



# 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

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing 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 proposed regulation 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 of Regulations 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 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 the final regulation contains changes made after publication of the proposed regulation that 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*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, 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 alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

## EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at [register.dls.virginia.gov](http://register.dls.virginia.gov).

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. 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. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

*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, Chair; Marcus B. Simon, Vice Chair; Ward L. Armstrong; Nicole Cheuk; Leslie L. Lilley; Jennifer L. McClellan; Christopher R. Nolen; Steven Popp; Don L. Scott, Jr.; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade.

**Staff of the Virginia Register:** Holly Trice, Registrar of Regulations; Anne Bloomsburg, Assistant Registrar; Nikki Clemons, Regulations Analyst; Rhonda Dyer, Publications Assistant; Terri Edwards, Senior Operations Staff Assistant.

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# PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

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## May 2022 through May 2023

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
38:19	April 20, 2022	May 9, 2022
38:20	May 4, 2022	May 23, 2022
38:21	May 18, 2022	June 6, 2022
38:22	June 1, 2022	June 20, 2022
38:23	June 15, 2022	July 4, 2022
38:24	June 29, 2022	July 18, 2022
38:25	July 13, 2022	August 1, 2022
38:26	July 27, 2022	August 15, 2022
39:1	August 10, 2022	August 29, 2022
39:2	August 24, 2022	September 12, 2022
39:3	September 7, 2022	September 26, 2022
39:4	September 21, 2022	October 10, 2022
39:5	October 5, 2022	October 24, 2022
39:6	October 19, 2022	November 7, 2022
39:7	November 2, 2022	November 21, 2022
39:8	November 14, 2022 ( <b>Monday</b> )	December 5, 2022
39:9	November 30, 2022	December 19, 2022
39:10	December 14, 2022	January 2, 2023
39:11	December 27, 2022 ( <b>Tuesday</b> )	January 16, 2023
39:12	January 11, 2023	January 30, 2023
39:13	January 25, 2023	February 13, 2023
39:14	February 8, 2023	February 27, 2023
39:15	February 22, 2023	March 13, 2023
39:16	March 8, 2023	March 27, 2023
39:17	March 22, 2023	April 10, 2023
39:18	April 5, 2023	April 24, 2023
39:19	April 19, 2023	May 8, 2023
39:20	May 3, 2023	May 22, 2023

\*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 PHYSICAL THERAPY

#### Initial Agency Notice

**Title of Regulation: 18VAC112-20. Regulations Governing the Practice of Physical Therapy.**

**Statutory Authority:** §§ 54.1-2400 and 54.1-3474 of the Code of Virginia.

**Name of Petitioner:** Michael Schultz.

**Nature of Petitioner's Request:** The petitioner requests that the Board of Physical Therapy amend its regulations to (i) prohibit physical therapists and physical therapy assistants from refusing to provide physical therapy to patients or prospective patients if those individuals or their accompanying representatives refuse to wear masks; (ii) prohibit physical therapists and physical therapy assistants from enforcing any requirements for patients, prospective patients, or patient representatives to wear masks to receive physical therapy, including when following policies of insurers or organizations or when following guidance issued by the Centers for Disease Control and Prevention, local health departments, or the Virginia Department of Health; (iii) prohibit physical therapists and physical therapy assistants from refusing to provide physical therapy to any patient or prospective patient based on the vaccination status of the patient or patient representative for any COVID-19 vaccine or for any other vaccine under Emergency Use Authorization status or full approval status by the Food and Drug Administration; (iv) prohibit physical therapists and physical therapy assistants from refusing to provide physical therapy to any patient or prospective patient who refuses to disclose whether they have received any vaccine, including any COVID-19 vaccine; and (v) institute a specific complaint and disciplinary procedure under the regulations of the Board of Physical Therapy for any conduct prohibited by clauses (i) through (iv).

**Agency Plan for Disposition of Request:** The petition for rulemaking will be published in the Virginia Register of Regulations on April 25, 2022. The petition will also be published on the Virginia Regulatory Town Hall at [www.townhall.virginia.gov](http://www.townhall.virginia.gov) to receive public comment, which will open on April 25, 2022, and close on May 25, 2022. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment, August 9, 2022. The petitioner will be notified of the board's decision after that meeting.

**Public Comment Deadline:** May 25, 2022.

**Agency Contact:** Corie Tillman Wolf, Executive Director, Board of Physical Therapy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4674, or email [ptboard@dhp.virginia.gov](mailto:ptboard@dhp.virginia.gov).

VA.R. Doc. No. PFR22-30; Filed April 6, 2022, 11:55 a.m.

## BOARD OF VETERINARY MEDICINE

#### Initial Agency Notice

**Title of Regulation: 18VAC150-20. Regulations Governing the Practice of Veterinary Medicine.**

**Statutory Authority:** § 54.1-2400 of the Code of Virginia.

**Name of Petitioner:** Amber J. Lee.

**Nature of Petitioner's Request:** The petitioner requests that the Board of Veterinary Medicine amend 18VAC150-20-121, which provides requirements for licensure by endorsement of veterinary technicians, to remove subdivision 2 of 18VAC150-20-121 in order to accommodate technicians from other jurisdictions who may have been out of the workforce for an extended period of time.

**Agency Plan for Disposition of Request:** The petition for rulemaking will be published in the Virginia Register of Regulations on April 25, 2022. The petition will also be published on the Virginia Regulatory Town Hall to receive public comment, which will open on April 25, 2022, and close on May 25, 2022. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment, June 28, 2022. The petitioner will be notified of the board's decision after that meeting.

**Public Comment Deadline:** May 25, 2022.

**Agency Contact:** Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 597-4130, or email [leslie.knachel@dhp.virginia.gov](mailto:leslie.knachel@dhp.virginia.gov).

VA.R. Doc. No. PFR22-29; Filed March 24, 2022, 9:07 a.m.

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# PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC25-71, Regulations Governing the Discharge of Sewage and Other Wastes from Boats**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins April 25, 2022, and ends May 16, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Anthony Cario, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 814-7774.

### STATE WATER CONTROL BOARD

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC25-200, Water Withdrawal Reporting**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins April 25, 2022, and ends May 16, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Ryan Green, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4258.



## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Medical Assistance Services (DMAS) conducted a periodic review and a small business impact review of **12VAC30-5, Public Participation Guidelines**, and determined that this regulation should be retained in its current form. The department is publishing its report of findings dated March 30, 2022, to support this decision.

The primary advantage of the regulation is to promote public involvement in the development, amendment, or repeal of DMAS regulations. The regulation is necessary for the protection of public health, safety, and welfare in that it allows public participation in the process of Medicaid regulations. The regulation is clearly written and easily understandable.

DMAS is recommending no changes in the regulation because the regulation remains essential and has no negative impact.

The regulation is not anticipated to have an adverse impact on small businesses.

Contact Information: Jimeequa Williams, Regulatory Coordinator, Division of Policy, Regulation, and Member Engagement, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 225-3508.

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Medical Assistance Services (DMAS) conducted a periodic review and a small business impact review of **12VAC30-95, Standards Established and Methods Used for Fee-For-Service Reimbursement**, and

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## Periodic Reviews and Small Business Impact Reviews

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determined that this regulation should be retained in its current form. The department is publishing its report of findings dated March 30, 2022, to support this decision.

The primary advantage of the regulation is to promote timely claims filing. The regulation is necessary for the protection of public health, safety, and welfare in that it follows federal regulatory requirements. Compliance with these requirements is essential if DMAS is to continue collecting the federal match for Medicaid funding. The regulation is clearly written and easily understandable.

DMAS is recommending no changes in this regulation because the regulation remains essential and has no negative impact. By establishing timely filing guidelines, providers are ensured an efficient and effective mechanism for the reimbursement of a bill or a line item for services, medications, or devices.

The regulation is not likely to create any costs or other effects on small businesses and the regulation is not anticipated to have an adverse impact on small businesses.

Contact Information: Jimiequa Williams, Regulatory Coordinator, Division of Policy, Regulation, and Member Engagement, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 225-3508.

### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Medical Assistance Services (DMAS) conducted a periodic review and a small business impact review of **12VAC30-100, State Programs**, and determined that this regulation should be retained in its current form. The department is publishing its report of findings dated March 29, 2022, to support this decision.

The primary advantage of the regulation is to reimburse health care providers for services provided to indigent persons that might not otherwise be reimbursed. The regulation is necessary for the protection of public health, safety, and welfare in that the regulation allows health care providers to continue to offer services to indigent persons. The regulation is clearly written and easily understandable.

DMAS is recommending no changes in this regulation as the regulation remains essential and has no negative impact.

The regulation is not anticipated to have an adverse impact on small businesses.

Contact Information: Jimiequa Williams, Regulatory Coordinator, Division of Policy, Regulation, and Member Engagement, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 225-3508.

### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Medical Assistance Services conducted a periodic review and a small business impact review of **12VAC30-150, Uninsured Medical Catastrophe Fund**, and determined that this regulation should be retained in its current form. The department is publishing its report of findings dated March 30, 2022, to support this decision.

The primary advantage of the Uninsured Medical Catastrophe Fund (UMCF) is that the fund provides some uninsured Virginians the ability to afford medical treatments for medically catastrophic illnesses that they otherwise may not have been able to receive. The advantage to the agency and the Commonwealth is that the regulation specifies patient criteria, service coverage requirements and limitations, and reimbursement requirements necessary to administer these public funds. The regulation is necessary for the protection of public health, safety, and welfare in that it creates the UMCF program. The regulation is clearly written and easily understandable.

DMAS is recommending no changes in this regulation as it remains essential and has no negative impacts.

The regulation is not anticipated to have an adverse impact on small businesses.

Contact Information: Jimiequa Williams, Regulatory Coordinator, Division of Policy, Regulation, and Member Engagement, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 225-3508.

## STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **12VAC35-46, Regulations for Children's Residential Facilities**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins April 25, 2022, and ends May 16, 2022.

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## Periodic Reviews and Small Business Impact Reviews

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Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Ruth Anne Walker, Director of Regulatory Affairs, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, 4th Floor, Richmond, VA 23219, telephone (804) 225-2252.



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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider amending **12VAC5-110, Regulations for the Immunization of School Children**. The purpose of the proposed action is to update the regulation to include additional vaccine requirements to adhere to the minimum immunization requirements specified in § 32.1-46 of the Code of Virginia pursuant to Chapter 1223 of the 2020 Acts of Assembly. Section 32.1-46 C provides that amendments to 12VAC5-110 by the State Board of Health shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. However, the board shall provide this Notice of Intended Regulatory Action and provide for a 60-day public comment period prior to adoption of the regulations.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 22.1-271.2, 32.1-12, and 32.1-46 of the Code of Virginia.

Public Comment Deadline: June 24, 2022.

Agency Contact: Kristin Collins, Policy Analyst, Office of Epidemiology, Virginia Department of Health, 101 North 14th Street, 15th Floor, Richmond, VA 23219, telephone (804) 864-7298, or email [epi-comments@vdh.virginia.gov](mailto:epi-comments@vdh.virginia.gov).

VA.R. Doc. No. R22-7086; Filed April 6, 2022, 10:47 a.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

### DEPARTMENT OF GENERAL SERVICES

#### Final Regulation

Title of Regulation: **1VAC30-100. Regulations for Capitol Square (adding 1VAC30-100-15 through 1VAC30-100-90; repealing 1VAC30-100-10).**

Statutory Authority: § 2.2-1144 of the Code of Virginia.

Effective Date: May 25, 2022.

Agency Contact: Rhonda Bishton, Executive Administrative Assistant, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305, or email [rhonda.bishton@dgs.virginia.gov](mailto:rhonda.bishton@dgs.virginia.gov).

