



# VIRGINIA

## REGISTER OF REGULATIONS

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Virginia Code Commission

<http://register.dls.virginia.gov>

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# THE VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER OF REGULATIONS** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

## **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation,

unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

## **FAST-TRACK RULEMAKING PROCESS**

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

## **EMERGENCY REGULATIONS**

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## **STATEMENT**

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

## **CITATION TO THE VIRGINIA REGISTER**

The *Virginia Register* is cited by volume, issue, page number, and date. **28:2 VA.R. 47-141 September 26, 2011**, refers to Volume 28, Issue 2, pages 47 through 141 of the *Virginia Register* issued on September 26, 2011.

*The Virginia Register of Regulations* is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **John S. Edwards**, Chairman; **Gregory D. Habeeb**; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Wesley G. Russell, Jr.**; **Charles S. Sharp**; **Robert L. Tavenner**; **Patricia L. West**; **J. Jasen Eige** or **Jeffrey S. Palmore**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

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# PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

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## May 2012 through April 2013

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
28:18	April 18, 2012	May 7, 2012
28:19	May 2, 2012	May 21, 2012
28:20	May 16, 2012	June 4, 2012
28:21	May 30, 2012	June 18, 2012
28:22	June 13, 2012	July 2, 2012
28:23	June 27, 2012	July 16, 2012
28:24	July 11, 2012	July 30, 2012
28:25	July 25, 2012	August 13, 2012
28:26	August 8, 2012	August 27, 2012
29:1	August 22, 2012	September 10, 2012
29:2	September 5, 2012	September 24, 2012
29:3	September 19, 2012	October 8, 2012
29:4	October 3, 2012	October 22, 2012
29:5	October 17, 2012	November 5, 2012
29:6	October 31, 2012	November 19, 2012
29:7	November 13, 2012 ( <b>Tuesday</b> )	December 3, 2012
29:8	November 28, 2012	December 17, 2012
29:9	December 11, 2012 ( <b>Tuesday</b> )	December 31, 2012
29:10	December 26, 2012	January 14, 2013
29:11	January 9, 2013	January 28, 2013
29:12	January 23, 2013	February 11, 2013
29:13	February 6, 2013	February 25, 2013
29:14	February 20, 2013	March 11, 2013
29:150	March 6, 2013	March 25, 2013
29:16	March 20, 2013	April 8, 2013
29:17	April 3, 2013	April 22, 2013

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF PHARMACY

#### Agency Decision

**Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy.**

**Statutory Authority:** §§ 54.1-3300 and 54.1-3400 of the Code of Virginia.

**Name of Petitioner:** Louis M. Kaufman.

**Nature of Petitioner's Request:** To amend 18VAC110-20-680 C that requires that a medical equipment supplier must receive a valid order from a practitioner prior to dispensing, which has been interpreted to mean that the specific medical equipment supplier must receive the order at the MES location from which the product is being dispensed. The amendment would allow the transfer of a prescription received at one MES to another MES location.

**Agency Decision:** Denied.

**Statement of Reason for Decision:** While the board decided not to initiate rulemaking at this time, it has issued a guidance document (110-19) interpreting the law and regulations to allow for a transfer of a valid order between one medical equipment supplier and another, provided certain procedures are followed. At the next periodic review of regulations, the board will consider adding the provisions of the guidance document into regulation.

**Agency Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

VA.R. Doc. No. R12-17; Filed April 12, 2012, 10:10 a.m.

### BOARD OF SOCIAL WORK

#### Initial Agency Notice

**Title of Regulation: 18VAC140-20. Regulations Governing the Practice of Social Work.**

**Statutory Authority:** § 54.1-3700 of the Code of Virginia.

**Name of Petitioner:** Sarah Carter.

**Nature of Petitioner's Request:** To amend regulations for licensure by endorsement to allow social workers from other jurisdictions to provide "verification of active practice in another jurisdiction for 36 out of the past 60 months"; or verification of active practice in another jurisdiction for 36 months at any time, plus verification that the applicant has

completed 30 contact hours of continuing education in the 12 months preceding the application for licensure.

**Agency's Plan for Disposition of Request:** In accordance with Virginia law, the petition was filed with the Register of Regulations and will be published on May 7, 2012, with a request for comment to be received until June 1, 2012. The petition is also be posted for comment on the Virginia Regulatory Townhall at [www.townhall.virginia.gov](http://www.townhall.virginia.gov). At the next meeting held after the close of the comment period, scheduled for July 20, 2012, the Board of Social Work will consider the petition and any comment received to decide whether or not to initiate the rulemaking process. Should the board decide to respond by initiating regulatory action, the regulatory process typically takes at least 24 months to complete.

**Public Comment Deadline:** June 1, 2012.

**Agency Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

VA.R. Doc. No. R12-21; Filed April 12, 2012, 9:54 a.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### VIRGINIA BOARD FOR ASBESTOS, LEAD, MOLD, AND HOME INSPECTORS

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors intends to consider amending **18VAC15-30, Virginia Lead-Based Paint Activities Regulations**. The purpose of the proposed action is to adjust licensing fees for regulants of the Board for Asbestos, Lead, Mold, and Home Inspectors. The board must establish fees adequate to support the costs of the board's operations and a proportionate share of the department's operations. By the close of the next biennium, fees will not provide adequate revenue for those costs. The Board for Asbestos, Lead, Mold, and Home Inspectors has no other source of revenue from which to fund its operations.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Public Comment Deadline: June 6, 2012.

Agency Contact: David Dick, Executive Director, Virginia Board for Asbestos, Lead, Mold, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (804) 527-4297, or email [alhi@dpor.virginia.gov](mailto:alhi@dpor.virginia.gov).

VA.R. Doc. No. R12-3181; Filed April 16, 2012, 3:20 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors intends to consider amending **18VAC15-40, Certified Home Inspectors Regulations**. The purpose of the proposed action is to adjust licensing fees for regulants of the Board for Asbestos, Lead, Mold, and Home Inspectors. The board must establish fees adequate to support the costs of the board's operations and a proportionate share of the department's operations. By the close of the next biennium, fees will not provide adequate revenue for those costs. The Board for Asbestos, Lead, Mold, and Home Inspectors has no other source of revenue from which to fund its operations.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Public Comment Deadline: June 6, 2012.

Agency Contact: David Dick, Executive Director, Virginia Board for Asbestos, Lead, Mold, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (804) 527-4297, or email [asbestos@dpor.virginia.gov](mailto:asbestos@dpor.virginia.gov).

VA.R. Doc. No. R12-3182; Filed April 16, 2012, 3:21 p.m.

## BOARD FOR GEOLOGY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Geology intends to consider amending **18VAC70-20, Rules and Regulations for the Virginia Board for Geology**. The purpose of the proposed action is to adjust licensing fees for regulants of the Board for Geology. The board must establish fees adequate to support the costs of the board's operations and a proportionate share of the department's operations. By the close of the next biennium, fees will not provide adequate revenue for the operational costs. The Board for Geology has no other source of revenue from which to fund its operations.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 54.1-1402 of the Code of Virginia.

Public Comment Deadline: June 6, 2012.

Agency Contact: David Dick, Executive Director, Board for Geology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8588, FAX (804) 527-4297, or email [geology@dpor.virginia.gov](mailto:geology@dpor.virginia.gov).

VA.R. Doc. No. R12-3180; Filed April 16, 2012, 3:20 p.m.

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# REGULATIONS

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For information concerning the different types of regulations, see the Information Page.

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## Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

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## TITLE 1. ADMINISTRATION

### STATE BOARD OF ELECTIONS

#### Notice of Effective Date

Title of Regulation: **1VAC20-70. Absentee Voting (adding 1VAC20-70-10, 1VAC20-70-40, 1VAC20-70-50).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: April 18, 2012.

On January 12, 2011, the State Board of Elections adopted this regulation restating Board policies relating to absentee voting. The final regulation was published February 14, 2011, Volume 27, Issue 12 of the Virginia Register of Regulations ([27:12 VA.R. 1271 February 14, 2011](#)) with an effective date upon filing a notice of the United States Attorney General's preclearance with the Registrar of Regulations. The State Board of Elections hereby notices its determination in consultation with the Office of Attorney General that this regulation restating existing policies is not a change in voting practices requiring preclearance. The effective date of this regulation is April 18, 2012. Copies are available online at <http://townhall.virginia.gov/L/viewstage.cfm?stageid=5782&display=documents>; by telephone toll-free 1-800-552-9745 or local (804) 864-8910; by written request to FOIA Coordinator, 1100 Bank Street, Richmond, VA 23219; or by email request to [foia@sbe.virginia.gov](mailto:foia@sbe.virginia.gov).

Agency Contact: Martha Brissette, Policy Analyst, State Board of Elections, 1100 Bank St., Richmond, VA 23219, telephone (804) 864-8925, FAX (804) 786-0760, or email [martha.brissette@sbe.virginia.gov](mailto:martha.brissette@sbe.virginia.gov).

VA.R. Doc. No. R11-2686; Filed April 18, 2012, 1:56 p.m.

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF CONSERVATION AND RECREATION

#### Final Regulation

**REGISTRAR'S NOTICE:** The Department of Conservation and Recreation is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law

where no agency discretion is involved. The Department of Conservation and Recreation will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **4VAC5-30. Virginia State Parks Regulations (repealing 4VAC5-30-200).**

Statutory Authority: § 10.1-104 of the Code of Virginia.

Effective Date: May 7, 2012.

Agency Contact: David C. Dowling, Policy and Planning Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, or email [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

Background: 4VAC5-30-200 stipulates that "No person except employees, police officers, or officers of the department shall carry or possess firearms of any description, or airguns, within the park. This regulation shall not apply in areas designated for hunting by the Department of Conservation and Recreation. This regulation also shall not apply to the carrying of concealed handguns within state parks by holders of a valid concealed handgun permit issued pursuant to § 18.2-308 of the Code of Virginia."

The stated authority for the regulation is found in § 10.1-104 A 4 of the Code of Virginia where the department has broad authority to prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred by law. However, it is the lack of specific statutory authority to regulate firearms upon which amendments to this regulation have been directed and are now repealed.

4VAC5-30-200 is part of the Virginia Administrative Code (VAC) and has been part of the VAC or department regulations since at least 1965 and likely since the State Park System was created in 1936. This regulation originally prohibited all carrying of firearms by anyone other than police officers, other employees of the department, or those engaged in approved hunting activities, but was amended in 2002 to permit the carrying of concealed handguns by those in possession of a valid concealed handgun permit. In response to a September 9, 2002, opinion from Attorney General Kilgore (Opinion 02-074) to Delegate Richard H. Black that found that the Department of Conservation and Recreation exceeded its statutory authority in prohibiting the carrying of concealed handguns by holders of valid permits, Governor Warner by letter on September 23, 2002, instructed the department to amend the regulation in accordance with the opinion. The Attorney General's Office further found that

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## Regulations

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the department could amend the regulation as an exempt action pursuant to § 2.2-4006 A 4 a of the Code of Virginia. The amendments were effective February 12, 2003 (Virginia Register Volume 19, Issue 9, June 2, 2003).

On September 26, 2008, then Attorney General McDonnell (Opinion 08-043) issued an opinion to then Senator Kenneth T. Cuccinelli, II that found that the Department of Conservation and Recreation has only such authority to restrict the open carrying of firearms that is expressly provided by law. The opinion stated that "I find no specific statutory authority granting the Department the authority to prohibit the open carrying of firearms in state parks. A person's right to carry a firearm openly is considered universal within the Commonwealth, subject to definite and limited restrictions upon certain locations and classifications of individuals. Section 18.2-287.4 is the only statute that specifically addresses carrying of firearms in public parks. In the context of parks and public spaces, the General Assembly merely limits certain classifications of firearms and not firearms generally. Under accepted rules of statutory construction, the mention of one thing in a statute implies the exclusion of another. Further, the Department's enabling legislation does not specifically authorize a prohibition against the open carry of firearms."

The opinion further stated that "[i]n light of the General Assembly's explicit statements regarding limitations on carrying and possessing firearms, the Department may not infer such authority from its enabling legislation and prohibit the carrying of firearms not otherwise prohibited within state parks. It is within the sole discretion of the General Assembly to limit the carrying of firearms in parks beyond that restricted by § 18.2-287.4. Additionally, the General Assembly could grant explicit statutory authority to the Department to accomplish such purpose. I find no authority, express or implied, for the Department to prohibit the carrying and possession of firearms within state parks beyond that currently prohibited by law."

On January 14, 2011, Governor McDonnell issued a letter to the Director of the Department of Conservation and Recreation. In the letter, the Governor noted that "I have reviewed the opinion I provided in September of 2008 as Attorney General to then Senator Ken T. Cuccinelli, II regarding the authority of the Department of Conservation and Recreation to issue a regulation prohibiting the open carrying of firearms in State Parks. In summary, the opinion states that because the General Assembly enacted § 18.2-287.4 of the Code of Virginia, it had no intention of further restricting the carrying of firearms in public parks. I am not aware of any legislative action since the issuance of that opinion which would change the conclusion reached therein. Lacking specific legislative authorization to further regulate firearms, the Department of Conservation and Recreation cannot promulgate a regulation that does so. Therefore, I am directing the Department of Conservation and Recreation to

cease enforcement of 4VAC5-30-200. The Department should notify all state park officials immediately of this change. Further, I am directing that 4VAC5-30-200 be repealed through an exempt Administrative Process Act regulatory action to bring it into conformity with this opinion and law."

### Summary:

*This regulatory action repeals 4VAC5-30-200, Firearms, of the Virginia State Parks Regulations.*

### **4VAC5-30-200. Firearms. (Repealed.)**

~~No person except employees, police officers, or officers of the department shall carry or possess firearms of any description, or airguns, within the park. This regulation shall not apply in areas designated for hunting by the Department of Conservation and Recreation. This regulation also shall not apply to the carrying of concealed handguns within state parks by holders of a valid concealed handgun permit issued pursuant to § 18.2-308 of the Code of Virginia.~~

VA.R. Doc. No. R12-3167; Filed April 7, 2012, 1:11 p.m.



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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Proposed Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation: 9VAC25-120. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests (amending 9VAC25-120-10, 9VAC25-120-20, 9VAC25-120-50, 9VAC25-120-60, 9VAC25-120-70, 9VAC25-120-80; adding 9VAC25-120-15).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123, and 124.

Public Hearing Information:

June 13, 2012 - 1:30 p.m. - Department of Environmental Quality, 629 East Main Street, 2nd Floor Conference Room, Richmond, VA

Public Comment Deadline: July 6, 2012.

Agency Contact: Burton Tuxford, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4086, FAX (804) 698-4032, or email burton.tuxford@deq.virginia.gov.

Summary:

*The General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites, Ground Water Remediation, and Hydrostatic Tests has existed since 1992. This general permit contains effluent limitations, monitoring requirements, and special conditions for discharges of petroleum-contaminated wastewater, chlorinated hydrocarbon contaminated wastewater, and wastewater from hydrostatic tests. The proposed changes to the regulation will make this general permit similar to other general permits issued recently and clarify and update permit limits and conditions.*

*The proposed substantive changes (i) add coverage under the permit for hydrostatic tests of water storage tanks and pipelines; (ii) add two reasons why a facility's discharge would not be eligible for coverage under the permit; (iii) add language to allow for administrative continuance of coverage under the general permit; (iv) add a provision that allows specified short term projects (14 days or less in duration) and hydrostatic test discharges to be automatically covered under the permit without the requirement to submit a registration statement, and require that the owner notify the department within 14 days of the discharge's completion; (v) consolidate the permit Part I A Effluent Limitations and Monitoring Requirements for "Gasoline Contaminated Discharges" into one limits table, and discharges "Contaminated by Petroleum Products Other Than Gasoline" into one limits table; recalculate the effluent limits in the combined tables to be at the most protective levels for the discharge type and to protect all receiving waters based on an analysis of water quality criteria, toxicity data, and best professional judgment; and (vi) add permit special conditions for: (a) required number of significant digits for reporting monitoring results, (b) controlling discharges as necessary to meet water quality standards, responsibility to comply with any other federal, state, or local statute, ordinance, or regulation, (c) requirement to submit discharge monitoring reports to the owner of the municipal storm sewer system*

*(MS4) if they discharge to the MS4, and (d) requirement to implement measures and controls consistent with a TMDL requirement when the facility is subject to an approved TMDL.*

**9VAC25-120-10. Definitions.**

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law and 9VAC25-31 (VPDES permit regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Central wastewater treatment facilities" means any facility that treats (for disposal, recycling, or recovery of materials) or recycles hazardous or nonhazardous waste, hazardous or nonhazardous industrial wastewater, or used material from offsite. This includes both a facility that treats waste received from off-site exclusively, and a facility that treats waste generated on-site as well as waste received from off site.

"Chlorinated hydrocarbon solvents" means solvents containing carbon, hydrogen, and chlorine atoms and the constituents resulting from the degradation of these chlorinated hydrocarbon solvents.

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

"Director" means the Director of the Virginia Department of Environmental Quality, or an authorized representative.

"Petroleum products" means petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils. "Petroleum products" does not include hazardous waste as defined by the Virginia Hazardous Waste Regulations (9VAC20-60).

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

**9VAC25-120-15. 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 (EPA) set forth in Title 40 of the Code of Federal Regulations is referenced or adopted herein and incorporated by reference, that regulation shall be as it exists and has been published as a final regulation in the Federal Register prior to July 1, 2012, with the effective date as published in the Federal Register notice or February 26, 2013, whichever is later.

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## 9VAC25-120-20. Purpose.

This general permit regulation governs the discharge of wastewaters from sites contaminated by petroleum products, chlorinated hydrocarbon solvents, ~~and the hydrostatic testing of petroleum and natural gas storage tanks and pipelines, and the hydrostatic testing of water storage tanks and pipelines.~~ These wastewaters may be discharged from the following activities: excavation dewatering, ~~purging groundwater monitoring wells,~~ conducting aquifer tests to characterize site conditions, ~~hydrostatic tests of natural gas and petroleum storage tanks or pipelines, hydrostatic tests of underground and above ground storage tanks,~~ pumping contaminated groundwater to remove free product from the ground, ~~or discharges resulting from another petroleum product or chlorinated hydrocarbon solvent cleanup activity approved by the department board,~~ hydrostatic tests of natural gas and petroleum storage tanks or pipelines, hydrostatic tests of underground and above ground storage tanks, and hydrostatic tests of water storage tanks and pipelines. Discharges not associated with petroleum-contaminated water, water contaminated by chlorinated hydrocarbon solvents, or hydrostatic tests are not covered under this general permit.

## 9VAC25-120-50. Effective date of the permit.

This general permit will become effective on February 26, ~~2008~~ 2013. This general permit will expire ~~five years from the effective date~~ on February 25, 2018. This general permit is effective as to any covered owner upon compliance with all the provisions of 9VAC25-120-60 ~~and the receipt of this general permit.~~

## 9VAC25-120-60. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters within the Commonwealth of Virginia provided that ~~the~~:

1. The owner files and receives acceptance by the board of the submits a registration statement of, if required to do so, in accordance with 9VAC25-120-70, and that registration statement is accepted by the board;

2. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-120-80; and provided that:

3. The board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

B. The board will notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. Individual permit. The owner has not been is required to obtain an individual permit according to in accordance with 9VAC25-31-170 B of the VPDES Permit Regulation;

2. Prohibited discharge locations. The owner shall not be authorized by this general permit is proposing to discharge within five miles upstream of a public water supply intake or to state waters specifically named in other board regulations or policies which prohibit such discharges; and

3. Central wastewater treatment facilities. The owner shall not be authorized by this general permit is proposing to discharge to surface waters where there are permitted central wastewater treatment facilities reasonably available, as determined by the board;

4. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30; or

5. The discharge is not consistent with the assumptions and requirements of an approved TMDL.

B. Receipt of C. Compliance with this general permit constitutes compliance with the federal Clean Water Act, the State Water Control Law, and applicable regulations under either with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other appropriate applicable federal, state or local statute, ordinance or regulation.

## D. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the petroleum contaminated sites, groundwater remediation, and hydrostatic tests general permit issued in 2008 and that submits a complete registration statement on or before February 26, 2013, is authorized to continue to discharge under the terms of the 2008 general permit until such time as the board either:

a. Issues coverage to the owner under this general permit; or

b. Notifies the owner that the discharge is not eligible for coverage under this general permit.

2. 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 may choose to do any or all of the following:

a. Initiate enforcement action based upon the general permit that has been continued;

b. Issue a notice of intent to deny coverage under the amended general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the continued general permit or be subject to enforcement action for discharging without a permit;

c. Issue an individual permit with appropriate conditions; or

d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

**9VAC25-120-70. Registration statement.**

~~The owner shall file a complete VPDES general permit registration statement for discharges from petroleum contaminated sites, ground water remediation, and hydrostatic tests. Any owner proposing a new discharge shall file a complete registration statement at least 30 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing discharge covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing discharge not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file a complete registration statement. The required registration statement shall contain the following information:~~

A. Any owner seeking coverage under this general permit who is required to submit a registration statement 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 general VPDES permit for discharges from petroleum contaminated sites, ground water remediation, and hydrostatic tests.

B. Owners of the following types of proposed or existing discharges are not required to submit a registration statement to apply for coverage under this general permit:

1. Short term projects (14 days or less in duration) including:

- a. Emergency repairs;
- b. Dewatering projects;
- c. Utility work and repairs in areas of known contamination;
- d. Tank placement or removal in areas of known contamination;
- e. Pilot studies or pilot tests, including aquifer tests; and
- f. New well construction discharges of groundwater;

2. Hydrostatic testing of petroleum and natural gas storage tanks and pipelines; and

3. Hydrostatic testing of water storage tanks and pipelines.

Owners of these types of discharges are authorized to discharge under this permit immediately upon the permit's effective date of February 26, 2013.

Owners shall notify the department's regional office in writing within 14 days of the completion of the discharge. The notification shall include the owner's name and address, the type of discharge that occurred, the physical location of the discharge work, and the receiving stream. If the discharge is to a municipal separate storm sewer system (MS4), the owner shall also notify the MS4 owner within 14 days of the completion of the discharge.

Owners of these types of discharges are not required to submit a notice of termination at the completion of the discharge.

