area (in square feet) for each of the outfalls.
- (4) Record Keeping: This permit requires permittees to retain all permit related records for a minimum of 3 years from the date that coverage under this permit expires or is terminated.

g. Corrective Actions and Follow-up Reporting

- (1) Corrective Actions. A corrective action requirement is included in the permit for actions the permittee must take in the event of the following:

- (a) Routine facility inspections, inspections by local, state or federal officials, or any other process, observation or event result in a determination that modifications to the stormwater control measures are necessary to meet the permit requirements; or
- (b) There is any exceedance of an effluent limitation (including coal pile runoff), TMDL wasteload allocation, or a reduction required by a local ordinance established by a municipality to meet Chesapeake Bay TMDL requirements; or
- (c) The department determines, or the permittee becomes aware, that the stormwater control measures are not stringent enough for the discharge to meet applicable water quality standards; or
- (d) Benchmark monitoring results exceed the benchmark concentration value for a parameter.

The permittee is required to review the SWPPP and modify it as necessary to address any deficiencies. Revisions to the SWPPP are to be completed within 60 days following the discovery of a deficiency. When control measures need to be modified or added (distinct from regular preventive maintenance of existing control measures described in Part III C), implementation is to be completed before the next anticipated storm event if possible, but no later than 60 days after the deficiency is discovered, or as otherwise provided or approved by the department. In cases where construction is necessary to implement control measures, the permittee is required to include a schedule in the SWPPP that provides for the completion of the control measures as expeditiously as practicable, but no later than three years after the deficiency is discovered. Where a construction compliance schedule is included in the SWPPP, the SWPPP will be modified to include appropriate nonstructural and temporary controls to be implemented in the affected portion of the facility before completion of the permanent control measure.

Any corrective actions taken are to be documented and retained with the SWPPP. Any control measure modifications are to be dated and document the amount of time taken to modify the applicable control measures or implement additional control measures.

- (2) Natural background pollutant levels. If the concentration of a pollutant exceeds a benchmark concentration value, and the permittee determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background, corrective action is not required provided that:

- (a) The concentration of the benchmark monitoring result is less than or equal to the concentration of that pollutant in the natural background;
- (b) The permittee documents and maintains with the SWPPP the supporting rationale for concluding that benchmark exceedances are in fact attributable solely to natural background pollutant levels. The supporting rationale shall include any data previously collected by the facility or others (including literature studies) that describe the levels of natural background pollutants in the facility's stormwater discharges; and

- (c) The permittee notifies the department on the benchmark monitoring DMR that the benchmark exceedances are attributable solely to natural background pollutant levels.

Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity on the facility's site, or pollutants in run-on from neighboring sources that are not naturally occurring.

- (3) Follow-up Reporting. If at any time monitoring results show that discharges from the facility exceed an effluent limitation or a TMDL wasteload allocation, or that discharges from the facility are causing or contributing to an exceedance of a water quality standard, the permittee must take immediate steps to eliminate the exceedances. For this permit reissuance, an Exceedance Report must be submitted to the Department within 30 calendar days of implementing the relevant corrective actions. The report must include the following:
- (a) General permit registration number;
 - (b) Facility name and address;
 - (c) Receiving water for each outfall exceeding an effluent limitation of TMDL wasteload allocation;
 - (d) Monitoring data from the event being reported;
 - (e) A narrative description of the situation;
 - (f) A description of actions taken since the event was discovered and steps taken to minimize to the extent feasible pollutants in the discharge; and
 - (g) A local facility contact name, email address, and phone number.

Part I.B – Permit Special Conditions

1. Authorized Nonstormwater Discharges. This general permit does not authorize non-stormwater discharges that are mixed with stormwater except as provided below. The only non-stormwater discharges that are intended to be authorized under this permit include:
- a. Discharges from emergency firefighting activities or firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia;
 - b. Fire hydrant flushings, managed in a manner to avoid an instream impact;
 - c. Potable water, including water line flushings, managed in a manner to avoid an instream impact;
 - d. Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
 - e. Irrigation drainage;
 - f. Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling;
 - g. Routine external building washdown provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge;
 - h. Pavement wash waters provided no soaps, solvents, detergents or hazardous cleaning products are used, no spills or leaks of toxic or hazardous materials have occurred (unless all spilled or leaked material is removed prior to washing), and the wash water is filtered, settled, or similarly treated prior to discharge;
 - i. Uncontaminated groundwater or spring water;
 - j. Foundation or footing drains where flows are not contaminated with process materials; and
 - k. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

This permit does not require pollution prevention measures to be identified and implemented for non-stormwater flows from fire-fighting activities because these flows will generally be unplanned emergency situations where it is necessary to take immediate action to protect the public.

Where a stormwater discharge is mixed with non-stormwater that is not authorized by this general permit or another VPDES permit, the discharger should submit the appropriate application forms (Forms 1, 2C, and/or 2E) to obtain separate VPDES permit coverage of the non-stormwater portion of the discharge.

2. Releases of Hazardous Substances or Oil. The permit prohibits discharges of oil and-hazardous substances from spills. The discharge of hazardous substances or oil from a facility must be eliminated or minimized in accordance with the SWPPP developed for the facility. If there is a discharge of a material in excess of a reportable quantity established under 40 CFR Parts 110, 117, or 302 the permittee must make a report to DEQ within 24 hours. The permittee must also notify the MS4 operator if the release enters an MS4. The pollution prevention plan for the facility must be reviewed and revised as necessary to prevent a reoccurrence of the spill. This does not relieve the permittee from any reporting to federal or state authorities required under 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 or § 62.1-44.34:19 of the Code of Virginia.

3. Co-located Industrial Activity. Where more than one regulated industrial activity occurs at the site, the permittee is required to implement the industry specific monitoring and pollution prevention requirements for all applicable industrial categories. Co-located industrial activities occur when activities being conducted onsite meet more than one of the industrial sector descriptions in the permit (e.g., a landfill at a wood treatment facility or a vehicle maintenance garage at an asphalt batching plant). Determination of which co-located activities require action is the responsibility of the permittee.

Authorizing co-located discharges allows industrial facilities to develop pollution prevention plans that fully address all industrial activities at the site. For example, if a wood treatment facility has a landfill, the pollution prevention plan requirements for the wood treatment facility will differ greatly from those needed for the landfill. Therefore, by authorizing co-located industrial activities, the wood treatment facility will develop a pollution prevention plan to meet the requirements addressing the stormwater discharges from the wood treatment facility and the landfill. The facility is also subject to applicable monitoring requirements for each type of industrial activity as described in the applicable sections of the permit. By monitoring the discharges from the different industrial activities, the facility can better determine the effectiveness of the pollution prevention plan requirements for controlling stormwater discharges from all activities.

4. Combined Discharges. The stormwater discharges regulated by the permit may be combined with unregulated stormwater provided that the combined effluent meets the requirements of the general permit.
5. Floating Solids or Visible Foam. The permit prohibits discharges of waste, garbage, or floating debris in other than trace amounts.
6. Responsibility to Comply With Any Other Applicable Federal, State, or Local Statute, Ordinance, or Regulation. Approval for coverage under this general permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation. This condition comes from the regulation section (9VAC25-151-50 E) but is included in the general permit section for emphasis.
7. Discharges to Waters Subject to TMDL Wasteload Allocations. The permit requires facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved by EPA prior to the term of this permit to incorporate measures and controls into the SWPPP that are consistent with the assumptions and requirements of the TMDL. DEQ will provide notification to the owner in writing that the facility is subject to the TMDL requirements. The facility's SWPPP needs to specifically address any conditions or requirements included in the TMDL that are applicable to discharges from the facility. If there is a specific numeric wasteload allocation established in the TMDL that applies to discharges from the facility, the owner has to perform any required monitoring in accordance with the permit requirements and implement BMPs designed to meet that allocation.

Discussion of discharges subject to the Chesapeake Bay TMDL are found later in this fact sheet.

8. Discharges through a regulated MS4 to waters subject to the Chesapeake Bay TMDL. In addition to the requirements of this permit, any facility with industrial activity discharges through a regulated MS4 that is notified by the MS4 operator that the locality has adopted ordinances to meet the Chesapeake Bay TMDL must incorporate measures and controls into their SWPPP to comply with applicable local TMDL ordinance requirements.

9. Expansion of facilities that discharge to waters subject to the Chesapeake Bay TMDL. Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010), states that the wasteloads from any expansion of an existing permitted facility discharging stormwater in the Chesapeake Bay watershed cannot exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the expanded industrial activity.

For any industrial activity area expansions (i.e., construction activities, including clearing, grading and excavation activities) that commence on or after July 1, 2024 (the effective date of this permit), the permittee has to document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded land area prior to the land being developed, and the measures and controls that were employed to meet the no net increase of stormwater nutrient and sediment load as a result of the expansion of the industrial activity. Any land disturbance that is exempt from permitting under the Virginia Erosion and Stormwater Management Act (§ 62.1-44.15:34 F of the Code of Virginia) is exempt from this requirement.

The permittee may use the VSMP water quality design criteria to meet the above requirements. Under this criteria, the total phosphorus load can't exceed the greater of: (i) the total phosphorus load that was discharged from the expanded portion of the land prior to the land being developed for the industrial activity or (ii) 0.26 pounds per acre per year. Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another equivalent methodology approved by the department. Design specifications and pollutant removal efficiencies for specific BMPs can be found through the [Virginia Stormwater BMP Clearinghouse](#).

The permittee may consider utilization of any pollutant trading or offset program in accordance with §§ 62.1-44.19:20 through 62.1-44.19:23 of the Code of Virginia, governing trading and offsetting, to meet the no net increase requirement.