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

#### Summary:

*The amendments establish standards for the use of Capitol Square, including (i) acceptance, processing, review, and disposition of permit applications for events on Capitol Square; (ii) requirements for when a permit is necessary for use of Capitol Square, how to obtain a permit, deadlines for submitting permit applications, and permittee responsibilities; (iii) a department website address where rules for permitted events are available; and (iv) timelines for the department to act on permit applications, conditions upon which the department can deny an application or revoke a permit, and an appeals process for denied applications.*

#### **1VAC30-100-10. Regulations for Capitol Square. (Repealed.)**

~~A. The Capitol Square shall be closed to the public from 11 p.m. each night until 6 a.m. the following morning, except for persons attending sessions of the General Assembly, public hearings which have not been concluded by 11 p.m. or an official function or program which has not adjourned by 11 p.m., and persons referred to in subsection B.~~

~~B. There shall be no parking of motor vehicles in the Capitol Square after 6 p.m. each evening until 6 a.m. the following morning, except for official motor vehicles, motor vehicles operated by a guest of the Governor, motor vehicles of members of the General Assembly, motor vehicles of~~

~~employees of the Commonwealth on official business or motor vehicles bearing the official permit of the Division of Engineering and Buildings. During the months when daylight saving time is in effect, the Capitol Police may permit daylight parking after 6 p.m. for short periods of time to accommodate visitors and tourists. Parking in Capitol Square between the hours of 6 a.m. and 6 p.m. shall be limited to those employees of the Commonwealth who are assigned spaces, members of the General Assembly, those on official business, and visitors to the Capitol Building insofar as available parking will allow at the time in the judgment of the Capitol Police.~~

~~C. No parades, processions, assemblages or the displaying of flags, banners, or devices designed or adapted to bring into public notice any party, organization, or movement shall be permitted within Capitol Square except as provided herein.~~

~~D. With the approval of the Governor, the prohibitions set forth in subsection C may be suspended by the Director of the Division of Engineering and Buildings to permit meetings, gatherings, or assemblages if, in his discretion, the general enjoyment and use of the Capitol Square is not impaired, if freedom of movement of the public is not disrupted, and if the welfare, health, and safety of tourists, visitors, and persons performing various duties on the premises or traveling thereon are not endangered.~~

~~E. Requests for permits for assemblages, meetings, or functions by historical, patriotic, or other private groups must be in writing, must be submitted to the Director of the Division of Engineering and Buildings at least six days prior to the requested date, and must contain the following information:~~

- ~~1. Name of organization, date of origin, status (corporation, unincorporated association, partnership, nonprofit corporation, etc.) and name and address of registered agent, if a corporation.~~
- ~~2. Name, title within the organization, permanent address, occupation, and telephone number of the individual member who shall be responsible for the conduct of the meeting or function.~~
- ~~3. Statement as to the approximate number of members and other persons who will attend.~~
- ~~4. Date and specific period of time requested (from.....to.....).~~
- ~~5. Purpose of meeting or function, to include names and titles of speakers, if any.~~

~~F. Except for official functions of the Commonwealth of Virginia, the vehicular drives within Capitol Square must~~

remain open at all times and the pedestrian walk ways must afford reasonable movement of pedestrians at all times.

G. All nonstate sponsored events, without exception, will be conducted at the Bell Tower.

H. All authorized functions are expected to be concluded within approximately one hour and during a time of day that will not interfere with major pedestrian and vehicular traffic within Capitol Square, with periods such as the beginning of the workday, the noon hour, and the close of the workday being avoided.

I. Requests for meetings or functions of organizations may be denied if, after proper inquiry, the Director of the Division of Engineering and Buildings shall determine that the proposed speech (or speeches) or demonstrations will constitute a clear and present danger to the orderly processes of state government and use of the Capitol grounds by the public as set forth because of the advocacy of: (i) the violent overthrow of the government of the United States, the Commonwealth of Virginia, or any political subdivision thereof; or (ii) the willful damage or destruction, or seizure and subversion, of state buildings or other property; or (iii) the forcible disruption or impairment of or interference with the regularly scheduled functions of the Commonwealth; or (iv) the physical harm, coercion, intimidation or other invasion of lawful rights of officials of the Commonwealth or members of the public; or (v) other disorders of a violent nature.

J. The Director of the Division of Engineering and Buildings may refuse authorization for the use of Capitol Square, if he has reason to believe that the organization requesting a permit is organized, functioning, or conducting business in violation of Virginia law.

K. Authorization for the use of Capitol Square will be set forth in a letter addressed to the individual named in subsection E-2. Such authorization will automatically include all sections set forth above, together with any other specific stipulations or procedures that may be necessary at that time.

L. Violations of this chapter may result in immediate revocation of the permit by the Director of the Division of Engineering and Buildings or his duly appointed representative, and in the event such revocation occurs, all participants shall be required by the Capitol Police to leave the Capitol Square area forthwith.

### **1VAC30-100-15. Purpose.**

A. Virginia's Capitol Square is the Commonwealth's executive and legislative center and an architecturally and historically significant area located in downtown Richmond. The Department of General Services, pursuant to Chapter 11 (§ 2.2-1100 et seq.) of Title 2.2 of the Code of Virginia, is charged with maintaining and operating the historic Capitol Square. Under this authority, the department establishes this regulation for use of Capitol Square.

B. The Department of General Services permits persons, organizations, or groups to use Capitol Square grounds for various purposes and events when the use will not interfere with or disrupt governmental functions. The purpose of this regulation is to establish standards for the use of Capitol Square as well as the acceptance, processing, review, and disposition of permit applications for events on Capitol Square to ensure the health, safety, and welfare of the public; coordinate multiple uses of public grounds; preserve public spaces; preserve the aesthetic appearance of historic buildings and grounds; preserve the rights of individuals to free expression; and protect the Commonwealth from financial losses.

### **1VAC30-100-20. Definitions.**

The following words and terms when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Capitol Police" means the Division of Capitol Police.

"Capitol Square" means the historic grounds and structures surrounding the Virginia Capitol that are bound by a decorative iron fence designed by Sabbaton in 1818.

"Commercial activity" means any activity or action undertaken by one or more business entities or individuals, whose purpose in whole or in part, directly or indirectly, is to derive or realize a present or future financial gain for the individuals or business entities.

"Department" means the Department of General Services.

"Director" means the Director of the Department of General Services.

"Event" means the assemblage on Capitol Square of 10 or more persons for any demonstration, rally, march, performance, picketing, speechmaking, holding of vigils, sit-ins, or other activities that involve the communication or expression of views or ideas having the effect, intent, or propensity to draw a crowd or onlookers. "Event" does not include casual use of Capitol Square by visitors or tourists.

"Government function" means a function sponsored by a Commonwealth of Virginia government entity in support of the agency's mission.

"Permit" means a written authorization from the department allowing use of Capitol Square as set forth in the permit. A permit serves as a reservation to use a portion of Capitol Square with the priority for use set forth in this chapter.

"Permit area" means the area adjacent to the Bell Tower where an event speaker or an event programmed activities must be located.

"Permittee" means the individual, group, or entity identified in the permit as the holder of the permit.

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# Regulations

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## **1VAC30-100-30. General regulation requirements.**

A. All events scheduled on Capitol Square must be permitted through the department. An Application for Use of Capitol Square form must be completed and the application and the Rules of Capitol Square must be signed by the individual who will be the permittee. For government functions on Capitol Square, the government entity must complete and submit an Agency Application for Use of Capitol Square to the department for approval. The application for each type of event can be found at <https://dgs.virginia.gov>.

B. Rules for the use of Capitol Square can be found on the department's website at <https://dgs.virginia.gov>.

C. Capitol Square shall be closed to the public from 9 p.m. until 6 a.m. daily, except for the conduct of official Commonwealth business. Capitol Square may be closed at any time for inclement weather or other necessity, or to protect the public from health or safety hazards, in the determination of the Governor or department. The Division of Capitol Police may close Capitol Square temporarily for law-enforcement purposes. The Chief of Police shall immediately notify the director or the director's designee if the Capitol Police close Capitol Square.

D. Capitol Square is primarily for the operation and function of government and nothing will be permitted that would interfere with those functions.

E. No activities will be permitted that will harm or destroy the natural, horticultural, or architectural beauty of or that will harm the physical condition or safety of Capitol Square or structures on Capitol Square, including the surrounding historic fence.

F. No activities will be permitted that violate Virginia or federal law or threaten the health, safety, or welfare of persons on Capitol Square.

G. Commercial activities are not permitted on Capitol Square.

H. An event is not considered approved until the department has issued a permit.

## **1VAC30-100-40. Permittee responsibilities.**

A. The permittee and alternate contact for the permit shall be at least 18 years of age.

B. The permittee shall indemnify the Commonwealth of Virginia against any loss or damage that may occur in connection with the permittee's use of and presence at the property.

C. A permittee shall be required to notify the department of any changes to the information contained in the permit application as soon as practicable.

D. A permittee should identify an alternate contact in the Application for Use of Capitol Square, and either the permittee or alternate contact person must be present during the entire

activity, including setup and takedown of the event. The permit and any authorizations will be suspended if these requirements are not met.

E. A permittee must work directly with the designated department coordinator and the Capitol Police regarding setup, access, security, logistics, and all other aspects of the planned event. An in-person pre-meeting may be required by the department to discuss the details of the requested event.

F. A permittee is responsible for returning the areas used in conducting its event to their original condition, including removal of any materials and debris connected to the event. Any costs incurred by the department to restore the area to its original condition will be charged to the permittee.

G. A permittee shall comply with all federal and Virginia laws, and this chapter.

H. The permittee agrees to notify law enforcement if any unlawful activities occur during the permitted event. For emergencies, the permittee shall call 911 and the Capitol Police emergency number at (804) 786-4357. For nonemergencies, the permittee shall call (804) 786-2568.

## **1VAC30-100-50. Permit process.**

A. The Governor will have priority over use of Capitol Square.

B. The department may not issue permits for any event in Capitol Square coinciding or conflicting with inaugural events, including activities associated with inauguration.

C. Requests for permits generally will be considered on a first-come, first-served basis.

D. Capitol Square is available for permitted events from sunrise to sunset daily, subject to the restrictions of 1VAC30-100-30 C.

E. Permitted events may last a maximum of one hour, with an additional 30 minutes to set up the event and 30 minutes to take it down.

F. No more than one event will be scheduled for the same time on the same day. This includes permitted setup and takedown time.

G. Application for a permit shall be made in writing on an Application for Use of Capitol Square and submitted to the department at least six days prior to the planned event when the expected attendance is less than 1,000 individuals. Application for events when expected attendance is more than 1,000 individuals shall be submitted 45 days in advance, except as specified in subsection I of this section.

H. An application for an event must contain, at a minimum, the following information:

1. Type and purpose of event, meeting, or function.

2. Name, address, telephone number, and email address of permittee.

3. Name, address, telephone number, and email address of alternate contact.

4. Name of organization, date of origin, status (e.g., corporation, unincorporated association, partnership, or nonprofit corporation) and name, address, and telephone number, and email address of registered agent if the permittee is a corporation or other business entity.

5. Approximate number of people who will attend the event.

6. Requested date and time of the event.

7. Whether the event is being advertised or promoted to the general public.

8. Transportation plan for attendees.

9. Waste management plan.

10. Whether the department's sound equipment will be needed.

I. An applicant may request, as part of the application, an exception to the six-day or 45-day requirements by providing written explanation of the reason such exception should be granted by the department, provided:

1. The applicant submits a completed permit application in accordance with this chapter;

2. The applicant shows in clear and descriptive writing, why the circumstances giving rise to the proposed event did not reasonably allow the applicant to apply for a permit in compliance with the time requirements; and

3. The event has not been planned for more than six days in advance of the proposed date of the event for those with fewer than 1,000 attendees or more than 45 days for events with more than 1,000 attendees.

J. The speaker and programmed activities for any permitted event must be located within the permit area.

K. Applications for permits may be submitted up to 180 days in advance of the date of the proposed event. The department will deny permit applications submitted more than 180 days in advance of the date of the proposed event.

L. Generally, permit requests will be granted or denied within five business days. Permit requests for events that are likely to require additional department or law enforcement resources may take longer to review.

M. The permit and the rights thereunder are nontransferable and may not be assigned to a third party.

N. Events should not be announced, promoted, or advertised until the applicant receives a permit.

O. Permit applications, issued permits, and supporting documentation are subject to release under Virginia's Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

P. All permitted activities on Capitol Square must strictly adhere to the times as scheduled to ensure that the activities will not conflict with other scheduled and permitted activities.

Q. The department reserves the right to limit the use of Capitol Square at any time due to unforeseen operational circumstances, including emergency maintenance or urgent public health or security concerns. Every reasonable effort will be made to alleviate the effects of any such limitation.