C. Deadlines for submitting registration statements.

1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least 30 days prior to the date planned for commencing operation of the new discharge, unless exempted by subsection B of this section.

2. Existing facilities.

a. Any owner covered by an individual VPDES permit who is proposing to be covered by this general permit shall submit a complete registration statement at least 210 days prior to the expiration date of the individual VPDES permit.

b. Any owner that was authorized to discharge under the petroleum contaminated sites, ground water remediation, and hydrostatic tests general VPDES permit that became effective on February 26, 2008, who is not exempted under subsection A of this section and who intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before January 27, 2013.

D. Late registration statements. Late registration statements will be accepted, but authorization to discharge will not be retroactive. Owners described in subdivision C 2 b of this section that submit late registration statements are authorized to discharge under the provisions of 9VAC25-120-60 D if a complete registration statement is submitted on or before February 26, 2013.

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

- 1. Legal name of facility;
- 2. Location of facility, address, and telephone number, and email address (if available);
- 3. Facility owner name, address, and telephone number, and email address (if available);
- 4. Nature of business conducted at the facility;
- 5. Type of petroleum or natural gas products, or chlorinated hydrocarbon solvents causing or that caused the contamination;

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6. Identification of activities that will result in a point source discharge from the contaminated site;
7. Whether a site characterization report for the site has been submitted to the Department of Environmental Quality;
8. Characterization or description of the wastewater or nature of contamination including analytical data;
9. The location of the discharge point and identification of the waterbody into which the discharge will occur. For linear projects, the location of all the proposed discharge points along the project length and the associated waterbody for each discharge point;
10. The frequency with which the discharge will occur (i.e., daily, monthly, continuously);
11. An estimate of how long each discharge will last;
12. An estimate of the total volume of wastewater to be discharged;
13. An estimate of the flow rate of the discharge;
14. A diagram of the proposed wastewater treatment system identifying the individual treatment units;
15. A USGS 7.5 minute topographic map or ~~other~~ equivalent computer generated map that indicates the receiving waterbody name or names, the discharge point or points, the property boundaries, as well as springs, other surface waterbodies, drinking water wells, and public water supplies that are identified in the public record or are otherwise known to the applicant within a 1/2 mile radius of the proposed discharge or discharges;
16. Whether the facility will discharge to a municipal separate storm sewer system (MS4). If so, the name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit and shall copy the DEQ regional office with the notification. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number;
17. Whether central wastewater facilities are available to the site, and if so, whether the option of discharging to the central wastewater facility has been evaluated and the results of that evaluation;
- ~~17.~~ 18. Whether the facility currently has a permit issued by the board, and if so, the permit number;
- ~~18.~~ 19. Any applicable pollution complaint number;
- ~~19.~~ 20. A statement as to whether the material being treated or discharged is certified as a hazardous waste under the Virginia Hazardous Waste Regulation (9VAC20-60); and

~~20.~~ 21. 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. I do also hereby grant duly authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property for the purpose of determining the suitability of the general permit.

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

## **9VAC25-120-80. General permit.**

Any owner whose ~~request for coverage under this general permit registration statement~~ is accepted by the board, or who is automatically authorized to discharge under this permit, shall comply with the requirements of the general permit and be subject to all requirements of 9VAC25-31-170 B of the VPDES permit regulation. Not all pages of Part I A of the general permit will apply to every permittee. The determination of which pages apply will be based on the type of contamination at the individual site and the nature of the waters receiving the discharge. Part I B and all pages of Part II apply to all permittees.

General Permit No.: VAG83

Effective Date: February 26, ~~2008~~ 2013

Expiration Date: February 25, ~~2013~~ 2018

### GENERAL VPDES PERMIT FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES, GROUNDWATER REMEDIATION, AND HYDROSTATIC TESTS

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

In compliance with the provisions of the Clean Water Act, as amended, the State Water Control Law and regulations adopted pursuant thereto, the owner is authorized to discharge to surface waters ~~at the locations identified in the accepted registration statement~~ within the boundaries of the Commonwealth of Virginia, except to designated public water supplies or waters specifically named in other board regulations ~~or policies~~ which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements and Part II - Conditions Applicable to All VPDES Permits, as set forth herein.

If there is any conflict between the requirements of a ~~Department of Environmental Quality~~ board approved cleanup plan and this permit, the requirements of this permit shall govern.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. SHORT TERM PROJECTS.

The following types of short term projects (14 days or less in duration) are authorized under this permit:

- a. Emergency repairs;
- b. Dewatering projects<sup>(1)</sup>;
- c. Utility work and repairs in areas of known contamination;
- d. Tank placement or removal in areas of known contamination;
- e. Pilot studies or pilot tests, including aquifer tests; and
- f. New well construction discharges of groundwater.

Effluent limits for short term projects correspond to the type of contamination at the project site and are given in Tables A 2 through A 5 below. The sampling frequency for these projects shall be once per project term. Discharge monitoring reports for these projects are not required to be submitted to the department, but shall be retained by the owner for a period of at least three years from the completion date of the project.

Owners shall notify the department's regional office in writing within 14 days of the completion of the project discharge. The notification shall include the owner's name and address, the type of discharge that occurred, the physical location of the project work, and the receiving stream. If the discharge is to a municipal separate storm sewer system (MS4), the owner shall also notify the MS4 owner within 14 days of the completion of the discharge.

<sup>(1)</sup>Dewatering projects shall be managed to ensure that they are discharging to an adequate channel or pipe and do not cause erosion in the receiving stream.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

~~4. 2. GASOLINE CONTAMINATION -- FRESHWATER RECEIVING WATERS NOT LISTED AS PUBLIC WATER SUPPLIES ALL RECEIVING WATERS.~~

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge ~~to freshwater receiving waterbodies~~ from outfall serial number XXXX. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	<del>1/Month</del> <sup>(4)</sup>	Estimate
Benzene (µg/l) <sup>(1)</sup>	NA	<del>50.0</del> <u>12.0</u>	<del>1/Month</del> <sup>(4)</sup>	Grab
Toluene (µg/l) <sup>(1)</sup>	NA	<del>175.0</del> <u>43.0</u>	<del>1/Month</del> <sup>(4)</sup>	Grab
Ethylbenzene (µg/l) <sup>(1)</sup>	NA	<del>320.0</del> <u>4.3</u>	<del>1/Month</del> <sup>(4)</sup>	Grab
Total Xylenes (µg/l) <sup>(1)</sup>	NA	33.0	<del>1/Month</del> <sup>(4)</sup>	Grab

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MTBE (methyl tert-butyl ether) ( $\mu\text{g/l}$ ) <sup>(1)</sup>	NA	1,840.0	1/Month	Grab
<u>Freshwaters not listed as public water supplies and saltwater</u>	NA	440.0	1/Month <sup>(4)</sup>	Grab
<u>Freshwaters listed as public water supply</u>	NA	15.0	2/Month <sup>(4)</sup>	Grab
pH (standard units)	6.0	9.0	1/Month <sup>(4)</sup>	Grab
Total Recoverable Lead ( $\mu\text{g/l}$ ) <sup>(2)</sup>	NA	$e^{(1.273(\ln \text{hardness})) - 3.259}$	1/Month	Grab
<u>Freshwaters not listed as public water supplies and saltwater</u>	NA	$\frac{e^{(1.273(\ln \text{hardness}))} - 3.259}{3.259}$	(4)	Grab
<u>Freshwaters listed as public water supply</u>	NA	<u>Lower of <math>\frac{e^{(1.273(\ln \text{hardness}))} - 3.259}{3.259}</math> or 15</u>	(4)	Grab
Hardness ( $\text{mg/l CaCO}_3$ ) <sup>(2)</sup>	NL	NA	1/Month <sup>(4)</sup>	Grab
Ethylene Dibromide ( $\mu\text{g/l}$ ) <sup>(2)</sup>	NA	5.3	1/Month	Grab
<u>Freshwaters not listed as public water supplies and saltwater</u>	NA	1.9	1/Month <sup>(4)</sup>	Grab
<u>Freshwaters listed as public water supply</u>	NA	0.161	2/Month <sup>(4)</sup>	Grab
1,2 Dichloroethane ( $\mu\text{g/l}$ ) <sup>(2)</sup>	NA	990.0 3.8	1/Month <sup>(4)</sup>	Grab
Ethanol ( $\mu\text{g/l}$ ) <sup>(3)</sup>	NA	4100.0	1/Month <sup>(4)</sup>	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>Benzene, Toluene, Ethylbenzene, Total Xylenes and MTBE shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136, 2007) (40 CFR Part 136) or EPA SW 846 Method 8021B (1996).

<sup>(2)</sup>Monitoring for this parameter is required only when contamination results from leaded fuel. Lead shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136, 2007) or EPA SW 846 Method 9040C (2004) (40 CFR Part 136). The minimum hardness concentration that will be used to determine the lead effluent limit is 25 mg/l. 1,2 dichloroethane and EDB shall be analyzed by a current and appropriate EPA SW 846 Method or EPA Wastewater Method from 40 CFR Part 136 (2007).

<sup>(3)</sup>Monitoring for ethanol is only required for discharges of water contaminated by gasoline containing greater than 10% ethanol. Ethanol shall be analyzed according to EPA SW 846 Method 8015C (2007) or EPA SW 846 Method 8260B (1996). Monitoring frequency shall be 1/month in the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency for ethanol be reduced from monthly to 1/quarter. The written request shall be sent to the appropriate regional office for review. Upon written notification from the DEQ regional office, monitoring frequency shall be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency for ethanol shall revert to 1/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October and January.

<sup>(4)</sup>The monitoring frequency for discharges into freshwaters not listed as public water supplies and saltwater shall be once per month. If the first year results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency for ethanol be reduced from monthly to 1/quarter. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, monitoring frequency shall be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation, or

be the subject of an active enforcement action, monitoring frequency for ethanol shall revert to 1/month upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

The monitoring frequency for discharges into freshwaters listed as public water supplies shall be twice per month for all constituents or parameters. If the first year's results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency for ethanol be reduced to 1/quarter and the other parameters to 1/month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, the monitoring frequency for ethanol shall be reduced to 1/quarter and the other parameters to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### ~~2. GASOLINE CONTAMINATION — FRESHWATER RECEIVING WATERS LISTED AS PUBLIC WATER SUPPLIES.~~

~~During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to freshwater receiving waterbodies from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.~~

~~Such discharges shall be limited and monitored by the permittee as specified below:~~

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	2/Month <sup>4</sup>	Estimate
Benzene (µg/l) <sup>1</sup>	NA	12.0	2/Month <sup>4</sup>	Grab
Toluene (µg/l) <sup>1</sup>	NA	175.0	2/Month <sup>4</sup>	Grab
Ethylbenzene (µg/l) <sup>1</sup>	NA	320.0	2/Month <sup>4</sup>	Grab
Total Xylenes (µg/l) <sup>1</sup>	NA	33.0	2/Month <sup>4</sup>	Grab
MTBE (methyl tert-butyl ether) (µg/l) <sup>1</sup>	NA	15.0	2/Month <sup>4</sup>	Grab
pH (standard units)	6.0	9.0	2/Month <sup>4</sup>	Grab
Total Recoverable Lead (µg/l) <sup>2</sup>	NA	Lower of e <sup>(1-273(ln hardness))</sup> - 3.259 or 15	2/Month <sup>4</sup>	Grab
Hardness (mg/l CaCO <sub>3</sub> ) <sup>2</sup>	NL	NL	2/Month <sup>4</sup>	Grab
Ethylene Dibromide (µg/l) <sup>2</sup>	NA	169	2/Month <sup>4</sup>	Grab
1,2 Dichloroethane (µg/l) <sup>2</sup>	NA	3.8	2/Month <sup>4</sup>	Grab
Ethanol (µg/l) <sup>3</sup>	NA	4100.0	2/Month <sup>5</sup>	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>1</sup>Benzene, Toluene, Ethylbenzene, Total Xylenes and MTBE shall be analyzed according to a current and appropriate EPA Method (40 CFR Part 136, 2007) or EPA SW 846 Method 8021B (1996).

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<sup>2</sup>Monitoring for this parameter is required only when contamination results from leaded fuel. Lead shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136, 2007). The minimum hardness concentration that will be used to determine the lead effluent limit is 25 mg/l. EPA SW 846 Method 8011 (1992) or EPA Drinking Water Method 504.1 (1995) shall be used to analyze ethylene dibromide (EDB) in wastewaters discharged to public water supplies. 1,2 dichloroethane shall be analyzed by a current and appropriate EPA SW 846 Method or EPA Wastewater Method from 40 CFR Part 136 (2007).

<sup>3</sup>Monitoring for ethanol is only required for discharges of water contaminated by gasoline containing greater than 10% ethanol. Ethanol shall be analyzed according to EPA SW 846 Method 8015C (2007) or EPA SW 846 Method 8260B (1996).

<sup>4</sup>Monitoring frequency shall be 2/month for the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced from 2/month to 1/month. The written request shall be sent to the appropriate regional office for review. Upon written notification from the DEQ regional office, monitoring frequency shall be reduced to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date.

<sup>5</sup>If the first year results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency for ethanol be reduced from 2/month to 1/quarter. The written request shall be sent to the appropriate regional office for review. Upon written notification from the DEQ regional office, monitoring frequency shall be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### 3. CONTAMINATION BY PETROLEUM PRODUCTS OTHER THAN GASOLINE -- ~~FRESHWATER RECEIVING WATERS NOT LISTED AS PUBLIC WATER SUPPLIES~~ ALL RECEIVING WATERS.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to ~~freshwater receiving waterbodies~~ from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	<del>1/Month</del> <sup>(4)</sup>	Estimate
Naphthalene (µg/l) <sup>(1)</sup>	NA	<del>10.0</del> <u>8.9</u>	<del>1/Month</del> <sup>(4)</sup>	Grab
Total Petroleum Hydrocarbons (mg/l) <sup>(2)</sup>	NA	15.0	<del>1/Month</del> <sup>(4)</sup>	Grab
pH (standard units)	6.0	9.0	<del>1/Month</del> <sup>(4)</sup>	Grab
<u>Benzene (µg/l)<sup>(3)</sup></u>	<u>NA</u>	<u>12.0</u>	<u>2/Month</u> <sup>(4)</sup>	<u>Grab</u>
<u>MTBE (methyl tert-butyl ether) (µg/l)<sup>(3)</sup></u>	<u>NA</u>	<u>15.0</u>	<u>2/Month</u> <sup>(4)</sup>	<u>Grab</u>

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>Naphthalene shall be analyzed by a current and appropriate EPA Wastewater Method from 40 CFR Part 136 (2007) or a current and appropriate EPA SW 846 Method.

<sup>(2)</sup>TPH shall be analyzed using EPA SW 846 Method 8015C (2007) for diesel range organics, or by EPA SW 846 Method 8270D (2007). ~~If Method 8270D (2007) is used, the lab must report the total of diesel range organics and polynuclear aromatic hydrocarbons.~~

<sup>(3)</sup>Monitoring for benzene and MTBE is only required for discharges into freshwaters listed as public water supplies. Benzene and MTBE shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136) or EPA SW 846 Method.

<sup>(4)</sup>The monitoring frequency for discharges into freshwaters not listed as public water supplies and saltwater shall be once per month.

The monitoring frequency for discharges into freshwaters listed as public water supplies shall be twice per month for all constituents or parameters. If the first year's results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced to once per month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, the monitoring frequency for ethanol shall be reduced to 1/quarter or the other parameters to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

~~4. CONTAMINATION BY PETROLEUM PRODUCTS OTHER THAN GASOLINE— FRESHWATER RECEIVING WATERS LISTED AS PUBLIC WATER SUPPLIES.~~

~~During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to freshwater receiving waterbodies from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.~~

~~Such discharges shall be limited and monitored by the permittee as specified below:~~

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	2/Month <sup>4</sup>	Estimate
Naphthalene (µg/l) <sup>1</sup>	NA	10.0	2/Month <sup>4</sup>	Grab
Benzene (µg/l) <sup>2</sup>	NA	12.0	2/Month <sup>4</sup>	Grab
MTBE (methyl tert-butyl ether)(µg/l) <sup>2</sup>	NA	15.0	2/Month <sup>4</sup>	Grab
Total Petroleum Hydrocarbons (mg/l) <sup>3</sup>	NA	15.0	2/Month <sup>4</sup>	Grab
pH (standard units)	6.0	9.0	2/Month <sup>4</sup>	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>1</sup>~~Naphthalene shall be analyzed by a current and appropriate EPA Wastewater Method from 40 CFR Part 136 (2007) or a current and appropriate EPA SW 846 Method.~~

<sup>2</sup>~~Benzene and MTBE shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136, 2007) or EPA SW 846 Method.~~

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<sup>3</sup>TPH shall be analyzed using EPA SW 846 Method 8015C (2007) for diesel range organics, or by EPA SW 846 Method 8270D (2007). If Method 8270D is used, the lab must report the total of diesel range organics and polynuclear aromatic hydrocarbons.

~~<sup>4</sup>Monitoring frequency shall be 2/month for the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced from 2/month to 1/month. The written request shall be sent to the appropriate regional office for review. Upon written notification from the DEQ regional office, monitoring frequency shall be reduced to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date.~~

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

#### ~~5. 4. DISCHARGES OF HYDROSTATIC TEST WATERS -- ALL RECEIVING WATERS.~~

~~During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to receiving waterbodies from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.~~

~~Such discharges shall be limited and monitored by the permittee as specified below:~~

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS <sup>(2)</sup>	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/discharge	Estimate
pH (standard units)	6.0	9.0	1/discharge	Grab
Total Petroleum Hydrocarbons (TPH, mg/l) <sup>(1)</sup>	NA	15.0	1/discharge	Grab
Total Organic Carbon (TOC, mg/l)	NA	NL	1/discharge	Grab
Total Residual Chlorine (TRC, mg/l)	NA	0.011	1/discharge	Grab
Total Suspended Solids (TSS)	NA	NL	1/discharge	Grab

NL = No limitation, monitoring required

NA = Not applicable

The equipment being tested shall be substantially free of debris, raw material, product, or other residual materials.

The discharge flow shall be controlled in such a manner that prevents flooding, erosion, or excessive sediment influx into the receiving water body.

<sup>(1)</sup>TPH is the sum of individual gasoline range organics and diesel range organics or TPH-GRO and TPH-DRO to be measured by EPA SW 846 Method 8015C (2007) for gasoline and diesel range organics, or by EPA SW 846 Methods 8260B (1996) and 8270D (2007). ~~If the combination of Methods 8260B and 8270D is used, the lab must report the total of gasoline range organics, diesel range organics and polynuclear aromatic hydrocarbons .~~

<sup>(2)</sup>Discharge monitoring reports for hydrostatic test discharges are not required to be submitted to the department, but shall be retained by the owner for a period of at least three years from the completion date of the hydrostatic test.

Owners shall notify the department's regional office in writing within 14 days of the completion of the hydrostatic test discharge. The notification shall include the owner's name and address, the type of hydrostatic test that occurred, the physical location of the test work, and the receiving stream.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

6. GASOLINE CONTAMINATION — SALTWATER RECEIVING WATERS.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to saltwater receiving waterbodies from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Benzene (µg/l) <sup>1</sup>	NA	50.0	1/Month	Grab
Toluene (µg/l) <sup>1</sup>	NA	500.0	1/Month	Grab
Ethylbenzene (µg/l) <sup>1</sup>	NA	4.3	1/Month	Grab
Total Xylenes (µg/l) <sup>1</sup>	NA	74.0	1/Month	Grab
MTBE (methyl tert butyl ether) (µg/l) <sup>1</sup>	NA	440.0	1/Month	Grab
pH (standard units)	6.0	9.0	1/Month	Grab
Total Recoverable Lead (µg/l) <sup>2</sup>	NA	8.5	1/Month	Grab
Ethylene Dibromide (µg/l) <sup>2</sup>	NA	5.3	1/Month	Grab
1,2 Dichloroethane (µg/l) <sup>2</sup>	NA	990.0	1/Month	Grab
Ethanol (µg/l) <sup>3</sup>	NA	4100.0	1/Month <sup>3</sup>	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>1</sup>Benzene, Toluene, Ethylbenzene, Total Xylenes and MTBE shall be analyzed according to a current and appropriate EPA Wastewater Method 602 (40 CFR Part 136, 2007) or EPA SW 846 Method 8021B (1996).

<sup>2</sup>Monitoring for this parameter is required only when contamination results from leaded fuel. Lead shall be analyzed according to a current and appropriate EPA Wastewater Method 200.8 or 200.9 (40 CFR Part 136, 2007) or EPA SW 846 Method 7010 (2007). 1,2 dichloroethane and EDB (surface waters that are not public water supplies) should be analyzed by a current and appropriate EPA SW 846 Method or EPA Wastewater Method from 40 CFR Part 136 (2007).

<sup>3</sup>Monitoring for ethanol is only required for discharges of water contaminated by gasoline containing greater than 10% ethanol. Ethanol shall be analyzed according to EPA SW 846 Method 8015C (2007) or EPA SW 846 Method 8260B (1996). Monitoring frequency shall be 1/month in the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced from monthly to 1/quarter. The written request shall be sent to the appropriate regional office for review. Upon written notification from the DEQ regional office, monitoring frequency shall be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 1/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October and January.

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## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### ~~7. CONTAMINATION BY PETROLEUM PRODUCTS OTHER THAN GASOLINE — SALTWATER RECEIVING WATERS.~~

~~During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to saltwater receiving waterbodies from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.~~

~~Such discharges shall be limited and monitored by the permittee as specified below:~~

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Naphthalene ( $\mu\text{g/l}$ ) <sup>1</sup>	NA	8.9	1/Month	Grab
Total Petroleum Hydrocarbons ( $\text{mg/l}$ ) <sup>2</sup>	NA	15.0	1/Month	Grab
pH (standard units)	6.0	9.0	1/Month	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>1</sup>Naphthalene shall be analyzed by a current and appropriate EPA Wastewater Method from 40 CFR Part 136 (2007) or a current and appropriate EPA SW 846 Method.

<sup>2</sup>TPH shall be analyzed using EPA SW 846 Method 8015C (2007) for diesel range organics or EPA SW 846 Method 8270D. If Method 8270D (2007) is used, the lab must report the total of diesel range organics and polynuclear aromatic hydrocarbons.