10. Water Quality Protection. The permit requires that discharges authorized by the permit be controlled as necessary to meet applicable water quality standards. The department expects that compliance with the conditions in this permit will control discharges as necessary to meet applicable water quality standards. If there is evidence indicating that the stormwater discharges authorized by the permit are causing, have the reasonable potential to cause, or are contributing to an excursion above an applicable water quality standard, an excursion above a TMDL wasteload allocation, or are causing downstream pollution (as defined in § 62.1-44.3 of the Code of Virginia), the department may require the permittee to take corrective action in accordance with the permit, and include and implement appropriate controls in the SWPPP to correct the problem, or may require the permittee to obtain an individual permit.
11. Adding/Deleting Stormwater Outfalls. The permit allows the permittee to add new and/or delete existing stormwater outfalls at the facility as necessary or appropriate. The permittee must update the SWPPP and notify DEQ of all outfall changes within 30 days of the change and submit a copy of the updated SWPPP site map with their notification.
12. Antidegradation Requirements for New or Increased Discharges to High Quality Waters. Facilities that add new outfalls or increase their discharges from existing outfalls that discharge directly to high quality waters designated under Virginia's water quality standards antidegradation policy may be notified by the Department that additional control measures, or other permit conditions are necessary to comply with the applicable antidegradation requirements or may be notified that an individual permit is required.
13. Termination of permit coverage. The termination of permit coverage section was taken from the regulation section (previously 9VAC25-151-65) and inserted into the permit special conditions section. This was done so the permittee (who usually only has a copy of the permit) would have the requirements in the permit itself.
- a. The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:
- (1) Operations have ceased at the facility and there are no longer discharges of stormwater associated with industrial activity from the facility;
 - (2) A new owner has assumed responsibility for the facility (Note: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted);

- (3) All stormwater discharges associated with industrial activity have been covered by an individual VPDES permit; or
- (4) Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.
- b. The notice of termination must contain the following information:
 - (1) Owner's name, mailing address, telephone number, and email address (if available);
 - (2) Facility name and location;
 - (3) VPDES industrial stormwater general permit registration number;
 - (4) 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 discharges of stormwater associated with industrial activity from the facility;
 - (c) A statement indicating that all stormwater discharges associated with industrial activity have been covered by an individual VPDES permit; or
 - (d) A statement indicating that termination of coverage is being requested for another reason (state the reason).
 - (5) The following certification: "I certify under penalty of law that all stormwater discharges associated with industrial activity from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual permit, or that I am no longer the owner of the industrial activity 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 discharge stormwater associated with industrial activity in accordance with the general permit, and that discharging pollutants in stormwater associated with industrial activity to surface waters is unlawful where the discharge is not authorized by a VPDES permit. 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 Clean Water Act."

Part II – Conditions Applicable to All VPDES Permits

This general permit is a VPDES permit. As such, it is necessary to include certain conditions required by the VPDES Permit Regulation, 9VAC25-31. These conditions are included in all VPDES permits. With a few minor exceptions, the language is not modified to reflect their use in the general permit. Conditions in this section of the permit may not have direct application at all covered facilities.

Parts III – Stormwater Pollution Prevention Plans

The conditions of this permit have been designed to comply with the technology-based standards of the CWA (BAT/BCT). Based on a consideration of the appropriate factors for BAT and BCT requirements, the general permit lists a set of tailored requirements for developing and implementing SWPPPs.

For discharges covered by the permit, other than those regulated by numeric effluent limitations, the permit conditions reflect DEQ's decision to identify a number of best management practices and traditional stormwater management practices which prevent pollution in stormwater discharges as the BAT/BCT level of control for the majority of stormwater discharges covered by this permit. The permit conditions applicable to these discharges are not numeric effluent limitations, but rather are flexible requirements for developing and implementing site specific plans to minimize and control pollutants in stormwater discharges associated with industrial activity.

DEQ is authorized under 9VAC25-31-220 K (the VPDES Permit Regulation) to impose BMPs in lieu of numeric effluent limitations in VPDES permits when the agency finds numeric effluent limitations to be infeasible. DEQ may also impose BMPs which are "reasonably necessary ... to carry out the purposes of the Law and the CWA" under 9VAC25-31-220 K 3. The conditions in the permit are issued under the authority of both of these regulatory provisions. The pollution prevention or BMP requirements in this permit operate as limitations on

effluent discharges that reflect the application of BAT/BCT. This is because the BMPs identified require the use of source control technologies which, in the context of this general permit, are the best available of the technologies economically achievable (or the equivalent BCT finding).

All facilities intending to be covered by this general permit must prepare and implement a SWPPP. Existing general permit holders that are renewing coverage under the permit must update and implement any changes to their SWPPP within 90 days of the Board granting coverage under the permit. Facilities that are seeking new coverage under the general permit must develop and implement the SWPPP prior to submittal of the Registration Statement. Facilities are not required to submit the pollution prevention plans for review unless they are requested by the Department. When a plan is reviewed by DEQ, the Director can require the permittee to amend the plan if it does not meet the minimum permit requirements.

The permit addresses general SWPPP requirements that apply to all facilities that are covered under the permit, and sector-specific SWPPP requirements that apply to specific categories of industries (see discussion of Part IV below). The following is a discussion of the common SWPPP requirements for all industries. These are the permit requirements which apply to discharges associated with any of the industrial activities covered by this permit. These common requirements may be amended or further clarified in the industry sector-specific pollution prevention plan requirements of the permit.

Both the general SWPPP and the industry sector-specific requirements were initially derived from the 2000 EPA MSGP and have been updated with each general permit reissuance in accordance with each iteration of the EPA MSGP. The requirements are based on an evaluation of the nature of the industrial activity, the pollutants in that activity's stormwater and applicable pollution control options. This framework provides the necessary flexibility to address the variable risk for pollutants in stormwater discharges associated with the different types of industrial activity addressed by this permit. This approach also assures that facilities have the opportunity to identify procedures to prevent stormwater pollution at a particular site that are appropriate, given processes employed, engineering aspects, functions, costs of controls, location, and age of the facility. The approach taken also allows the flexibility to establish controls that can appropriately address different sources of pollutants at different facilities. These industry sector-specific requirements are additive for facilities where co-located industrial activities occur. For example, if a facility has both a primary metals operation and a scrap recycling operation, then that facility is subject to the pollution prevention plan requirements of both of those sectors in the permit.

The pollution prevention approach in this general permit focuses on two major objectives: (1) to identify sources of pollution potentially affecting the quality of discharges from the facility; and (2) to describe and ensure implementation of practices to minimize and control pollutants in discharges from the facility and to ensure compliance with the terms and conditions of this permit.

The SWPPP requirements in the general permit are intended to facilitate a process whereby the operator of the industrial facility thoroughly evaluates potential pollution sources at the site and selects and implements appropriate measures designed to prevent or control the discharge of pollutants in stormwater runoff. The process involves the following four steps: (1) formation of a team of qualified plant personnel who will be responsible for preparing the plan and assisting the plant manager in its implementation; (2) site description and assessment of potential stormwater pollution sources; (3) selection and implementation of appropriate management practices and controls; and (4) periodic evaluation of the effectiveness of the plan to prevent stormwater contamination and comply with the terms and conditions of this permit.

SWPPPs may reference the existence of other plans such as those for erosion and sediment control (ESC), Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under Section 31.1 of the CWA, or Best Management Practices (BMP) programs otherwise required for the facility as long as the other plan meets the minimum requirements of the permit and it is incorporated into the SWPPP. Any other plans so referenced become enforceable parts of the permit.

The pollution prevention approach is the most environmentally sound and cost-effective way to control the discharge of pollutants in stormwater runoff from industrial facilities. Two classes of management practices are generally employed at industries to control the non-routine discharge of pollutants from sources such as stormwater runoff, drainage from raw material storage and waste disposal areas, and discharges from places where spills or leaks have occurred. The first class of management practices includes those that are low in cost, applicable to a broad class of industries and substances, and widely considered essential to a good pollution control program. Some examples of practices in this class are good housekeeping, employee

training, and spill response and prevention procedures. The second class includes management practices that provide a second line of defense against the release of pollutants. This class addresses containment, mitigation, and cleanup. Experience with these practices and controls has shown that they can be used in permits to reduce pollutants in stormwater discharges in a cost-effective manner. Pollution prevention has been and continues to be the cornerstone of the VPDES permitting program for stormwater.

1. Contents of the Plan. The SWPPPs generally must describe the following elements:

- a. Pollution Prevention Team. As a first step in the process of developing and implementing a SWPPP, permittees are required to identify a qualified individual or team of individuals to be responsible for developing the plan and assisting the facility or plant manager in its implementation. When selecting members of the team, the plant manager should draw on the expertise of all relevant departments within the plant to ensure that all aspects of plant operations are considered when the plan is developed. The plan must clearly describe the responsibilities of each team member as they relate to specific components of the plan. In addition to enhancing the quality of communication between team members and other personnel, clear delineation of responsibilities will ensure that every aspect of the plan is addressed by a specified individual or group of individuals. Pollution Prevention Teams may consist of one individual where appropriate (e.g., in certain small businesses with limited stormwater pollution potential).
- b. Site Description. Each SWPPP must describe activities, materials, and physical features of the facility that may contribute significant amounts of pollutants to stormwater runoff or, during periods of dry weather, result in pollutant discharges through the separate storm sewers or stormwater drainage systems that drain the facility. This assessment of stormwater pollution risk will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Some operators may find that significant amounts of pollutants are running onto the facility property. Such operators should identify and address the contaminated run-on in the SWPPP. If the run-on cannot be addressed or diverted by the permittee, the Department should be notified. If necessary, the DEQ may require the operator of the adjacent facility to obtain a permit.

The plan must contain a map of the site that shows the location of outfalls covered by the permit (or by other VPDES permits), the pattern of stormwater drainage, an indication of the types of discharges contained in the drainage areas of the outfalls, structural features that control pollutants in runoff, surface water bodies (including wetlands), places where significant materials are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a registration statement to be covered under this permit. The map also must show areas where the following activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; processing and storage areas; access roads, rail cars and tracks; the location of transfer of substance in bulk; and machinery. The map must also show the location and description of non-stormwater discharges, and the location and source of run-off from adjacent property containing significant quantities of pollutants of concern to the facility (the permittee may include an evaluation of how the quality of the stormwater running onto the facility impacts the facility's stormwater discharges). The name of the nearest receiving waters, including intermittent streams, dry sloughs, arroyos and the areal extent and description of wetland sites that may receive discharges from the facility must also be included.

- c. Summary of Potential Pollutant Sources. The description of potential pollution sources culminates in a narrative assessment of the risk potential that sources of pollution pose to stormwater quality. This assessment should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to stormwater. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (i.e., biochemical oxygen demand, suspended solids, etc.) associated with each source.

The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the 3 years prior to the date the SWPPP was prepared or amended. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of CWA (see 40 CFR 110.10 and 40 CFR 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance.

The listing should include a description of the causes of each spill or leak, the actions taken to respond to each release, and the actions taken to prevent similar such spills or leaks in the future. This effort will aid the facility operator as she or he examines existing spill prevention and response procedures and develops any additional procedures necessary to fulfill the requirements of the permit.

Any existing data on the quality or quantity of stormwater discharges from the facility must be summarized in the plan. These data may be useful for locating areas that have contributed pollutants to stormwater. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

- d. Stormwater Controls. Following completion of the source identification and assessment phase, the permit requires the permittee to evaluate, select, and describe the pollution prevention measures, best management practices (BMPs), and other controls that will be implemented at the facility. BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in stormwater runoff.

Source reduction measures include, among others, preventive maintenance, chemical substitution, spill prevention, good housekeeping, training, and proper materials management. Where such practices are not appropriate to a particular source or do not effectively reduce pollutant discharges, DEQ supports the use of source control measures and BMPs such as material segregation or covering, water diversion, and dust control. Like source reduction measures, source control measures and BMPs are intended to keep pollutants out of stormwater. The remaining classes of BMPs, which involve recycling or treatment of stormwater, allow the reuse of stormwater or attempt to lower pollutant concentrations prior to discharge.

The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each will address one or more of the potential pollution sources identified in the plan. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential stormwater contamination problems. The permit requirements included for the various industry sectors in the permit generally require that the portion of the plan that describes the measures and controls address the following minimum components.