R. The department may cancel a scheduled event if the location is required for an official government function. In such cases, the department will notify the contact person as soon as possible, and every reasonable effort will be made to allow for rescheduling the event.

### **1VAC30-100-60. Permitted events.**

A. All activities shall be performed in compliance with this chapter, as well as any federal or Virginia laws. Unlawful activity is prohibited.

B. At no time shall any entrance or exit of any building be obstructed in such a way as to impede free access to or from the building by its occupants or the public.

C. No banners, flags, posters, or other objects shall be placed on or affixed to Capitol Square grounds or structures.

D. All event items and materials are to be removed upon conclusion of the event. All areas must be returned to their pre-event condition.

E. Props, equipment, and other moveable materials that do not require power to be used in connection with the event are allowed provided that prior notice is given on the application and the size, location, and structure of the items conforms to the reasonable conditions, limitations, and restrictions provided for by the department. The permittee shall bear all risk related to the use of any such props, equipment, and other moveable materials.

F. The department reserves the right at all times to immediately remove or cause to be removed any and all items of display it determines would damage government property, inhibit movement, or raise safety issues of the government property, attendees, or the public.

G. Items or props used for the event may not impede normal business operations or create safety concerns.

H. Due to the presence of underground utilities, irrigation, and other lines, nothing shall be driven into the ground or placed on the grounds anywhere without the location and method of placement approved in advance and in writing by the department.

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# Regulations

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I. Temporary structures of any kind may not be erected on Capitol Square. This includes tents, cabanas, canopies, stages, and all other types of covered or enclosed structures, as well as tables, stages, projectors, screens, or other structures.

J. The director reserves the right to require that special facilities, such as portable toilet facilities, be provided at the permittee's expense.

K. Sound amplification is permitted; however, the sound must not disrupt the orderly business of government bodies and agencies located on Capitol Square or unreasonably disturb other persons who are visiting Capitol Square. For events with fewer than 1,000 attendees, the department, at permittee's request, will provide a microphone, podium, and speaker for use during the event. All other electric sound amplification equipment is prohibited for events with fewer than 1,000 attendees. For events with more than 1,000 attendees, the department will consider the use of amplification equipment provided by the permittee. If the department approves use of amplification equipment provided by the permittee, the department will supply power.

The permittee shall bear all risk related to the use of any such amplification equipment provided by the permittee.

L. Use of sound systems will be discontinued after the permitted event time limit expires.

M. If the permittee desires to use available department-provided sound amplification equipment, the equipment will be set up by department staff and this setup will not be moved or altered by the permittee or other event attendees without the express permission of the department.

N. Activities that create loud or unusual noise or are disruptive to the performance of official duties or delivery of services may be denied, ceased, or interrupted by the department or Capitol Police.

O. Permittees shall not offer any item for sale, solicit money or items of value, or display any form of advertising on Capitol Square.

P. Marches may be permitted into and out of Capitol Square provided the march does not disrupt the orderly business of government or impede the access by others visiting the grounds or buildings of Capitol Square.

## **1VAC30-100-70. Denials and revocations.**

A. The department may deny a request for a permit or revoke a permit before or during an event upon determination of the director or the director's designee that any of the following conditions has occurred:

1. A completed application for an event at the same time already has been received from another applicant, and a permit has been or will be granted for the event. In such a case, an alternate date or time, if available, will be proposed.

2. Incomplete information, false statements, or misrepresentation have been made on the permit application.

3. Fraud was committed or misrepresentation made in obtaining the permit.

4. The permittee or the alternate contact persons are not present for the duration of the event, including during setup and takedown times.

5. The conduct of either the permittee or persons attending the event involves a violation of the permit, this chapter, or Virginia or federal law.

6. The number of persons engaged in the event exceeds the number of permitted attendees or cannot be safely accommodated.

7. The permittee twice (i) violated the terms of prior permits issued to the permittee or (ii) violated applicable law while applying for or using a prior permit. In such instances, the permittee is banned from obtaining a permit for 18 months from the date of the most recent violation.

8. The Governor's Office will be using all or part of the permit area during all or part of the requested time.

9. The Senate of Virginia or the Virginia House of Delegates will be using all or part of the permit area during all or part of the requested time for a government function.

10. The permit applicant has not certified that the applicant will comply with this chapter or applicable law.

11. The permit application is not submitted within the required timeframes of six or 45 days, depending on the number of planned attendees, or the application submitted does not justify an exception to the time requirements.

12. The permit application was submitted more than 180 days in advance of the proposed event.

13. The requested use would cause a clear and present danger to the orderly functions of Commonwealth of Virginia government or to the use of Capitol Square due to:

a. Advocacy of the imminent violent overthrow of government of the United States or the government of the Commonwealth of Virginia or any political subdivision thereof;

b. The willful damage or destruction or seizure and subversion of public property;

c. The forcible disruption or impairment of or interference with the regularly scheduled functions of the Commonwealth of Virginia;

d. Causing harm to or violating the lawful rights of any person; or

e. Other disorders of a violent nature.

B. Prior to commencement of the permitted event, the department finds it necessary to revoke the permit due to previously unknown circumstances.

C. During an event, the Capitol Police may require discontinuation of the event if activity presents a clear and present danger to public safety, good order, or health or for any violation of applicable statutes, regulations, rules, or policies.

**1VAC30-100-80. Appeals.**

A. This section and the appeal procedures set forth herein shall apply only in cases when a timely and complete permit application was filed in accordance with this chapter, and the permit was denied. No appeal shall be available if a timely and complete permit application was not filed.

B. If an application is denied, the applicant will be informed in writing of any reason for the denial and will be advised that the denial may be appealed by written request to the director submitted within five business days of receipt of notice of such denial. The director may reverse, affirm, or modify the original determination. The director's written determination on the appeal shall be provided no later than 24 hours prior to the requested event time, provided it is received by the department at least 48 hours prior to the requested time.

C. The appeal shall include the name, address, and contact information of the applicant; a concise statement of the reason the appeal should be granted; and a description of the event for which the permit is sought.

**1VAC30-100-90. Violations.**

Violations of this chapter or of any other provision of Virginia or federal law shall result in the immediate revocation of the permit by the department or discontinuation of the event by the department or Capitol Police. In the event such revocation or discontinuation occurs, all participants shall immediately leave Capitol Square. Remaining in Capitol Square after proper notice that the permit has been revoked or the event discontinued shall be considered trespass in violation of § 18.2-119 of the Code of Virginia.

**NOTICE:** The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (1VAC30-100)

~~Official Application for Use of Capitol Square Grounds.~~

[Agency Application for Use of Capitol Square \(filed 8/2021\)](#)

[Request to Hold an Event at the Bell Tower \(filed 8/2021\)](#)

VA.R. Doc. No. R21-6493; Filed March 28, 2022, 11:03 a.m.



**TITLE 4. CONSERVATION AND NATURAL RESOURCES**

**BOARD OF WILDLIFE RESOURCES**

**Proposed Regulation**

**REGISTRAR'S NOTICE:** The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

**Title of Regulation:** **4VAC15-90. Game: Deer (amending 4VAC15-90-10, 4VAC15-90-80).**

**Statutory Authority:** §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

**Public Hearing Information:**

May 19, 2022 - noon - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228

**Public Comment Deadline:** May 19, 2022.

**Agency Contact:** Aaron Proctor, Regulatory Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

**Summary:**

*The proposed amendments (i) extend deer harvest in selected localities to mitigate the spread and impacts of Chronic Wasting Disease (CWD) on deer populations in Virginia where CWD has been detected and is spreading and (ii) allow for full season either-sex deer hunting on private lands in Page County during the early and late muzzleloader seasons.*

**4VAC15-90-10. Open season; generally.**

A. It shall be lawful to hunt deer in the following localities, including the cities and towns therein, during the following seasons, all dates inclusive.

# Regulations

Locality	Season
Accomack County	Saturday prior to the third Monday in November through the first Saturday in January
Albemarle County	Saturday prior to the third Monday in November through the first Saturday in January
Alleghany County	Saturday prior to the third Monday in November and for 14 consecutive days following
Amelia County	Saturday prior to the third Monday in November through the first Saturday in January
Amherst County (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River, except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Amherst County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Amherst County (east of Business U.S. 29, as defined above)	Saturday prior to the third Monday in November through the first Saturday in January
Appomattox County	Saturday prior to the third Monday in November through the first Saturday in January
Arlington County	Saturday prior to the third Monday in November through the first Saturday in January
Arlington County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Augusta County	Saturday prior to the third Monday in November and for 14 consecutive days following
Bath County	Saturday prior to the third Monday in November and for 14 consecutive days following
Bedford County (except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Bedford County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Bland County	Saturday prior to the third Monday in November and for 14 consecutive days following



# Regulations

Botetourt County	Saturday prior to the third Monday in November and for 14 consecutive days following
Brunswick County	Saturday prior to the third Monday in November through the first Saturday in January
Buchanan County	Saturday prior to the third Monday in November and for 14 consecutive days following
Buckingham County	Saturday prior to the third Monday in November through the first Saturday in January
Campbell County	Saturday prior to the third Monday in November through the first Saturday in January
Caroline County	Saturday prior to the third Monday in November through the first Saturday in January
Carroll County ( <u>private lands</u> )	Saturday prior to the third Monday in November and for <del>14</del> <u>28</u> consecutive days following
<u>Carroll County (public lands)</u>	<u>Saturday prior to the third Monday in November and for 14 consecutive days following</u>
<u>Carroll County (private lands and antlerless deer only)</u>	<u>Sunday following the first Saturday in January through the last Sunday in March</u>
<u>Carroll County (disease focus zones defined by the department, antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Charles City County	Saturday prior to the third Monday in November through the first Saturday in January
Charlotte County	Saturday prior to the third Monday in November through the first Saturday in January
Chesapeake (City of)	October 1 through November 30
Chesterfield County	Saturday prior to the third Monday in November through the first Saturday in January
Clarke County	Saturday prior to the third Monday in November through the first Saturday in January
Clarke County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March

# Regulations

Craig County	Saturday prior to the third Monday in November and for 14 consecutive days following
Culpeper County (except Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November through the first Saturday in January
Culpeper County (Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November and for 14 consecutive days following
Culpeper County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October <u>and the Sunday following the first Saturday in January through the last Sunday in March</u>
Culpeper County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Cumberland County	Saturday prior to the third Monday in November through the first Saturday in January
Dickenson County	Saturday prior to the third Monday in November and for 14 consecutive days following
Dinwiddie County	Saturday prior to the third Monday in November through the first Saturday in January
Essex County	Saturday prior to the third Monday in November through the first Saturday in January
Fairfax County	Saturday prior to the third Monday in November through the first Saturday in January
Fairfax County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Fauquier County (except Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November through the first Saturday in January
Fauquier County (Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November and for 14 consecutive days following
Fauquier County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October <u>and the Sunday following the first Saturday in January through the last Sunday in March</u>
Fauquier County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March

# Regulations

Floyd County	Saturday prior to the third Monday in November and for 28 consecutive days following
<u>Floyd County (antlerless deer only)</u>	<u>Sunday following the first Saturday in January through the last Sunday in March</u>
Floyd County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Fluvanna County	Saturday prior to the third Monday in November through the first Saturday in January
Franklin County	Saturday prior to the third Monday in November and for 28 consecutive days following
Frederick County (non-national forest lands)	Saturday prior to the third Monday in November through the first Saturday in January
Frederick County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Frederick County (non-national-forest lands antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Giles County	Saturday prior to the third Monday in November and for 14 consecutive days following
Gloucester County	Saturday prior to the third Monday in November through the first Saturday in January
Goochland County	Saturday prior to the third Monday in November through the first Saturday in January
Grayson County	Saturday prior to the third Monday in November and for 14 consecutive days following
Greene County	Saturday prior to the third Monday in November through the first Saturday in January
Greensville County	Saturday prior to the third Monday in November through the first Saturday in January
Halifax County	Saturday prior to the third Monday in November through the first Saturday in January
Hanover County	Saturday prior to the third Monday in November through the first Saturday in January