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### ~~8. 5. CONTAMINATION BY CHLORINATED HYDROCARBON SOLVENTS -- ALL RECEIVING WATERS.~~

~~During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to receiving waterbodies from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.~~

~~Such discharges shall be limited and monitored by the permittee as specified below:~~

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month <u>2/Month if public water supply<sup>(2)</sup></u>	Estimate <u>Estimate</u>
Chloroform (CAS # 67663), ( $\mu\text{g/l}$ ) <sup>(1)</sup>	NA	<del>100.0</del> <u>80.0</u>	1/Month <u>2/Month if public water supply<sup>(2)</sup></u>	Grab Grab

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1,1 Dichloroethane (CAS # 75343) (µg/l) <sup>(1)</sup>	NA	<del>4.0</del> <u>2.4</u>	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
1,2 Dichloroethane (CAS # 107062) (µg/l) <sup>(1)</sup>	NA	3.8	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
1,1 Dichloroethylene (CAS # 75354) (µg/l) <sup>(1)</sup>	NA	7.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
cis-1,2 Dichloroethylene (CAS # 159592) (µg/l) <sup>(1)</sup>	NA	70.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
trans 1,2 Dichloroethylene (CAS # 156605) (µg/l) <sup>(1)</sup>	NA	100.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
Methylene Chloride (CAS # 75092) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
Tetrachloroethylene (CAS # 127184) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
1,1,1 Trichloroethane (CAS # 71556) (µg/l) <sup>(1)</sup>	NA	<del>112.0</del> <u>54.0</u>	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
1,1,2 Trichloroethane (CAS # 79005) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
Trichloroethylene (CAS # 79016) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
Vinyl Chloride (CAS # 75014) (µg/l) <sup>(1)</sup>	NA	2.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
Carbon Tetrachloride (CAS # 56235) (µg/l) <sup>(1)</sup>	NA	<del>2.5</del> <u>2.3</u>	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
1,2 Dichlorobenzene (CAS # 95501) (µg/l) <sup>(1)</sup>	NA	15.8	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab

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Chlorobenzene (CAS # 108907) (µg/l) <sup>(1)</sup>	NA	<del>3.0</del> <u>3.4</u>	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
Trichlorofluoromethane (CAS # 75694) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
Chloroethane (CAS # 75003) (µg/l) <sup>(1)</sup>	NA	3.6	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab
pH (standard units)	6.0	9.0	1/Month 2/Month if public water supply <sup>(2)</sup>	Grab Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>This constituent shall be analyzed by a current and appropriate gas chromatograph/mass spectroscopy method from EPA SW 846 or the EPA Wastewater Method series from 40 CFR Part 136 (~~2007~~).

<sup>(2)</sup>Monitoring frequency for discharges into surface waters listed as public water supplies shall be 2/month for the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced from 2/month to 1/month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the DEQ regional office, monitoring frequency shall be reduced to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations, or a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date.

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### B. Special conditions.

1. There shall be no discharge of floating solids or visible foam in other than trace amounts.
2. The permittee shall sample each permitted outfall each calendar month in which a discharge occurs. When no discharge occurs from an outfall during a calendar month, the discharge monitoring report for that outfall shall be submitted indicating "No Discharge."
3. O & M Manual. If the permitted discharge is through a treatment works, within 30 days of coverage under this general permit, the permittee shall develop and maintain on site, an Operations and Maintenance (O & M) Manual for the treatment works permitted herein. This manual shall detail practices and procedures which will be followed to ensure compliance with the requirements of this permit. The permittee shall operate the treatment works in accordance with the O & M Manual. The manual shall be made available to the department upon request.
4. Operation schedule. The permittee shall construct, install and begin operating the treatment works described in the registration statement prior to discharging to surface waters. The permittee shall notify the department's regional

office within five days after the completion of installation and commencement of operation.

5. Materials storage. Except as expressly authorized by this permit or another permit issued by the board, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters.

6. If the permittee discharges to surface waters through a municipal separate storm sewer system, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system in writing of the existence of the discharge and provide the following information: the name ~~and location~~ of the facility, a contact person and ~~telephone~~ phone number, ~~the location of the discharge~~, the nature of the discharge, and the ~~number of outfalls~~ facility's VPDES general permit number. A copy of such notification shall be provided to the department. Discharge Monitoring Reports (DMRs) required to be submitted under this permit shall be submitted to both the department and the owner of the municipal separate storm sewer system.

7. Monitoring results shall be reported using the same number of significant digits as listed in the permit. Regardless of the rounding convention used by the permittee (e.g., 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.

8. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.

9. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other federal, state, or local statute, ordinance, or regulation.

10. Discharges to waters with an approved "total maximum daily load" (TMDL). Owners of facilities that are a source of the specified pollutant of concern to waters where an approved TMDL has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.

11. Termination of coverage. Provided that the ~~department~~ board agrees that the discharge covered under this general permit is no longer needed, the permittee may request termination of coverage under the general permit, for the entire facility or for specific outfalls, by submitting a request for termination of coverage. This request for termination of coverage shall be sent to the department's regional office with appropriate documentation or references to documentation already in the department's possession. Upon the permittee's receipt of the regional director's approval, coverage under this general permit will be terminated. Termination of coverage under this general permit does not relieve the permittee of responsibilities under other board regulations or directives.

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 individual or individuals who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain 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 of the sample, measurement, report or request for coverage. 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 board.

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 on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.
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 the DMR or reporting form specified by the department.

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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 which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon 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 board, 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 such state waters and make them detrimental to the public health, to animal or aquatic life, to the use of such 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 by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit the report to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to 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. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health as follows:

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

- a. Any unanticipated bypass; and
- b. Any upset which 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 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.

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

NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone ~~or by~~, FAX, ~~or~~ online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/PollutionReportingForm.aspx>. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service 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 an 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 which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 of the 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 which 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 disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the

permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports. All reports required by permits, and other information requested by the board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part II K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or

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an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative thus may be either a named individual or any individual occupying a named position; and

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 prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts 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 ensure 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 termination, revocation and reissuance, or modification; or denial of a permit 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 ~~180~~ 30 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board 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 II U) and "upset" (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 Article 11 (§ 62.1-44.34:14 et seq.) 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) which 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 which 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.

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 which 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 board 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, such as 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 board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above 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 cause or 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, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon 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 ensuring 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 herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or 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. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

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2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department ~~at least within 30 days in advance of the proposed transfer of the title to the facility or property;~~
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue 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.

## DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-120)

Method	Cite
<del>200.8</del>	<del>40 CFR 136 (2007)</del>
<del>200.9</del>	<del>40 CFR 136 (2007)</del>
<del>504.1</del>	<del>EPA 600/R-95-131 (1995)</del>
<del>7010</del>	<del>EPA SW 846 (2007)</del>
<del>8011</del>	<del>EPA SW 846 (1992)</del>
<del>8015C</del>	<del>EPA SW 846 (2007)</del>
<del>8021B</del>	<del>EPA SW 846 (1996)</del>
<del>8260B</del>	<del>EPA SW 846 (1996)</del>
<del>8270D</del>	<del>EPA SW 846 (2007)</del>
<del>9040C</del>	<del>EPA SW 846 (2004)</del>

Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846, U.S. Environmental Protection Agency, Third Edition as amended by Final Updates I, II, IIA, IIB, IIIA, IIIB, IVA, and IVB, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847, <http://www.epa.gov/SW-846>.

[Method 7010 \(February 2007\)](#)

[Method 8011 \(July 1992\)](#)

[Method 8015C \(February 2007\)](#)

[Method 8021B \(December 1996\)](#)

[Method 8260B \(December 1996\)](#)

[Method 8270D \(February 2007\)](#)

[Method 9040C \(November 2004\)](#)

VA.R. Doc. No. R11-2774; Filed April 17, 2012, 9:04 a.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The State Water Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Titles of Regulations:** **9VAC25-20. Fees for Permits and Certificates (amending 9VAC25-20-70).**

**9VAC25-101. Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation (amending 9VAC25-101-40, 9VAC25-101-50).**

**9VAC25-260. Water Quality Standards (amending 9VAC25-260-155).**

**9VAC25-590. Petroleum Underground Storage Tank Financial Responsibility Requirements (amending 9VAC25-590-220).**

**9VAC25-650. Closure Plans and Demonstration of Financial Capability (amending 9VAC25-650-110, 9VAC25-650-200).**

**Statutory Authority:**

9VAC25-20: §§ 62.1-44.15 and 62.1-44.15:6 of the Code of Virginia.

9VAC25-101: §§ 62.1-44.15, 62.1-44.34:16, and 62.1-44.34:21 of the Code of Virginia.

9VAC25-260: § 62.1-44.15 of the Code of Virginia.

9VAC25-590: § 62.1-44.34:9 and § 62.1-44.34:12 of the Code of Virginia.

9VAC25-650: §§ 62.1-44.15 and 62.1-44.18:3 of the Code of Virginia.

**Effective Date:** June 6, 2012.

**Agency Contact:** Debra A. Miller, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4206, FAX (804) 698-4346, TTY (804) 698-4021, or email [debra.miller@deq.virginia.gov](mailto:debra.miller@deq.virginia.gov).

**Summary:**

*The regulatory action updates the mailing address for the Department of Environmental Quality.*

**9VAC25-20-70. Method of payment.**

A. Fees shall be paid by check, draft or postal money order payable to the Treasurer of Virginia, or submitted electronically (if available), and must be in U.S. currency, except that agencies and institutions of the Commonwealth of

Virginia may submit Interagency Transfers for the amount of the fee. All fees shall be sent to the following address (or submitted electronically, if available): Department of Environmental Quality, Receipts Control, P.O. Box ~~40150~~ 1105, Richmond, Virginia ~~23240~~ 23218.

B. Required information. All applicants for new permit issuance, permit reissuance or permit modification shall submit the following information along with the fee payment:

1. Applicant name, address and daytime phone number.
2. Applicant Federal Identification Number (FIN).
3. The name of the facility/activity, and the facility/activity location.
4. The type of permit applied for.
5. Whether the application is for a new permit issuance, permit reissuance or permit modification.
6. The amount of fee submitted.
7. The existing permit number, if applicable.

#### **9VAC25-101-40. Board oil discharge contingency plan review and approval.**

A. Tank vessel oil discharge contingency plans shall provide for the use of the best available technology (economically feasible, proven effective and reliable and compatible with the safe operation of the vessel) at the time the plan is submitted for approval, be written in English, and, in order to be approvable, shall contain, at a minimum, the following information:

1. The vessel name, country of registry, identification number, date of build and certificated route of the vessel.
2. The names of the vessel operators including address and phone number.
3. If applicable, name of local agent, address and phone number.
4. A copy of the material safety data sheet (MSDS) or its equivalent for each oil, or groups of oil with similar characteristics, transported or transferred by the tank vessel. To be equivalent, the submission must contain the following:
  - a. Generic or chemical name of the oil;
  - b. Hazards involved in handling the oil; and
  - c. A list of firefighting procedures and extinguishing agents effective with fires involving each oil or groups of oil demonstrating similar hazardous properties which require the same firefighting procedures.
5. A complete listing, including 24-hour phone numbers, of all federal, state and local agencies required to be notified in event of a discharge.

6. The position title of the individual(s) responsible for making the required notifications and a copy of the notification check-off list. The individual(s) must be fluent in English.

7. The position title, address and phone number of the individual(s) authorized to act on behalf of the operator to implement containment and cleanup actions. The individual(s) must be fluent in English and shall be available on a 24-hour basis to ensure the appropriate containment and cleanup actions are initiated.

8. The position title of the individual(s) designated by the operator to ensure compliance during containment and cleanup of a discharge, with applicable federal, state and local requirements for disposal of both solid and liquid wastes.

9. A copy of the valid evidence of financial responsibility pursuant to 9VAC25-101-45.

10. A complete description of the vessel including vessel drawings providing a complete view of the location of all cargo tanks as well as the location of fuels and other oils carried in bulk by the vessel.

11. A complete description of each oil transfer system on the vessel, including:

- a. A line diagram of the vessel's oil transfer piping, including the location of each valve, pump, control device, vent, safety device and overflow;
- b. The location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system; and;
- c. The maximum pressure for each oil transfer system.

12. Identification and insurance by contract, or other means acceptable to the board, of the availability of private personnel and equipment necessary to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent a substantial threat of such a discharge. This contract or agreement shall ensure a certain response within the shortest feasible time. The department will accept a letter of understanding between the operator and response contractors which attests to this capability being readily available. Membership in a cleanup cooperative or other response organization is also acceptable. A listing of contractor or cooperative capabilities, including an inventory of the equipment and specification of the other information required by subdivision 14 of this subsection shall be included unless these capabilities are already on file with the department.

13. Assessment of the worst case discharge, including measures to limit the outflow of oil, response strategy and operational plan. For the purpose of this chapter, the worst

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case discharge for a tank vessel is a discharge in adverse weather conditions of its entire cargo.

14. Inventory of onboard containment equipment, including specification of quantity, type, location, time limits for gaining access to the equipment, and, if applicable, identification of tank vessel personnel trained in its use.

15. If applicable, a copy of the United States Coast Guard approved oil transfer procedures and International Oil Pollution Prevention Certificate (IOPP).

16. A description of training, equipment testing, and periodic unannounced oil discharge drills conducted by the operator to mitigate or prevent the discharge, or the substantial threat of a discharge.

17. The tank vessel's cargo inventory control procedures. Tank vessel operators shall ensure that this control procedure is capable of providing for the detection of a discharge of oil within the shortest feasible time in accordance with recognized engineering practices and industry measurement standards.

18. A post discharge review procedure to assess the discharge response in its entirety.

B. All nonexempt tank vessel operators shall file with the department the Application for Approval of a Tank Vessel Contingency Plan form available from the department for approval of the contingency plan. This form identifies the tank vessel operator by name and address and provides information on the tank vessel or vessels and shall be submitted with the required contingency plan and shall be completed as far as it pertains to the tank vessel. The operator must sign and date the certification statement on the application form which certifies to the board that the information is true and accurate. If the operator is a corporation, the application form must be signed by an authorized corporate official; if the operator is a municipality, state, federal or other public agency, the application form must be signed by an authorized executive officer or ranking elected official; if the operator is a partnership or sole proprietorship, the application form must be signed by a general partner or the sole proprietor.

C. Contingency plans must be filed with and approved by the board. A signed original shall be submitted to the department at the address specified in subsection F of this section. A copy of the original with the tank vessel specific information and the approval letter shall be retained on the tank vessel and shall be readily available for inspection. An operator of a tank vessel whose normal operating route does not include entry into state waters shall certify to the board, within 24 hours of entering state waters, that the operator has ensured by contract or other means acceptable to the board, the availability of personnel and equipment necessary to remove to the maximum extent practicable the worst case

discharge and to mitigate or prevent the discharge or the substantial threat of a discharge. The operator shall submit a contingency plan to the board for approval in accordance with this chapter prior to the next entry of the tank vessel into state waters.

D. An operator of multiple tank vessels may submit a single fleet contingency plan. The plan shall contain vessel specific information required by this section for each vessel. The vessel specific information shall be included in appendices to the plan. This plan shall be separate from any required facility contingency plan.

E. Oil discharge contingency plans shall be reviewed, updated if necessary, and resubmitted to the board for approval every 60 months unless significant changes occur sooner. Operators must notify the department of significant changes and make appropriate amendments to the contingency plan within 30 days of the occurrence. For the purpose of this chapter, a significant change includes the following:

1. A change of operator of the tank vessel or individual authorized to act on behalf of the operator;
2. A substantial increase in the maximum storage or handling capacity of the tank vessel;
3. A material decrease in the availability of private personnel or equipment necessary to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent a substantial threat of such a discharge;
4. A change in the type of product transported or transferred in or by any tank vessel covered by the plan for which a MSDS or its equivalent has not been submitted; or
5. The addition of a tank vessel to a single fleet contingency plan provided this requirement can be met by submittal of a new or amended appendix to the plan.

Renewals for expiring plans shall be submitted to the board for review and approval not less than 90 days prior to expiration of the current plan.

F. All applications and written communications concerning changes, submissions and updates of plans required by this chapter, with the exception of applications and submissions accompanied by fees addressed in subsection J of this section, shall be addressed as follows:

Mailing Address:

Virginia Department of Environmental Quality  
Office of Spill Response and Remediation  
P.O. Box ~~10009~~ 1105  
Richmond, VA ~~23240~~ 23218

Location Address:

Virginia Department of Environmental Quality  
Office of Spill Response and Remediation

629 East Main Street  
Richmond, VA 23219

All applications and submissions accompanied by fees as addressed in subsection J of this section shall be sent to the address listed in subdivision J 2.

G. An oil discharge exercise may be required by the board to demonstrate the tank vessel's ability to implement the contingency plan. The department will consult with the operator of the vessel prior to initiating an exercise. Where appropriate, the department will ensure coordination with federal agencies prior to initiation of an exercise.

H. The board may, after notice and opportunity for a conference pursuant to § 2.2-4019 of the Code of Virginia, deny or modify its approval of an oil discharge contingency plan if it determines that:

1. The plan as submitted fails to provide sufficient information for the department to process, review and evaluate the plan or fails to ensure the applicant can take such steps as are necessary to protect environmentally sensitive areas, to respond to the threat of a discharge, and to contain and cleanup an oil discharge within the shortest feasible time;
2. A significant change has occurred in the operation of the tank vessel covered by the plan;
3. The tank vessel's discharge experience or its inability to implement its plan in an oil spill discharge exercise demonstrates a necessity for modification; or
4. There has been a significant change in the best available technology since the plan was approved.

I. The board, after notice and opportunity for hearing, may revoke its approval of an oil discharge contingency plan if it determines that:

1. Approval was obtained by fraud or misrepresentation;
2. The plan cannot be implemented as approved;
3. A term or condition of approval or of this chapter has been violated; or
4. The tank vessel is no longer in operation.

J. An application for approval of an oil discharge contingency plan will be accepted only when the fee established by this section has been paid.

1. Fees shall be paid by operators of tank vessels subject to this chapter upon initial submittal of an oil discharge contingency plan to the board. Renewals, additions, deletions or changes to the plan are not subject to the administrative fee.
2. Fees shall be paid in United States currency by check, draft or postal money order made payable to the Treasurer

of Virginia. All applications and submissions accompanying fees shall be sent to:

Mailing Address:

Virginia Department of Environmental Quality  
Office of Financial Management  
P.O. Box ~~40150~~ 1105  
Richmond, VA ~~23240~~ 23218

Location Address:

Virginia Department of Environmental Quality  
Office of Financial Management  
629 East Main Street  
Richmond, VA 23219

3. Application fees for approval of tank vessel contingency plans are as follows:

- a. For a tank vessel with a maximum storage, handling or transporting capacity of 15,000 gallons and up to and including 250,000 gallons of oil the fee is \$718;
- b. For a tank vessel with a maximum storage, handling or transporting capacity greater than 250,000 gallons and up to and including 1,000,000 gallons of oil the fee is \$2,155; and
- c. For a tank vessel with a maximum storage, handling or transporting capacity greater than 1,000,000 gallons of oil the fee is \$3,353.

4. The fee for approval of contingency plans encompassing more than one tank vessel, as authorized by subsection D of this section, shall be based on the aggregate capacity of the tank vessels.

5. Application fees are refundable upon receipt of a written request for withdrawal of the plan and fee refund no later than 30 days after submittal and prior to approval of the plan.

6. Overpayments of application fees are refundable upon written request. Overpayments not refunded will be credited for the applicant's future use under this section.

**9VAC25-101-50. Board financial responsibility demonstration.**

A. The operator of any tank vessel entering upon state waters shall deposit with the board cash or its equivalent in the amount of \$500 per gross ton of such vessel. If the operator owns or operates more than one tank vessel, evidence of financial responsibility need be established only to meet the maximum liability applicable to the vessel having the greatest maximum liability.

1. All documents submitted shall be in English and all monetary terms shall be in United States currency.
2. A copy of the board's acceptance of the required evidence of financial responsibility shall be kept on the tank vessel and readily available for inspection.

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B. If the board determines that oil has been discharged in violation of applicable state law or there is a substantial threat of such discharge from a vessel for which a cash deposit has been made, any amount held in escrow may be used to pay any fines, penalties or damages imposed under such law.

C. Operators of tank vessels may obtain exemption from the cash deposit requirement if evidence of financial responsibility is provided in an amount equal to the cash deposit required for such tank vessel pursuant to § 62.1-44.34:16 of the Code of Virginia and subsection A of this section. The following means of providing such evidence, or any combination thereof, will be acceptable:

1. Self-insurance. Any operator demonstrating financial responsibility by self-insurance shall provide evidence of such self-insurance in a manner that is satisfactory to the board. An operator demonstrating self-insurance shall:

a. Maintain, in the United States, working capital and net worth each in the amount required by § 62.1-44.34:16 of the Code of Virginia and subsection A of this section.

(1) Maintenance of the required working capital and net worth shall be demonstrated by submitting with the application form an annual, current nonconsolidated balance sheet and an annual, current nonconsolidated statement of income and surplus certified by an independent certified public accountant. Those financial statements shall be for the operator's last fiscal year preceding the date of application and shall be accompanied by an additional statement from the operator's treasurer (or equivalent official) certifying to both the amount of current assets and the amount of total assets included in the accompanying balance sheet which are located in the United States and are acceptable for purposes of this chapter.

(2) If the balance sheet and statement of income and surplus cannot be submitted in nonconsolidated form, consolidated statements may be submitted if accompanied by an additional statement by the involved certified public accountant certifying to the amount by which the operator's assets, located in the United States and acceptable under this subsection C, exceed total liabilities and that current assets, located in the United States and acceptable under this subsection C, exceed its current liabilities.

(3) When the operator's demonstrated net worth is not at least 10 times the required amount, an affidavit shall be filed by the operator's treasurer (or equivalent official) covering the first six months of the operator's fiscal year. Such affidavits shall state that neither the working capital nor the net worth have fallen below the required amounts during the first six months.