When "minimize/reduce" is used relative to pollution prevention plan measures, it means to consider and implement best management practices that will result in an improvement over the baseline conditions as it relates to the levels of pollutants identified in stormwater discharges with due consideration to economic feasibility and effectiveness.

The permit includes the following non-numeric technology-based control measures to be implemented, unless it can be demonstrated and documented that such controls are not relevant to the discharges:

- (1) Good Housekeeping. Good housekeeping involves using practical, cost-effective methods to identify ways to maintain a clean and orderly facility and keep contaminants out of separate storm sewers. It includes establishing protocols to reduce the possibility of mishandling chemicals or equipment and training employees in good housekeeping techniques. These protocols must be described in the plan and communicated to appropriate plant personnel.
- (2) Eliminating and Minimizing Exposure. Eliminating exposure of all industrial activities to precipitation may make the facility eligible for the "Conditional Exclusion for No Exposure" provision of 9VAC25-31-120 E, thereby eliminating the need to have a permit. Where practicable,

industrial materials and activities should be protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, or run-off.

- (3) Preventive Maintenance. Permittees must develop a preventive maintenance program that involves regular inspection and maintenance of stormwater management devices and other equipment and systems. The program description should identify the devices, equipment, and systems that will be inspected; provide a schedule for inspections and tests; and address appropriate adjustment, cleaning, repair, or replacement of devices, equipment, and systems. For stormwater management devices such as catch basins and oil/water separators, the preventive maintenance program should provide for periodic removal of debris to ensure that the devices are operating efficiently. For other equipment and systems, the program should reveal and enable the correction of conditions that could cause breakdowns or failures that may result in the release of pollutants.
- (4) Spill Prevention and Response Procedures. Based on an assessment of possible spill scenarios, permittees must specify appropriate material handling procedures, storage requirements, containment or diversion equipment, and spill cleanup procedures that will minimize the potential for spills and in the event of a spill enable proper and timely response. Areas and activities that typically pose a high risk for spills include loading and unloading areas, storage areas, process activities, and waste disposal activities. These activities and areas, and their accompanying drainage points, must be described in the plan. For a spill prevention and response program to be effective, employees should clearly understand the proper procedures and requirements and have the equipment necessary to respond to spills.
- (5) Salt Storage Piles or Piles Containing Salt. Storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes must be enclosed or covered to prevent exposure to precipitation. The permittee must implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. All salt storage piles are to be located on an impervious surface. All runoff from the pile, and runoff that comes in contact with salt, including under drain systems, must be collected and contained within a bermed basin lined with concrete or other impermeable materials, or within an underground storage tank or tanks, or within an above ground storage tank or tanks, or disposed of through a sanitary sewer (with the permission of the owner of the treatment facility). A combination of any or all of these methods may be used. In no case shall salt contaminated stormwater be allowed to discharge directly to the ground or to surface waters.
- (6) Employee Training. Annual training must be provided to for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP. The training must cover the components and goals of the SWPPP, and include such topics as spill response, good housekeeping, material management practices, control measure operation and maintenance, etc. The SWPPP shall include a summary of any training performed.

Although training is required annually, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the effective implementation of the facility's SWPPP.
- (7) Sediment and Erosion Control. The SWPPP must identify areas that, due to topography, activities, soils, cover materials, or other factors have a high potential for significant soil erosion. The plan must identify measures that will be implemented to limit erosion in these areas.
- (8) Management of Runoff. The plan must contain a narrative evaluation of the appropriateness of traditional stormwater management practices (i.e., practices other than those that control pollutant sources) that divert, infiltrate, reuse, or otherwise manage stormwater runoff so as to reduce the discharge of pollutants. Appropriate measures may include, among others, vegetative swales, collection and reuse of stormwater, inlet controls, snow management, infiltration devices, and wet detention/retention basins.

Based on the results of the evaluation, the plan must identify practices that the permittee determines are reasonable and appropriate for the facility. The plan also should describe the

particular pollutant source area or activity to be controlled by each stormwater management practice. Reasonable and appropriate practices must be implemented and maintained according to the provisions prescribed in the plan.

In selecting stormwater management measures, it is important to consider the potential effects of each method on other water resources, such as ground water. Although SWPPPs primarily focus on stormwater management, facilities must also consider potential ground water pollution problems and take appropriate steps to avoid adversely impacting ground water quality. For example, if the water table is unusually high in an area, an infiltration pond may contaminate a ground water source unless special preventive measures are taken.

- (9) Dust suppression and vehicle tracking of industrial materials. Control measures to minimize the generation of dust and off-site tracking of raw, final, or waste materials must be implemented. Stormwater collected on-site may be used for the purposes of dust suppression or for spraying stockpiles. Potable water, well water, and uncontaminated reuse water may also be used for this purpose. However, no direct discharge to surface waters from dust suppression activities or as a result of spraying stockpiles is authorized.
- (10) Airport deicing operations. For facilities engaged in deicing or anti-icing activities, the permittee is required to minimize, and where practicable eliminate, the use of deicing or anti-icing chemicals in order to reduce the aggregate amount of deicing or anti-icing chemicals used and lessen the environmental impact.

The permittee is required to minimize contamination of stormwater runoff from aircraft deicing and anti-icing operations and runway deicing operations, if applicable. Where deicing and anti-icing operations occur, the SWPPP should include a description of the procedures and control measures used to manage contaminated stormwater runoff or snow melt (from areas used to dispose contaminated snow) to minimize the amount of pollutants discharged from the site.

The following control measure options (or their equivalents) are to be considered: covering storm sewer inlets, using booms, installing absorptive interceptors in the drain, establishing a dedicated deicing facility with a runoff collection and recovery system; using vacuum or collection trucks; storing contaminated stormwater water or deicing fluids in tanks and releasing controlled amounts to a publicly owned treatment works (with their permission); collecting contaminated runoff in a wet pond for biochemical decomposition; and directing runoff into vegetative swales or other infiltration measures.

Procedures and selected control measures should at all times be consistent with considerations of flight safety.

- e. Routine facility inspections. Staff who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can also evaluate the effectiveness of control measures are to regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater, areas where spills or leaks have occurred in the past three years, discharge points, and control measures. At least one member of the pollution prevention team is to participate in the routine facility inspections.

The inspection frequency is to be at a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit or written approval is received from the department for less frequent intervals. The frequency is to be specified in the SWPPP. Inspections are to be performed during operating hours. At least once each calendar year, the routine facility inspection is to be conducted during a period when a stormwater discharge is occurring.

The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status. Certain sectors in Part IV have additional inspection requirements. If the VEEP E3/E4 waiver language is not included for the sector specific inspections, these additional inspection requirements may not be waived.

Any deficiencies in the implementation of the SWPPP that are found are to be corrected as soon as practicable, but not later than within 60 days of the inspection, unless permission for a later date is granted in writing by the director.

The results of the inspections shall be documented in the SWPPP and shall include at a minimum, the inspection date, the names of the inspectors, weather information and a description of any discharges occurring at the time of the inspection, any previously unidentified discharges of pollutants from the site, any control measures needing maintenance or repairs, any failed control measures that need replacement, any incidents of noncompliance observed, and any additional control measures needed to comply with the permit requirements.

2. Maintenance. The SWPPP must include a description of procedures and a regular schedule for preventative maintenance of all control measures, including back-up practices should a runoff event occur while control measures are offline.

The permittee must maintain all BMPs identified in the plan in effective operating condition. If the facility site inspections identify BMPs that are not operating effectively, the permittee must perform maintenance before the next anticipated storm event or, if not possible, schedule maintenance as soon as practicable. In the interim, back-up measures shall be employed and documented in the SWPPP until repairs or maintenance is complete. In the case of non-structural BMPs, the effectiveness of the BMP must be maintained by appropriate means, such as spill response supplies available and personnel trained, etc.

3. Non-stormwater Discharges.

- a. Discharges of certain sources of non-stormwater are allowable discharges under this permit. All other non-stormwater discharges are not authorized and must be either eliminated or covered under a separate VPDES permit.
- b. Annual outfall evaluation for unauthorized discharges. The permit requires that discharges from the site be tested or evaluated annually for the presence of non-stormwater discharges. The evaluation documentation must include the date of the evaluation, a description of the evaluation criteria used, a list of the outfalls or on-site drainage points that were directly observed during the evaluation, a description of the results of the evaluation for the presence of unauthorized discharges, and the actions taken to eliminate unauthorized discharges if any were identified. Evaluation techniques may include dye tests, television surveillance, observation of outfalls or other appropriate locations during dry weather, water balance calculations, and analysis of piping and drainage schematics.

The permit also allows the permittee to request in writing to the Department that the facility be allowed to conduct annual outfall evaluations at 20% of the outfalls. If approved, the permittee must evaluate at least 20% of the facility outfalls each year on a rotating basis such that all facility outfalls will be evaluated during the period of coverage under this permit.

4. Signature and SWPPP Review.

- a. Signature and location. The SWPPP, including revisions to document corrective actions taken, is to be signed in accordance with Part II K, dated, and retained onsite (hard copy or electronic) at the facility covered by this permit. All other changes in documentation are to be signed and dated by the individual preparing the documentation. For inactive/unstaffed sites, the plan may be kept at the nearest office of the permittee.
- b. Availability. A copy of the SWPPP is to be retained onsite (hard copy or electron) and be immediately available at the time of an on-site inspection or upon request from DEQ, EPA, or the operator of an MS4 that receives discharges from the site.
- c. Required modifications. The SWPPP must be modified when necessary to address correction actions required by Part I A 6 a (Data exceeding benchmark concentration values) or Part I A 6 b (Corrective actions) and meet the associated deadlines. The SWPPP must also be modified, if required, within 60 days of receipt of a notification from the director that the SWPPP, control measures, or other components of the facility's stormwater program do not meet one or more of the requirements of the permit.

5. Maintaining an updated SWPPP. The permittee is required to review and amend the SWPPP as appropriate whenever: there is construction or a change in design, operation, or maintenance at the facility that has a significant effect on the discharge, or the potential for the discharge, of pollutants from the facility; routine inspections or compliance evaluations determine that there are deficiencies in the control measures, including BMPs; inspections by local, state, or federal officials determine that modifications to

the SWPPP are necessary; there is a significant spill, leak, or other release at the facility; there is an unauthorized discharge from the facility; or, the department notifies the permittee that a TMDL has been developed and applies to the permitted facility, consistent with Part I B.

SWPPP modifications are to be made as noted under Signature and SWPPP Review above. If a modification is based on a significant spill, leak, release, or unauthorized discharge, the SWPPP must include a description and date of the incident, the circumstances leading to the incident, actions taken in response to the incident, and measures to prevent the recurrence of such releases. Unauthorized discharges are subject to the reporting requirements of Part II G of this general permit.