# Regulations

Henrico County	Saturday prior to the third Monday in November through the first Saturday in January
Henry County	Saturday prior to the third Monday in November and for 28 consecutive days following
Highland County	Saturday prior to the third Monday in November and for 14 consecutive days following
Isle of Wight County	Saturday prior to the third Monday in November through the first Saturday in January
James City County	Saturday prior to the third Monday in November through the first Saturday in January
King and Queen County	Saturday prior to the third Monday in November through the first Saturday in January
King George County	Saturday prior to the third Monday in November through the first Saturday in January
King William County	Saturday prior to the third Monday in November through the first Saturday in January
Lancaster County	Saturday prior to the third Monday in November through the first Saturday in January
Lee County	Saturday prior to the third Monday in November and for 14 consecutive days following
Loudoun County	Saturday prior to the third Monday in November through the first Saturday in January
Loudoun County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Louisa County	Saturday prior to the third Monday in November through the first Saturday in January
Lunenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Madison County	Saturday prior to the third Monday in November through the first Saturday in January
Madison County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October <u>and the Sunday following the first Saturday in January through the last Sunday in March</u>

# Regulations

Madison County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Mathews County	Saturday prior to the third Monday in November through the first Saturday in January
Mecklenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Middlesex County	Saturday prior to the third Monday in November through the first Saturday in January
Montgomery County (non-national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Montgomery County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
<u>Montgomery County (non-national forest lands and antlerless deer only)</u>	<u>Sunday following the first Saturday in January through the last Sunday in March</u>
Montgomery County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Nelson County (west of Route 151, except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Nelson County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Nelson County (east of Route 151)	Saturday prior to the third Monday in November through the first Saturday in January
New Kent County	Saturday prior to the third Monday in November through the first Saturday in January
Northampton County	Saturday prior to the third Monday in November through the first Saturday in January
Northumberland County	Saturday prior to the third Monday in November through the first Saturday in January
Nottoway County	Saturday prior to the third Monday in November through the first Saturday in January
Orange County	Saturday prior to the third Monday in November through the first Saturday in January

# Regulations

Orange County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October <u>and the Sunday following the first Saturday in January through the last Sunday in March</u>
Orange County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Page County	Saturday prior to the third Monday in November and for 14 consecutive days following
<u>Page County (non-national forest lands and antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Page County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Patrick County	Saturday prior to the third Monday in November and for 28 consecutive days following
Pittsylvania County	Saturday prior to the third Monday in November through the first Saturday in January
Powhatan County	Saturday prior to the third Monday in November through the first Saturday in January
Prince Edward County	Saturday prior to the third Monday in November through the first Saturday in January
Prince George County	Saturday prior to the third Monday in November through the first Saturday in January
Prince William County	Saturday prior to the third Monday in November through the first Saturday in January
Prince William County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Pulaski County (except on New River Unit of the Radford Army Ammunition Plant adjacent to the Town of Dublin and national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Pulaski County (New River Unit of the Radford Army Ammunition Plant adjacent to the Town of Dublin)	Saturday prior to the second Monday in November through the first Saturday in January
Pulaski County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following

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<u>Pulaski County (non-national forest lands and antlerless deer only)</u>	<u>Sunday following the first Saturday in January through the last Sunday in March</u>
Pulaski County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Rappahannock County	Saturday prior to the third Monday in November through the first Saturday in January
Rappahannock County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October <u>and the Sunday following the first Saturday in January through the last Sunday in March</u>
Rappahannock County (disease focus zones defined by the department, antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Richmond County	Saturday prior to the third Monday in November through the first Saturday in January
Roanoke County	Saturday prior to the third Monday in November and for 14 consecutive days following
Rockbridge County	Saturday prior to the third Monday in November and for 14 consecutive days following
Rockingham County	Saturday prior to the third Monday in November and for 14 consecutive days following
Russell County	Saturday prior to the third Monday in November and for 14 consecutive days following
Scott County	Saturday prior to the third Monday in November and for 14 consecutive days following
Shenandoah County	Saturday prior to the third Monday in November and for 14 consecutive days following
Shenandoah County (non-national forest lands antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Smyth County	Saturday prior to the third Monday in November and for 14 consecutive days following
Southampton County	Saturday prior to the third Monday in November through the first Saturday in January

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Spotsylvania County	Saturday prior to the third Monday in November through the first Saturday in January
Stafford County	Saturday prior to the third Monday in November through the first Saturday in January
Suffolk (City of) (east of Dismal Swamp Line)	October 1 through November 30
Suffolk (City of) (west of Dismal Swamp Line)	Saturday prior to the third Monday in November through the first Saturday in January
Surry County	Saturday prior to the third Monday in November through the first Saturday in January
Sussex County	Saturday prior to the third Monday in November through the first Saturday in January
Tazewell County	Saturday prior to the third Monday in November and for 14 consecutive days following
Virginia Beach (City of)	October 1 through November 30
Warren County	Saturday prior to the third Monday in November and for 14 consecutive days following
Warren (non-national forest lands antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Washington County	Saturday prior to the third Monday in November and for 14 consecutive days following
Westmoreland County	Saturday prior to the third Monday in November through the first Saturday in January
Wise County	Saturday prior to the third Monday in November and for 14 consecutive days following
Wythe County	Saturday prior to the third Monday in November and for 14 consecutive days following
York County	Saturday prior to the third Monday in November through the first Saturday in January

B. Except as provided in subsection A of this section, east of the Blue Ridge Mountains deer may be hunted from the Saturday prior to the third Monday in November through the first Saturday in January, both dates inclusive, within the incorporated limits of any city or town that allows deer hunting.

C. Except as provided in subsection A of this section, west of the Blue Ridge Mountains deer may be hunted from the Saturday prior to the third Monday in November and for 14 consecutive days following within the incorporated limits of any city or town that allows deer hunting.



**4VAC15-90-80. Muzzleloading gun hunting.**

A. It shall be lawful to hunt deer during the early special muzzleloading season with muzzleloading guns from the Saturday prior to the first Monday in November through the Friday prior to the third Monday in November, both dates inclusive, in all cities, towns, and counties where deer hunting with a rifle or muzzleloading gun is permitted, except in the Cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.

B. It shall be lawful to hunt deer during the late special muzzleloading season with muzzleloading guns starting 21 consecutive days immediately prior to and on the first Saturday in January:

1. In all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County);
2. East of the Blue Ridge Mountains in the Counties (including the cities and towns within) of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River), Bedford, Franklin, Henry, Nelson (west of Route 151), and Patrick;
3. On national forest lands in Frederick County; and
4. In the Cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.

C. Deer of either sex may be taken during the entire early special muzzleloading season east of the Blue Ridge Mountains unless otherwise noted in this subsection:

1. Deer of either sex may be taken on the second Saturday only of the early special muzzleloading season on state forest lands, state park lands (except Oconeechee State Park), department-owned lands (except on Merrimac Farm Wildlife Management Area), and Philpott Reservoir.
2. Antlered bucks only—no either-sex deer hunting days during the early special muzzleloading season on national forest lands in Amherst, Bedford, and Nelson Counties.

D. Deer of either sex may be taken on the second Saturday only during the early special muzzleloading season west of the Blue Ridge Mountains unless otherwise noted in this subsection.

1. Deer of either sex may be taken during the entire early special muzzleloading season in Clarke and Floyd Counties and on private lands in Augusta, Botetourt, Carroll, Frederick, Grayson, Montgomery, Page, Pulaski, Roanoke, Rockingham (east of Routes 613 and 731), Scott, Shenandoah, Warren, and Wythe Counties.
2. Antlered bucks only—no either-sex deer hunting days during the early special muzzleloading season in Buchanan, on federal and department-managed lands in Dickenson,

Lee, Russell, Tazewell, and Wise Counties and on national forest lands in Alleghany, Bland, Craig, Frederick, Giles, Grayson, Montgomery, Page, Pulaski, Rockingham, Scott, Shenandoah, and Warren Counties, and on national forest and department-owned lands in Augusta, Bath, Botetourt, Carroll, Highland (except Highland Wildlife Management Area), Roanoke, Rockbridge, Smyth, Washington, and Wythe Counties and on Channels State Forest, Grayson Highlands State Park, Hungry Mother State Park, and on private lands west of Routes 613 and 731 in Rockingham County.

E. Deer of either sex may be taken during the last six days of the late special muzzleloading season unless otherwise listed in this subsection:

1. Deer of either sex may be taken full season during the entire late special muzzleloading season in the Counties (including the cities and towns within) of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River, except on national forest lands), Bedford (except on national forest lands), Floyd, Franklin, Henry, Nelson (west of Route 151, except on national forest lands), and Patrick and on private lands in Augusta, Botetourt, Carroll, Grayson, Montgomery, Page, Pulaski, Roanoke, Rockingham (east of Routes 613 and 731), Shenandoah, Warren, and Wythe Counties.

2. Deer of either sex may be taken the last day only during the late special muzzleloading season in Alleghany, Bath, Dickenson, Highland, Lee, Russell, Tazewell, and Wise Counties and on national forest lands in Amherst, Bedford, Bland, Craig, Frederick, Giles, Grayson, Montgomery, Nelson, Page, Pulaski, Rockingham, Scott, Shenandoah, and Warren Counties, and on national forest and department-owned lands in Augusta, Botetourt, Carroll, Roanoke, Rockbridge, Smyth, Washington, and Wythe Counties and on private lands west of Routes 613 and 731 in Rockingham County, Channels State Forest, Grayson Highlands State Park, and Hungry Mother State Park.

3. Antlered bucks only—no either-sex deer hunting days during the late special muzzleloading season in Buchanan County.

F. Deer of either sex may be taken full season during the special muzzleloading seasons within the incorporated limits of any city or town in the Commonwealth that allows deer hunting except in the Cities of Chesapeake, Suffolk, and Virginia Beach.

G. It shall be unlawful to hunt deer with dogs during any special season for hunting with muzzleloading guns, except that tracking dogs as described in § 29.1-516.1 of the Code of Virginia may be used.

H. Muzzleloading guns, for the purpose of this section, include:

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1. Single shot muzzleloading rifles.40 caliber or larger, firing a single projectile or sabot (with a.35 caliber or larger projectile) where the projectile is loaded from the muzzle;
2. Muzzleloading shotguns (one or more barrels) not larger than 10 gauge where the projectiles are loaded from the muzzle;
3. Muzzleloading pistols (one or more barrels).45 caliber or larger, firing a single projectile or sabot (with a.35 caliber or larger projectile) per barrel where the propellant and projectile are loaded from the muzzle;
4. Muzzleloading revolvers.45 caliber or larger, firing a single projectile or sabot (with a.35 caliber or larger projectile) per cylinder where the propellant and projectile are loaded from the forward end of the cylinder.

I. It shall be unlawful to have in immediate possession any firearm other than a muzzleloading gun while hunting with a muzzleloading gun in a special muzzleloading season.

VA.R. Doc. No. R22-7140; Filed April 5, 2022, 7:13 a.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

**Title of Regulation:** 4VAC15-290. **Game:** Permits (amending 4VAC15-290-115).

**Statutory Authority:** §§ 29.1-501 and 29.1-502 of the Code of Virginia.

**Effective Date:** June 1, 2022.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

### Summary:

*The amendment allows waterfowl retriever field trials year round on private lands.*

### 4VAC15-290-115. Field trials; authorized dates.

In accordance with § 29.1-422 of the Code of Virginia, permits for field trials with dogs may be authorized by the department during the period between August 1 to May 31, both dates inclusive, under conditions and for the species specified in the permit, except that permits for waterfowl retriever field trials on private lands, foxhound field trials held within foxhound training preserves, and raccoon hound field trials may be authorized by the department at any time.

VA.R. Doc. No. R22-6849; Filed April 1, 2022, 2:07 p.m.

## 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.) and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01 of the Code of Virginia; (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 of the Code of Virginia; and (iv) conducts at least one public hearing on the proposed general permit. 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.

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

**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 2, 2022 - 1 p.m. - Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060

**Public Comment Deadline:** June 24, 2022.

**Agency Contact:** Alison Thompson, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (571) 866-6083, or email [alison.thompson@deq.virginia.gov](mailto:alison.thompson@deq.virginia.gov).

### Summary:

*The proposed action reissues the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges From Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests. The general permit contains effluent limitations, monitoring requirements, and special conditions for discharges of sites contaminated by petroleum products, chlorinated hydrocarbon solvents, the hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and*

associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines. The proposed amendments (i) expand the scope to include non-petroleum contaminated sites, groundwater remediation discharges, and dewatering activities; (ii) revise two limits and add 11 metal limits to address dewatering activities with contamination by metals; and (iii) replace the existing formula with specified hardness-dependent metal limits.