(4) Additional financial information shall be submitted upon request by the department; or

b. Provide evidence in the form of a marine insurance broker's certificate of insurance, certificate of entry, or other proof satisfactory to the board that the operator has obtained oil pollution liability coverage through an operator's membership in a Protection & Indemnity (P&I) Club that is a member of the international group of P&I clubs or through coverage provided by a pool of marine underwriters in an amount sufficient to meet the requirements of § 62.1-44.34:16 of the Code of Virginia and subsection A of this section.

2. Insurance. Any operator demonstrating evidence of financial responsibility by insurance shall provide evidence of insurance issued by an insurer licensed, approved, or otherwise authorized to do business in the Commonwealth of Virginia. The amount of insurance shall be sufficient to cover the amount required by § 62.1-44.34:16 of the Code of Virginia and subsection A of this section. The operator shall provide evidence of such coverage in the form of a marine insurance broker's certificate of insurance or by utilizing a form worded identically to the Insurance Form Furnished as Evidence of Financial Responsibility in Respect of Liability for Discharge of Oil available from the department. The insurer must also comply with all requirements in the form available from the department.

3. Surety. Any operator demonstrating financial responsibility through a surety bond shall file a surety bond utilizing a form worded identically to the surety form available from the department. The surety company issuing the bond must be licensed to operate as a surety in the Commonwealth of Virginia and must possess an underwriting limitation at least equal to the amount required by § 62.1-44.34:16 of the Code of Virginia and subsection A of this section. The surety must also comply with all requirements in the Surety Bond Form Furnished as Evidence of Financial Responsibility in Respect of Liability for Discharge of Oil available from the department.

4. Guaranty. An operator demonstrating financial responsibility through a guaranty shall submit the guaranty worded identically to the form available from the department. The guarantor shall comply with all provisions of subdivision 1 of this subsection for self-insurance and also comply with all requirements in the Guaranty Form Furnished as Evidence of Financial Responsibility in Respect of Liability for Discharge of Oil available from the department.

D. To obtain exemption from the cash deposit requirements:

1. The operator shall have and maintain an agent for service of process in the Commonwealth;

2. Any insurer, guarantor, or surety shall have and maintain an agent for service of process in the Commonwealth;

3. Any insurer must be authorized by the Commonwealth of Virginia to engage in the insurance business; and

4. Any instrument of insurance, guaranty or surety must provide that actions may be brought on such instrument of insurance, guaranty or surety directly against the insurer, guarantor or surety for any violation by the operator of Article 11 (§ 62.1-33.34:14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia up to, but not exceeding, the amount insured, guaranteed or otherwise pledged.

5. All forms of evidence of financial responsibility shall be accompanied by an endorsement that certifies that the insurance policy, evidence of self-insurance, surety or guaranty provides liability coverage for the tank vessels in the amount required by § 62.1-44.34:16 of the Code of Virginia and subsection A of this section.

6. Subdivisions 2, 3 and 4 of this subsection do not apply to operators providing evidence of financial responsibility in accordance with subdivision C 1 of this section.

E. Any operator whose financial responsibility is accepted under this chapter shall notify the board at least 30 days before the effective date of a change, expiration or cancellation of any instrument of insurance, guaranty or surety.

F. The board's approval of evidence of financial responsibility shall expire:

1. One year from the date that the board exempts an operator from the cash deposit requirement based on acceptance of evidence of self-insurance;
2. On the effective date of any change in the operator's instrument of insurance, guaranty or surety; or
3. Upon the expiration or cancellation of any instrument of insurance, guaranty or surety.

G. All nonexempt tank vessel operators shall file with the board the Application for Approval of Evidence of Tank Vessel Financial Responsibility which identifies the tank vessel operator and agent for service of process by name and address, provides identifying information on the tank vessel or vessels and certifies to the board that the information is true and accurate for approval of the evidence of financial responsibility. This form is available. This form shall be submitted with the required evidence of financial responsibility (cash deposit, proof of insurance, self-insurance, guaranty or surety), and shall be completed as far as it pertains to the tank vessel. The operator must sign and date the certification statement on the application form. If the operator is a corporation, the application form must be signed by an authorized corporate official; if the operator is a municipality, state, federal or other public agency, the application form must be signed by an authorized executive officer or ranking elected official; if the operator is a

partnership or sole proprietorship, the application form must be signed by a general partner or the sole proprietor.

H. Application for renewal of approval of tank vessel financial responsibility shall be filed with the board 30 days prior to the date of expiration.

I. All applications and written communications concerning changes, submissions and updates required by this chapter, with the exception of applications and submissions accompanied by fees as addressed in subsection K of this section, shall be addressed as follows:

Mailing Address:

Virginia Department of Environmental Quality  
Office of Spill Response and Remediation  
P.O. Box ~~40009~~ 1105  
Richmond, VA ~~23240~~ 23218

Location Address:

Virginia Department of Environmental Quality  
Office of Spill Response and Remediation  
629 East Main Street  
Richmond, VA 23219

All applications and submissions accompanied by fees as addressed in subsection K of this section shall be sent to the address listed in subdivision K 2.

J. The board, after notice and opportunity for hearing, may revoke its acceptance of evidence of financial responsibility if it determines that:

1. Acceptance has been procured by fraud or misrepresentation; or
2. A change in circumstances has occurred that would warrant denial of acceptance of evidence of financial responsibility.

K. An application for approval of the demonstration of financial responsibility will be accepted only when the fees established by this section have been paid.

1. Fees shall only be paid upon initial submittal of the demonstration of financial responsibility by an operator to the board. Renewals or changes are not subject to the administrative fee.
2. Fees shall be paid in United States currency by check, draft or postal money order made payable to Treasurer of Virginia. All fees and accompanying applications and submissions shall be sent to:

Mailing Address:

Virginia Department of Environmental Quality  
Office of Financial Management  
P.O. Box ~~40150~~ 1105  
Richmond, VA ~~23240~~ 23218

# Regulations

Location Address:

Virginia Department of Environmental Quality  
Office of Financial Management  
629 East Main Street  
Richmond, VA 23219

3. Application fees for approval of evidence of financial responsibility for tank vessels are as follows:

- a. Applicants shall pay an application fee of \$120.
- b. Applicants shall pay a fee of \$30 for each additional tank vessel requiring a copy of the accepted evidence of financial responsibility.

4. Application fees are refundable upon receipt of a written notice of withdrawal; of the proffer of financial responsibility and a request for refund received by the department no later than 30 days after submittal and prior to approval.

5. Overpayments of application fees are refundable upon written request. Overpayments not refunded will be credited for the applicant's future use under this section.

**9VAC25-260-155. Ammonia surface water quality criteria.**

A. The one-hour average concentration of total ammonia nitrogen (in mg N/L) in freshwater shall not exceed, more than once every three years on the average<sup>1</sup>, the acute criteria below:

Acute Ammonia Freshwater Criteria  
Total Ammonia Nitrogen (mg N/L)

pH	Trout Present	Trout Absent
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9

Chronic Ammonia Freshwater Criteria

Early Life Stages of Fish Present

Total Ammonia Nitrogen (mg N/L)

pH	Temperature (°C)									
	0	14	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32

7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0	0.885	1.32

The acute criteria for trout present shall apply to all Class V-Stockable Trout Waters and Class VI-Natural Trout Waters as listed in 9VAC25-260-390 through 9VAC25-260-540.

To calculate total ammonia nitrogen acute criteria values in freshwater at different pH values than those listed in this subsection, use the following formulas:

Where trout are present: Acute Criterion Concentration (mg N/L) =

$$\frac{0.275}{(1 + 10^{7.204-pH})} + \frac{39.0}{(1 + 10^{pH-7.204})}$$

Or where trout are absent: Acute Criterion Concentration (mg N/L) =

$$\frac{0.411}{(1 + 10^{7.204-pH})} + \frac{58.4}{(1 + 10^{pH-7.204})}$$

<sup>1</sup>The default design flow for calculating steady state waste load allocations for the acute ammonia criterion is the 1Q10 (see 9VAC25-260-140 B footnote 10) unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

B. The 30-day average concentration of total ammonia nitrogen (in mg N/L) where early life stages of fish are present in freshwater shall not exceed, more than once every three years on the average<sup>2</sup>, the chronic criteria below:

6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.879	0.773
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.973	0.855	0.752	0.661
8.3	1.52	1.52	1.39	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.29	1.29	1.17	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	1.09	1.09	0.990	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.920	0.920	0.836	0.735	0.646	0.568	0.499	0.439	0.386	0.339
8.7	0.778	0.778	0.707	0.622	0.547	0.480	0.422	0.371	0.326	0.287
8.8	0.661	0.661	0.601	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.565	0.565	0.513	0.451	0.397	0.349	0.306	0.269	0.237	0.208
9.0	0.486	0.486	0.442	0.389	0.342	0.300	0.264	0.232	0.204	0.179

To calculate total ammonia nitrogen chronic criteria values in freshwater when fish early life stages are present at different pH and temperature values than those listed in this subsection, use the following formulas:

Chronic Criteria Concentration =

$$\left( \frac{0.0577}{(1 + 10^{7.688 - \text{pH}})} + \frac{2.487}{(1 + 10^{\text{pH} - 7.688})} \right) \times \text{MIN}$$

Where MIN = 2.85 or  $1.45 \times 10^{0.028(25-T)}$ , whichever is less.

T = temperature in °C

<sup>2</sup>The default design flow for calculating steady state waste load allocations for the chronic ammonia criterion where early life stages of fish are present is the 30Q10 (see 9VAC25-260-140 B footnote 10) unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

C. The 30-day average concentration of total ammonia nitrogen (in mg N/L) where early life stages of fish are absent (procedures for making this determination are in subdivisions 1 through 4 of this subsection) in freshwater shall not exceed, more than once every three years on the average<sup>3</sup>, the chronic criteria below:

Chronic Ammonia Freshwater Criteria

Early Life Stages of Fish Absent

Total Ammonia Nitrogen (mg N/L)

pH	Temperature (°C)									
	0-7	8	9	10	11	12	13	14	15	16
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46	6.06
6.6	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36	5.97
6.7	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25	5.86
6.8	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10	5.72
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93	5.56

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7.0	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73	5.37
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49	5.15
7.2	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.22	4.90
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92	4.61
7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59	4.30
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23	3.97
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85	3.61
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47	3.25
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.36	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74	1.63
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.48	1.39
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06	0.990
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.641	0.601
8.9	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471	0.442

At 15°C and above, the criterion for fish early life stages absent is the same as the criterion for fish early life stages present.

To calculate total ammonia nitrogen chronic criteria values in freshwater when fish early life stages are absent at different pH and temperature values than those listed in this subsection, use the following formulas:

Chronic Criteria Concentration =

$$\left( \frac{0.0577}{(1 + 10^{7.688 - \text{pH}})} + \frac{2.487}{(1 + 10^{\text{pH} - 7.688})} \right) \times 1.45(10^{0.028(25 - \text{MAX})})$$

MAX = temperature in °C or 7, whichever is greater.

<sup>3</sup>The default design flow for calculating steady state waste load allocations for the chronic ammonia criterion where early life stages of fish are absent is the 30Q10 (see 9VAC25-260-140 B footnote 10) unless statistically valid methods are employed that demonstrate compliance with the duration and return frequency of the water quality criteria.

1. Site-specific modifications to the ambient water quality criteria for ammonia to account for the absence of early life stages of fish shall be conducted in accordance with the procedures contained in this subdivision. Because the department presumes that most state waterbodies have early life stages of fish present during most times of the year, the criteria shall be calculated assuming early life stages of fish are present using subsection B of this section unless the following demonstration that early life stages are absent is successfully completed. Early life stages of fish are defined in subdivision 2 of this subsection. Modifications to the ambient water quality criteria for ammonia based on the presence or absence of early life stages of fish shall only apply at temperatures below 15°C.

a. During the review of any new or existing activity that has a potential to discharge ammonia in amounts that may cause or contribute to a violation of the ammonia criteria contained in subsection B of this section, the department may examine data from the following approved sources in subdivisions 1 a (1) through (5) of this subsection or may require the gathering of data in accordance with subdivisions 1 a (1) through (5) on the presence or absence of early life stages of fish in the affected waterbody.

(1) Species and distribution data contained in the Virginia Department of Game and Inland Fisheries Wildlife Information System database.

(2) Species and distribution data contained in *Freshwater Fishes of Virginia*, 1994.

(3) Data and fish species distribution maps contained in *Handbook for Fishery Biology*, Volume 3, 1997.

(4) Field data collected in accordance with U.S. EPA's Rapid Bioassessment Protocols for Use in Streams and Wadeable Rivers, Second Edition, EPA 841-B-99-002. Field data must comply with all quality assurance/quality control criteria.

(5) The American Society for Testing and Materials (ASTM) Standard E-1241-88, Standard Guide for Conducting Early Life-Stage Toxicity Tests with Fishes.

b. If data or information from sources other than subdivisions 1 a (1) through (5) of this subsection are considered, then any resulting site-specific criteria modifications shall be reviewed and adopted in accordance with the site-specific criteria provisions in 9VAC25-260-140 D, and submitted to EPA for review and approval.

c. If the department determines that the data and information obtained from subdivisions 1 a (1) through (5) of this subsection demonstrate that there are periods of each year when no early life stages are expected to be present for any species of fish that occur at the site, the department shall issue a notice to the public and make available for public comment the supporting data and analysis along with the department's preliminary decision to authorize the site-specific modification to the ammonia criteria. Such information shall include, at a minimum:

(1) Sources of data and information.

(2) List of fish species that occur at the site as defined by subdivision 3 of this subsection.

(3) Definition of the site. Definition of a "site" can vary in geographic size from a stream segment to a watershed to an entire eco-region.

(4) Duration of early life stage for each species in subdivision 1 c (2) of this subsection.

(5) Dates when early life stages of fish are expected to be present for each species in subdivision 1 c (2) of this subsection.

(6) Based on subdivision 1 c (5) of this subsection, identify the dates (beginning date, ending date), if any, where no early life stages are expected to be present for any of the species identified in subdivision 1 c (2) of this subsection.

d. If, after reviewing the public comments received in subdivision 1 c of this subsection and supporting data and information, the department determines that there are times of the year where no early life stages are expected to be present for any fish species that occur at the site, then the applicable ambient water quality criteria for ammonia for those time periods shall be calculated using the table in this subsection, or the formula for calculating the chronic criterion concentration for ammonia when fish early life stages are absent.

e. The department shall maintain a comprehensive list of all sites where the department has determined that early life stages of fish are absent. For each site the list will identify the waterbodies affected and the corresponding times of the year that early life stages are absent. This list is available either upon request from the Office of Water Quality Programs at ~~629 E. Main Street, Richmond, VA 23219~~ P.O. Box 1105, Richmond, Virginia 23218 or from the department website <http://deq.state.va.us/wqs/> <http://www.deq.virginia.gov/wqs/>.

2. The duration of the "early life stages" extends from the beginning of spawning through the end of the early life stages. The early life stages include the prehatch embryonic period, the post-hatch free embryo or yolk-sac fry, and the larval period, during which the organism feeds. Juvenile fish, which are anatomically similar to adults, are not considered an early life stage. The duration of early life stages can vary according to fish species. The department considers the sources of information in subdivisions 1 a (1) through (5) of this subsection to be the only acceptable sources of information for determining the duration of early life stages of fish under this procedure.

3. "Occur at the site" includes the species, genera, families, orders, classes, and phyla that: are usually present at the site; are present at the site only seasonally due to migration; are present intermittently because they periodically return to or extend their ranges into the site; were present at the site in the past or are present in nearby bodies of water, but are not currently present at the site due to degraded conditions, and are expected to return to the site when conditions improve. "Occur at the site" does not include taxa that were once present at the site but cannot exist at the site now due to permanent physical alteration of the habitat at the site.

4. Any modifications to ambient water quality criteria for ammonia in subdivision 1 of this subsection shall not likely jeopardize the continued existence of any federal or state listed, threatened or endangered species or result in the destruction or adverse modification of such species' critical habitat.

D. The one-hour average concentration of total ammonia nitrogen (in mg N/L) in saltwater shall not exceed, more than once every three years on the average, the acute criteria below:

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## Acute Ammonia Saltwater Criteria

### Total Ammonia Nitrogen (mg N/L)

Salinity = 10 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	231.9	159.8	110.1	75.88	52.31	36.08	24.91	17.21
7.20	146.4	100.9	69.54	47.95	33.08	22.84	15.79	10.93
7.40	92.45	63.73	43.94	30.32	20.94	14.48	10.03	6.97
7.60	58.40	40.28	27.80	19.20	13.28	9.21	6.40	4.47
7.80	36.92	25.48	17.61	12.19	8.45	5.88	4.11	2.89
8.00	23.37	16.15	11.18	7.76	5.40	3.78	2.66	1.89
8.20	14.81	10.26	7.13	4.97	3.48	2.46	1.75	1.27
8.40	9.42	6.54	4.57	3.20	2.27	1.62	1.18	0.87
8.60	6.01	4.20	2.95	2.09	1.50	1.09	0.81	0.62
8.80	3.86	2.72	1.93	1.39	1.02	0.76	0.58	0.46
9.00	2.51	1.79	1.29	0.95	0.71	0.55	0.44	0.36

Salinity = 20 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	247.6	170.5	117.5	80.98	55.83	38.51	26.58	18.36
7.20	156.3	107.7	74.21	51.17	35.30	24.37	16.84	11.66
7.40	98.67	68.01	46.90	32.35	22.34	15.44	10.70	7.43
7.60	62.33	42.98	29.66	20.48	14.17	9.82	6.82	4.76
7.80	39.40	27.19	18.78	13.00	9.01	6.26	4.37	3.07
8.00	24.93	17.23	11.92	8.27	5.76	4.02	2.83	2.01
8.20	15.80	10.94	7.59	5.29	3.70	2.61	1.86	1.34
8.40	10.04	6.97	4.86	3.41	2.41	1.72	1.24	0.91
8.60	6.41	4.47	3.14	2.22	1.59	1.15	0.85	0.65
8.80	4.11	2.89	2.05	1.47	1.07	0.80	0.61	0.48
9.00	2.67	1.90	1.36	1.00	0.75	0.57	0.46	0.37

Salinity = 30 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	264.6	182.3	125.6	86.55	59.66	41.15	28.39	19.61
7.20	167.0	115.1	79.31	54.68	37.71	26.03	17.99	12.45
7.40	105.5	72.68	50.11	34.57	23.87	16.50	11.42	7.92
7.60	66.61	45.93	31.69	21.88	15.13	10.48	7.28	5.07
7.80	42.10	29.05	20.07	13.88	9.62	6.68	4.66	3.27
8.00	26.63	18.40	12.73	8.83	6.14	4.29	3.01	2.13
8.20	16.88	11.68	8.10	5.64	3.94	2.78	1.97	1.42
8.40	10.72	7.44	5.18	3.63	2.56	1.82	1.31	0.96
8.60	6.83	4.77	3.34	2.36	1.69	1.22	0.90	0.68
8.80	4.38	3.08	2.18	1.56	1.13	0.84	0.64	0.50
9.00	2.84	2.01	1.45	1.06	0.79	0.60	0.47	0.39

To calculate total ammonia nitrogen acute criteria values in saltwater at different pH and temperature values than those listed in this subsection, use the following formulas:

I =

$$I = \frac{19.9273S}{(1000 - 1.005109S)}$$

Where I = molal ionic strength of water

S = Salinity ppt (g/kg)

The regression model used to relate I to pKa (negative log of the ionization constant) is

$$pKa = 9.245 + .138I$$

pKa as defined by these equations is at 298 degrees Kelvin (25°C). T °Kelvin = °C + 273

To correct for other temperatures:

$$pKa^S_T = pKa^S_{298} + .0324(298 - T \text{ °Kelvin})$$

The unionized ammonia fraction (UIA) is given by:

$$UIA = \frac{1}{1 + 10^{(pKa^S_T - pH)}}$$

The acute ammonia criterion in saltwater is given by:

$$Acute = \frac{.233}{UIA}$$

Multiply the acute value by .822 to get the ammonia-N acute criterion.

E. The 30-day average concentration of total ammonia nitrogen (in mg N/L) in saltwater shall not exceed, more than once every three years on the average, the chronic criteria below:

Chronic Ammonia Saltwater Criteria

Total Ammonia Nitrogen (mg N/L)

Salinity = 10 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	34.84	24.00	16.54	11.40	7.86	5.42	3.74	2.59
7.20	21.99	15.15	10.45	7.20	4.97	3.43	2.37	1.64
7.40	13.89	9.57	6.60	4.55	3.15	2.18	1.51	1.05
7.60	8.77	6.05	4.18	2.88	2.00	1.38	0.96	0.67
7.80	5.55	3.83	2.65	1.83	1.27	0.88	0.62	0.43
8.00	3.51	2.43	1.68	1.17	0.81	0.57	0.40	0.28
8.20	2.23	1.54	1.07	0.75	0.52	0.37	0.26	0.19
8.40	1.41	0.98	0.69	0.48	0.34	0.24	0.18	0.13
8.60	0.90	0.63	0.44	0.31	0.23	0.16	0.12	0.09
8.80	0.58	0.41	0.29	0.21	0.15	0.11	0.09	0.07
9.00	0.38	0.27	0.19	0.14	0.11	0.08	0.07	0.05

Salinity = 20 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	37.19	25.62	17.65	12.16	8.39	5.78	3.99	2.76
7.20	23.47	16.17	11.15	7.69	5.30	3.66	2.53	1.75
7.40	14.82	10.22	7.04	4.86	3.36	2.32	1.61	1.12
7.60	9.36	6.46	4.46	3.08	2.13	1.47	1.02	0.71
7.80	5.92	4.08	2.82	1.95	1.35	0.94	0.66	0.46
8.00	3.74	2.59	1.79	1.24	0.86	0.60	0.43	0.30
8.20	2.37	1.64	1.14	0.79	0.56	0.39	0.28	0.20

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8.40	1.51	1.05	0.73	0.51	0.36	0.26	0.19	0.14
8.60	0.96	0.67	0.47	0.33	0.24	0.17	0.13	0.10
8.80	0.62	0.43	0.31	0.22	0.16	0.12	0.09	0.07
9.00	0.40	0.28	0.20	0.15	0.11	0.09	0.07	0.06

Salinity = 30 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	39.75	27.38	18.87	13.00	8.96	6.18	4.27	2.95
7.20	25.09	17.29	11.91	8.21	5.67	3.91	2.70	1.87
7.40	15.84	10.92	7.53	5.19	3.59	2.48	1.72	1.19
7.60	10.01	6.90	4.76	3.29	2.27	1.57	1.09	0.76
7.80	6.32	4.36	3.01	2.08	1.44	1.00	0.70	0.49
8.00	4.00	2.76	1.91	1.33	0.92	0.64	0.45	0.32
8.20	2.53	1.75	1.22	0.85	0.59	0.42	0.30	0.21
8.40	1.61	1.12	0.78	0.55	0.38	0.27	0.20	0.14
8.60	1.03	0.72	0.50	0.35	0.25	0.18	0.14	0.10
8.80	0.66	0.46	0.33	0.23	0.17	0.13	0.10	0.08
9.00	0.43	0.30	0.22	0.16	0.12	0.09	0.07	0.06

To calculate total ammonia nitrogen chronic criteria values in saltwater at different pH and temperature values than those listed in this subsection, use the following formulas:

I =

$$I = \frac{19.9273S}{(1000 - 1.005109S)}$$

Where I = molal ionic strength of water

S = Salinity ppt (g/kg)

The regression model used to relate I to pKa (negative log of the ionization constant) is

$$pKa = 9.245 + .138I$$

pKa as defined by these equations is at 298 degrees Kelvin (25°C). T °Kelvin = °C + 273

To correct for other temperatures:

$$pKa^S_T = pKa^S_{298} + .0324(298 - T \text{ °Kelvin})$$

The unionized ammonia fraction (UIA) is given by:

$$UIA = \frac{1}{1 + 10^{(pKa^S_T - pH)}}$$

The chronic ammonia criterion in saltwater is given by:

$$\text{Chronic} = \frac{.035}{UIA}$$

Multiply the chronic value by .822 to get the ammonia-N chronic criterion.