Part IV – Sector-Specific Permit Requirements

The permittee must only comply with the additional requirements of Part IV (9VAC25-151-85 et seq.) that apply to the sectors of industrial activity located at the facility. These sector specific requirements are in addition to the requirements specified in Parts I, II and III of this permit. All numeric effluent limitations and benchmark monitoring concentration values reflect two significant digits, unless otherwise noted.

The following is a discussion of the history of the numeric effluent limitations and/or benchmarks for each Sector. Current benchmark values and numeric effluent limitations are noted in Tables 3 and 4 above.

Sector A – Timber Products

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities generally classified under Standard Industrial Classification (SIC) Codes 2491 and 2499 that are engaged in the following activities: cutting timber and pulpwood (those that have log storage or handling areas), mills, including merchant, lath, shingle, cooperage stock, planing, plywood and veneer, and producing lumber and wood materials; wood preserving, manufacturing wood buildings or mobile homes; and manufacturing finished articles made entirely of wood or related materials, except for wood kitchen cabinet manufacturers (SIC Code 2434), and mulch, wood, and bark facilities, including mulch dyeing operations (SIC Code 24991303).

Numeric Effluent Limitations:

SIC 2411 (Wet Decking Discharges at Log Storage and Handling Facilities)

The 2004 permit included numeric effluent limitations for pH and woody debris based on 40 CFR Part 429, Subpart I. These limitations have been carried forward through the 2009, 2014, 2019 and 2024 permits.

Benchmark Monitoring Parameters:

SIC 2421 (General Sawmills and Planing Mills)

The 2004 permit included TSS and zinc benchmarks. The zinc benchmark was removed in the 2009 permit and the TSS benchmark has been carried forward through the 2009, 2014, 2019 and 2024 permits.

SIC 2491 (Wood Preserving Facilities)

The 2004 permit included arsenic, chromium, and copper benchmarks. A footnote was added in the 2009 permit indicating that monitoring for these metals is not required for wood preserving facilities using only oil-based preservatives. These benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

SIC 2411 (Log Storage and Handling Facilities)

The 2004 permit included a TSS benchmark that has been carried forward through the 2009, 2014, 2019 and 2024 permits.

SICs 2426, 2429, 2431-2439 (except 2434), 2448, 2449, 2451, 2452, 2493, and 2499 (Hardwood Dimension and Flooring Mills; Special Products Sawmills, not elsewhere classified; Millwork, Veneer, Plywood and Structural Wood; Wood Containers; Wood Buildings and Mobile Homes; Reconstituted Wood Products; and Wood Products Facilities not elsewhere classified)

The 2004 permit included a TSS benchmark that has been carried forward through the 2009, 2014, 2019 and 2024 permits.

SIC 24991303 (Mulch Wood, and Bark Facilities)

This subcategory was added in the 2014 permit and included TSS and BOD5 benchmarks. The 2019 permit replaced the BOD benchmark with a COD benchmark which has been carried forward to the 2024 permit. The TSS benchmark has been carried forward through the 2019 and 2024 permits.

SIC 24991303 (Facilities with Mulch Dyeing/Coloring Operations)

This subcategory was added in the 2014 permit and applies only to those outfalls from the facility that collect runoff from areas where mulch dyeing/coloring activities occur, including but not limited to areas where loading, transporting, and storage of dyed/colored mulch occurs.

The following benchmarks were included in the 2014 permit: TSS, BOD5, COD, aluminum, arsenic, cadmium, chromium, copper, iron, lead, manganese, mercury, nickel, selenium, silver, zinc, total nitrogen, and total phosphorus.

A footnote was also included in the 2014 permit indicating that benchmark monitoring waivers are available to facilities utilizing mulch dye or colorant products that do not contain the specified parameters provided that: (i) monitoring from samples collected during one monitoring period demonstrates that the specific parameter in question is below the quantitation level; (ii) a waiver request is submitted to and approved by the board. The laboratory certificate of analysis must be submitted with the request. If approved, documentation of this shall be kept with the SWPPP; and (iii) a certification statement is submitted to the department annually that the facility does not use mulch dyeing products that contain any of the specifically waived parameters.

Benchmarks for lead, manganese, mercury, and nickel were removed in the 2019 permit. The iron benchmark was removed in the 2024 permit due to lack of acute toxicity. All other benchmark parameters have been carried forward to the 2024 permit.

Sector B – Paper and Allied Products Manufacturing

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities generally classified as paperboard mills, SIC Code 2631.

Numeric Effluent Limitations: None.

Benchmarks Monitoring Parameters:

The 2004 permit included a BOD benchmark that has been carried forward through the 2009, 2014, 2019, and 2024 permits.

Sector C – Chemical and Allied Products Manufacturing

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities engaged in manufacturing the following products: Industrial inorganic chemicals (including SIC Codes 2812-2819); Plastic materials and synthetic resins, synthetic rubbers, and cellulosic and other synthetic fibers, except glass (including SIC Codes 2821-2824); Soap and other detergents, including facilities producing glycerin from vegetable and animal fats and oils; specialty cleaning, polishing, and sanitation preparations; surface active preparations used as emulsifiers, wetting agents, and finishing agents, including sulfonated oils; and perfumes, cosmetics, and other toilet preparations (including SIC Codes 2841-2844); Nitrogenous and phosphatic basic fertilizers, mixed fertilizer, pesticides, and other agricultural chemicals (SIC Codes 2873-2879). Composting Facilities (SIC Code 2875) are included.

Numeric Effluent Limitations:

SIC 2874 (Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category (40 CFR 418.10))

These numeric effluent limitations apply to precipitation runoff that, during manufacturing or processing, comes into contact with any raw materials, intermediate product, finished product, by-products or waste product.

The 2004 permit included numeric effluent limitations for total phosphorus and fluoride based on 40 CFR Part 418 Subpart A. These limitations have been carried forward through the 2009, 2014, 2019 and 2024 permits.

Benchmark Monitoring Parameters:

2873-2879 (Agricultural Chemicals)

The 2004 permit included nitrogen, iron, zinc, and phosphorus benchmarks. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

2812-2819 (Industrial Inorganic Chemicals)

The 2004 permit included aluminum, iron, and nitrogen benchmarks. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

2841-2844 (Soaps, Detergents, Cosmetics, and Perfumes)

The 2024 permit included nitrogen and zinc benchmarks that have been carried forward through the 2009, 2014, 2019 and 2024 permits.

2821-2824 (Plastics, Synthetics, and Resins)

The 2004 permit included a zinc benchmark that has been carried forward through the 2009, 2014, 2019, and 2024 permits.

2875 (Composting Facilities)

This subcategory was added in the 2014 permit and includes benchmarks for TSS, BOD₅, COD, ammonia, nitrogen, and phosphorus. These benchmarks have been carried forward through the 2019 and 2024 permits.

Sector D – Asphalt Paving and Roofing Materials and Lubricant Manufacturers

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities engaged in the following activities: manufacturing asphalt paving and roofing materials, including those facilities commonly identified by SIC Codes 2951 and 2952; portable asphalt plants (also commonly identified by SIC Code 2951); and manufacturing miscellaneous products of petroleum and coal, including those facilities classified as SIC Code 2992 and 2999.

Numeric Effluent Limitations:

SIC 2951, 2952 (Asphalt Paving and Roofing Materials)

These numeric effluent limitations apply to discharges from areas where production of asphalt paving and roofing emulsions occur.

The 2004 permit included numeric effluent limitations for TSS, oil and grease, and pH based on 40 CFR Part 443 Subpart A which have been carried forward through the 2009, 2014, 2019, and 2024 permits.

Benchmark Monitoring Parameters:

SIC 2951, 2952 (Asphalt Paving and Roofing Materials)

The 2004 permit included a benchmark for TSS that has been carried forward through the 2009, 2014, 2019, and 2024 permits.

Sector E – Clay, Cement, Concrete, and Gypsum Products

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities generally classified under SIC Codes 3251-3259, 3261-3269, 3274, and 3275 that are engaged in either manufacturing the following products or performing the following activities: structural clay products including tile and brick; pottery and porcelain electrical supplies; and concrete, plaster, and gypsum products.

Concrete block and brick facilities (SIC Code 3271), concrete products facilities, except block and brick (SIC Code 3272), and ready-mixed concrete facilities (SIC Code 3273) are not covered by this permit.

Numeric Effluent Limitations:

Cement Manufacturing Facility, Material Storage Runoff

These numeric effluent limitations apply to any discharge composed of runoff that derives from the storage of materials including raw materials, intermediate products, finished products, and waste materials that are used in or derived from the manufacture of cement.

The 2004 permit included numeric effluent limitations for TSS and pH based on 40 CFR Part 411 Subpart C which have been carried forward through the 2009, 2014, 2019, and 2024 permits.

Benchmark Monitoring Parameters:

SIC 3251-3259, 3261-3269 (Clay Product Manufacturers)

The 2004 permit included a benchmark for aluminum that has been carried forward through the 2009, 2014, 2019, and 2024 permits.

3271-3275 - Lime and Gypsum Product Manufacturers

The 2004 permit included benchmarks for TSS, pH, and iron. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

Sector F – Primary Metals

The requirements listed under this section apply to stormwater discharges associated with industrial activity from the following types of facilities in the primary metal industry. Steel works, blast furnaces, and rolling and finishing mills, including steel wire drawing and steel nails and spikes; cold-rolled steel sheet, strip, and bars; and steel pipes and tubes (SIC Codes 3312-3317). Iron and steel foundries, including gray and ductile iron, malleable iron, steel investment, and steel foundries not elsewhere classified (SIC Codes 3321-3325). Rolling, drawing, and extruding of nonferrous metals, including rolling, drawing, and extruding of copper; rolling, drawing and extruding of nonferrous metals except copper and aluminum; and drawing and insulating of nonferrous wire (SIC Codes 3351-3357). Nonferrous foundries (castings), including aluminum die-castings, nonferrous die-castings, except aluminum, aluminum foundries, copper foundries, and nonferrous foundries, except copper and aluminum (SIC Codes 3363-3369).

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 3312-3317 (Steel Works, Blast Furnaces, and Rolling and Finishing Mills)

The 2004 permit included aluminum and zinc benchmarks which have been carried forward through the 2009, 2014, 2019, and 2024 permits.

SIC 3321-3325 (Iron and Steel Foundries)

The 2004 permit included aluminum, TSS, copper, iron, and zinc benchmarks. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

SIC 3351-3357 (Rolling, Drawing, and Extruding of Nonferrous Metals)

The 2004 permit included copper and zinc benchmarks which have been carried forward through the 2009, 2014, 2019, and 2024 permits.

SIC 3363-3369 (Nonferrous Foundries)

The 2004 permit included copper and zinc benchmarks which have been carried forward through the 2009, 2014, 2019, and 2024 permits.