#### Chapter 120

### Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges from ~~Petroleum~~ ~~Contaminated Sites~~, Groundwater Remediation of Contaminated Sites, Dewatering Activities of Contaminated Sites, and Hydrostatic Tests

#### 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:

~~"Board" means the State Water Control Board.~~

"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 off-site. 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 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 Management 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 in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, ~~2017~~ 2021.

#### 9VAC25-120-20. Purpose.

This general permit regulation governs the discharge of wastewaters from petroleum contaminated sites ~~contaminated by petroleum products, chlorinated hydrocarbon solvents, non-petroleum contaminated sites, groundwater remediation discharges, dewatering activities~~, the hydrostatic testing of natural gas storage tanks and pipelines, the hydrostatic testing and dewatering of petroleum storage tank systems and associated distribution equipment, and the hydrostatic testing of water storage tanks and pipelines. These wastewaters may be discharged from the following activities: excavation dewatering, conducting aquifer tests to characterize site conditions, pumping contaminated groundwater to remove free product, discharges resulting from another petroleum product ~~or~~ chlorinated hydrocarbon solvent, metals or other contaminated site cleanup activity approved by the board, hydrostatic tests of natural gas and petroleum storage tanks or pipelines, hydrostatic tests and dewatering of storage tanks and associated distribution equipment, and hydrostatic tests of water storage tank systems or 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, 2018~~ March 1, 2023. This general permit will expire on February ~~25 29, 2023~~ 2028. This general permit is effective as to any covered owner upon compliance with all the provisions of 9VAC25-120-60.

#### 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:

1. The owner submits a registration statement, 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
3. The board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

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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 is required to obtain an individual permit in accordance with 9VAC25-31-170 B of the VPDES Permit Regulation;
2. The owner is proposing to discharge within five miles upstream of a public water supply intake or to state waters specifically named in other board regulations which prohibit such discharges;
3. The owner 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.

C. Compliance with this general permit constitutes compliance, for purposes of enforcement, with §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b) of the federal Clean Water Act and the State Water Control Law 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, including compliance with the Water Withdrawal Reporting (9VAC25-200) and the Groundwater Withdrawal Regulations (9VAC25-610).

D. Continuation of permit coverage.

1. Permit coverage shall expire at the end of ~~its~~ the applicable permit term. However, expiring permit coverages are automatically continued if the owner has submitted a complete registration statement at least 60 days prior to the expiration date of the permit, or a later submittal date established by the board, which cannot extend beyond the expiration date of the original permit. The permittee is authorized to continue to discharge 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 coverage 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 coverage 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.**

A. Any owner seeking coverage under this general permit that 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 general permit for discharges from ~~petroleum contaminated sites,~~ groundwater remediation of contaminated sites, dewatering activities of contaminated sites, 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 consecutive calendar 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, pipelines, or distribution system components; and
3. Hydrostatic testing of water storage tanks, pipelines, or distribution system components.

Owners of these types of discharges are authorized to discharge under this permit immediately upon the permit's effective date of ~~February 26, 2018~~ March 1, 2023.

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 of permit coverage 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 or a later submittal date established by the board, 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 ~~240~~ 240 days prior to the expiration date of the individual VPDES permit.

b. Any owner that was authorized to discharge under the expiring petroleum contaminated sites, groundwater remediation, and hydrostatic tests ~~general~~ VPDES general permit that is not exempted under subsection B of this section and that intends to continue coverage under this general permit shall submit a complete registration statement to the board at least 30 days prior to the expiration date of the existing permit or a later submittal established by the board.

D. Late registration statements. Registration statements will be accepted after the expiration date of the permit, but authorization to discharge will not be retroactive.

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

1. Facility name and mailing address, owner name and mailing address, telephone number, and email address (if available);

2. Facility street address (if different from mailing address) or location (if the facility location does not have a mailing address);

3. Facility operator (local contact) name, address, telephone number, and email address (if available) if different than owner;

4. 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;

6. Identification of activities that will result in a point source discharge from the 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 all related analytical data;

9. The ~~location~~ latitude and longitude in decimal degrees (six digits - ten-thousandths place) of the discharge point and identification of the waterbody into which the discharge will occur. For linear projects, the ~~location~~ latitude and longitude in decimal degrees (six digits - ten-thousandths place) 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 average and maximum 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 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. A determination of whether the facility will discharge to an MS4. If the facility discharges to an MS4, the facility owner must notify the owner of the MS4 of the existence of the discharge information at the time of registration under this permit and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person and telephone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number;

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;

18. Whether the facility currently has any permit issued by the board, and if so, the permit number;

19. Any pollution complaint number or Voluntary Remediation Program (VRP) information associated with the project;

20. A statement as to whether the material being treated or to be discharged is certified as a hazardous waste under the Virginia Hazardous Waste Management Regulations (9VAC20-60); ~~and~~

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

22. 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.

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

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

Any owner whose registration statement is accepted by the board, or that 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 of Part I A of the general permit will apply to every permittee. The determination of which provisions 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 of Part II apply to all permittees.

General Permit No.: VAG83

Effective Date: ~~February 26, 2018~~ **March 1, 2023**

Expiration Date: ~~February 25, 2023~~ **2028**

**VPDES GENERAL PERMIT FOR DISCHARGES FROM  
PETROLEUM CONTAMINATED SITES,  
GROUNDWATER REMEDIATION OF CONTAMINATED**

## **SITES, DEWATERING ACTIVITIES OF CONTAMINATED SITES, 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 within the boundaries of the Commonwealth of Virginia, except to designated public water supplies or waters specifically named in other board regulations which prohibit such discharges.

The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I - Effluent Limitations and Monitoring Requirements, and Part II - Conditions Applicable to All VPDES Permits, as set forth in this general permit.

If there is any conflict between the requirements of a 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 consecutive calendar days or less in duration) are authorized under this permit:

- a. Emergency repairs;
- b. Dewatering projects. Dewatering projects shall be managed to control the volume and velocity of the discharge, including peak flow rates and total volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
- 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 3 through A 5 ~~6~~ below. The sampling frequency for these projects shall be once per discharge. 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.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

2. 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 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 (GPD)	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	<del>15.0</del> <u>15</u>	1/discharge	Grab
Total Organic Carbon (TOC, mg/l)	NA	NL	1/discharge	Grab
Total Residual Chlorine (TRC, mg/l) <sup>(3)</sup>	NA	0.011 <sup>(3)</sup>	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 managed to control the volume and velocity of the discharge, including peak flow rates and total volume, to minimize erosion at outlets, and to minimize downstream channel and stream bank erosion.

<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 (2000) or EPA SW 846 Method 8015C (2007) for gasoline and diesel range organics, or by EPA SW 846 Methods 8260B (1996) and 8270D (2014) or 8270E (2018).

<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.

<sup>(3)</sup>Total residual chlorine limitation of 0.011 mg/l and chlorine monitoring only apply to discharges of test water that have been chlorinated or come from a chlorinated water supply. All data below the quantification level (QL) of 0.1 mg/L shall be reported as "<QL."

# Regulations

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### 3. GASOLINE CONTAMINATION -- 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 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 (GPD)	NA	NL	(4)	Estimate
Benzene (µg/l) <sup>(1)</sup>	NA	<del>12.0</del> <u>5.8</u>	(4)	Grab
Toluene (µg/l) <sup>(1)</sup>	NA	<del>43.0</del> <u>43</u>	(4)	Grab
Ethylbenzene (µg/l) <sup>(1)</sup>	NA	4.3	(4)	Grab
Total Xylenes (µg/l) <sup>(1)</sup>	NA	<del>33.0</del> <u>33</u>	(4)	Grab
MTBE (methyl tert-butyl ether) (µg/l) <sup>(1)</sup>				
Freshwaters not listed as public water supplies and saltwater	NA	<del>440.0</del> <u>440</u>	1/Month <sup>(4)</sup>	Grab
Freshwaters listed as public water supply	NA	<del>15.0</del> <u>15</u>	2/Month <sup>(4)</sup>	Grab
pH (standard units)	6.0	9.0	(4)	Grab
Total Recoverable Lead (µg/l) <sup>(2)</sup>	<u>NA</u>	<u>7.2</u>	(4)	<u>Grab</u>
<del>Freshwaters not listed as public water supplies and saltwater</del>	<del>NA</del>	<del><math>e^{(1.273(\ln \text{hardness})) - 3.259}</math></del>	<del>(4)</del>	<del>Grab</del>
<del>Freshwaters listed as public water supply</del>	<del>NA</del>	<del>Lower of <math>e^{(1.273(\ln \text{hardness})) - 3.259}</math> or 15</del>	<del>(4)</del>	<del>Grab</del>
<u>Total Hardness (mg/l CaCO<sub>3</sub>)<sup>(2)</sup></u>	NL	NA	(4)	Grab



Ethylene Dibromide (µg/l) <sup>(2)</sup>				
Freshwaters not listed as public water supplies and saltwater	NA	1.9	1/Month <sup>(4)</sup>	Grab
Freshwaters listed as public water supply	NA	0.16 ±	2/Month <sup>(4)</sup>	Grab
1,2 Dichloroethane (µg/l) <sup>(2)</sup>	NA	3.8	<sup>(4)</sup>	Grab
Ethanol (µg/l) <sup>(3)</sup>	NA	<del>4100.0</del> <u>4100</u>	<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) or EPA SW 846 Method 8021B (2014).

<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). ~~The minimum hardness concentration that will be used to determine the lead effluent limit is 25 mg/L.~~ 1,2 dichloroethane and ethylene dibromide (EDB) shall be analyzed by a current and appropriate EPA SW 846 Method or EPA Wastewater Method from 40 CFR Part 136. EDB in wastewaters discharged to public water supplies shall be analyzed using EPA SW 846 Method 8011 (1992) or EPA Drinking Water Method 504.1 (1995).

<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 (2000) or EPA SW 846 Method 8015C (2007) or EPA SW 846 Method 8260B (1996).

<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 12 months of permit coverage 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 may 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 execution 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 in each year of permit coverage.

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 12 months of permit coverage 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 may 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 execution 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 in each year of permit coverage.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

4. CONTAMINATION BY PETROLEUM PRODUCTS OTHER THAN GASOLINE -- 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 from outfall serial number xxxx. Samples taken in compliance with the monitoring

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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 (GPD)	NA	NL	(4)	Estimate
Naphthalene (µg/l) <sup>(1)</sup>	NA	8.9	(4)	Grab
Total Petroleum Hydrocarbons (mg/l) <sup>(2)</sup>	NA	<del>15.0</del> <u>15</u>	(4)	Grab
pH (standard units)	6.0	9.0	(4)	Grab
Benzene (µg/l) <sup>(3)</sup>	NA	<del>12.0</del> <u>5.8</u>	2/Month <sup>(4)</sup>	Grab
MTBE (methyl tert-butyl ether) (µg/l) <sup>(3)</sup>	NA	<del>15.0</del> <u>15</u>	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 or a current and appropriate EPA SW 846 Method.

<sup>(2)</sup>TPH shall be analyzed using EPA SW 846 Method 8015C (2000) or EPA SW 846 Method 8015C (2007) for diesel range organics, or by EPA SW 846 Method 8270D (2014) or 8270E (2018).

<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 12 months of permit coverage 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 may 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 execution of the enforcement action and remain in effect until the permit's expiration date.