## 9VAC25-590-220. Notices to the State Water Control Board.

All requirements of this regulation for notification to the State Water Control Board shall be addressed as follows:

Director  
 Department of Environmental Quality  
 629 E. Main Street  
 P.O. Box ~~40009~~ 1105  
 Richmond, Virginia ~~23240-0009~~ 23218

## 9VAC25-650-110. Letter of Credit.

A. An owner or operator may satisfy the requirements of this chapter by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section and by submitting an originally signed duplicate of the letter of credit to the board. The issuing institution shall be an entity that has the authority to issue letters of credit in the Commonwealth of Virginia and whose letter-of-credit operations are regulated and examined by a federal agency or the State Corporation Commission.

B. The letter of credit shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

(Name and address of issuing institution)

Beneficiary:

Director

Department of Environmental Quality (DEQ)

P.O.Box ~~10009~~ 1105

629 E. Main Street

Richmond, Virginia ~~23240-0009~~ 23218

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in your favor, at the request and for the account of (owner or operator name) of (address) up to the aggregate amount of (in words) U.S. dollars, \$(insert dollar amount), available upon presentation of

(1) your sight draft, bearing reference to this letter of credit, No. \_\_\_\_\_ and

(2) your signed statement reading as follows:

"I certify that the amount of the draft is payable pursuant to regulations issued under authority of § 62.1-44.18:3 of the Code of Virginia."

This letter of credit may be drawn on to implement the closure plan for the facility identified below in the amount of (in words) \$(insert dollar amount). (Name of facility and address of the facility assured by this mechanism, and number of hookups served by the system.)

This letter of credit is effective as of (date) and shall expire on (date), but such expiration date shall be automatically extended for a period of (at least the length of the original term) on (expiration date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify the Director of the DEQ and the owner or operator by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that the owner or operator is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by the Director of the DEQ and the owner or operator, as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall submit the amount of the draft directly to DEQ in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording required in 9VAC25-650-110 B as such regulations were constituted on the date shown immediately below.

Attest:

(Signature(s) and title(s) of official(s) of issuing institution)

(Date)

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code").

C. The letter of credit shall be irrevocable and issued for a period of at least one year in an amount at least equal to the current cost estimate for implementation of the closure plan. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year. If the issuing institution decides not to extend the letter of credit beyond the current expiration date it shall, at least 120 days before the expiration date, notify both the owner or operator and the board by certified mail of that decision. The 120-day period will begin on the date of receipt by the board as shown on the signed return receipt. Expiration cannot occur, however, while an enforcement procedure is pending. If the letter of credit is canceled by the issuing institution, the owner or operator shall obtain alternate financial assurance to be in effect prior to the expiration date of the letter of credit.

D. Whenever the approved cost estimate increases to an amount greater than the amount of credit, the owner or operator shall, within 60 days of the increase, cause the amount of credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this article to cover the increase. Whenever the cost estimate decreases, the letter of credit may be reduced to the amount of the new estimate following written approval by the board. The issuing institution shall send the notice of an increase or decrease in the amount of the credit to the board by certified mail within 60 days of the change.

E. Following a determination by the board that the owner or operator has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the owner or operator or has ceased operations at the facility or has failed to implement the closure plan in accordance with the approved plan or other permit or special order requirements, the board will draw on the letter of credit.

F. The owner or operator may cancel the letter of credit only if alternate financial assurance acceptable to the board is substituted as specified in this article or if the owner or operator is released by the board from the requirements of this chapter.

G. The board shall return the original letter of credit to the issuing institution for termination when:

1. The owner or operator substitutes acceptable alternate financial assurance for implementation of the closure plan as specified in this article; or

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2. The board notifies the owner or operator that he is no longer required by this article to maintain financial assurance for implementation of the closure plan for the facility.

## **9VAC25-650-200. Notices to the State Water Control Board.**

All requirements of this chapter for notification to the State Water Control Board shall be addressed as follows:

<u>Mailing Address:</u>	<u>Location Address:</u>
Director	Director
Department of Environmental Quality	Department of Environmental Quality
P.O. Box <del>10009</del> 1105	629 East Main Street
Richmond, Virginia	Richmond, Virginia 23219
<del>23240-0009</del> 23218	

VA.R. Doc. No. R12-3137; Filed April 16, 2012, 4:30 p.m.

### **Final Regulation**

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

Titles of Regulations: **9VAC25-194. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Car Wash Facilities (amending 9VAC25-194-10, 9VAC25-194-20, 9VAC25-194-40, 9VAC25-194-50, 9VAC25-194-60, 9VAC25-194-70; adding 9VAC25-194-15).**

**9VAC25-810. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Coin-Operated Laundry (repealing 9VAC25-810-10 through 9VAC25-810-70).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123 and 124.

Effective Date: October 16, 2012.

Agency Contact: Eleanore Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105,

Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, or email [elleanore.daub@deq.virginia.gov](mailto:elleanore.daub@deq.virginia.gov).

### Summary:

*This rulemaking replaces and updates VAG75 (the VPDES car wash general permit), which expires October 16, 2012, and incorporates into it VAG72 (the VPDES coin-operated laundry general permit), which expires February 8, 2016. A secondary action associated with this rulemaking is the repeal of the VPDES coin-operated laundry general permit since the requirements of that permit (VAG72) are being incorporated into VAG75. The general permit establishes limitations and monitoring requirements for point source discharge of treated wastewaters from vehicle wash facilities and laundry facilities to surface waters. The general permit regulation is reissued to continue making it available as a permitting option for these types of facilities.*

*This general permit covers vehicle wash wastewater generated from the fixed manual, automatic, or self-service washing of vehicles where the exterior washing of vehicles is conducted and expands those allowed coverage under the regulation to include more types of vehicle washing activities.*

*This general permit also covers laundry facility wastewater from any self-service facility where the washing of clothes is conducted, as designated by Standard Industrial Classification Code 7215. However, it does not include facilities that engage in dry cleaning.*

*Substantive changes add: (i) three reasons authorization to discharge cannot be granted (if the discharge violates the antidegradation policy in the Water Quality Standards at 9VAC25-260-30, if an approved TMDL contains a WLA for the facility, or if central wastewater treatment facilities are reasonably available); (ii) language to allow for administrative continuances of coverage; (iii) effluent limits pages for laundries and combined laundry and vehicle wash facilities; and (iv) five new special conditions. These changes are made to make this general permit similar to other general permits issued recently and in response to staff requests to clarify and update permit limits and conditions.*

*Changes made since publication of the proposed regulation include (i) a revision of the "vehicle wash" definition to include mobile facilities, (ii) a revision of the TMDL basis for denial of coverage language, and (iii) the addition of a special condition for discharges to waters with an approved TMDL.*

CHAPTER 194  
GENERAL VIRGINIA POLLUTANT DISCHARGE  
ELIMINATION SYSTEM (VPDES) PERMIT FOR ~~CAR~~  
VEHICLE WASH FACILITIES AND LAUNDRY  
FACILITIES

**9VAC25-194-10. Definitions.**

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law and 9VAC25-31-10 et seq. (VPDES Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Department" [ or "DEQ" ] means the Department of Environmental Quality.

"Laundry" means any self-service facility where the washing of clothes is conducted as designated by SIC 7215. It does not include facilities that engage in dry cleaning.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

"Vehicle [ ~~Maintenance~~ maintenance" ] means vehicle and equipment rehabilitation, mechanical repairs, painting, fueling, and lubrication.

"~~Car wash~~ Vehicle wash" means any ~~fixed~~ [ or mobile facility where the ] manual, automatic, or self-service [ ~~facility where the~~ ] exterior washing of vehicles including ~~cars, vans and pick-up trucks~~ is conducted as designated by SIC 7542. It includes ~~auto dealer preparation and detailing, and fleet vehicle washing~~, but is not limited to, automobiles, trucks (except below), motor homes, buses, motorcycles, ambulances, fire trucks, tractor trailers, and other devices that convey passengers or goods on streets or highways. This definition also includes golf course equipment and lawn maintenance equipment. It also includes any incidental floor cleaning wash waters associated with facilities that wash vehicles where the floor wash water also passes through the vehicle wash water treatment system. ~~It does not mean facilities that wash or steam clean engines, buses, horse/cattle trailers, tankers or tractor trailers. Vehicle wash does not mean engine, acid caustic metal brightener, or steam heated water washing. It does not include cleaning the interior of bulk carriers. It does not include tanker trucks, garbage trucks, logging trucks, livestock trucks, construction equipment, trains, boats, or aircraft. It does not include floor cleaning wash waters from vehicle maintenance areas.~~

**[ 9VAC25-194-15. 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 (EPA) set forth in Title 40 of the Code of Federal Regulations is referenced or adopted herein and incorporated by reference, that regulation shall be as it exists and has been published as a final regulation in the Federal Register prior to July 1, 2012, with the effective date as published in the Federal Register notice or October 16, 2012, whichever is later. ]

**9VAC25-194-20. Purpose.**

This general permit regulation governs the discharge of wastewater from ~~car wash~~ vehicle wash facilities and laundry facilities to surface waters.

**9VAC25-194-40. Effective date of the permit.**

This general permit will become effective on October 16, 2007 2012. This general permit will expire ~~five years after the effective date~~ on October 15, 2017. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-194-50 ~~and the receipt of this general permit.~~

**9VAC25-194-50. Authorization to discharge.**

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner ~~files~~ submits and receives acceptance by the board of the registration statement of 9VAC25-194-60, ~~files~~ submits the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-194-70, and provided that: ~~the board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.~~

B. The board will notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. ~~The owner has not been~~ is required to obtain an individual permit ~~according to~~ in accordance with 9VAC25-31-170 B 3- of the VPDES Permit Regulation;
2. Other board regulations prohibit such discharges;
3. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30;
4. [ An approved TMDL contains a WLA for the facility, unless this general permit specifically addresses the TMDL pollutant of concern and meets the TMDL WLA; or The discharge is not consistent with the assumptions and requirements of an approved TMDL; or ]

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5. The discharge is to surface waters where there are central wastewater treatment facilities reasonably available, as determined by the board.

C. [ Mobile car washes may apply for coverage under this permit provided each discharge location is permitted separately. Mobile vehicle wash owners shall operate such that there is no discharge to surface waters and storm sewers unless they have coverage under this permit. ]

2. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges.

B. Receipt of D. Compliance with this general permit constitutes compliance with the federal Clean Water Act, the State Water Control Law, and applicable regulations under either with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

E. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the car wash facilities general permit issued in 2007, and that submits a complete registration statement on or before October 16, 2012, is authorized to continue to discharge under the terms of the 2007 general permit until such time as the board either:

a. Issues coverage to the owner under this general permit; or

b. Notifies the owner that coverage under this permit is denied.

2. 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 may choose to do any or all of the following:

a. Initiate enforcement action based upon the general permit that has been continued;

b. Issue a notice of intent to deny coverage under the amended general permit. If the general permit coverage is denied, the owner would then be required to cease the [ activities discharges ] authorized by the continued general permit or be subject to enforcement action for [ operating discharging ] without a permit;

c. Issue an individual permit with appropriate conditions; or

d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

## **9VAC25-194-60. Registration statement.**

The owner shall file a complete VPDES general permit registration statement for car wash facilities. Any owner of an existing car wash that is covered by this general permit, who has discharge increases above a monthly average flow rate of 5,000 gallons per day, shall file an amended registration statement at least 30 days prior to commencing operation of the new process. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing car wash covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing car wash not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information: A. Deadlines for submitting registration statements. The 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 general VPDES permit for vehicle wash facilities and [ ~~laundry~~ laundry ] facilities.

1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least 30 days prior to the date planned for commencing operation of the new discharge.

2. Existing facilities.

a. Any owner covered by an individual VPDES permit who is proposing to be covered by this general permit shall submit a complete registration statement at least 210 days prior to the expiration date of the individual VPDES permit.

b. Any owner that was authorized to discharge under the general VPDES permit for coin-operated laundries (9VAC25-810) that became effective on February 9, 2011, and who intends to continue coverage under this general permit, shall submit a complete registration statement to the board prior to September 16, 2012.

c. Any owner that was authorized to discharge under the general VPDES permit for car wash facilities (9VAC25-194) that became effective on October 16, 2007, and who intends to continue coverage under this general permit, shall submit a complete registration statement to the board prior to September 16, 2012.

d. Any owner of a vehicle wash facility covered under this permit who had a monthly average flow rate of less than 5,000 gallons per day, and the flow rate increases above a monthly average flow rate of 5,000 gallons per

day, shall submit an amended registration statement within 30 days of the increased flow.

B. Late registration statements will be accepted, but authorization to discharge will not be retroactive. [ Owners described in subdivisions A 2 b and c of this section that submit late registration statements are authorized to discharge under the provisions of 9VAC25-194-50 E if a complete registration statement is submitted on or before October 16, 2012. ]

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

1. Facility name and mailing address, owner name and mailing address ~~and~~, telephone number, and email address (if available);
2. Facility ~~location~~ street address (if different from mailing address);
3. Facility operator (local contact) name, address ~~and~~, telephone number, and email address (if available) if different than owner;
4. Does the facility discharge to surface waters? ~~Name~~ If "yes," name of receiving stream; if yes "no," describe the discharge;
5. Does the facility discharge to a Municipal Separate Storm Sewer System (MS4)? If "yes," the facility owner must notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit and provide the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number;
- ~~5.~~ 6. Does the facility have a current VPDES Permit? Permit Number if yes If "yes," provide permit number;
7. Does your locality require connection to central wastewater [ treatment ] facilities?

8. Are central wastewater treatment facilities available to serve the site? If "yes," the option of discharging to the central wastewater facility must be evaluated and the result of that evaluation reported here;

~~6.~~ 9. A USGS 7.5 minute topographic map or equivalent computer generated map showing the facility location discharge location(s) and receiving stream;

~~7.~~ 10. Provide a brief description of the type of ear-wash and washing activity. Include (as applicable) the type of vehicles washed; ~~8.~~ Number, number of ear-wash vehicle washing bays; and the number of laundry machines;

~~9.~~ 11. Highest average monthly flow rate; for each washing activity or combined washing activity, reported as gallons per day;

~~10.~~ 12. Facility line (water balance) drawing;

~~11.~~ 13. Treatment information Description of wastewater treatment;

~~12.~~ 14. Information on use of chemicals at the facility; Include detergents, soaps, waxes and other chemicals; and

15. Will detergent used for washing vehicles contain more than 0.5% phosphorus by weight?

~~13.~~ 16. 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.

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

**9VAC25-194-70. General permit.**

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of 9VAC25-31.

General Permit No.: VAG75

Effective Date: October 16, ~~2007~~ 2012

Expiration Date: October ~~16, 2012~~ 15, 2017

**GENERAL PERMIT FOR ~~CAR WASH~~ VEHICLE WASH FACILITIES AND LAUNDRY FACILITIES**

**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 ~~ear~~ vehicle wash facilities and laundry facilities are authorized to discharge to

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surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I —Effluent Limitations and Monitoring Requirements, Part II —Conditions Applicable to All VPDES Permits, as set forth herein.

[ ~~PART~~ Part ] I

## A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from ~~car~~ vehicle wash facilities that discharge a monthly average flow rate less than or equal to 5,000 gallons per day from outfall(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/Year	Estimate
pH (S.U.)	<del>6.0</del> * <u>6.0</u> <sup>(1)</sup>	<del>9.0</del> * <u>9.0</u> <sup>(1)</sup>	1/Year	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Year	5G/8HC
Oil and Grease (mg/l)	NA	15	1/Year	Grab

NL—No Limitation, monitoring requirement only

NA—Not applicable

5G/8HC—Eight Hour Composite—Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected.

\*<sup>(1)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

~~5G/8HC—Eight Hour Composite—Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected.~~

<sup>(2)</sup>Limit given is expressed in two significant figures.

<sup>(3)</sup> [ ~~Samples shall be collected by June 30 of each year and reported on the facility's Discharge Monitoring Report (DMR). DMRs shall be submitted by July 10 of each year. Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January of each year. The first DMR is due January 10, 2014. ]~~

~~2. There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

[ ~~PART~~ Part ] I

## A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

~~1. 2.~~ During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from ~~car~~ vehicle wash facilities that discharge a monthly average flow rate greater than 5,000 gallons per day from outfall(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/6 Months	Estimate
pH (S.U.)	<del>6.0</del> * <u>6.0</u> <sup>(1)</sup>	<del>9.0</del> * <u>9.0</u> <sup>(1)</sup>	1/6 Months	Grab

# Regulations

TSS (mg/l)	NA	60 <sup>(2)</sup>	1/6 Months	5G/8HC
Oil and Grease (mg/l)	NA	15	1/6 Months	Grab

NL—No Limitation, monitoring requirement only

NA—Not applicable

5G/8HC—Eight Hour Composite—Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected.

\*<sup>(1)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

~~5G/8HC—Eight Hour Composite—Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected.~~

<sup>(2)</sup>Limit given is expressed in two significant figures.

<sup>(3)</sup>Samples shall be collected by December 31 and June 30 of each year and reported on the facility's Discharge Monitoring Report (DMR). DMRs shall be submitted by January 10 and July 10 of each year.

2. ~~There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

## [ ~~PART~~ Part ] I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

3. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a laundry facility from outfall(s):

Such discharges shall be limited and monitored by the permittee as specified below:

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>		<u>MONITORING REQUIREMENTS</u>	
	<u>Minimum</u>	<u>Maximum</u>	<u>Frequency<sup>(3)</sup></u>	<u>Sample Type</u>
<u>Flow (GPD)</u>	<u>NA</u>	<u>NL</u>	<u>1/Quarter</u>	<u>Estimate</u>
<u>pH (S.U.)</u>	<u>6.0<sup>(1)</sup></u>	<u>9.0<sup>(1)</sup></u>	<u>1/Quarter</u>	<u>Grab</u>
<u>TSS (mg/l)</u>	<u>NA</u>	<u>60<sup>(2)</sup></u>	<u>1/Quarter</u>	<u>Grab</u>
<u>BOD<sub>5</sub> (mg/l)</u>	<u>NA</u>	<u>60<sup>(1), (2)</sup></u>	<u>1/Quarter</u>	<u>Grab</u>
<u>Dissolved Oxygen (mg/l)</u>	<u>6.0<sup>(1)</sup></u>	<u>NA</u>	<u>1/Quarter</u>	<u>Grab</u>
<u>Temperature °C</u>	<u>NA</u>	<u>32<sup>(1), (4)</sup></u>	<u>1/6 Months</u>	<u>Immersion Stabilization</u>
<u>Total Residual Chlorine (mg/l)</u>	<u>NA</u>	<u>.011<sup>(1)</sup></u>	<u>1/Quarter</u>	<u>Grab</u>
<u>E. Coli<sup>(5)</sup></u>	<u>NA</u>	<u>235 CFU/100 ml</u>	<u>1/6 Months</u>	<u>Grab</u>
<u>Enterococci<sup>(6)</sup></u>	<u>NA</u>	<u>104 CFU/100 ml</u>	<u>1/6 Months</u>	<u>Grab</u>
<u>Fecal Coliform<sup>(7)</sup></u>	<u>NA</u>	<u>200 CFU/100 ml</u>	<u>1/6 Months</u>	<u>Grab</u>

NL - No Limitation, monitoring requirement only

NA - Not applicable

CFU – Colony Forming Units

<sup>(1)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, BOD<sub>5</sub>, DO, TRC and temperature

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in waters receiving the discharge, those standards shall be, as appropriate, the maximum and minimum effluent limitations.

<sup>(2)</sup>Limit given is expressed in two significant figures.

<sup>(3)</sup>Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January. Reports of once per six months shall be submitted no later than the 10th day of January and the 10th day of July for samples collected by December 31 and June 30 of each year.

<sup>(4)</sup>The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

<sup>(5)</sup>Applies only when the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).

<sup>(6)</sup>Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations).

<sup>(7)</sup>Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters).