Sector G – Metal Mining (Ore Mining and Dressing)

The requirements listed under this section apply to stormwater discharges associated with industrial activity from active, temporarily inactive and inactive metal mining and ore dressing facilities including mines abandoned on federal lands, as classified under SIC Major Group 10. Coverage is required for facilities that discharge stormwater that has come into contact with, or is contaminated by, any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the operation. SIC Major Group 10 includes establishments primarily engaged in mining of ores, developing mines, or exploring for metallic minerals (ores) and also includes ore dressing and beneficiating operations, whether performed at colocated, dedicated mills or at separate mills (e.g., custom mills).

Stormwater discharges from active metal mining facilities that are subject to the effluent limitation guidelines for the Ore Mining and Dressing Point Source Category (40 CFR Part 440) are not authorized by this permit.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 1021 (Active Copper Ore Mining and Dressing Facilities)

The 2004 permit included an aluminum benchmark which has been carried forward through the 2009, 2014, 2019, and 2024 permits.

SIC 1011, 1021, 1031, 1041, 1044, 1061, 1081, 1099 (Iron Ores, Copper Ores, Lead and Zinc Ores, Gold and Silver Ores, Ferroalloy Ores except Vanadium, Miscellaneous Metal Ores.)

These benchmarks apply to discharges from waste rock and overburden piles from active ore mining and dressing facilities.

The 2004 permit included benchmarks for TSS, turbidity, pH, hardness (monitoring only), antimony, arsenic, beryllium, cadmium, copper, iron, lead, manganese, mercury, nickel, selenium, silver, and zinc. The manganese benchmark was removed in the 2009 permit and the iron benchmark was removed in the 2024 permit. All other benchmarks have been carried forward through the 2009, 2014, 2019, and 2024 permits.

Additional monitoring requirements (no benchmarks) for were also included in the 2004 permit for various metals deemed “pollutants of concern”. Iron was removed as a pollutant of concern in the 2024 permit.

Sector H – Coal Mines and Coal Mining-Related Facilities

The requirements listed under this section apply to stormwater discharges associated with industrial activity from coal mining-related areas (SIC Major Group 12) if (i) they are not subject to effluent limitations guidelines under 40 CFR Part 434 or (ii) they are not subject to the standards of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 USC § 1201 et seq.) and the Virginia Department of Mines, Minerals and Energy's individual permit requirements.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 1221-1241 (Coal Mines and Related Areas)

The 2004 permit included aluminum, iron and TSS benchmarks. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

Sector I (Repealed) – Oil and Gas Extraction and Refining

During the 2019 reissuance, SIC codes associated with Sector I (Major Group 13, 2911) were transferred to Sector AE (Facilities with No Analytical Benchmark Monitoring Requirements) given the lack of applicable effluent limitations or benchmark monitoring requirements. The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from oil and gas extraction and refining facilities listed under SIC Major Group 13 which have had a discharge of a reportable quantity (RQ) of oil or a hazardous substance for which notification is required under 40 CFR 110.6, 40 CFR 117.21 or 40 CFR 302.6. These include oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with any overburden raw material, intermediate products, finished products, by-products or waste products located on the site of such operations. Industries in SIC Major Group 13 include the extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oilfield service, supply and repair industries. This section also covers petroleum refineries listed under SIC Code 2911.

Contaminated stormwater discharges from petroleum refining or drilling operations that are subject to nationally established BAT or BPT guidelines found at 40 CFR Part 419 and 40 CFR Part 435 respectively are not authorized by this permit. Note: most contaminated discharges from petroleum refining and drilling facilities are subject to these effluent guidelines and are not eligible for coverage under this permit.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters: None

Sector J – Mineral Mining and Dressing Facilities

SIC Codes 1411-1499 are not authorized under this permit. See 9VAC25-190 Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining.

Sector K – Hazardous Waste Treatment, Storage, or Disposal Facilities

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities that treat, store, or dispose of hazardous wastes, including those that are operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (Industrial Activity Code "HZ"). Disposal facilities that have been properly closed and capped, or clean closed, and have no significant materials exposed to stormwater, do not require this permit.

Numeric Effluent Limitations:

Industrial Activity Code "HZ" (Hazardous Waste Treatment, Storage, or Disposal Facilities)

These numeric effluent limitations apply to contaminated stormwater discharges from hazardous waste landfills subject to the provisions of RCRA Subtitle C at 40 CFR Parts 264 (Subpart N) and 265 (Subpart N), with some exceptions noted in the permit.

The 2004 permit included numeric effluent limitations for BOD, TSS, ammonia, alpha terpineol, aniline, benzoic acid, naphthalene, p-Cresol, phenol, pyridine, arsenic (Total), chromium (Total), zinc (Total), and pH based on 40 CFR Part 445 Subpart A. These limits have been carried forward through the 2009, 2014, 2019, and 2024 permits.

Benchmark Monitoring Parameters:

Industrial Activity Code "HZ" (Hazardous Waste Treatment, Storage, or Disposal Facilities)

The 2004 permit included TKN, TSS, TOC, arsenic, cadmium, cyanide, lead, mercury, selenium, and silver benchmarks. A magnesium benchmark was added in the 2014 permit and is removed in the 2024 permit. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

Sector L – Landfills, Land Application Sites and Open Dumps

The requirements listed under this section apply to stormwater discharges associated with industrial activity from waste disposal at landfills, land application sites, and open dumps that receive or have received industrial wastes (Industrial Activity Code "LF"), including sites subject to regulation under Subtitle D of the Resource Conservation and Recovery Act (RCRA). Landfills, land application sites, and open dumps that have stormwater discharges from other types of industrial activities such as vehicle maintenance, truck washing, and recycling may be subject to additional requirements specified elsewhere in this permit. This permit does not cover discharges from landfills that receive only municipal wastes.

Landfills (including landfills in "post-closure care") that have been properly closed and capped in accordance with 9VAC20-81-160 and 9VAC20-81-170 and have no significant materials exposed to stormwater do not require this permit. Landfills closed in accordance with regulations or permits in effect prior to December 21, 1988, do not require this permit, unless significant materials are exposed to stormwater.

Numeric Effluent Limitations:

Industrial Activity Code "LF" (Landfills, Land Application Sites and Open Dumps)

These numeric effluent limitations apply to contaminated stormwater discharges from municipal solid waste landfills (MSWLFs) that have not been closed in accordance with 40 CFR 258.60, and contaminated stormwater discharges from those landfills that are subject to the provisions of 40 CFR Part 257 (these include construction and debris landfills and industrial landfills), with some exceptions noted in the permit.

The 2004 permit included numeric effluent limitations for BOD, TSS, ammonia, alpha terpineol, benzoic acid, p-Cresol, phenol, zinc (Total), and pH based on 40 CFR Part 445 Subpart B. These limits have been carried forward through the 2009, 2014, 2019, and 2024 permits.

Benchmark Monitoring Parameters:

Industrial Activity Code "LF" (Landfills, Land Application Sites and Open Dumps)

The 2004 permit included TSS and iron benchmarks. The TSS benchmark has been carried forward through the 2009, 2014, 2019, and 2024 permits.

The iron benchmark was removed in the 2014 permit based on a recommendation from the TAC. High iron concentrations are prevalent in the soils throughout Virginia, and it was determined that having these facilities continue to monitor for iron is no longer useful or necessary for this industrial sector. DEQ did an analysis of background metals concentrations in Virginia soils and compiled the data in the report "Background Metals Project", Adam Koling, DEQ, August 23, 2012. This report consolidated more than 30 years of background data for metals in Virginia soils and reported a statistical upper prediction limit (UPL) for each of 19 metals. Based on the high iron concentrations throughout Virginia, as verified by the report, it was decided to remove the iron benchmark monitoring for this sector.

Sector M – Automobile Scrap Yards

The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities engaged in dismantling or wrecking used motor vehicles for parts recycling/resale and for scrap (SIC Code 5015).

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 5015 (Automobile Salvage Yards)

The 2004 permit included TSS, aluminum, iron, and lead benchmarks. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

Sector N – Scrap Recycling and Waste Recycling Facilities and Material Recovery Facilities

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities typically identified as SIC code 5093 that are engaged in the processing, reclaiming and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals, paper, plastic, cardboard, glass, animal hides, and facilities that are engaged in reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits, and industrial solvents. Separate permit requirements have been established for recycling facilities that only receive source-separated recyclable materials primarily from nonindustrial and residential sources (e.g., common consumer products including paper, newspaper, glass, cardboard, plastic containers, aluminum and tin cans).

Separate permit requirements have also been established for facilities that are engaged in dismantling ships, marine salvaging, and marine wrecking—ships for scrap (SIC Code 4499, limited to those listed; for others in SIC Code 4499 not listed in this subsection, see Sector Q (9VAC25-151-240)).

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 5093 (Scrap Recycling and Waste Recycling Facilities (nonsource-separated facilities only))

The 2004 permit included TSS, aluminum, cadmium, chromium, copper, iron, zinc, and lead benchmarks. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

SIC 5093 (Scrap Recycling and Waste Recycling Facilities (source-separated facilities only))

The 2014 permit added TSS, aluminum, cadmium, chromium, copper, iron, zinc, and lead benchmarks for source-separated facilities. A footnote was also included stating “Metals monitoring is only required at source-separated facilities for the specific metals listed above that are received at the facility.” The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2019 and 2024 permits.

SIC 4499 (Facilities Engaged in Dismantling Ships, Marine Salvaging, and Marine Wrecking - Ships for Scrap)

The 2004 permit included a copper benchmark. The 2009 permit added TSS, aluminum, cadmium, chromium, iron, zinc, and lead benchmarks. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019 and 2024 permits.

Sector O – Steam Electric Generating Facilities

The requirements listed under this section apply to stormwater discharges associated with industrial activity from steam electric power generating facilities using coal, natural gas, oil, nuclear energy, etc. to produce a steam source, including coal handling areas (Industrial Activity Code "SE").

Stormwater discharges from coal pile runoff subject to numeric effluent limitations are eligible for coverage under this permit, but are subject to the limitations established by Part I A 1 c (2).

Stormwater discharges from ancillary facilities (e.g., fleet centers, gas turbine stations, and substations) that are not contiguous to a steam electric power generating facility are not covered by this permit. Heat capture and heat recovery combined cycle generation facilities are also not covered by this permit; however, dual fuel co-generation facilities that generate electric power are included.

Numeric Effluent Limitations:

Industrial Activity Code “SE” (Steam Electric Generating Facilities)

Permittees with point sources of coal pile runoff associated with steam electric power generation shall monitor these stormwater discharges for the presence of TSS and for pH in accordance with Part I A 1 c (2) of the permit (based on 40 CFR Part 423).

Benchmark Monitoring Parameters:

Industrial Activity Code “SE” (Steam Electric Generating Facilities)

The 2004 permit included an iron benchmark that was carried through the 2009, 2014, and 2019 permits. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. There are currently no benchmark requirements for this sector.