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### 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 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 (GPD)	NA	NL	1/Month	Estimate
			2/Month if public water supply <sup>(2)</sup>	Estimate
Chloroform (CAS # 67663), (µg/l) <sup>(1)</sup>	NA	<del>80.0</del> <u>60</u>	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1 Dichloroethane (CAS # 75343) (µg/l) <sup>(1)</sup>	NA	2.4	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,2 Dichloroethane (CAS # 107062) (µg/l) <sup>(1)</sup>	NA	3.8	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1 Dichloroethylene (CAS # 75354) (µg/l) <sup>(1)</sup>	NA	7.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
cis-1,2 Dichloroethylene (CAS # 159592) (µg/l) <sup>(1)</sup>	NA	<del>70.0</del> <u>70</u>	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
trans 1,2 Dichloroethylene (CAS # 156605) (µg/l) <sup>(1)</sup>	NA	<del>100.0</del> <u>100</u>	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Methylene Chloride (CAS # 75092) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Tetrachloroethylene (CAS # 127184) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1,1 Trichloroethane (CAS # 71556) (µg/l) <sup>(1)</sup>	NA	<del>54.0</del> <u>54</u>	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1,2 Trichloroethane (CAS # 79005) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Trichloroethylene (CAS # 79016) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab

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Vinyl Chloride (CAS # 75014) ( $\mu\text{g/l}$ ) <sup>(1)</sup>	NA	2.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Carbon Tetrachloride (CAS # 56235) ( $\mu\text{g/l}$ ) <sup>(1)</sup>	NA	2.3	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,2 Dichlorobenzene (CAS # 95501) ( $\mu\text{g/l}$ ) <sup>(1)</sup>	NA	<del>15.8</del> 16	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Chlorobenzene (CAS # 108907) ( $\mu\text{g/l}$ ) <sup>(1)</sup>	NA	3.4	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Trichlorofluoromethane (CAS # 75694) ( $\mu\text{g/l}$ ) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Chloroethane (CAS # 75003) ( $\mu\text{g/l}$ ) <sup>(1)</sup>	NA	3.6	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
pH (standard units)	6.0	9.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	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.

<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 12 months of permit coverage 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 regional office, monitoring frequency may 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 execution of the enforcement action and remain in effect until the permit's expiration date.

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### 6. DEWATERING ACTIVITIES WITH CONTAMINATION BY METALS -- 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 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:

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>		<u>MONITORING REQUIREMENTS</u>	
	<u>Instantaneous Minimum</u>	<u>Instantaneous Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>
<u>Flow (GPD)</u>	<u>NA</u>	<u>NL</u>	<u>1/Month</u>	<u>Estimate</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Estimate</u>
<u>Total Hardness (as CaCO<sub>3</sub> in mg/l)<sup>(2)</sup></u>	<u>NA</u>	<u>NL</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Antimony (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>5.6</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Arsenic (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>10</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Cadmium (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>0.55</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Chromium (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>11</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Copper (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>6.6</u>	<u>1/Month</u>	<u>Grab</u>

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			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Lead (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>7.2</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Mercury (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>0.77</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Nickel (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>15</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Selenium (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>5.0</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Silver (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>1.9</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Thallium (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>0.24</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>Total Recoverable Zinc (µg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>87</u>	<u>1/Month</u>	<u>Grab</u>

			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>
<u>pH (standard units)</u>	<u>6.0</u>	<u>9.0</u>	<u>1/Month</u>	<u>Grab</u>
			<u>2/Month if public water supply<sup>(3)</sup></u>	<u>Grab</u>

NL = No limitation, monitoring required

NA = Not applicable

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

<sup>(2)</sup>Total Hardness shall be collected concurrently with the metals.

<sup>(3)</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 12 months of permit coverage 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 may 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 execution 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. Operation and maintenance (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 O&M manual for the treatment works permitted in this general permit. This manual shall detail 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 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 an MS4, 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 telephone number, the location of the discharge, the nature 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 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.

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# Regulations

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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 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 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.

12. The permittee shall notify the department as soon as the permittee knows or has 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 general permit registration statement; 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 general permit registration statement; or

(4) The level established by the board.

## 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. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.

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 that 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~~ the permittee's 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 that 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 that 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 (see Part II I 3) 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,~~ (see Part II I 3) 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 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 1 b. Unusual and extraordinary discharges include any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;

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3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

## I. Reports of noncompliance.

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

The 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.

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

~~NOTE: 3.~~ The immediate (within 24 hours) reports required in Part II G, H and I ~~may shall~~ be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/PollutionReportingForm.aspx>. <https://www.deq.virginia.gov/get-involved/pollution-response> (online reporting preferred). For reports outside normal working hours, ~~leave a message and this shall fulfill the immediate reporting requirement~~ the online portal shall be used. For emergencies, call the Virginia Department of Emergency Services maintains a 24-hour telephone service Management's Emergency Operations Center (24-hours) at 1-800-468-8892.

- ~~3.~~ 4. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information.

## J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans 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 that~~ are applicable to such source; or

- (2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act ~~which that~~ 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 that are subject neither to effluent limitations nor to notification requirements under Part I B 12; 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 registration 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 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 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 coverage termination or denial of permit coverage renewal.

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 ~~30~~ 60 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

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procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

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

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 that has a reasonable likelihood of adversely affecting human health or the environment.

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

## U. Bypass.

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

## 2. Notice.

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

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

## 3. Prohibition of bypass.

a. Bypass is prohibited, and the 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~~ that 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 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, including an authorized contractor acting as a representative of the administrator, upon presentation of credentials and other documents as may be required by law, to:

1. Enter 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 or whenever the facility is discharging. Nothing contained in this general permit shall make an inspection unreasonable during an emergency.

X. Permit actions. Permit coverage may be terminated for cause. The filing of a request by the permittee for permit coverage termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permit coverage.

1. Permit coverage is not transferable to any person except after notice to the department.
2. Coverage under this permit may be automatically transferred to a new permittee if:
  - a. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property;
  - b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - c. The board does not notify the existing permittee and the proposed new permittee of its intent to deny permit coverage. 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. R21-6517; Filed March 31, 2022, 4:33 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.) and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01 of the Code of Virginia; (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 of the Code of Virginia; and (iv) conducts at least one public hearing on the proposed general permit. 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.

**Title of Regulation:** 9VAC25-194. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Vehicle Wash Facilities and Laundry Facilities (amending 9VAC25-194-10, 9VAC25-194-15, 9VAC25-194-40 through 9VAC25-194-70).

**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:** January 1, 2023.

**Agency Contact:** Eleanore Daub, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4178, or email [elleanore.daub@deq.virginia.gov](mailto:elleanore.daub@deq.virginia.gov).

**Summary:**

*The existing general permit expires on October 15, 2022, and must be reissued to cover existing and new vehicle wash and laundry discharges. The amendments (i) update definitions, (ii) add 5,000 gallons per day as a limit for vehicle wash facilities that discharge a monthly average flow rate less than or equal to 5,000 gallons per day, (iii) change the registration deadline to 60 days to be consistent with other general permits due dates and allow for a later date as established by the board, (iv) update operations and maintenance manual requirements, and (v) add a requirement to submit electronic registration forms and discharge monitoring reports when these are made available by the department.*

**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 (VPDES Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Construction equipment" means trenchers, backhoes, boring equipment, bulldozers, loaders, dump trucks, and any other piece of earth moving equipment.

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

"Golf course equipment" means carts, utility vehicles, bunker rakes, groomers, seeders, and other turf equipment but does not mean equipment used in fertilizer, pesticide, or herbicide application.

"Inlet protection measures" means equipment and best management practices to minimize pollution to state waters via the storm drain. Equipment includes containment berms, barriers, or seals designed to prevent water from entering the inlet, weighted filters, or socks designed to remove metals, oil and grease, solids, and debris combined with other measures, including vacuuming of wastewater, shut off hose nozzles, washing, or directing wastewater to grassy areas.

"Laundry" means any self-service facility where the washing of clothes is conducted as designated by NAICS Code 812310 and SIC 7215. It does not include facilities that engage in dry cleaning.

~~"Maintenance equipment" means street sweepers and catch basin cleaner trucks.~~

"Lawn maintenance equipment" means motorized or hand operated lawn care equipment, including mowers, hedgers,

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aerators, augers, blowers, brush clearers, brush cutters, dethatchers, edgers, pole saws, power rakes, and tillers, but does not mean equipment used in fertilizer, pesticide, or herbicide application.

"NAICS" means North American Industry Classification System from the U.S. Office of Management and Budget, 2017 edition.

"SIC" means the Standard Industrial Classification from the U.S. Office of Management and Budget Standard Industrial Classification Manual, 1987 edition.

"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" means vehicle and equipment rehabilitation, mechanical repairs, painting, fueling, and lubrication.

"Vehicle wash" means any fixed or mobile facility where the manual, automatic, or self-service exterior washing of vehicles is conducted and includes the following:

1. Vehicles that convey passengers or goods on streets or highways ~~as designated by Standard Industrial Classification (SIC) Code 7542~~, such as automobiles, trucks, motor homes, buses, motorcycles, ambulances, fire trucks, and tractor trailers. This industry primarily comprises establishments [ primarily ] engaged in cleaning, washing, or waxing automotive vehicles, such as passenger cars, trucks, and vans, and trailers as designated by NAICS Code 811192 and Standard Industrial Classification (SIC) Code 7542;
2. Incidental floor cleaning wash waters associated with facilities that wash vehicles where the floor wash water also passes through the vehicle wash treatment system;
3. Golf course equipment and lawn maintenance equipment;
4. Maintenance and construction equipment; ~~and~~
5. Street sweepers and catch basin cleaner trucks; and
6. Recreational boats less than 8.6' beam and 25' in length towed by a vehicle.

"Vehicle wash" does not mean engine cleaning or degreasing; the cleaning of floors in vehicle maintenance areas, cleaning of the interior of tanks or trailers carrying bulk or raw material, cleaning of equipment used in the paving industry, cleaning of chemical, fertilizer, or pesticide spreading equipment, or cleaning of tanker trucks, garbage trucks, livestock trailers, trains, boats larger than 8.6' beam and 25' in length, or aircraft;

or the use of acid caustic metal brighteners or steam heated water.

## **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 in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, ~~2017~~ 2021.

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

This general permit will become effective on ~~October 16, 2017~~ January 1, 2023. This general permit will expire on ~~October 15, 2022~~ December 31, 2027. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-194-50.

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

A. Any owner governed by this general permit is hereby authorized to discharge wastewater as described in 9VAC25-194-20 to surface waters of the Commonwealth of Virginia provided that:

1. The owner files a registration statement in accordance with 9VAC25-194-60, and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-194-70; and
4. The owner has not been notified by the board that the discharge is not eligible for coverage under this permit 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 is required to obtain an individual permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;
2. The owner is proposing to discharge to state waters specifically named in other board regulations that prohibit such discharges;
3. The discharge would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30;
4. The discharge is not consistent with the assumptions and requirements of an approved TMDL; or
5. The discharge is to surface waters where there are central wastewater treatment facilities reasonably available, as determined by the board.

C. 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.

D. Compliance with this general permit constitutes compliance, for purposes of enforcement, with §§ 301, 302, 306, 307, 318, 403, and 405(a) through (b) of the federal Clean Water Act and the State Water Control Law 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.

E. Continuation of permit coverage.

~~1. Any owner that was authorized to discharge under the car wash facilities general permit issued in 2012, and that submits a complete registration statement on or before October 16, 2017, is authorized to continue to discharge under the terms of the 2012 general permit. Permit coverage shall expire at the end of the applicable permit term. However, expiring permit coverages are automatically continued if the owner has submitted a complete registration statement at least 60 days prior to the expiration date of the permit or a later submittal date established by the board, which cannot extend beyond the expiration date of the permit. The permittee is authorized to continue to discharge 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 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 ~~2012 general permit coverage that has been continued;~~
- b. Issue a notice of intent to deny coverage under the ~~reissued~~ amended general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by ~~coverage under the 2012~~ the continued general permit coverage 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).

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

A. Deadlines for submitting registration statements. Any owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this ~~section~~ chapter, which shall serve as a

notice of intent for coverage under the ~~general~~ VPDES general permit regulation for vehicle wash facilities and laundry facilities.

1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least ~~30~~ 60 days prior to the date planned for commencement of the discharge or a later submittal established by the board.

2. Existing facilities.

a. Any owner covered by an individual VPDES permit that is proposing to be covered by this general permit shall submit a complete registration statement at least 240 days prior to the expiration date of the individual VPDES permit or a later submittal established by the board.

b. Any owner that was authorized to discharge under the ~~general~~ an expiring or expired VPDES general permit for vehicle wash facilities (9VAC25-194) ~~that became effective on October 16, 2012, and laundry facilities~~ and that intends to continue coverage under this general permit shall submit a complete registration statement to the board ~~prior to September 15, 2017~~ at least 60 days prior to the expiration date of the existing permit or a later submittal established by the board.

c. Any owner of a vehicle wash facility covered under this permit that 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~~ 60 days of the increased flow or a later submittal established by the board.