## [ ~~PART~~ Part ] I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

4. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a combined vehicle wash and laundry facility from outfall(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/Quarter	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Quarter	5G/8HC
BOD <sub>5</sub> (mg/l)	NA	60 <sup>(1),(2)</sup>	1/Quarter	Grab
Oil & Grease	NA	15	1/6 Months	Grab
Dissolved Oxygen (mg/l)	6.0 <sup>(1)</sup>	NA	1/Quarter	Grab
Temperature °C	NA	32 <sup>[(1),(4)]</sup>	1/6 Months	Immersion Stabilization
Total Residual Chlorine (mg/l)	NA	.011 <sup>(1)</sup>	1/Quarter	Grab
E. Coli <sup>(5)</sup>	NA	235 CFU/100 ml	1/6 Months	Grab
Enterococci <sup>(6)</sup>	NA	104 CFU/100 ml	1/6 Months	Grab
Fecal Coliform <sup>(7)</sup>	NA	200 CFU/100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

CFU – Colony Forming Unit

(1)Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, BOD<sub>5</sub>, DO, TRC and temperature in waters receiving the discharge, those standards shall be, as appropriate, the maximum and minimum effluent limitations.

(2)Limit given is expressed in two significant figures.

(3)Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January. Reports of once per six months shall be submitted no later than the 10th day of January and the 10th day of July for samples collected by December 31 and June 30 of each year.

(4)The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

(5)Applies only when the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).

(6)Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations).

(7)Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters).

B. Special conditions.

1. The permittee of a vehicle wash facility shall perform inspections of the effluent and maintenance of the wastewater treatment facilities at least once per week and document activities on the operational log. This operational log shall be made available for review by the department personnel upon request.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

~~2.~~ 3. No sewage shall be discharged from a point source to surface waters from this facility except under the provisions of another VPDES permit specifically issued for that purpose.

~~3.~~ 4. There shall be no chemicals added to the water or waste which may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the board.

~~4.~~ 5. Wastewater should be reused or recycled whenever feasible.

~~5.~~ 6. The permittee of a vehicle wash facility shall comply with the following solids management plan:

~~a.~~ a. ~~There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

~~b.~~ a. All settling basins shall be cleaned frequently in order to achieve effective treatment.

~~e.~~ b. All solids ~~resulting from the car wash facility covered under this general permit,~~ shall be handled, stored, and disposed of so as to prevent a discharge to state waters of such solids.

~~6.~~ 7. Washing of vehicles or containers bearing residue of animal manure or toxic chemicals (fertilizers, organic chemicals, etc.) into the wastewater treatment system is prohibited. If the facility is a self-service operation, the permittee shall post this prohibition on a sign prominently located and of sufficient size to be easily read by all patrons.

8. If the facility has a vehicle wash discharge with a monthly average flow rate of less than 5,000 gallons per day, and the flow rate increases above a monthly average flow rate of 5,000 gallons per day, an amended registration statement shall be filed within 30 days of the increased flow.

~~7.~~ 9. Any permittee discharging into a municipal separate storm sewer shall notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit and provide the following information: the name of the facility, a contact person and phone number, ~~and~~ the location of the discharge, the nature of the discharge and the facility's VPDES general permit number.

10. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with

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any other federal, state, or local statute, ordinance, or regulation.

8- 11. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter;
- (2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;
- (3) Five times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter;
- (2) One milligram per liter for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

12. Operation and maintenance manual requirement. The permittee shall develop and maintain an accurate operations and maintenance (O&M) manual for the treatment works. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of this permit. The permittee shall operate the treatment works in accordance with the O&M manual. The O&M manual shall be reviewed and updated at least annually and shall be signed and certified in accordance with Part II K of this permit. The O&M manual shall be made available for review by the department personnel upon request. The O&M manual shall include, but not necessarily be limited to, the following items, as appropriate:

- a. Techniques to be employed in the collection, preservation, and analysis of effluent samples;
- b. Discussion of best management practices, if applicable;
- c. Treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory, and recordkeeping;

d. A sludge/solids disposal plan; and

e. Date(s) when the O&M manual was updated or reviewed and any changes that were made.

13. Compliance Reporting under Part I A 1- 4.

a. The quantification levels (QL) shall be as follows:

<u>Effluent Characteristic</u>	<u>Quantification Level</u>
<u>BOD<sub>5</sub></u>	<u>2 mg/l</u>
<u>TSS</u>	<u>1.0 mg/l</u>
<u>Oil and Grease</u>	<u>5.0 mg/l</u>
<u>Chlorine</u>	<u>0.10 mg/l</u>

b. Reporting. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision a of this subdivision. Otherwise, the numerical value shall be reported.

c. Monitoring results shall be reported using the same number of significant digits as listed in the permit. Regardless of the rounding convention used by the permittee (e.g., [ 5 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.

14. 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.

15. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.

[ 16. Discharges to waters with an approved total maximum daily load (TMDL). Owners of facilities that are a source of the specified pollutant of concern to waters where an approved TMDL has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL. ]

[ ~~16~~ 17. ] Notice of Termination [ . ]

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 wastewater discharges from vehicle wash or laundry activities 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); [ ~~or~~ ]

(3) All discharges associated with this facility have been covered by an individual or an alternative VPDES permit [ ; or

(4) Notice of termination is requested for another reason provided the board 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 vehicle wash facilities and laundry facilities general permit number; and

(4) The basis for submitting the notice of termination, including:

i. A statement indicating that a new owner has assumed responsibility for the facility;

ii. A statement indicating that operations have ceased at the facility and there are no longer wastewater discharges from vehicle wash or laundry activities from the facility;

iii. A statement indicating that all wastewater discharges from vehicle wash facilities and laundry facilities have been covered by an individual VPDES permit; or

iv. A statement indicating that termination of coverage is being requested for another reason (state the reason).

c. The following certification:

"I certify under penalty of law that all wastewater discharges from vehicle wash or laundry facilities from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative 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 wastewater from vehicle wash facilities or laundry facilities in accordance with the general permit, and that discharging pollutants in wastewater from vehicle wash facilities or laundry facilities 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."

d. The notice of termination shall be signed in accordance with Part II K.

e. The notice of termination shall be submitted to the DEQ regional office serving the area where the vehicle wash or laundry 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.

#### 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 such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities which shall be retained for a period of at least five years, the permittee shall retain 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 of the sample, measurement, report or request for coverage. 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 board.

#### 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.

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Monitoring results shall be submitted to the department's regional office.

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

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 the 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 which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon 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 board, 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 such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or 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 said 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 by telephone 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 submit the report to the department in writing within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to 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. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as

information which shall be reported within 24 hours under this subsection:

- a. Any unanticipated bypass; and
  - b. Any upset which 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 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.

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

NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone [ ~~or by FAX~~, FAX, or online at <http://www.deq.virginia.gov/dep/h2rpt.html>. ] For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service 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 commenced:
    - (1) After promulgation of standards of performance under § 306 of the Clean Water Act which are applicable to such source; or
    - (2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 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 which 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 disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

#### K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

- a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

- b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

- c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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2. Reporting requirements. All reports required by permits and other information requested by the board shall be signed by a person described in Part II K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in Part II K 1;
- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and
- 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 prior to 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 ensure 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 termination, revocation and reissuance, or modification; or denial of a permit 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 [ ~~480~~ 30 ] days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board 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 II U) and "upset" (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 Article 11 (§ 62.1-44.34:14 et seq.) 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) which 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 which 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.

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. The permittee may allow any bypass to occur which 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 U 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 board 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, such as 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 board may approve an anticipated bypass, after considering its adverse effects, if the board 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, upon presentation of credentials and other documents as may be required by law to:

1. Enter upon 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 herein shall make an inspection unreasonable during an emergency.

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

Y. Transfer of permits.

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1. Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least within 30 days in advance of the ~~proposed~~ transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue 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.

VA.R. Doc. No. R11-2693; Filed April 16, 2012, 4:13 p.m.

## Proposed Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** **9VAC25-196. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less (amending 9VAC25-196-10,**

**9VAC25-196-40, 9VAC25-196-50, 9VAC25-196-60, 9VAC25-196-70; adding 9VAC25-196-15).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123, and 124.

**Public Hearing Information:**

June 13, 2012 - 1:30 p.m. - Department of Environmental Quality, 629 East Main Street, 2nd Floor Conference Room, Richmond, VA

**Public Comment Deadline:** July 6, 2012.

**Agency Contact:** Burton Tuxford, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4086, FAX (804) 698-4032, or email burton.tuxford@deq.virginia.gov.

**Summary:**

*This rulemaking revises and reissues the existing general permit, which expires on March 1, 2013, to continue making it available as a permitting option for this type of discharger. This general permit establishes effluent limitations and monitoring requirements for point source discharges of 50,000 gallons per day or less of noncontact cooling water and cooling equipment blow down to surface waters. The proposed changes to the regulation make this general permit similar to other general permits issued recently and clarify and update permit limits and conditions.*

*Substantive proposed changes (i) add two reasons that authorization to discharge would not be granted; (ii) add language to allow for administrative continuation of permit coverage; (iii) add effluent limitations for copper, zinc, and silver for both freshwater and saltwater receiving streams; (iv) add special conditions for the required number of significant digits for reporting monitoring results, a requirement to implement measures and controls consistent with a TMDL requirement when the facility is subject to an approved TMDL, the notice of termination requirements, a requirement to control discharges as necessary to meet water quality standards, and the permittee's responsibility to comply with any other federal, state, or local statute, ordinance, or regulation; and (v) modify the MS4 notification special condition to require the permittee to submit discharge monitoring reports to the owner of the municipal storm sewer system (MS4) if the permittee discharges to the MS4.*

**9VAC25-196-10. Definitions.**

The words and terms used in this chapter shall have the meanings defined in § 62.1-44.2 et seq. of the Code of Virginia (State Water Control Law), and 9VAC25-31-10 et seq. (VPDES Permit Regulation) unless the context clearly

indicates otherwise, except that for the purposes of this chapter:

"Blowdown" means a discharge of recirculating water from any cooling equipment or cooling process in order to maintain a desired quality of the recirculating water. Boiler blowdown is excluded from this definition.

"Cooling water" means water used for cooling which does not come into direct contact with any raw product, intermediate product (other than heat) or finished product. For the purposes of this general permit, cooling water can be generated from any cooling equipment blowdown or produced as a result of any noncontact cooling process through either a single pass (once through) or recirculating system.

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

"Director" means the Director of the Virginia Department of Environmental Quality, or an authorized representative.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

**9VAC25-196-15. 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 is referenced or adopted herein and incorporated by reference, that regulation shall be as it exists and has been published as a final regulation in the Federal Register prior to July 1, 2012, with the effective date as published in the Federal Register notice or March 2, 2013, whichever is later.

**9VAC25-196-40. Effective date of the permit.**

This general permit will become effective on March 2, 2008 2013. This general permit will expire ~~five years from the effective date~~ on March 1, 2018. This general permit is effective as to any covered owner upon compliance with all the provisions of 9VAC25-196-50 ~~and the receipt of this general permit.~~

**9VAC25-196-50. Authorization to discharge.**

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner ~~files~~ submits and receives acceptance by the board of the registration statement of 9VAC25-196-60, ~~files~~ submits the required permit fee, and complies with the effluent limitations

and other requirements of 9VAC25-196-70, and provided that: the board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

B. The board will notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. The owner ~~has not been~~ is required to obtain an individual permit ~~according to~~ in accordance with 9VAC25-31-170 B 3- ~~of the VPDES Permit Regulation;~~
2. The owner ~~shall not~~ is proposing to discharge to Class V stockable trout waters, Class VI natural trout waters, or any state waters specifically named in other board regulations ~~or policies~~ which prohibit such discharges. ~~Chlorine or any other halogen compounds shall not be used for disinfection or other treatment purposes, including biocide applications, for any discharges to waters containing endangered or threatened species as identified in 9VAC25-260-110 C of the Water Quality Standards;~~
3. The owner ~~shall neither use tributyltin and any chemical additives containing tributyltin, nor use any hexavalent chromium-based water treatment chemicals in the cooling water systems. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30;~~
4. The owner ~~shall not use groundwater remediation wells as the source of cooling water~~ The discharge is not consistent with the assumptions and requirements of an approved TMDL.

C. Chlorine or any other halogen compounds shall not be used for disinfection or other treatment purposes, including biocide applications, for any discharges to waters containing endangered or threatened species as identified in 9VAC25-260-110 C of the Water Quality Standards.

D. The owner shall not use tributyltin, any chemical additives containing tributyltin, or any hexavalent chromium-based water treatment chemicals in the cooling water systems.

E. The owner shall not use groundwater remediation wells as the source of cooling water.

~~B. Receipt of~~ F. Compliance with this general permit constitutes compliance with the federal Clean Water Act, the State Water Control Law, and applicable regulations under either with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

G. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the cooling water discharges general permit issued in 2008 and

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# Regulations

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that submits a complete registration statement on or before March 2, 2013, is authorized to continue to discharge under the terms of the 2008 general permit until such time as the board either:

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

2. 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 may choose to do any or all of the following:

- a. Initiate enforcement action based upon the general permit that has been continued;
- b. Issue a notice of intent to deny coverage under the amended general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the continued general permit or be subject to enforcement action for discharging without a permit;
- c. Issue an individual permit with appropriate conditions; or
- d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

## **9VAC25-196-60. Registration statement.**

~~The owner shall file a complete general VPDES permit registration statement for cooling water discharges. Any owner proposing a new discharge shall file a complete registration statement at least 30 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing discharge covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing discharge not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file a complete registration statement. The required registration statement shall contain the following information: A. Deadlines for submitting registration statements. The 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 general VPDES permit for cooling water discharges of 50,000 gallons per day or less.~~

- 1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least 30 days prior to the date planned for commencing operation of the new discharge.
- 2. Existing facilities.

a. Any owner covered by an individual VPDES permit who is proposing to be covered by this general permit shall submit a complete registration statement at least 210 days prior to the expiration date of the individual VPDES permit.

b. Any owner that was authorized to discharge under the general VPDES permit that became effective on March 2, 2008, and who intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before February 1, 2013.

B. Late registration statements. Late registration statements will be accepted, but authorization to discharge will not be retroactive. Owners described in subdivision A 2 b of this section that submit late registration statements are authorized to discharge under the provisions of 9VAC25-196-50 G if a complete registration statement is submitted on or before March 2, 2013.

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

- 1. Facility name and address, owner name ~~and~~, mailing address ~~and~~, telephone number, and email address (if available);
- 2. Operator name, mailing address, ~~and~~ telephone number, and email address (if available) if different from owner;
- 3. Does the facility currently have a VPDES permit? Permit Number if yes;
- 4. Listing of point source discharges that are not composed entirely of cooling water;
- 5. Listing of type and size (tons) of cooling equipment or noncontact cooling water processes;
- 6. The following information if any chemical or nonchemical treatment, or both, is employed in each of the cooling water systems:
  - a. Description of the ~~chemical or nonchemical~~ treatment, ~~or both~~, to be employed (both chemical and nonchemical) and its purpose; for chemical additives other than chlorine, provide the information prescribed in subdivisions 6 b, c, d, e and f;
  - b. Name and manufacturer of each additive used;
  - c. List of active ingredients and percent composition;
  - d. Proposed schedule and quantity of chemical usage, and either an engineering analysis, or a technical evaluation of the active ingredients, to determine the concentration in the discharge;
  - e. Available aquatic toxicity information for each proposed additive used; and
  - f. Any other information such as product or constituent degradation, fate, transport, synergies, bioavailability,

etc., that will aid the board with the toxicity evaluation of the discharge;

7. Description of any type of treatment or retention being provided to the wastewater before discharge (i.e. retention ponds, settling ponds, etc.);

8. A schematic drawing of the cooling water equipment that shows the source of the cooling water, its flow through the facility, and each cooling water discharge point;

9. ~~For cooling waters with a direct discharge to surface waters,~~ a A USGS 7.5 minute topographic map or equivalent computer generated map extending to at least one mile beyond the property boundary. The map must show the outline of the facility and the location of each of its existing and proposed intake and discharge points, and must include all springs, rivers and other surface water bodies;

10. The following discharge information:

- a. A listing of all cooling water discharges by a unique number;
- b. The source of cooling water for each discharge;
- c. An estimate of the maximum daily flow in gallons per day for each discharge;
- d. The name of the waterbody receiving direct discharge or discharge through the municipal separate storm sewer system; and
- e. The duration and frequency of the discharge for each separate discharge point; continuous, intermittent, or seasonal;

**9VAC25-196-70. General permit.**

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of 9VAC25-31.

General Permit No: VAG25  
Effective Date: March 2, ~~2008~~ 2013  
Expiration Date: March 1, ~~2013~~ 2018

GENERAL PERMIT FOR NONCONTACT COOLING WATER DISCHARGES OF 50,000 GALLONS PER DAY OR LESS  
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 noncontact cooling water discharges of 50,000 gallons per day or less are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except Class V stockable trout waters, Class VI natural trout waters, and those specifically named in board regulations ~~or policies~~ which prohibit such discharges. Chlorine or any other halogen compounds shall not be used for disinfection or other treatment purposes, including biocide applications, for any discharges to waters containing endangered or threatened species as identified in 9VAC25-260-110 C of the Water Quality Standards.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, and Part II - Conditions Applicable to all VPDES Permits, as set forth herein.

~~f. The name and contact information of the owner of the municipal separate storm sewer system that receives the discharge, if applicable.~~

11. Whether the facility will discharge to a municipal separate storm sewer system (MS4). If so, the name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit, and shall copy the DEQ regional office with the notification. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number; and

12. 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.

# Regulations

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge noncontact cooling water. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location(s): outfall(s): \_\_\_\_\_.

~~Such discharges~~ 1. Effluent limitations and monitoring requirements for the first four years of the permit term (March 2, 2013, through March 1, 2017). Discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	0.05	NA	1/3 Months	Estimate
Temperature (°C)	(1)	NA	1/3 Months	Immersion Stabilization
pH (SU)	<del>9</del> <u>9.0</u> <sup>(2)</sup>	<del>6</del> <u>6.0</u> <sup>(2)</sup>	1/3 Months	Grab
Ammonia-N <sup>(3)</sup> (mg/l)	NL	NA	1/3 Months	Grab
Total Residual Chlorine <sup>(3)</sup> (mg/l)	Nondetectable	NA	1/3 Months	Grab
Hardness (mg/l CaCO <sub>3</sub> ) <sup>(2)</sup>	NL	NA	1/3 Months	Grab
Total <del>Dissolved</del> <u>Recoverable</u> Copper <sup>(4)</sup> (µg/l)	NL	NA	1/3 Months	Grab
Total <del>Dissolved</del> <u>Recoverable</u> Zinc <sup>(4)</sup> (µg/l)	NL	NA	1/3 Months	Grab
Total <del>Dissolved</del> <u>Recoverable</u> Silver <sup>(4)</sup> , <sup>(5)</sup> (µg/l)	NL	NA	1/3 Months	Grab
Total Phosphorus <sup>(6)</sup> (mg/l)	NL	NA	1/3 Months	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, or 31°C for mountain and upper piedmont waters. No maximum temperature limit, only monitoring, applies to discharges to estuarine waters.

The effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour. Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

<sup>(2)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

<sup>(3)</sup>Chlorine limitation of nondetectable (<0.1 mg/l) and chlorine monitoring only apply to outfalls directly discharging to surface waters where either: (i) a treatment additive that contains chlorine or chlorine compounds is used or (ii) the source of cooling water is chlorinated. All data below the quantification level (QL) of 0.1 mg/L shall be reported as "<QL." Ammonia monitoring only applies where the source of cooling water is disinfected using chloramines.

<sup>(4)</sup>A specific ~~analysis~~ analytical method is not specified for these materials; however a maximum quantification level (Max QL) value for each metal has been established. An appropriate ~~analysis~~ method to meet the Max QL value shall be selected from the following list of EPA methods to achieve a quantification level that is less than the target level for the material under consideration: using any approved method presented in 40 CFR Part 136. If the test result is less than the method quantification level (QL), a "<[QL]" shall be reported where the actual analytical test QL is substituted for [QL].

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Material	EPA Method	Target Level	Max QL (µg/l)
Copper	200.7, 200.8, 200.9, 1638, 1640	9.2	1.0
Zinc	289.2, 200.7, 200.8, 1638, 1639	65.0	50.0
Silver	200.7, 200.8, 200.9, 1638	1.2	1.0

Quality control/assurance information shall be submitted to document that the required quantification level QL has been attained.

<sup>(5)</sup>Silver monitoring is only required where a Cu/Ag anode is used.

<sup>(6)</sup>Phosphorus monitoring is only required where an additive containing phosphorus is used.

<sup>(7)</sup>Hardness monitoring is only required for discharges to freshwater streams, perennial streams, or dry ditches.

2. Effluent limitations and monitoring requirements for the last year of the permit term (March 2, 2017, through March 1, 2018), discharges to freshwater receiving streams. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	0.05	NA	1/3 Months	Estimate
Temperature (°C)	<sup>(1)</sup>	NA	1/3 Months	Immersion Stabilization
pH (SU)	9.0 <sup>(2)</sup>	6.0 <sup>(2)</sup>	1/3 Months	Grab
Ammonia-N <sup>(3)</sup> (mg/l)	NL	NA	1/3 Months	Grab
Total Residual Chlorine <sup>(3)</sup> (mg/l)	Nondetectable	NA	1/3 Months	Grab
Total Recoverable Copper <sup>(4)</sup> (µg/l)	9.0	NA	1/3 Months	Grab
Total Recoverable Zinc <sup>(4)</sup> (µg/l)	120	NA	1/3 Months	Grab
Total Recoverable Silver <sup>(4), (5)</sup> (µg/l)	3.4	NA	1/3 Months	Grab
Total Phosphorus <sup>(6)</sup> (mg/l)	NL	NA	1/3 Months	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, or 31°C for mountain and upper piedmont waters. No maximum temperature limit, only monitoring, applies to discharges to estuarine waters.

The effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour. Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

<sup>(2)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

<sup>(3)</sup>Chlorine limitation of nondetectable (<0.1 mg/l) and chlorine monitoring only apply to outfalls directly discharging to surface waters where either: (i) a treatment additive that contains chlorine or chlorine compounds is used or (ii) the source of cooling water is chlorinated. All data below the quantification level (QL) of 0.1 mg/L shall be reported as "<QL." Ammonia monitoring only applies where the source of cooling water is disinfected using chloramines.

<sup>(4)</sup>A specific analytical method is not specified; however a maximum quantification level (Max QL) value for each metal has been established. An appropriate method to meet the Max QL value shall be selected using any approved method presented in 40 CFR Part 136. If the test result is less than the method quantification level (QL), a "<[QL]" shall be reported where the actual analytical test QL is substituted for [QL].