Sector P (Repealed) – Land Transportation and Warehousing

During the 2019 reissuance the SIC codes associated with Sector P were transferred to Sector AF (Facilities Limited to Total Suspended Solids Benchmark Monitoring). The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from ground transportation facilities and rail transportation facilities (generally identified by SIC Codes 40, 41, 42, 43, and 5171), that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) or equipment cleaning operations. Also covered under this section are facilities found under SIC Codes 4221 through 4225 (public warehousing and storage) that do not have vehicle and equipment maintenance shops or equipment cleaning operations.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 4011, 4013, 4111-4173, 4212-4231, 4311, and 5171 - Land Transportation and Warehousing Facilities

The 2009 permit included TPH and TSS benchmarks which were carried through the 2014 permit. Data collected during the 2014 permit term indicated a benchmark exceedance rate for TPH of 0.6% and the TPH benchmark was removed in the 2019 permit. Given that the sector was left with only a TSS benchmark, the sector was repealed in the 2019 permit and the associated SIC codes were moved to Sector AF.

Sector Q – Water Transportation and Ship and Boat Building and Repairing Yards

The requirements listed under this section apply to stormwater discharges associated with the following industrial activities:

1. Water transportation facilities identified by SIC Codes 4412-4499 (except SIC Code 4499 facilities as specified in Sector N - 9VAC25-151-210). The water transportation industry includes facilities engaged in foreign or domestic transport of freight or passengers in deep sea or inland waters, marine cargo handling operations, ferry operations, towing and tugboat services, and marinas.
2. Ship building and repairing and boat building and repairing facilities identified by SIC Codes 3731 and 3732. The U.S. Coast Guard refers to a vessel 65 feet or greater in length as a "ship" and a vessel smaller than 65 feet as a "boat."

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 4412-4499, except 4499 as specified in Sector N (Water Transportation Facilities); SIC 3731-3732 (Ship and Boat Building or Repairing Yards)

The 2004 permit included aluminum, iron, and zinc benchmarks. The aluminum and iron benchmarks were removed in the 2014 permit and TSS and copper benchmarks were added. This was done to align the benchmarks between Sector Q and Sector R which have nearly identical stormwater discharge characteristics. In the 2019 permit, Sector R was consolidated into Sector Q. All remaining benchmarks have been carried forward in the 2024 permit.

Sector R (Repealed) – Ship and Boat Building or Repair Yards

During the 2019 reissuance Sector R was combined with Sector Q given that the benchmarks and sector-specific language was essentially identical. The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from ship building and repairing and boat building and repairing facilities identified by SIC Codes 3731 and 3732. The U.S. Coast Guard refers to a vessel 65 feet or greater in length as a "ship" and a vessel smaller than 65 feet as a "boat."

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 3731-3732 (Ship and Boat Building or Repairing Yards)

The 2009 permit included a TSS benchmark. The 2014 permit added copper and zinc benchmarks. In the 2019 permit, Sector R was consolidated into Sector Q (same benchmarks) and Sector R was repealed.

Sector S (Repealed) – Air Transportation Facilities

During the 2019 reissuance authorization for coverage of discharges subject to effluent limitations in 40 CFR Part 449 was removed as it was determined at the time that such facilities should be covered under Individual VPDES Permits. Benchmarks were also removed due to low exceedance rates. Given that Sector S no longer had any benchmark monitoring requirements or numeric effluent limitations, the sector was repealed and the Air Transportation Facility SIC codes were grouped into Sector AE (Facilities with no analytical benchmark monitoring requirements). The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from air transportation facilities including airports, airport terminal services, air transportation (scheduled and nonscheduled), flying fields, air courier services, and establishments engaged in operating and maintaining airports, and servicing, repairing or maintaining aircraft (generally classified under SIC Code 45), which have vehicle maintenance shops, material handling facilities, equipment cleaning operations, or airport or aircraft deicing or anti-icing operations. For the purpose of this section, the term "deicing" is defined as the process to remove frost, snow, or ice and "anti-icing" is the process which prevents the accumulation of frost, snow, or ice. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or deicing or anti-icing operations are addressed under this section.

Numeric Effluent Limitations:

SIC 4512-4581 (Air Transportation Facilities)

The 2014 permit included the following numeric effluent limitations:

1. Existing primary airports and primary airports meeting the definition of a new source (new primary airports) with at least 1,000 annual jet departures (non-propeller aircraft) that discharge wastewater associated with airport pavement deicing comingled with stormwater shall either use deicing products that do not contain urea or, alternatively, airfield pavement discharges at every discharge point shall achieve the numeric limitations for ammonia (14.7 mg/L, per 40 CFR 449) prior to any dilution or commingling with any non-deicing discharge. Primary airports that only use deicing products that do not contain urea shall certify this fact annually to the department.
2. Airports meeting the definition of a new source (new airports) with 10,000 annual departures, and located in cold climate zones, shall collect at least 60% of available Aircraft Deicing Fluid (ADF) after deicing. New airports shall achieve the performance standards for COD (271 mg/L daily max; 154 mg/L weekly average, per 40 CFR 449) in the available ADF collected.

The 2019 permit removed authorization for coverage of discharges subject to effluent limitations in 40 CFR Part 449 as it was determined at the time that such facilities should be covered under Individual VPDES Permits. However, during the 2019 permit term a handful of such airports were covered under Sector AD (Nonclassified Facilities/Stormwater Discharges Designated By the Department As Requiring Permits) in order to avoid the additional cost and administrative burden of an Individual Permit. The use of Sector AD allowed coverage of these airports at the department's discretion and allowed for the inclusion of the ELG requirements (40 CFR 449) and any other benchmarks deemed necessary.

The 2024 permit clarifies that facilities subject to federal effluent guidelines at 40 CFR 449 may be covered under Sector AD.

Benchmark Monitoring Parameters:

SIC 4512-4581 (Air Transportation Facilities)

The 2004 permit included BOD, TKN, and pH benchmarks for facilities that used more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average

annual basis. The 2009 permit added COD and TSS benchmarks. During the 2009 permit term, no DMR data was collected for these parameters, indicating that no facility exceeded the deicing/anti-icing thresholds noted above. As a result, these deicing/anti-icing benchmarks were removed during the 2014 reissuance, but TSS and TPH benchmarks were added for discharges from vehicle maintenance and equipment cleaning areas.

Data collected during the 2014 permit term indicated a benchmark exceedance rate of 4% for TSS and 0% for TPH. These benchmarks were removed during the 2019 reissuance.

Given that Sector S no longer had any benchmark monitoring requirements (or numeric effluent limitations as noted above), the sector was repealed and the Air Transportation Facility SIC codes were grouped into Sector AE (Facilities with no analytical benchmark monitoring requirements).

The 2024 continues to cover Air Transportation Facilities not subject to federal effluent guidelines under Sector AE.

Sector T (Repealed) – Treatment Works

During the 2019 reissuance, the Industrial Activity Code "TW" was transferred to Sector AE (Facilities with No Analytical Benchmark Monitoring Requirements) given the lack of applicable effluent limitations or benchmark monitoring requirements. The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including lands dedicated to the disposal of sewage sludge that are located within the confines of the facility with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program under 9VAC25-31-730 (Industrial Activity Code "TW"). Farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located within the facility, or areas that are in compliance with § 405 of the CWA are not required to have permit coverage.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters: None.

Sector U – Food and Kindred Products

The requirements listed under this section apply to stormwater discharges associated with industrial activity from food and kindred products processing facilities, including dairy products SIC Codes 2021 2026; grain mill products SIC Codes 2041 2048; and fats and oils SIC Codes 2074 2079.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 2021-2026 (Dairy Products)

The 2009 permit included BOD and TSS benchmarks that have been carried forward through the 2014, 2019, and 2024 permits.

SIC 2041-2048 (Grain Mill Products)

The 2004 permit included TKN and TSS benchmarks that have been carried forward through the 2009, 2014, 2019 and 2024 permits.

SIC 2074-2079 (Fats and Oils Products)

The 2004 permit included BOD, TN, and TSS benchmarks that have been carried forward through the 2009, 2014, 2019, and 2024 permits.

Sector V (Repealed) – Textile Mills, Apparel, and Other Fabric Products

During the 2019 reissuance, the SIC codes associated with Sector V were transferred to Sector AE (Facilities with No Analytical Benchmark Monitoring Requirements) given the lack of applicable effluent limitations or benchmark monitoring requirements. The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from textile mills, apparel and other fabric product manufacturing, generally described by SIC 22 and 23. This section also covers facilities engaged in manufacturing finished leather and artificial leather products (SIC 31, except 3111). Facilities in this sector are primarily engaged in the following activities: textile mill products, of and regarding facilities and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broad woven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yarn; processes involved in the dyeing and finishing of fibers, yarn fabrics, and knit apparel; the integrated manufacturing of knit apparel and other finished articles of yarn; the manufacturing of felt goods (wool), lace goods, nonwoven fabrics, miscellaneous textiles, and other apparel products.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters: None.

Sector W (Repealed) – Furniture and Fixtures

During the 2019 reissuance, the SIC codes associated with Sector W were transferred to Sector AE (Facilities with No Analytical Benchmark Monitoring Requirements) given the lack of applicable effluent limitations or benchmark monitoring requirements. The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities involved in the manufacturing of wood kitchen cabinets (generally described by SIC Code 2434), and furniture and fixtures (generally classified under SIC Major Group 25), including: household furniture (SIC 251); office furniture (SIC 252); public buildings and related furniture (SIC 253); partitions, 2014 Reissuance 97 Final Stage – As Adopted 12-17-2013 shelving, lockers, and office and store fixtures (SIC 254); and miscellaneous furniture and fixtures (SIC 259).

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters: None.

Sector X (Repealed) – Printing and Publishing

During the 2019 reissuance, the SIC codes associated with Sector X were transferred to Sector AE (Facilities with No Analytical Benchmark Monitoring Requirements) given the lack of applicable effluent limitations or benchmark monitoring requirements. The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from printing and publishing facilities (generally classified under SIC Major Group 27), and include the following types of facilities: newspaper, periodical, and book publishing and printing (SIC Codes 271 through 273); miscellaneous publishing (SIC Code 274); commercial printing (SIC Code 275); manifold business forms, greeting cards, bankbooks, looseleaf binders and book binding and related work (SIC Codes 276 through 278); and service industries for the printing trade (SIC 279).

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters: None.

Sector Y – Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries

The requirements listed under this section apply to stormwater discharges associated with industrial activity from rubber and miscellaneous plastic products manufacturing facilities, SIC Codes 3011, 3021, 3052, 3053, 3061, and 3069.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 3011, 3021, 3052, 3053, 3061, and 3069 (Tires and Inner Tubes; Rubber Footwear; Gaskets, Packing and Sealing Devices; Rubber Hose and Belting; and Fabricated Rubber Products, Not Elsewhere Classified)

The 2004 permit included a zinc benchmark that has been carried forward through the 2009, 2014, 2019, and 2024 permits.

Sector Z (Repealed) – Leather Tanning and Finishing

During the 2019 reissuance, the SIC codes associated with Sector Z were transferred to Sector AE (Facilities with No Analytical Benchmark Monitoring Requirements) given the lack of applicable effluent limitations or benchmark monitoring requirements. The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from leather tanning, currying and finishing (commonly identified by SIC Code 3111).