B. Late registration statements. Registration statements for existing facilities covered under subdivision A 2 b of this section will be accepted after ~~October 15, 2017~~ the expiration date of the permit, but authorization to discharge will not be retroactive. ~~Owners described in subdivision A 2 b of this section that submit registration statements after September 15, 2017, are authorized to discharge under the provisions of 9VAC25-194-50 E if a complete registration statement is submitted before October 16, 2017.~~

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

1. Facility name and mailing address, owner name and mailing address, telephone number, and email address (if available);
2. Facility street address (if different from mailing address);
3. Facility operator (local contact) name, address, telephone number, and email address (if available) if different than owner;
4. ~~Does Whether~~ the facility discharge discharges to surface waters? If "yes," name of receiving stream; if "no," describe the discharge;

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5. ~~Does~~ Whether the facility ~~discharge~~ discharges to a municipal separate storm sewer system (MS4)? If "yes," the facility owner must provide the name of the MS4 and notify the owner of the municipal separate storm sewer system of the existence of the discharge at the time of registration under this permit and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person ~~and~~, phone number, email, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number;

6. ~~Does~~ Whether the facility ~~have~~ has a current VPDES ~~Permit?~~ permit. If "yes," provide permit number;

7. ~~Does your~~ Whether the locality ~~require~~ requires connection to central wastewater treatment facilities?;

8. ~~Are~~ Whether central wastewater treatment facilities are 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;

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

10. Provide a brief description of the type of washing activity. Include (as applicable) the type of vehicles washed, number of vehicle washing bays, and the number of laundry machines;

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

12. Facility line (water balance) drawing;

13. Description of wastewater treatment or stormwater inlet protection measures;

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

15. ~~Will~~ Whether detergent used for washing vehicles ~~contain~~ contains more than 0.5% phosphorus by weight; ~~and~~

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

17. 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 of the VPDES Permit Regulation.

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

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

Any owner whose registration statement is accepted by the board shall comply with the requirements of the general permit and be subject to all requirements of 9VAC25-31-170 of the VPDES Permit Regulation.

General Permit No.: VAG75

Effective Date: ~~October 16, 2017~~ January 1, 2023

Expiration Date: ~~October 15, 2022~~ December 31, 2027

### **GENERAL PERMIT FOR 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 vehicle wash facilities and laundry facilities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations ~~which~~ that prohibit such discharges.

The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I - Effluent Limitations, Monitoring Requirements, ~~and~~ Special Conditions; and Part II - Conditions Applicable to All VPDES Permits, as set forth in this general permit.



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 vehicle wash facilities that discharge a monthly average flow rate less than or equal to 5,000 gallons per day from outfalls:

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	<del>NL</del> 5,000	1/Year	Estimate
pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/Year	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Year	Composite <sup>(4)</sup>
Oil and Grease (mg/l)	NA	15	1/Year	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

<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.

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

<sup>(3)</sup>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.

<sup>(4)</sup>Five grab samples evenly spaced over an eight-hour period or five grab samples evenly spaced for the duration of the discharge if less than eight hours in length.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

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 vehicle wash facilities that discharge a monthly average flow rate greater than 5,000 gallons per day from outfalls:

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.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/6 Months	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/6 Months	Composite <sup>(4)</sup>
Oil and Grease (mg/l)	NA	15	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

<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.

<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.

<sup>(4)</sup>Five grab samples evenly spaced over an eight-hour period or five grab samples evenly spaced for the duration of the discharge if less than eight hours in length.

# Regulations

## 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 outfalls:

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	Grab
BOD <sub>5</sub> (mg/l)	NA	60 <sup>(1), (2)</sup>	1/Quarter	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 units

<sup>(1)</sup>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.

<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 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 outfalls:

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 and 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 units

<sup>(1)</sup>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.

<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).

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## B. Special conditions.

1. The permittee of a vehicle wash facility shall perform visual examinations of the effluent including sheens, floating solids, or visible foam and maintenance of the wastewater treatment facilities and inlet protection measures, if applicable, at least once per week and document this visual examination and maintenance activities in the operational log. This operational log shall include the examination date and time, examination personnel, presence of a discharge, and the visual quality of the discharge ~~and~~. The operational log shall be made available for review by the department personnel upon request.

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

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.

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

5. Wastewater should be reused or recycled whenever feasible.

6. The permittee of a vehicle wash facility shall comply with the following solids management plan, where applicable:

a. ~~All~~ Any settling basins or oil water separators shall be cleaned ~~frequently in order in accordance with the schedule outlined in the operation and maintenance (O&M) manual and at a frequent enough interval~~ to achieve effective treatment.

b. ~~All~~ Any solids from settling basins, oil water separators, trash, or other debris shall be handled, stored, and disposed of so as to prevent a discharge to state waters of such solids.

7. Washing of vehicles or containers bearing residue of animal manure or toxic chemicals (fertilizers, organic chemicals, etc.) 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.

9. A permittee submitting a registration statement in accordance with Part II M and discharging into a municipal separate storm sewer shall notify the owner of the municipal

separate storm sewer system of the existence of the discharge at the time of registration under this permit and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person and contact information (phone number and email), the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number, if known or existing.

10. 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.

11. The owner of a facility discharging vehicle wash water directly to a stormwater drain shall provide inlet protection measures in addition to meeting all other requirements of the permit.

12. The permittee shall notify the department as soon as the permittee knows or has 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 of the toxic pollutant;

(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 of the toxic pollutant;

(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.

13. Operation and maintenance manual requirement. The permittee shall develop and maintain an accurate operation and maintenance (O&M) manual for the wastewater treatment works and applicable inlet protection measures, ~~if applicable~~. 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 and maintain the treatment works and the inlet protection measures 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 or stormwater inlet protection methods~~ Stormwater inlet protection measure directions for use and maintenance of equipment;
- c. Best management practices employed;
- d. Treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory, and recordkeeping;
- ~~e.~~ e. A sludge/solids management plan, including the schedule for settling basin or oil water separator cleaning and solids handling as required by Part I B 6;
- ~~f.~~ f. Procedures for performing the visual examination and maintenance required by Part I B 1 including example log sheets and the location of the operational log; and
- ~~g.~~ g. Date when the O&M manual was updated or reviewed and any changes that were made.

14. Compliance reporting under Part I A 1 through 4.

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

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

The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the test method.

b. Reporting. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision 14 a of this subsection. Otherwise, the numerical value shall be reported. The QL must be less than or equal to the QL in subdivision 14 a of this subsection.

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., 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.

15. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards in 9VAC25-260.

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.

17. Notice of termination.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination with the department. The notice of termination may be filed after one or more of the following conditions have been met:

- (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. A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement form has been submitted;
- (3) All discharges associated with this facility have been covered by a VPDES individual permit or an alternative VPDES permit; or
- (4) Termination of coverage 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:

- (a) A statement indicating that a new owner has assumed responsibility for the facility;
- (b) A statement indicating that operations have ceased at the facility and there are no longer wastewater discharges from vehicle wash or laundry activities from the facility;
- (c) A statement indicating that all wastewater discharges from vehicle wash facilities and laundry facilities have been covered by an individual VPDES permit; or
- (d) A statement indicating that termination of coverage is being requested for another reason (state the reason).

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

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# Regulations

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

#### B. Records.

1. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individuals who performed the sampling or measurements;
  - c. The dates and times analyses were performed;
  - d. The individuals who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of 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. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.
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~~ that 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~~ that the board may request to determine whether cause exists for terminating coverage under 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~~ the permittee's 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 (see Part II I 4) 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 (see Part II I 4), 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 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 that 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 that 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 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: 4. 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, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx>

<https://www.deq.virginia.gov/get-involved/pollution-response>. 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.

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

## J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

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

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

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act ~~which that~~ 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 that~~ are subject neither to effluent limitations nor to notification requirements specified ~~elsewhere in this permit~~ in Part I B 12; 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 registration 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 registration 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. 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 and 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 coverage termination, or for denial of a permit coverage renewal application.

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

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least ~~30~~ 60 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 that~~ are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems 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 that~~ 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 that~~ does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 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 that~~ occurred during normal

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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 (including an authorized contractor acting as a representative of the administrator), upon presentation of credentials and other documents as may be required by law to:

1. Enter 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. Permit coverage may be terminated for cause. The filing of a request by the permittee for a permit coverage termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permit coverage. ~~Permits are~~

1. Permit coverage is not transferable to any person except after notice to the department.

2. Coverage under this permit may be automatically transferred to a new permittee if:

~~1. a.~~ a. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property;

~~2. b.~~ 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

~~3. c.~~ 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. R20-6442; Filed March 30, 2022, 9:01 a.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.) and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01 of the Code of Virginia; (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 of the Code of Virginia; and (iv) conducts at least one public hearing on the proposed general permit. 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.

**Title of Regulation:** **9VAC25-860. Virginia Pollutant Discharge Elimination System General Permit for Potable Water Treatment Plants (amending 9VAC25-860-10, 9VAC25-860-15, 9VAC25-860-40 through 9VAC25-860-70).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act.

**Public Hearing Information:**

June 2, 2022 - 10 a.m. - Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060

**Public Comment Deadline:** June 24, 2022.

**Agency Contact:** Eleanore Daub, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-2655, FAX (804) 698-4178, or email [elleanore.daub@deq.virginia.gov](mailto:elleanore.daub@deq.virginia.gov).

**Summary:**

*The proposed amendments update the regulation to reissue the Virginia Pollutant Discharge Elimination System general permit for potable water treatment plants to discharge process wastewater, which accomplishes the objectives of applicable law, minimizes the costs to a small business owner, and simplifies the application process. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase the complexity of a permit application and permit costs. The proposed amendments (i) update definitions, (ii) add total suspended solids and chlorine discharge limits for reverse osmosis and nanofiltration plants, and (iii) include future electronic reporting requirements.*

Chapter 860

Virginia Pollutant Discharge Elimination System General Permit Regulation for Potable Water Treatment Plants

**9VAC25-860-10. Definitions.**

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

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

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

"Membrane treatment" means a pressure or vacuum driven process using synthetic materials to separate constituents from water. Membranes are used for dissolved solids or suspended solids removal. Membrane treatment for dissolved solids removal includes reverse osmosis and nanofiltration.

Membrane treatment for suspended solids removal includes ultrafiltration and microfiltration.

"Microfiltration" means a method of membrane treatment designed to remove particles down to 0.1 µm in size. The treatment removes cysts, bacteria, and most (but not all) particulates.

"Nanofiltration" or "low-pressure reverse osmosis" or "membrane softening" means a method of membrane treatment designed to remove multivalent ions (softening) and removes contaminants down to 1 nm (nanometer = 0.001 µm) in size.

"Potable water treatment plant" means an establishment engaged in producing water for domestic, commercial, or industrial use as designated by North American Industry Classification System (NAICS) Code 221310 - Water Supply and Irrigation Systems, (Executive Office of the President, Office of Management and Budget, United States, 2017), Standard Industrial Classified (SIC) Code 4941 - Water Supply (Office of Management and Budget (OMB) SIC Manual, 1987), or others as approved by the board.

"Reverse osmosis" means a method of membrane treatment designed to remove salts and low-molecular weight solutes and remove all contaminants down to 0.0001 µm (microns) in size. Reverse osmosis methods apply pressure in excess of osmotic pressure to force water through a semi-permeable membrane from a region of high salt concentration to a region of lower salt concentration.

"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.

"Ultrafiltration" means a method of membrane treatment designed to remove particles down to 0.01 µm in size. The treatment removes cysts, bacteria, and viruses as well as suspended solids.

**9VAC25-860-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated in this chapter, that regulation shall be as it exists and has been published as of July 1, ~~2017~~ 2021.

**9VAC25-860-40. Effective date of the permit.**

This general VPDES permit will become effective on July 1, ~~2018~~ 2023, and will expire on June 30, ~~2023~~ 2028. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-860-50.