# Regulations

Material	Max QL (µg/l)
Copper	1.0
Zinc	50.0
Silver	1.0

Quality control/assurance information shall be submitted to document that the required QL has been attained.

<sup>(5)</sup>Silver monitoring is only required where a Cu/Ag anode is used.

<sup>(6)</sup>Phosphorus monitoring is only required where an additive containing phosphorus is used.

3. Effluent limitations and monitoring requirements for the last year of the permit term (March 2, 2017, through March 1, 2018), discharges to saltwater receiving streams. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	0.05	NA	1/3 Months	Estimate
Temperature (°C)	<sup>(1)</sup>	NA	1/3 Months	Immersion Stabilization
pH (SU)	9.0 <sup>(2)</sup>	6.0 <sup>(2)</sup>	1/3 Months	Grab
Ammonia-N <sup>(3)</sup> (mg/l)	NL	NA	1/3 Months	Grab
Total Residual Chlorine <sup>(3)</sup> (mg/l)	Nondetectable	NA	1/3 Months	Grab
Total Recoverable Copper <sup>(4)</sup> (µg/l)	6.0	NA	1/3 Months	Grab
Total Recoverable Zinc <sup>(4)</sup> (µg/l)	81	NA	1/3 Months	Grab
Total Recoverable Silver <sup>(4), (5)</sup> (µg/l)	1.9	NA	1/3 Months	Grab
Total Phosphorus <sup>(6)</sup> (mg/l)	NL	NA	1/3 Months	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, or 31°C for mountain and upper piedmont waters. No maximum temperature limit, only monitoring, applies to discharges to estuarine waters.

The effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour. Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

<sup>(2)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

<sup>(3)</sup>Chlorine limitation of nondetectable (<0.1 mg/l) and chlorine monitoring only apply to outfalls directly discharging to surface waters where either: (i) a treatment additive that contains chlorine or chlorine compounds is used or (ii) the source of cooling water is chlorinated. All data below the quantification level (QL) of 0.1 mg/L shall be reported as "<QL." Ammonia monitoring only applies where the source of cooling water is disinfected using chloramines.

<sup>(4)</sup>A specific analytical method is not specified; however a maximum quantification level (Max QL) value for each metal has been established. An appropriate method to meet the Max QL value shall be selected using any approved method presented in 40 CFR Part 136. If the test result is less than the method quantification level (QL), a "<[QL]" shall be reported where the actual analytical test QL is substituted for [QL].

<u>Material</u>	<u>Max QL (µg/l)</u>
<u>Copper</u>	<u>1.0</u>
<u>Zinc</u>	<u>50.0</u>
<u>Silver</u>	<u>1.0</u>

Quality control/assurance information shall be submitted to document that the required QL has been attained.

(5) Silver monitoring is only required where a Cu/Ag anode is used.

(6) Phosphorus monitoring is only required where an additive containing phosphorus is used.

B. Special conditions.

1. There shall be no discharge of floating solids or visible foam in other than trace amounts.
2. No discharges other than cooling water, as defined, are permitted under this general permit.
3. The use of any chemical additives not identified in the registration statement, except chlorine, without prior approval is prohibited under this general permit. Prior approval shall be obtained from the DEQ before any changes are made to the chemical ~~and/or~~ or nonchemical treatment technology employed in the cooling water system. Requests for approval of the change shall be made in writing and shall include the following information:
  - a. Describe the chemical ~~and/or~~ or nonchemical treatment to be employed and its purpose; if chemical additives are used, provide the information prescribed in subdivisions 3 b, c, d, e and f;
  - b. Provide the name and manufacturer of each additive used;
  - c. Provide a list of active ingredients and percentage of composition;
  - d. Give the proposed schedule and quantity of chemical usage, and provide either an engineering analysis, or a technical evaluation of the active ingredients, to determine the concentration in the discharge;
  - e. Attach available aquatic toxicity information for each additive proposed for use; and
  - f. Attach any other information such as product or constituent degradation, fate, transport, synergies, bioavailability, etc., that will aid the board with the toxicity evaluation for the discharge.
4. Where cooling water is discharged through a municipal storm sewer system to surface waters, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system in writing of the existence of the discharge and provide the following information: the name of the facility, a contact person and phone number, the nature of the discharge, ~~number of the outfalls, and~~ the location of the discharge, and the facility's VPDES general permit number. A copy of such notification shall be provided to

the department. Discharge Monitoring Reports (DMRs) required by this permit shall be submitted to both the department and the owner of the municipal separate storm sewer system.

5. The permittee shall at all times properly operate and maintain all cooling water systems. Inspection shall be conducted for each cooling water unit by the plant personnel at least once per year with reports maintained on site.
6. The permittee shall notify the department as soon as they know or have reason to believe:
  - a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:
    - (1) One hundred micrograms per liter (100 µg/l);
    - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; 500 micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
    - (3) Five times the maximum concentration value reported for that pollutant in the permit application; or
    - (4) The level established by the board in accordance with 9VAC25-31-220 F.
  - b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:
    - (1) Five hundred micrograms per liter (500 µg/l);
    - (2) One milligram per liter (1 mg/l) for antimony;
    - (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
    - (4) The level established by the board in accordance with 9VAC25-31-220 F.
7. Geothermal systems using groundwater and no chemical additives. Geothermal systems using groundwater and no

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chemical additives may be eligible for reduced monitoring requirements.

If a geothermal system was covered by the previous cooling water general permit, and the monitoring results from the previous permit term demonstrate full compliance with the effluent limitations, the permittee may request authorization from the department to reduce the monitoring to once in the first monitoring quarter of the first year of this permit term.

Owners of new geothermal systems, and previously unpermitted geothermal systems that receive coverage under this permit shall submit monitoring results to the department for the first four monitoring quarters after coverage begins. If the monitoring results demonstrate full compliance with the effluent limitations, the permittee may request authorization from the department to suspend monitoring for the remainder of the permit term.

Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, upon issuance of the letter or notice, or initiation of the enforcement action the monitoring frequency shall revert to 1/3 months and remain in effect until the permit's expiration date.

8. Monitoring results shall be reported using the same number of significant digits as listed in the permit. Regardless of the rounding convention used by the permittee (e.g., 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.

9. Discharges to waters with an approved "total maximum daily load" (TMDL). Owners of facilities that are a source of the specified pollutant of concern to waters where an approved TMDL has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.

10. Notice of termination.

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 cooling water discharges 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 cooling water discharges associated with this facility have been covered by an individual VPDES permit or an alternative 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 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 cooling water discharges general permit number; and

(4) The basis for submitting the notice of termination, including:

i. A statement indicating that a new owner has assumed responsibility for the facility;

ii. A statement indicating that operations have ceased at the facility and there are no longer cooling water discharges from the facility;

iii. A statement indicating that all cooling water discharges have been covered by an individual VPDES permit; or

iv. A statement indicating that termination of coverage is being requested for another reason (state the reason).

c. The following certification: "I certify under penalty of law that all cooling water discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge cooling water in accordance with the general permit, and that discharging pollutants in cooling water 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."

d. The notice of termination shall be signed in accordance with Part II K.

e. The notice of termination shall be submitted to the DEQ regional office serving the area where the cooling water discharge is located.

11. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.

12. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with

any other federal, state, or local statute, ordinance, or regulation.

## 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 individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain 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 of the sample, measurement, report or request for coverage. 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 board.

#### 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 on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

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 the 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 which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon 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 board, 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 such state waters and make them detrimental to the public health, to animal or aquatic life, to the use of such 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,

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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 said 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 by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects 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 2. Unusual and extraordinary discharges include but are not limited to 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. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

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

- a. Any unanticipated bypass; and
- b. Any upset which 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 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.

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

NOTE: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the department's regional office. Reports may be made by telephone ~~or by fax~~, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/PollutionReportingForm.aspx>. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service 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 commenced:

(1) After promulgation of standards of performance under § 306 of Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 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 which 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 disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

#### K. Signatory requirements.

1. Registration statements. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking

elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part II K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and

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 prior to 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

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# Regulations

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noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit 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 apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new registration statement at least ~~90~~ 30 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board 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 bypass (Part II U) and upset (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) which 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 which 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.

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 which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and U 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 board 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, such as 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 board may approve an anticipated bypass, after considering its adverse effects, if the board 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 cause(s) 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, upon presentation of credentials and other documents as may be required by law, to:

- 1. Enter upon 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 subsection, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained

herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or 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. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department ~~at least~~ within 30 days ~~in advance~~ of the ~~proposed~~ transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue 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. 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.

VA.R. Doc. No. R11-2742; Filed April 17, 2012, 9:07 a.m.



**TITLE 24. TRANSPORTATION AND MOTOR VEHICLES**

**COMMONWEALTH TRANSPORTATION BOARD**

**Final Regulation**

**REGISTRAR'S NOTICE:** The Commonwealth Transportation Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002

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# Regulations

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B 4 of the Code of Virginia, which exempts regulations relating to grants of state or federal funds or property.

Titles of Regulations: **24VAC30-450. Airport Access Program (repealing 24VAC30-450-10 through 24VAC30-450-40).**

**24VAC30-451. Airport Access Fund Policy (adding 24VAC30-451-10, 24VAC30-451-20).**

Statutory Authority: §§ 33.1-12 and 33.1-221 of the Code of Virginia.

Effective Date: May 7, 2012.

Agency Contact: William R. Dandridge, Program Administration Specialist III, Local Assistance Division, Department of Transportation, 1401 East Broad St., Richmond, VA 233219, telephone (804) 786-2743, or email [william.dandridge@vdot.virginia.gov](mailto:william.dandridge@vdot.virginia.gov).

Summary:

*The new Airport Access Fund Policy regulation (24VAC30-451) increases the maximum amount of unmatched funding from \$300,000 to \$500,000, updates the content to be consistent with that of the Economic Development Access Fund Policy (24VAC30-271), and directs the Highway Commissioner to establish administrative procedures for the use of airport access funds. The increase in the maximum unmatched funding is consistent with funding limitation already prescribed for access road projects administered under the Economic Development Access Fund Policy. The new regulation replaces the Airport Access Program (24VAC30-450).*

CHAPTER 451  
AIRPORT ACCESS FUND POLICY

**24VAC30-451-10. Purpose.**

This chapter describes the conditions set by the Commonwealth Transportation Board governing the use of funds for the construction or improvement of access roads to public use airports within the counties, cities, and towns of the Commonwealth pursuant to § 33.1-221 of the Code of Virginia.

**24VAC30-451-20. General provisions.**

A. The program for implementation of this policy and the funding available for this program shall be designated respectively as the Airport Access Roads Program and Airport Access Fund.

B. The use of airport access funds shall be limited to assisting in the financing of adequate access to a licensed, public use airport. Termination of access to a licensed, public use airport shall be at the property line of the airport.

C. No cost incurred prior to this board's approval of the allocation of airport access funds may be reimbursed by such

funds. Airport access funds shall be authorized only upon confirmation that the licensed airport facility is already constructed or will be built under firm contract or upon provision of acceptable surety in accordance with § 33.1-221 A of the Code of Virginia.

D. Airport access funds shall be used only for the design and construction of the roadway, including preliminary environmental review and standard drainage and storm water facilities required solely by construction of the road. Airport access funds shall not be used for the acquisition of rights of way, the adjustment of utilities, or the attainment of necessary environmental permits.

E. Eligible items in the design and construction of an airport access road shall be limited to those essential for providing an adequate roadway facility to serve the anticipated traffic generated by the airport's operations with adherence to all appropriate Commonwealth Transportation Board and state policies and standards. However, additional pavement width or other features may be eligible where necessary to qualify the road facility in a city or town for maintenance payments under § 33.1-41.1 of the Code of Virginia.

F. The governing body of a city, county, or town in which the proposed airport access road is located shall serve as the applicant and submit a formal resolution to request airport access funds from this board. A town whose streets are maintained under either § 33.1-79 or 33.1-82 of the Code of Virginia shall file the application through the governing body of the county in which it is located. The resolution of request shall include commitments to provide for the rights of way, adjustment of utilities, and necessary environmental permits for the project from funds other than airport access funds allocated by this board.

G. Not more than \$650,000 (\$500,000 unmatched and \$150,000 matched dollar for dollar) of the airport access funds may be used in any fiscal year to provide access to any one airport. Local matching funds shall be provided from funds other than those administered by this board.

H. It is the intent of the Commonwealth Transportation Board that airport access funds not be anticipated from year to year. Unused eligibility cannot be allowed to accumulate and be carried forward from one fiscal year to another.

I. Prior to the formal request for the use of airport access funds, the location for the new access road shall be submitted for approval by the Virginia Department of Transportation.

J. The board will consult with, and may rely on, the recommendations of the Virginia Department of Aviation in determining the use of these airport access funds for a requested project.

K. Airport access funds may be authorized only after all contingencies of the Commonwealth Transportation Board's

allocation of funding to the project have been met for airport access.

L. The Commissioner of Highways is directed to establish administrative procedures to assure adherence to and compliance with the provisions of this chapter and legislative directives.

VA.R. Doc. No. R12-3165; Filed April 13, 2012, 1:02 p.m.

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# GENERAL NOTICES/ERRATA

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## BOARD OF AGRICULTURE AND CONSUMER SERVICES

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-110, Rules and Regulations Pertaining to a Pound or Enclosure to be Maintained by Each County or City**, and determined that this regulation should be retained in its current form. The Virginia Department of Agriculture and Consumer Services is publishing its report of findings dated April 2, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

This regulation establishes criteria for the construction, maintenance, and operation of animal pounds by local governments. It is limited in scope to these public facilities. Therefore, the regulation has no impact on small businesses.

Contact Information: Daniel Kovich, DVM, MPH, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-2483, FAX (804) 371-2380, or email [dan.kovich@vdacs.virginia.gov](mailto:dan.kovich@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-205, Rules and Regulations Pertaining to Shooting Enclosures**, and determined that this regulation should be retained in its current form. The Virginia Department of Agriculture and Consumer Services is publishing its report of findings dated March 30, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

This regulation is not expected to have a significant economic impact on small business. There is currently only one licensed shooting enclosure in the Commonwealth. There is a continued need for the regulation in order to protect animals kept in this shooting enclosure. The regulation itself is not complex, and the only potential impacts on a small business would be the required adherence to health and welfare requirements associated with being a licensed shooting enclosure as well as the license fee. The regulation does duplicate some of the state laws found in §§ 3.2-6035 through 3.2-6042 of the Code of Virginia, but the regulation is required to be adopted in § 3.2-6039 to carry out the provisions of the Code. The regulation was last reviewed in 2000, with the result at that time being to remain as is. Consistent with the stated objectives of this law, this regulation should be maintained.

Contact Information: Dr. Charlie Broaddus, Department of Agriculture and Consumer Services, P.O. Box 1163,

Richmond, VA 23218, telephone (804) 786-2483, FAX (804) 371-2380, or email [charles.broaddus@vdacs.virginia.gov](mailto:charles.broaddus@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-230, Rules and Regulations Applicable to Controlled Atmosphere (CA) Apples**, and determined that this regulation should be retained in its current form. The Virginia Department of Agriculture and Consumer Services is publishing its report of findings dated April 4, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

The regulation will have a minimal impact on small businesses. The agency is recommending that the regulation should remain in effect without change. The regulation promotes the welfare of citizens by making available to the public better quality fruit throughout the year, and it provides equitable pricing for fruit producers and sellers. No comments or complaints were received during the public comment period. The regulation does not duplicate any state or federal laws or regulations. The regulation is not overly complex. The agency has determined that no changes have occurred in the area affected by this regulation since the last periodic review that would make it necessary to amend or repeal the regulation. The agency believes the current version of the regulation is the least burdensome and least intrusive alternative for the apple industry and small businesses.

Contact Information: Thomas H. Smith, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3548, FAX (804) 371-7785, or email [thomas.smmith@vdacs.virginia.gov](mailto:thomas.smmith@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-250, Rules and Regulations Relating to Grain Dealer Licensing and Bonding Law**, and determined that this regulation should be retained in its current form. The Virginia Department of Agriculture and Consumer Services is publishing its report of findings dated April 5, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

Because the selling of grain in Virginia is tremendously important to the state's economy, there is a continued need for this regulation. The agency has determined that this regulation is effective in achieving its goals of protecting Virginia farmers against loss when selling their grain. No complaints or comments were received during the public comment period. The regulation does not conflict with state or federal law. The regulation is not overly complex. The agency has determined that no change occurred in the area

affected by the regulation subsequent to the agency's previous periodic review that would necessitate the amendment or repeal of this regulation. This regulation is still very important in ensuring fair and prompt payment for grain transactions between buyer and seller.

Contact Information: William R. Sanford, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3939, FAX (804) 371-0247, or email [randy.sanford@vdacs.virginia.gov](mailto:randy.sanford@vdacs.virginia.gov).

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-370, Rules and Regulations for Enforcement of the Virginia Animal Remedies Law**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated April 10, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

This regulation has a minimal economic impact on small businesses. The provisions of this regulation establish general requirements that are consistent with current industry practices and that are not unnecessarily burdensome. The agency has determined that this regulation should be retained in order to continue to protect public health, safety, and welfare. The agency has not received any complaints or comments from the public concerning this regulation. The agency has determined that this regulation is not unnecessarily complex and that the complexity of this regulation is not such that it would have an economic impact on small businesses. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The agency has determined that no change in the animal remedy industry has occurred subsequent to the agency's previous periodic review of this regulation that would necessitate the amendment or repeal of this regulation.

Contact Information: Erin Williams, Policy Coordinator, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, (804) 786-1308, FAX (804) 371-7479, or email [erin.williams@vdacs.virginia.gov](mailto:erin.williams@vdacs.virginia.gov).

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-380, Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated April 10, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

The provisions of this regulation establish notice and written receipt requirements and are not unnecessarily burdensome. The agency has determined that this regulation should be retained in order to continue to protect producers of agricultural produce and public health, safety, and welfare. The agency has not received any complaints or comments from the public concerning this regulation. The agency has determined that this regulation is not unnecessarily complex and that the complexity of this regulation is not such that it would have an economic impact on small businesses.

The federal Perishable Agricultural Commodities Act (7 USC § 499 et seq.) (Act) requires any person who buys or sells more than 2,000 pounds of fresh or frozen fruits and vegetables in any given day to be licensed. Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law (2VAC5-380) does not appear to overlap, duplicate, or conflict with the requirements of the Act or with any other federal or state law or regulation. The agency has determined that no change in the affected industry has occurred subsequent to the agency's previous periodic review of this regulation that would necessitate the amendment or repeal of this regulation.

Contact Information: Erin Williams, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1308, FAX (804) 371-7479, or email [erin.williams@vdacs.virginia.gov](mailto:erin.williams@vdacs.virginia.gov).

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-600, Regulations Pertaining to Food for Human Consumption**, and determined that this regulation should be retained in its current form. The Virginia Department of Agriculture and Consumer Services is publishing its report of findings dated March 30, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

There is a continued need for this regulation. This regulation is necessary for the protection of the health, safety, and welfare of citizens in the Commonwealth. Without a specific regulation governing multiple commodities, multiple processes, pesticides in foods, and food additives as well as sanitary requirements for food establishments, there is no way to provide an appropriate level of food safety oversight for the various food products and food product processes that are prepared, held, and sold to consumers in Virginia.

This regulation is not complex. However, it does provide appropriate guidance and the requirements necessary to ensure that consumers in Virginia purchase and consume safe food products. Since this regulation adopts provisions of the Code of Federal Regulations (Title 21), it is duplicative of existing federal regulations. However, enforcement of the regulatory requirements for food establishments, food

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products, and food processes within Virginia's boundaries lies primarily with the Commonwealth, not the federal government. Enforcement of this regulation is appropriate and necessary to ensure the proper level of food safety within the Commonwealth. No comments or complaints were received concerning the regulation during the public comment period. Technology and economic conditions have changed minimally since the adoption and evaluation of this regulation. This regulation provides basic, essential requirements for food establishments, food commodities, and food processes, while simultaneously minimizing the economic impact on small businesses. This regulation should remain in effect without change.

Contact Information: Ryan Davis, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8899, FAX (804) 371-7792, or email [ryan.davis@vdacs.virginia.gov](mailto:ryan.davis@vdacs.virginia.gov).

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-210, Rules and Regulations Pertaining to Meat and Poultry Inspection Under the Virginia Meat and Poultry Products Inspection Act**, and determined that this regulation should be retained in its current form. The Virginia Department of Agriculture and Consumer Service is publishing its report of findings dated April 3, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

There is a continued need for this regulation. The regulation is designed to ensure a safe, wholesome, and truthfully labeled supply of meat and poultry products for the citizens of the Commonwealth. Meat and poultry products support the growth of human disease producing organisms. These products must be produced under controlled conditions to prevent food borne illness. This regulation has been effective. To date, there have been no reported outbreaks of food borne illness attributed to meat and poultry products produced in Virginia-inspected plants. No comments or complaints were received concerning this regulation during the public comment period.

This regulation is necessary to comply with the Federal Meat Inspection Act and the Poultry Products Inspection Act, which allow Virginia to operate an intrastate Meat and Poultry Program. Virginia is one of eight states that operates a Talmadge-Aiken (T/A) program, which allows Virginia inspectors to provide inspection service to federal interstate plants.

The Federal Meat Inspection Act and the Poultry Products Inspection Act that the regulation adopts are very complex.

The state Office of Meat and Poultry Services (OMPS) receives numerous questions and calls for assistance from plant operators and from persons interested in starting a meat or poultry business. OMPS provides guidance to these mainly small businesses in order to help them understand and comply with all regulatory requirements.

This regulation adopts the provisions of the Federal Meat Inspection Act and the Poultry Products Inspection Act. If there were no Virginia Meat and Poultry Program, the federal government would "designate" the state, which means the federal government would take charge of all meat and poultry inspection in the state. The requirements on small businesses would not change. However, the inspections would be performed by federal inspectors.

The federal statutory requirements change regularly and Virginia is required to adopt these changes as they occur. Virginia has the option to adopt requirements that are more stringent than those of the federal government but cannot reduce or remove any existing requirement.

Economic conditions have little effect on this regulation, since there is no fee for inspection service. The ability of technology to detect food safety hazards has the greatest impact on this regulation. As new pathogens are determined to be adulterants in meat or poultry products, more product or environmental tests may be required of inspected businesses. The businesses normally pass this cost on to their customers.