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 3111 (Leather Tanning and Fishing)

The 2004 permit included a zinc benchmark that was carried forward through the 2009 and 2014 permits. During the 2019 reissuance it was noted that no data had been collected for this benchmark requirement because there were no facilities covered under this Sector in Virginia. The benchmark was removed for the 2019 permit and the associated SIC codes were moved to Sector AE.

Sector AA – Fabricated Metals Products

The requirements listed under this section apply to stormwater discharges associated with industrial activity from the following fabricated metals industries, except for electrical related industries: fabricated metal products, except machinery and transportation equipment, SIC Codes 3411-3471, 3479, and 3482-3499; and jewelry, silverware, and plated ware, SIC Codes 3911-3915

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 3411-3471, 3482-3499, 3911-3915 (Fabricated Metal Products Except Coating)

The 2004 permit included aluminum, iron, and zinc benchmarks. The 2014 permit added a copper benchmark. The iron benchmark is removed in the 2024 permit due to lack of acute toxicity. All other benchmarks have been carried forward through the 2009, 2014, 2019, and 2024 permits.

SIC 3479 (Fabricated Metal Coating and Engraving)

The 2004 permit included a zinc benchmark that has been carried forward through the 2009, 2014, 2019, and 2024 permits.

Sector AB – Transportation Equipment, Industrial, or Commercial Machinery

The requirements listed under this section apply to stormwater discharges associated with industrial activity from transportation equipment and industrial or commercial machinery manufacturing facilities commonly described by SIC Codes 3511-3599, except SIC Codes 3571-3579.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC 3511-3599 except 3571-3579 (Transportation Equipment Manufacturing Facilities)

The 2014 permit included TPH, TSS, copper, and zinc benchmarks which have been carried forward through the 2019 and 2024 permits.

Sector AC (Repealed) – Electronic, Electrical Equipment and Components, Photographic and Optical Goods

During the 2019 reissuance, the SIC codes associated with Sector AC were transferred to Sector AE (Facilities with No Analytical Benchmark Monitoring Requirements) given the lack of applicable effluent

limitations or benchmark monitoring requirements. The description below is for informational purposes only.

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities that manufacture: electronic and other electrical equipment and components, except computer equipment (SIC Major Group 36); measuring, analyzing, and controlling instruments; photographic, medical and 2014 Reissuance 103 Final Stage – As Adopted 12-17-2013 optical goods; watches and clocks (SIC Major Group 38) and computer and office equipment (SIC Code 357).

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters: None.

Sector AD – Nonclassified Facilities or Stormwater Discharges Designated by the Department as Requiring Permits

Sector AD is used to provide permit coverage for facilities designated by the department as needing a stormwater permit under the provisions of 9VAC25-31-120 A 1 c or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation. Therefore, almost any type of stormwater discharge may be covered under this sector. Permittees shall be assigned to Sector AD by the department and may not choose Sector AD as the sector describing the facility's activities.

Effluent limitations, benchmark monitoring and reporting requirements: The department shall establish any additional monitoring requirements for your facility prior to before authorizing coverage under this permit.

Sector AE – Facilities with No Analytical Benchmark Monitoring Requirements

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities with SIC Codes 2611, 2621, 2652 2657, 2833 2836, 2851, 2861 2869, 2891 2899, 3952, 3211, 3221, 3229, 3231, 3241, 3281, 3291 3299, 3331 3339, 3398, 3399, 3341, 1311, 1321, 1381 1389, 2911, 4512-4581 (not subject to federal effluent guidelines), Treatment Works (TW), 2011 2015, 2032 2038, 2051 2053, 2061 2068, 2082 2087, 2091 2099, 2111 2141, 2211 2299, 2311 2399, 3131 3199, 2434, 2511 2599, 2711 2796, 3081 3089, 3931, 3942 3949, 3951 3955 (except 3952), 3961, 3965, 3991 3999, 3111, 3711 3799 (except 3731 and 3732 as identified in Sector Q), 3571 3579, 3612 3699, and 3812 3873.

No additional sector-specific requirements apply to this sector.

Sector AF – Facilities Limited to Total Suspended Solids Benchmark Monitoring

The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities with SIC Codes 4011, 4013, 4111, 4173, 4212 4231, 4311, and 5171.

Numeric Effluent Limitations: None.

Benchmark Monitoring Parameters:

SIC codes 4011, 4013, 4111 4173, 4212 4231, 4311, and 5171

The 2019 permit included a TSS benchmark which has been carried forward through the 2024 permit.

Part V – Chesapeake Bay Total Maximum Daily Load Compliance

1. Chesapeake Bay TMDL Compliance.

EPA's Chesapeake Bay TMDL (December 29, 2010) includes wasteload allocations for VPDES permitted industrial stormwater facilities as part of the regulated stormwater aggregate load. EPA used data submitted by Virginia with the Phase I Chesapeake Bay TMDL Watershed Implementation Plan, including the number of industrial stormwater permits per county and the number of urban acres regulated by industrial stormwater permits, as part of their development of the aggregate load. Aggregate loads for industrial stormwater facilities were appropriate because actual facility loading data were not available to develop individual facility wasteload allocations.

Virginia estimated the loadings from industrial stormwater facilities using actual and estimated facility acreage information, and TP, TN, and TSS loading values from the Northern Virginia Planning District Commission (NVPDC) *Guidebook for Screening Urban Nonpoint Pollution Management Strategies*, prepared for the Metropolitan Washington Council of Governments. Annandale, VA. November, 1979. The loading values used were as follows:

- TP - High (80%) imperviousness industrial; 1.5 lb/ac/yr
- TN - High (80%) imperviousness industrial; 12.3 lb/ac/yr
- TSS - High (80%) imperviousness industrial; 440 lb/ac/yr

Starting with the 2014 general permit, industrial stormwater facilities permitted within the Chesapeake Bay watershed have been required to provide actual facility area information and TP, TN and TSS monitoring data to quantify their nutrient and sediment loads in order to demonstrate compliance with the above Chesapeake Bay TMDL loading rates. In the event that a facility's calculated loads exceeded the TMDL loading rates, a Chesapeake Bay TMDL action plan was to be prepared indicating the means and methods (such as management practices and retrofit programs) that would be utilized to meet the required reductions and a schedule to achieve those reductions. These procedures were continued in the 2019 general permit and are continued in the 2024 general permit in a modified format in order to address the Chesapeake Bay TMDL compliance deadline of 2025.

Notably, the TSS loading rate requirements previously required under this section have been removed for the 2024 general permit. On August 12, 2019, the Chesapeake Bay Program Principals' Staff Committee (PSC) approved the process, timeline, and proposed Phase III WIP language for developing the Phase III WIP sediment targets. The Commonwealth of Virginia included the PSC-approved language in its final Phase III WIP on Page 29, Section 5.2 (Sediment Targets). This language states in part, "Sediment loads are managed in the Bay TMDL to specifically address the water clarity/submerged aquatic vegetation (SAV) water quality standards. Intuitively, it makes sense that the more sediment suspended in the water, the less makes it down to the SAV. Interestingly, research in the Chesapeake Bay has shown that the water clarity/SAV water quality standard is generally more responsive to nutrient load reductions than it is to reduction in sediment loads. This is because the algae that are fueled by the nutrients can block as much, or more, light from reaching the SAV as suspended sediments. *The sediment targets will not affect the BMPs called for in the WIP, and are not intended to be the driver for implementation moving forward...*"

Given that the Phase III WIP does not intend for sediment targets to be the driver for implementation moving forward, DEQ is reissuing this general permit without the TSS loading rate requirements. The reissued general permit will continue to include the required nutrient load reductions for nitrogen and phosphorous.

While the Commonwealth of Virginia has met the 2025 Sediment milestone target¹, it should be noted that the BMPs installed for the purposes of meeting the nutrient reductions will continue to provide additional sediment reductions as well, ensuring that the permit is consistent with the Chesapeake Bay TMDL.

The removal of the sediment reduction requirements for the Chesapeake Bay TMDL does not relieve permittees of their responsibility to comply with the requirements of a local TMDL or impaired water without an approved TMDL as addressed under Part I.A.1.c(3) and (4) of this permit, respectively. Additionally,

¹ Chesapeake Bay Program Communications Office Press Release, September 26, 2023:
<https://www.chesapeakebay.net/news/pressrelease/chesapeake-water-quality-sees-slight-decline>

benchmarks and numeric effluent limitations for TSS continue to be applied on a sector-specific basis under Part IV of this permit.

Anti-backsliding: The Clean Water Act, section 303(d)(4)(A) allows the establishment of a less stringent effluent limitation when the receiving water has been identified as not meeting applicable water quality standards (i.e., a nonattainment water) if the permittee meets two conditions: 1) the existing effluent limitation must have been based on a total maximum daily load (TMDL) or other wasteload allocation (WLA) established under CWA section 303, and 2) relaxation of the effluent limitation is only allowed if attainment of water quality standards will be ensured.

The removal of the TSS loading rate requirements meets both criteria: 1) the limitation was based on a TMDL established under CWA section 303 and 2) the water quality standard for clarity/SAV will still be attained, as noted above.

The remaining Chesapeake Bay TMDL compliance requirements are separated into three distinct categories depending on the status of a facility's demonstration of compliance, as described below.

- a. Facilities that obtained coverage under the 2019 industrial stormwater general permit that demonstrated compliance with the Chesapeake Bay TMDL loading rates.
 - (1) Owners shall maintain documentation of their demonstration of compliance with the Chesapeake Bay TMDL loading rates with the SWPPP and shall continue implementing any BMPs that may have been developed as part of that demonstration. Documentation may include:
 - (a) Calculations submitted to the department indicating that reductions were not necessary.
 - (b) A completed TMDL Action Plan, including a description of the means and methods, such as management practices and retrofit programs that were utilized to meet the required reductions.
 - (c) Other means accepted by the department indicating compliance with the Chesapeake Bay TMDL loading rates.
- b. Facilities that obtained coverage under the 2019 industrial stormwater general permit that did not demonstrate compliance with the Chesapeake Bay TMDL loading rates shall submit a demonstration to the department.
 - (1) Owners of facilities that submitted a Chesapeake Bay TMDL action plan during the 2019 industrial stormwater general permit term that did not achieve reductions by the end of the 2019 permit term shall update and resubmit their action plan to the department for approval no later than 60 days following coverage under this general permit. Permittees shall achieve ten percent of the remaining reductions by December 31, 2024, and all remaining reductions by December 31, 2025. An annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the interim and final reductions. A final report to demonstrate compliance shall be submitted to the department no later than January 10, 2026. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.

NOTE: Facilities that fall into this category are considered out of compliance with the previous permit which required reductions to be completed by June 30, 2024. To address this, the above language enacts an enforcement mechanism with interim and final milestones. However, given that the enforcement mechanism language allows additional time to perform activities required to be completed by the end of the previous permit term, anti-backsliding needs to be addressed.