This regulation should remain in effect. This regulation allows small businesses in Virginia the opportunity to produce and sell meat and poultry products both intrastate and, through the T/A program, across state lines while working with Virginia state employees.

Contact Information: Richard Hackenbracht, DVM, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4569, FAX (804) 371-7792, or email [richard.hackenbracht@vdacs.virginia.gov](mailto:richard.hackenbracht@vdacs.virginia.gov).

### STATE AIR POLLUTION CONTROL BOARD

#### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Air Pollution Control Board conducted a small business impact review of **9VAC5-40, Existing Stationary Sources**, and determined that this regulation should be retained in its current form. The State Air Pollution Control Board is publishing its report of findings dated November 7, 2011, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

These regulations continue to be needed. They provide sources with the most cost-effective means of fulfilling ongoing state and federal requirements that protect air quality. The regulation's level of complexity is appropriate to ensure

that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible. The regulations do not overlap, duplicate, or conflict with any state law or other state regulation. The regulations were last reviewed as follows: 2001 (Articles 2 and 15), 2002 (Article 8), 2003 (Article 54), 2004 (Articles 43 and 47), 2005 (Article 46), 2006 (Part I, Articles 4, 37, 48, and 53), and 2007 (Article 52). Since these prior reviews, it has generally become less expensive to characterize, measure, and mitigate the regulated pollutants that contribute to poor air quality. This regulation continues to provide the most efficient and cost-effective means to determine the level and impact of excess emissions and to control those excess emissions. The department, through examination of the regulations and relevant public comments, has determined that the regulatory requirements currently minimize the economic impact of emission control regulations on small businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Contact Information: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, or email [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Air Pollution Control Board conducted a small business impact review of **9VAC5-50, New and Modified Stationary Sources**, and determined that this regulation should be retained in its current form. The State Air Pollution Control Board is publishing its report of findings dated November 7, 2011, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

These regulations continue to be needed. They provide sources with the most cost-effective means of fulfilling ongoing state and federal requirements that protect air quality. The regulation's level of complexity is appropriate to ensure that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible. The regulations do not overlap, duplicate, or conflict with any state law or other state regulation. The regulations were last reviewed as follows: 2001 (Articles 2 and 6), and 2006 (Part I and Article 4). Since these prior reviews, it has gotten generally less expensive to characterize, measure, and mitigate the regulated pollutants that contribute to poor air quality. This regulation continues to provide the most efficient and cost-effective means to determine the level and impact of excess emissions and to control those excess emissions. The department, through examination of the regulations and relevant public comments, has determined that the regulatory requirements currently minimize the economic impact of emission control regulations on small

businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Contact Information: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, or email [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Air Pollution Control Board conducted a small business impact review of **9VAC5-70, Air Pollution Episode Prevention**, and determined that this regulation should be retained in its current form. The State Air Pollution Control Board is publishing its report of findings dated November 7, 2011, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

This regulation continues to be needed. It provides sources with the most cost-effective means of fulfilling ongoing state and federal requirements that protect air quality. The regulation's level of complexity is appropriate to ensure that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible. This regulation does not overlap, duplicate, or conflict with any state law or other state regulation. This regulation was last reviewed in 2001. In that time, it has gotten generally less expensive to characterize, measure, and mitigate the regulated pollutants that contribute to poor air quality. This regulation continues to provide the most efficient and cost-effective means to determine the level and impact of excess emissions and to control those excess emissions. The department, through examination of the regulation and relevant public comments, has determined that the regulatory requirements currently minimize the economic impact of emission control regulations on small businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Contact Information: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, or email [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Air Pollution Control Board conducted a small business impact review of **9VAC5-510, Nonmetallic Mineral Processing General Permit**, and determined that this regulation should be retained in its current form. The State Air Pollution Control Board is publishing its report of

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findings dated November 7, 2011, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

This regulation continues to be needed. It provides sources with the most cost-effective means of fulfilling ongoing state and federal requirements that protect air quality. The regulation's level of complexity is appropriate to ensure that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible. As previously mentioned, the regulation embodies regulatory provisions found elsewhere in the air regulatory program; Article 14 (Sand and Gravel Processing Operations and Stone Quarrying and Processing Operations) of 9VAC5-40 via the state operating permit program and Article 5 (Environmental Protection Agency Standards of Performance for New Stationary Sources) of 9VAC5-50 via the minor NSR program. This regulation may reduce costs for manufacturers and in most cases has a beneficial impact by lowering the permitting costs to the regulated entity. By choosing to take a minor NSR general permit over a conventional minor NSR permit, the applicant: (i) is able to receive the permit faster, (ii) avoids the time consuming application process, and (iii) avoids the uncertainty associated with having to negotiate and accept a new BACT determination that may likely result in more stringent requirements than the general permit.

This regulation has not been reviewed since it was originally promulgated in 2002. In that time, it has generally become less expensive to characterize, measure, and mitigate the regulated pollutants that contribute to poor air quality. This regulation continues to provide the most efficient and cost-effective means to determine the level and impact of excess emissions and to control those excess emissions. The department, through examination of the regulation and relevant public comments, has determined that the regulatory requirements currently minimize the economic impact of emission control regulations on small businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Contact Information: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, or email [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

## DEPARTMENT OF CONSERVATION AND RECREATION DEPARTMENT OF ENVIRONMENTAL QUALITY

### Total Maximum Daily Load Studies for Holmes Run and Tripps Run

Announcement of total maximum daily load (TMDL) studies to restore water quality in portions of Holmes Run and Tripps Run that have an aquatic life use impairment.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) and the Virginia Department of Conservation and Recreation (DCR) announce the first Technical Advisory Committee (TAC) meeting to introduce the Holmes Run and Tripps Run benthic TMDL studies.

Technical advisory committee meeting: Thursday, May 24, 2012, 1:30 p.m. - 3:30 p.m., Thomas Jefferson Library, Meeting Room 2, 7415 Arlington Boulevard, Falls Church, VA 22042.

Meeting description: This is the first meeting to introduce these TMDL projects to the TAC. The purpose of the TAC will be to provide technical input and insight for the project, and to assist with stakeholder and public participation.

Description of study: Portions of Holmes Run and Tripps Run have been identified as impaired on the Clean Water Act § 303(d) list for not supporting Virginia's water quality aquatic life use standard due to poor health of the benthic macroinvertebrate communities. Virginia agencies are working to identify the benthic stressors causing the aquatic life use impairments in Holmes Run and Tripps Run. Below is a description of the impaired portions of Holmes Run and Tripps Run that will be addressed in this study:

Stream Name	Location	Impairment	Area (miles)	Upstream Limit	Downstream Limit
Holmes Run	Fairfax County	Aquatic Life Use Benthic Macroinvertebrates	5.78	Headwaters of Holmes Run	Start of Lake Barcroft
Tripps Run	Falls Church Fairfax County	Aquatic Life Use Benthic Macroinvertebrates	2.24	Headwaters of Tripps Run	Start of Lake Barcroft

During this study, DEQ will develop a TMDL for each of the impaired stream segments. A TMDL is the total amount of a pollutant a water body can receive and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL allocated amount.

How to comment: The public comment period on the materials presented at the TAC meeting will extend from May 24, 2012, to June 25, 2012. DEQ accepts written comments by email, FAX, or postal mail. Written comments should include the name, address, and telephone number of the person commenting, and be received by DEQ during the comment period. Please send all comments to the contact listed below.

Contact for additional information: Jennifer Carlson, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3859, email [jennifer.carlson@deq.virginia.gov](mailto:jennifer.carlson@deq.virginia.gov).

## **Development of a Water Quality Improvement Plan (Implementation Plan) for Impaired Shellfish Waters in Mathews, Middlesex, and Gloucester Counties**

The Department of Conservation and Recreation (DCR) and the Department of Environmental Quality (DEQ) seek written and oral comments from interested persons on the development of an Implementation Plan (IP) for impaired shellfish waters, located in Mathews, Middlesex, and Gloucester Counties, Virginia. The nine tidal shellfish waters that feed into the Piankatank River and Milford Haven (Queens, Stutts, Morris, Billups, Edwards, Harper, Wilton, Healy, and Cobbs) and a portion of the Upper Piankatank River are on the state's list of dirty or impaired waters. The shellfish harvesting in these waters has been restricted due to excessive bacteria levels. The total maximum daily load (TMDL) studies for these waters can be found on the DEQ website at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs.aspx> under the "Approved TMDL Reports" section as: pianka.pdf, pianharp.pdf, and gwynnisl.pdf.

Actions to restore water quality in these impaired tidal creeks will be the subject of a meeting to be held May 23, 2012, from 6:30 p.m. to 8:30 p.m. at the Middlesex Family YMCA, 11487 General Puller Highway, Hartfield, Virginia. At this meeting, TMDL findings and the development of the implementation plan will be discussed and citizens will learn how they can be part of the public participation process. DCR seeks information and involvement of local citizens in developing this plan. After a one-hour public meeting, stakeholders will break into working group sessions to discuss and provide input for the implementation plan.

The 30-day public comment period on the information presented at the meeting will end on June 22, 2012. Questions or information requests should be addressed to May Sligh, Department of Conservation and Recreation, Tappahannock Field Office, telephone (804) 443-1494, or email [may.sligh@dcr.virginia.gov](mailto:may.sligh@dcr.virginia.gov). The written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to May Sligh, Department of Conservation and Recreation, Tappahannock Regional Office, P.O. Box 1425, Tappahannock, VA 22560.

## **Total Maximum Daily Load Implementation Plan for North Fork Rockfish River, South Fork Rockfish River, Rockfish River, and Taylor Creek Watersheds in Nelson County**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of total maximum daily load (TMDL) implementation plans (IPs) for the North Fork Rockfish River, South Fork Rockfish River, Rockfish River, and

Taylor Creek watersheds in Nelson County. The tributaries of the Rockfish River were listed on the 2004 and 2006 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for bacteria; in addition, Taylor Creek was listed in 2008 as impaired due to violations of the state's general water quality standard (benthic) for aquatic life. The bacteria impairment on the North Fork Rockfish River begins in the headwaters and extends 7.2 miles to its confluence with the Rockfish River. The South Fork Rockfish River bacterial impairment extends 11.6 miles from its headwaters to its confluence with the mainstem Rockfish River. The bacteria impairment on the Rockfish River extends from the confluence of its North and South Forks to its confluence with Davis Creek, which is a total of 6.5 miles. The benthic impairment on Taylor's Creek extends five miles from its headwaters to the confluence with North Fork Perry Creek.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report. In addition, § 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts.

The third public meeting on the development of these TMDLs and IPs will be held during the Rockfish Valley Watershed Improvement Plan community meeting on Wednesday, May 16, 2012, 7 p.m. at Rockfish Valley Community Center, 190 Rockfish School Lane, Afton, VA 22920. The IP document will be available on the DEQ website the day of the meeting for public comment and review: <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx>.

The public comment period for the IP will end on June 18, 2012. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Tara Sieber, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7870, FAX (540) 574-7878, or email [tara.sieber@deq.virginia.gov](mailto:tara.sieber@deq.virginia.gov).

## **DEPARTMENT OF CORRECTIONS**

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Corrections conducted a small business impact review of **6VAC15-45, Regulations for Private Management and Operation of Prison Facilities**, and determined that this regulation should be retained in its

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current form. The Department of Corrections is publishing its report of findings dated September 8, 2011, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

Pursuant to § 2.2-4007.1 E and F, the Department of Corrections has considered the economic impact of regulation 6VAC15-45 on small business. The Department of Corrections has determined (i) there is continued need for the regulation based on legal mandate; (ii) the complexity of the regulation is appropriate to the subject matter; (iii) the regulation does not significantly overlap, duplicate, or conflict with federal or state law or regulation; and (iv) there have been no significant changes in technology, economic conditions, or other factors in the area affected by the regulation. The Department of Corrections has determined that there is no need for the regulation to be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

Contact Information: James G. Bruce, Jr., Agency Regulatory Coordinator, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3303, FAX (804) 674-3017, or email [james.bruce@vadoc.virginia.gov](mailto:james.bruce@vadoc.virginia.gov).

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### **Draft Water Quality Restoration Study and Implementation Planning for the Chickahominy River and Tributaries Impaired for Bacteria in Hanover, Henrico, Charles City, and New Kent Counties and the City of Richmond**

Public meeting: Mechanicsville Branch Library, 7461 Sherwood Crossing Place, Mechanicsville, Virginia 23111. Public meetings will be held on Thursday, May 24, 2012, at 2 p.m. and 6 p.m. Both meetings are open to the public. Afternoon and evening meetings will cover the same material.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) is announcing a draft total maximum daily load (TMDL) study to restore water quality and the initiation of the implementation plan for waterbodies mentioned above.

Meeting description: Public meetings provide an opportunity for the public to share their knowledge of the watershed and learn about pollution affecting community waters. Meetings will feature a summary of information from the draft TMDL, including watershed land use, water quality monitoring, suspected sources of bacteria, and the reduction of source bacteria required to meet water quality standards and will also feature an introduction of implementation planning (IP) for the watershed. Those attending the meeting are invited to ask questions, contribute their knowledge of the watershed, and participate in the working groups as part of the IP phase.

Description of study: Virginia agencies have been working to identify sources of the bacteria waters of the Chickahominy River and its tributaries:

Stream	County/City	Length (mi.)	Impairment
Stony Run	Hanover	0.21	Bacteria (primary contact/swimming use)
Beaverdam Creek	Hanover	6.69	
Chickahominy River	Henrico, Hanover	7.54	
Boatswain Creek	Hanover	3.76	
Collins Run	Charles City County	4.50	

These streams are impaired for failure to meet the primary contact (recreational or swimming) designated use due to bacteria. The study reports on the sources of bacteria and recommends TMDLs for impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, bacterial levels need to be reduced to the TMDL amount. The draft TMDL report will be available at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx> one week prior to the meeting for review. The IP phase utilizes the source information and reductions necessary to meet water quality standards in order to devise a series of watershed measures, known as best management practices (BMPs). BMPs can be implemented throughout the watershed in order to meet the TMDL bacteria reduction goals. The IP phase requires the participation of watershed stakeholders at "working group" meetings to evaluate BMPs for the watersheds and the participation of a steering committee, made up of working group members, to guide the process.

How a decision is made: After the public meeting and all public comments have been considered and addressed, DEQ will submit the final TMDL report to the U.S. Environmental Protection Agency and the State Water Control Board for approval. When the IP report is eventually completed, following working group and steering committee meetings, draft review, and final public meeting and comment period, it will be provided to the State Water Control Board for approval.

How to comment: DEQ accepts written comments by email, FAX, or postal mail. Written comments should include your name, address, and telephone number and be received by DEQ during the comment period, which will begin on Friday, May 25, 2012, and end on Monday, June 25, 2012.

Contact for additional information: Margaret Smigo, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, or email [margaret.smigo@deq.virginia.gov](mailto:margaret.smigo@deq.virginia.gov).

## Implementation Plan in Hoffler Creek; Cities of Suffolk and Portsmouth

The Virginia Department of Environmental Quality (DEQ) will host a public meeting on a water quality study for Hoffler Creek, located in the Cities of Suffolk and Portsmouth, on Monday, May 14, 2012.

The meeting will start at 6:30 p.m. in the Northern Shores Elementary School located at 6701 Respass Beach Road, Suffolk, Virginia. The purpose of the meeting is to provide information and discuss the study with interested local community members and local government.

Hoffler Creek (VAT-G15E\_HOF01A06) was identified in Virginia's Water Quality Assessment Integrated Report as impaired for not supporting the primary contact use. The impairment is based on water quality monitoring data reports of sufficient exceedances of Virginia's water quality standard for bacteria.

The meeting will review the final Implementation Plan (IP) for the impaired water. The IP is developed to provide a clean up plan that will lead to attainment of the water quality standards. Public participation and stakeholder involvement are necessary in order to develop an effective and reasonable IP. This meeting will present the findings of the TMDL study and the necessary steps in the IP development.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop total maximum daily loads (TMDL) for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report and subsequent Water Quality Assessment Reports. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount. The TMDL report has been approved by EPA (Dec 14, 2011) and can be found at <http://www.deq.virginia.gov/tmdl/apptmdls/jamesrvr/hofflerec.pdf>.

The public comment period on materials presented at this meeting will extend from May 15, 2012, to June 13, 2012. For additional information or to submit comments, contact Jennifer Howell, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2111, or email [jennifer.howell@deq.virginia.gov](mailto:jennifer.howell@deq.virginia.gov).

## STATE LOTTERY DEPARTMENT

### Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on April 10, 2012, April 11, 2012, and April 12, 2012. The orders may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the

office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, VA.

### Director's Order Number Thirty-Seven (12)

"Buy \$10 Worth of Scratch Tickets/Get a \$1.00 Scratch Ticket Free Chain Promotion – Wilco and Slip In" Virginia Lottery Retailer Incentive Program Rules (effective April 12, 2012 and shall remain in full force and effect until ninety (90) days after the conclusion of the Incentive Program, unless otherwise extended by the Director)

### Director's Order Number Thirty-Eight (12)

Virginia's Instant Game Lottery 1310; "Golden 7" Final Rules for Game Operation (effective April 12, 2012)

### Director's Order Number Forty-One (12)

Virginia's Instant Game Lottery 1336; "Grills Gone Wild" Final Rules for Game Operation (effective April 12, 2012)

### Director's Order Number Forty-Two (12)

Virginia Lottery's "Grills Gone Wild Scratcher Summer Sizzler Sweepstakes" Final Rules for Game Operation (effective April 12, 2012)

### Director's Order Number Forty-Five (12)

Virginia's Instant Game Lottery 1314; "Triple 777" Final Rules for Game Operation (effective April 10, 2012)

### Director's Order Number Forty-Six (12)

Virginia's Instant Game Lottery 1315; "Lucky Gold" Final Rules for Game Operation (effective April 10, 2012)

### Director's Order Number Forty-Seven (12)

Virginia's Instant Game Lottery 1328; "Jewel 7'S" Final Rules for Game Operation (effective April 12, 2012)

### Director's Order Number Forty-Eight (12)

Virginia's Instant Game Lottery 1337; "7 11 21®" Final Rules for Game Operation (effective April 10, 2012)

### Director's Order Number Forty-Nine (12)

Virginia's Instant Game Lottery 1344; "Win It All" Final Rules for Game Operation (effective April 10, 2012)

### Director's Order Number Fifty (12)

Virginia Lottery's Summer Grill-Off Contest" Final Rules for Game Operation (effective April 10, 2012)

## STATE WATER CONTROL BOARD

### Proposed Enforcement Action for Bundick Well and Pump Company

An enforcement action has been proposed for Bundick Well and Pump Company for alleged violations of the State Water

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## General Notices/Errata

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Control Law at the Bundick Southern Septage Lagoon located in Painter, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Mr. Robin Schuhmann will accept comments by email at [robin.schuhmann@deq.virginia.gov](mailto:robin.schuhmann@deq.virginia.gov), FAX (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from May 7, 2012, to June 6, 2012.

### **Proposed Enforcement Action for the City of Chesapeake**

An enforcement action has been proposed for City of Chesapeake for violations regarding the Lake Gaston Water Treatment Plant Virginia Pollutant Discharge Elimination System Permit No. VA0091405. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). John M. Brandt will accept comments by email at [john.brandt@deq.virginia.gov](mailto:john.brandt@deq.virginia.gov), FAX (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from May 7, 2012, to June 6, 2012.

### **Proposed Enforcement Action for Coastal Precast Systems, LLC**

An enforcement action has been proposed for Coastal Precast Systems, LLC, for alleged violations of the Virginia Pollutant Discharge Elimination General Permit at its precast concrete facility at 1320 Yacht Drive, City of Chesapeake. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Paul R. Smith will accept comments by email at [paul.smith@deq.virginia.gov](mailto:paul.smith@deq.virginia.gov), FAX (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from May 7, 2012, to June 6, 2012.

### **Proposed Consent Order for Gunston Elementary School Sewage Treatment Plant**

An enforcement action has been proposed for the Fairfax County School Board for alleged violations in Fairfax County at the Gunston Elementary School Sewage Treatment Plant (STP). The amendment to order by consent describes a settlement to revise certain provisions of order by consent issued on June 22, 2010, and to resolve permit effluent violations at the STP. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Daniel Burstein will accept comments by email at [daniel.burstein@deq.virginia.gov](mailto:daniel.burstein@deq.virginia.gov), FAX (703) 583-3821, or

postal mail, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from May 8, 2012, through June 7, 2012.

### **Proposed Consent Special Order for Hampton Roads Sanitation District**

An enforcement action has been proposed for the Hampton Roads Sanitation District and the Cities of Chesapeake, Hampton, Newport News, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Counties of Gloucester, Isle of Wight, and York; the James River Service Authority; and the Town of Smithfield to amend a Special Order by Consent which addresses sanitary sewer overflows in the Hampton Roads region. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Maria R. Nold will accept comments by email at [maria.nold@deq.virginia.gov](mailto:maria.nold@deq.virginia.gov), FAX (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from May 7, 2012, to June 6, 2012.

### **Proposed Enforcement Action for the City of Newport News**

An enforcement action has been proposed for City of Newport News for violations regarding significant alteration to wetlands located at the corner of Industrial Park Drive and Jefferson Avenue. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). John Brandt will accept comments by email at [john.brandt@deq.virginia.gov](mailto:john.brandt@deq.virginia.gov), FAX (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from May 7, 2012, to June 6, 2012.

### **Proposed Enforcement Action for VA Timberline, LLC**

An enforcement action has been proposed for VA Timberline, LLC, for violations of Virginia Water Protection Permit WP4-04-2205 on property adjacent to Lawnes Creek and the James River in Isle of Wight County. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). John Brandt will accept comments by email at [john.brandt@deq.virginia.gov](mailto:john.brandt@deq.virginia.gov), FAX (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from May 7, 2012, to June 6, 2012.

**VIRGINIA CODE COMMISSION**

**Notice to State Agencies**

**Contact Information:** *Mailing Address:* Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>.

**Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed:** A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/cumulstab.htm>.

**Filing Material for Publication in the Virginia Register of Regulations:** Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