Anti-backsliding: The Clean Water Act, section 303(d)(4)(A) allows the establishment of a less stringent effluent limitation when the receiving water has been identified as not meeting applicable water quality standards (i.e., a nonattainment water) if the permittee meets two conditions: 1) the existing effluent limitation must have been based on a total maximum daily load (TMDL) or other wasteload allocation (WLA) established under CWA section 303, and 2) relaxation of the effluent limitation is only allowed if attainment of water quality standards will be ensured.

The enactment of the enforcement mechanism language meets both criteria: 1) the reduction requirements were based on a TMDL established under CWA section 303 and 2) the enforcement mechanism language will ensure the attainment of water quality standards.

- (2) Owners of facilities that completed four samples for each outfall for TN and TP during the 2019 industrial stormwater general permit term that did not submit calculations by the end of the 2019 permit term shall utilize the procedures in Part V D to calculate their facility stormwater loads. The permittee shall submit a copy of the calculations, and a Chesapeake Bay TMDL action plan if required under Part V E, no later than 60 days following coverage under this general permit to the DEQ regional office serving the area where the industrial facility is located on a form provided by the department. Reductions, if applicable, shall be achieved by December 31, 2025, and an annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the required reductions until such time that the demonstration is completed. The demonstration shall be submitted to the department no later than February 1, 2026. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.
- (3) Owners of facilities registered prior to July 1, 2022, that did not complete four samples for each outfall for TN and TP by the end of the 2019 industrial stormwater general permit term shall monitor their discharges for TN and TP to characterize the contributions from their facility's specific industrial sector for these parameters. Total nitrogen is the sum of total Kjeldahl nitrogen (TKN) and nitrite + nitrate and shall be derived from the results of those tests. After the facility is granted coverage under the permit, samples shall be collected during each of the first four quarters of permit coverage. Samples shall be collected and analyzed in accordance with Part V B. Monitoring results shall be reported in accordance with Part V C and Part II C, and retained in accordance with Part II B. Calculations utilizing the procedures in Part V D, and a Chesapeake Bay TMDL action plan if required under Part V E, shall be submitted no later than 60 days following the completion of the fourth sample to the DEQ regional office serving the area where the industrial facility is located on a form provided by the department. Reductions, if applicable, shall be achieved by December 31, 2025, and an annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the required reductions until such time that the demonstration is completed. The demonstration shall be submitted to the department no later than February 1, 2026. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.

Facilities may use the applicable sampling data collected during the 2019 industrial stormwater general permit term to satisfy all or part of the four monitoring periods requirements.

- (4) Owners of facilities registered after June 30, 2022, that did not complete four samples for each outfall for TN and TP by the end of the 2019 industrial stormwater general permit term shall monitor their discharges in accordance with Part V A 3 (section c. of this fact sheet section).

Facilities may use the applicable sampling data collected during the 2019 industrial stormwater general permit term to satisfy all or part of the four monitoring periods requirements.

- c. Facilities that obtain initial coverage under the 2024 industrial stormwater general permit, but are not newly constructed facilities as identified in 9VAC25-151-60 C 13.
 - (1) Owners of facilities in the Chesapeake Bay watershed that obtain initial coverage under the 2024 industrial stormwater general permit shall monitor their discharges for TN and TP to characterize the contributions from their facility's specific industrial sector for these parameters. Total nitrogen is the sum of total Kjeldahl nitrogen (TKN) and nitrite + nitrate and shall be derived from the results of those tests. After the facility is granted coverage under the permit, samples shall be collected during each of the first four quarters of permit coverage. Samples shall be collected and analyzed in accordance with Part V B. Monitoring results shall be reported in accordance with Part V C and Part II C, and retained in accordance with Part II B. Calculations utilizing the procedures in Part V D, and a Chesapeake Bay TMDL action plan if required under Part V E, shall be submitted no later than 60 days following the completion of the fourth sample to the DEQ regional office serving the area where the industrial facility is located on a form provided by the department. Reductions, if applicable, shall be achieved by two years following the end of the fourth quarterly monitoring period and an annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the required reductions until such time that the demonstration is completed. The demonstration shall be submitted to the department no later than the 10th of the

month directly following the two-year period. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.

2. Monitoring Instructions and Reporting Monitoring Results.

These sections are identical to those listed under Part I of the general permit discussed previously, but are copied into this section and crafted specifically for Chesapeake Bay TMDL monitoring and reporting. Of note, monitoring periods are defined as quarterly (Jan-Mar, Apr-June, July-Sept, Oct-Dec) with monitoring results due the 10th of the month following each calendar quarter. Further, it is clarified that the representative outfalls provisions may be used for Chesapeake Bay TMDL monitoring.

3. Calculation of facility loads.

Permittees required to collect nutrient and sediment data in accordance with Part V A 2 or A 3 shall analyze the data collected to determine if pollution reductions are required. The permittee shall average the data collected at the facility for each of the pollutants of concern (POC) (e.g., TP and TN) and compare the results to the loading rates for TP and TN presented in Part V A 1.

The following formula may be used to determine the loading rate:

$$L = 0.226 \times P \times P_j \times (0.05 + (0.9 \times I_a)) \times C$$

where:

L = the POC loading rate (lb/acre/year)

P = the annual rainfall (inches/year) - The permittee may use either actual annual average rainfall data for the facility location (in inches/year), the Virginia annual average rainfall of 44.3 inches/year, or another method approved by the department.

P_j = the fraction of annual events that produce runoff - The permittee shall use 0.9 unless the department approves another rate.

I_a = the impervious fraction of the facility impervious area of industrial activity to the facility industrial activity area

C = the POC average concentration of all facility samples (mg/L) - Facilities with multiple outfalls shall calculate a weighted average concentration for each outfall using the drainage area of each outfall.

For total phosphorus, all daily concentration data below the quantitation level (QL) for the analytical method used shall be treated as half the QL. All daily concentration data equal to or above the QL for the analytical method used shall be treated as it is reported.

For total nitrogen, if none of the daily concentration data for the respective species (i.e., TKN, nitrate, or nitrite) are equal to or above the QL for the respective analytical methods used, the daily TN concentration value reported shall equal one half of the largest QL used for the respective species. If one of the data is equal to or above the QL, the daily TN concentration value shall be treated as that data point is reported. If more than one of the data is above the QL, the daily TN concentration value shall equal the sum of the data points as reported.

Calculations shall be submitted to the department within 60 days from the end of the last monitoring period that satisfies the monitoring requirements in Part V A 2 or Part V A 3. Calculations shall be submitted to the DEQ regional office serving the area where the industrial facility is located, on a form provided by the department, and maintained with the facility's SWPPP.

Alternative calculations may be proposed on a case-by-case basis to address facilities with outfalls that rarely discharge.

4. Chesapeake Bay TMDL action plan requirements.

For permittees required to submit calculations in accordance with Part V D, if the calculated facility loading rate for TP or TN is above the loading rates for TP or TN presented in Part V A, then the permittee shall develop and submit a Chesapeake Bay TMDL action plan to the department.

The Chesapeake Bay TMDL action plan shall be submitted on a form provided by the department to the regional office serving the area where the industrial facility is located within 60 days following the completion of the fourth sample. A copy of the current Chesapeake Bay TMDL action plan and all facility loading rate calculations shall be maintained with the facility's SWPPP. The Chesapeake Bay TMDL action plan shall include:

- a. A determination of the total pollutant load reductions for TP and TN (as appropriate) necessary to reduce the annual loads from industrial activities. This shall be determined by multiplying the industrial acreage times the difference between the TMDL loading rates listed in Part V A and the actual facility loading rates calculated in accordance with Part V D . The reduction applies to the total difference calculated for each pollutant of concern;
- b. The means and methods, such as management practices and retrofit programs that will be utilized to meet the required reductions determined in Part V E 1 and a schedule to achieve those reductions by the applicable deadline set in Part V A 2 or A 3.
 - (1) Pollutant reductions may be achieved using a combination of the following alternatives:
 - (a) Reductions provided by one or more of the BMPs found through the Virginia Stormwater BMP Clearinghouse (<https://www.deq.virginia.gov/our-programs/water/stormwater/stormwater-construction/bmp-clearinghouse>), or BMPs approved by the Chesapeake Bay Program. Any BMPs implemented to provide the required pollutant reductions shall be incorporated in the SWPPP and be permanently maintained by the permittee.
 - (b) Implementation of site-specific BMPs followed by a minimum of four stormwater samples collected in accordance with sampling requirements in Part I B 8 a that demonstrate pollutant loadings have been reduced below those calculated under Part I B 8 c. Any BMPs implemented to provide the required pollutant reductions shall be incorporated in the SWPPP and be permanently maintained by the permittee; or,
 - (c) Acquisition of nonpoint source credits certified by the board as perpetual in accordance with § 62.1-44.19:20 of the Code of Virginia.

Environmental Justice and Climate Change:

DEQ is in the process of addressing these concerns at a much higher level than specific permit requirements related to environmental justice and climate change. The Commonwealth of Virginia has proactively worked on the topics of environmental justice and climate resiliency within and outside the permitting process.

In 2020, the Commonwealth enacted the Virginia Environmental Justice Act (Act), codified at §§ 2.2-234 and 2.2-235 of the Code of Virginia, which states that it is Virginia's policy "to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice and fence line communities." Further, DEQ's enabling statute, § 10.1-1183 of the Code of Virginia, was amended to include in its statement of policy that DEQ's purpose, among others, is "[t]o ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, faith, disability, or income with respect to the administration of environmental laws, regulations, and policies." The policy statement was also amended to include a statement affirming that agency would "further environmental justice and enhance public participation in the regulatory and permitting processes." A detailed overview of ongoing activities is available on DEQ's Environmental Justice webpage. DEQ has recently released draft guidance, Environmental Justice in the Permitting Process for public comment. Once finalized in accordance with Virginia's Administration Process Act, this guidance document will serve as the guidepost for ensuring environmental justice is included in the permitting process.

The Commonwealth of Virginia has established the Chief Resilience Officer as the primary coordinator of resilience and adaptation initiatives in Virginia pursuant to § 2.2-220.5 of the Code of Virginia. As such they are the primary point of contact regarding recurrent flooding, all flooding related pre-disaster hazard mitigation, and adaptation. The Secretary of Natural and Historic Resources, Travis A. Voyles, is the Chief Resilience Officer for the Commonwealth of Virginia, a Cabinet level position for the Commonwealth of Virginia. One of the primary responsibilities of the Chief Resilience Office is to create and oversee the implementation of a Virginia Flood Protection Master Plan and a Virginia Coastal Resilience Master Plan in accordance with § 10.1-602 of the Code of Virginia to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment. The Commonwealth of Virginia's Chief Resilience Officer coordinates these activities through the Department of Conservation and Recreation, specifically the Department of Conservation and Recreation's Office of Resilience Planning.