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## 9VAC25-860-50. 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:

1. The owner submits a registration statement in accordance with 9VAC25-860-60 and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-860-70; and
4. 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 is required to obtain an individual permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;
2. The owner is proposing to discharge to state waters specifically named in other board regulations that prohibit such discharges;
3. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30;
4. The discharge is not consistent with the assumptions and requirements of an approved TMDL;
5. The facility is subject to the requirements of 9VAC25-820-70 Part I G 1 (General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Watershed in Virginia - Requirement to Register); and
6. An owner applying for coverage under this general permit submits the results of representative whole effluent toxicity testing of the discharge, and the results demonstrate that there is a reasonable potential for toxicity.

C. Compliance with this general permit constitutes compliance, for purposes of enforcement, with §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b) of the federal Clean Water Act and the State Water Control Law 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.

D. Continuation of permit coverage.

1. Permit coverage shall expire at the end of ~~its~~ the applicable permit term. However, expiring permit coverages are

automatically continued if the owner has submitted a complete registration statement at least 60 days prior to the expiration date of the permit, or a later submittal established by the board, which cannot extend beyond the expiration date of the ~~original~~ permit. The permittee is authorized to continue to discharge 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 coverage that has been continued;
- b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the continued general permit coverage ~~under the terms of the 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).

## 9VAC25-860-60. Registration statement.

A. Deadlines for submitting registration statement. 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 general permit regulation for potable water treatment plants.

1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least 60 days prior to the date planned for commencement 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 ~~270~~ 240 days prior to the expiration date of the individual VPDES permit or a later submittal established by the board.
- b. Any owner that was authorized to discharge under the expiring or expired ~~general~~ VPDES general permit and who intends to continue coverage under this general permit shall submit a complete registration statement to the board at least 60 days prior to the expiration date of the existing permit or a later submittal established by the board.

~~e. Any owner of a potable water treatment plant not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement.~~

B. Late registration statements. Registration statements for existing owners covered under subdivision A 2 b of this section will be accepted after the expiration date of the permit, but authorization to discharge will not be retroactive.

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

1. Facility name and street address, owner name, mailing address, telephone number, and email address (if available);
2. Operator or other contact name, mailing address, telephone number, and email address ~~(if available)~~;
3. The nature of the business;
4. A USGS 7.5 minute topographic map or equivalent computer generated map showing the facility location extending to at least one mile beyond the property boundary and the location of the discharge points;
5. The receiving waters of the discharge;
6. The outfall number, latitude and longitude (in decimal degrees (six digits - ten-thousandths place)), the daily maximum ~~actual or projected process wastewater flow rate and monthly average process wastewater flow~~ (millions of gallons per day or gallons per day), ~~typical volume~~, duration of discharges, and frequency of discharge;
7. The type of water treatment (e.g., conventional filtration treatment, microfiltration, ultrafiltration, nanofiltration, reverse osmosis, or a combination of these) and, if applicable, a description of any treatment type changes since the previous registration statement was submitted;
8. The number of any existing VPDES or VPA permit that authorizes discharges from the potable water treatment plant;
9. The Virginia Department of Health Public Water Supply Identification (PWSID) number;
10. If the existing VPDES permit contains a groundwater monitoring plan requirement, a copy of the board-approved plan shall be submitted unless the plan has been previously submitted and approved and remains unchanged. If a plan has been previously approved, cite the plan and date of approval;
- ~~10.~~ 11. Information regarding the lining of any settling basins or lagoons, whether such units are earthen lined, and if so, whether the linings have a permeability of no greater than  $10^{-6}$  cm/sec;
- ~~11.~~ 12. The results of any whole effluent toxicity evaluation required by the ~~2013~~ 2018 potable water treatment plant

general permit regulation, 9VAC25-860-50 A 3, or the current individual permit, if not previously submitted to the department;

~~12.~~ 13. A schematic drawing showing ~~the sources of water used on the property and the conceptual design of the methods of treatment and disposal of process wastewater;~~ the treatment of the water from raw water intake through finished water distribution. Indicate clearly where backwash, reject water, clean in place water, and disinfection chemicals could enter the process wastewater and exit the outfall to state waters. Also include in schematic where solids from any treatment process are settled or dried.

~~13.~~ 14. Information on chemicals used in the production of drinking water and process wastewater treatment, to include (i) a description of chemicals, (ii) a proposed or actual schedule and quantity of chemical usage, (iii) a description of any chemical or chemical usage changes since the previous registration statement was submitted, and (iv) a description of which chemicals have no likelihood of entering the process wastewater;

~~14.~~ 15. A description of how solids and residue from any settling basins or lagoons are disposed;

~~15.~~ 16. Whether the facility will discharge to a municipal separate storm sewer system (MS4). If ~~so~~ yes, the name of the MS4 owner must be provided. If the owner of the potable water treatment plant is not the owner of the MS4, the facility owner shall notify the MS4 owner of the existence of the discharge and include a copy of the notification with the registration statement. The notification shall include the following information: the name of the facility, a contact person ~~and telephone number~~ contact information (telephone number and email), the location of the discharge, the nature of the discharge, and the owner's VPDES general permit number;

~~16.~~ 17. If a new potable water treatment plant owner proposes to discharge within five miles upstream of another public water supply system's intake, the new potable water treatment plant owner shall notify the public water supply system's owner and include a copy of the notification with the registration statement; and

~~17.~~ 18. 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

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information including the possibility of fine and imprisonment for knowing violations."

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

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

## 9VAC25-860-70. General permit.

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

General Permit No.: VAG64  
Effective Date: July 1, ~~2018~~ 2023  
Expiration Date: June 30, ~~2023~~ 2028

## GENERAL PERMIT FOR POTABLE WATER TREATMENT PLANTS

### 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 potable water treatment plants are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations that prohibit such discharges.

The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I - Effluent Limitations, Monitoring Requirements, ~~and~~ Special Conditions, and Part II - Conditions Applicable to All VPDES Permits, as set forth in this general permit.

#### Part I

#### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

##### 1. Facilities other than reverse osmosis or nanofiltration plants.

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 process wastewater from outfalls: \_\_\_\_\_

Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Minimum	Maximum	Frequency <sup>(1)</sup>	Sample Type
Flow (MGD)	NL	NA	NL	1/3 Months	Estimate <sup>(2)</sup>
pH (SU) <sup>(3)</sup>	NA	6.0	9.0	1/3 Months	Grab
Total Suspended Solids (mg/l)	30	NA	60	1/3 Months	Composite <sup>(4)</sup>
Total Residual Chlorine <sup>(5)</sup> (mg/l)	0.011	NA	0.011	1/3 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</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.

<sup>(2)</sup> Reported estimated flow ~~is to~~ may be based on the technical evaluation of the sources contributing to the discharge.

<sup>(3)</sup> Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the minimum and maximum effluent limitations.

<sup>(4)</sup>Composite - For continuous discharges, five grab samples collected at hourly intervals. For batch discharges, five grab samples taken at evenly placed intervals ~~until the discharge ceases~~ for the duration of the discharge, or until a minimum of five grab samples have been collected. For batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge. Composite sample procedures for batch discharges unable to meet the requirements in this table may be approved by DEQ on a case-by-case basis.

<sup>(5)</sup>Total residual chlorine limit shall only be applicable if chlorine is present in the process wastewater.

## A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

### 2. Reverse osmosis and nanofiltration plants.

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 process wastewater originating from outfalls: \_\_\_\_\_

Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NL	1/ Month	Estimate <sup>(1)</sup>
pH (SU) <sup>(2)</sup>	NA	6.0	9.0	1/ Month	Grab
Total Dissolved Solids (mg/l)	NA	NA	NL	1/ Month	Composite <sup>(3)</sup>
<u>Total Suspended Solids (mg/l)<sup>(4)</sup></u>	<u>30</u>	<u>NA</u>	<u>60</u>	<u>1/ Month</u>	<u>Composite<sup>(3)</sup></u>
Dissolved Oxygen (mg/l) <sup>(4)(5)</sup>	NA	4.0	NA	1/ Month	Grab
<u>Total Residual Chlorine (mg/l)<sup>(6)</sup></u>	<u>0.011</u>	<u>NA</u>	<u>0.011</u>	<u>1/ Month</u>	<u>Grab</u>

NL - No limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</sup>Reported estimated flow ~~is to~~ may be based on the technical evaluation of the sources contributing to the discharge.

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

<sup>(3)</sup>Composite - For continuous discharges, five grab samples collected at hourly intervals. For batch discharges, five grab samples taken at evenly placed intervals ~~until the discharge ceases or~~ for the duration of the discharge or until a minimum of five grab samples have been collected. For batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge. Composite sample procedures for batch discharges unable to meet the requirements in this table may be approved by DEQ on a case-by-case basis.

<sup>(4)</sup>Applicable when conventional filtration treatment discharge is part of drinking water treatment and present in the process wastewater.

<sup>(4)(5)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for dissolved oxygen in waters receiving the discharge, those standards shall be the minimum effluent limitations.

<sup>(6)</sup>Total residual chlorine limit shall only be applicable if chlorine is present in the process wastewater.

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## B. Special conditions.

1. Inspection of the effluent, and maintenance of the process wastewater treatment facility, shall be performed daily. Documentation of the inspection and maintenance shall be recorded in an operational log. This operational log shall be made available for review by the department personnel upon request.

2. No domestic sewage discharges are permitted under this general permit.

3. No chemicals used for water and process wastewater treatment, other than those listed on the owner's accepted registration statement, are allowed. Prior approval shall be obtained from the board before any changes are made to the chemicals, in order to assure protection of water quality and beneficial uses of the waters receiving the discharge. The owner shall indicate whether the chemical is likely to enter state waters through the process wastewater discharge.

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

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

6. The permittee shall notify the department as soon as the permittee knows or has 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 general permit registration statement; 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 general permit registration statement; or

(4) The level established by the board.

7. If a board-approved groundwater monitoring plan was submitted with the registration statement, the permittee shall continue to sample and report in accordance with the plan. The approved plan shall be an enforceable part of this permit. The board or the owner, with board approval, may evaluate the groundwater monitoring data and demonstrate that revisions to or the cessation of the groundwater monitoring are appropriate. If the department determines that monitoring indicates that groundwater is contaminated, the permittee shall submit a corrective action plan within 60 days of being notified by the regional office. The plan shall set forth the steps to ensure the contamination source is eliminated or that the contaminant plume is contained on the permittee's property. In addition, based on the extent of contamination, a risk analysis may be required. Once approved, this plan or analysis shall become an enforceable part of this permit.

8. Compliance reporting under Part I A.

a. The quantification levels (QL) shall be ~~as follows~~ less than or equal to the following:

Effluent Characteristic	Quantification Level
Chlorine	0.10 mg/l
TSS	1.0 mg/l

b. Reporting.

(1) Monthly average. Compliance with the monthly average limitations and reporting requirements for the parameters listed in subdivision 8 a of this subsection shall be determined as follows: all concentration data below the QL listed in subdivision 8 a shall be treated as zero. All concentration data equal to or above the QL listed in subdivision 8 a shall be treated as it is reported. An arithmetic average shall be calculated using all reported data for the month, including the defined zeros. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated. If all data are below the QL, then the average shall be reported as "<QL." ~~If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.~~ For quarterly monitoring frequencies, the monthly average value to be reported on the DMR shall be the maximum of the arithmetic monthly averages calculated for each calendar month during the monitoring period.

(2) Daily maximum. Compliance with the daily maximum limitations or reporting requirements for the parameters listed in subdivision 8 a of this subsection shall be determined as follows: all concentration data below the QL listed in subdivision 8 a shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be



calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the daily maximum. If all data are below the QL, then the average shall be reported as "<QL." ~~If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.~~ For quarterly monitoring frequencies, the daily maximum value to be reported on the DMR shall be the maximum of the daily values for each calendar day during the monitoring period.

c. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision 8 a of this subsection. Otherwise, the numerical value shall be reported.

d. The permittee shall report at least the same number of significant digits as the permit limit for a given parameter. Regardless of the rounding convention used (i.e., five always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

9. Operation and maintenance manual requirement.

a. Within 90 days after the date of coverage under this general permit, the permittee shall develop or update an operation and maintenance (O&M) manual for the process wastewater treatment works. The O&M manual shall be reviewed within 90 days of changes to the treatment system. The O&M manual shall be certified in accordance with Part II K of this permit. The O&M manual shall be made available for review by department personnel upon request.

b. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of this permit. Within 30 days of a request by the department, the current O&M manual shall be submitted to the board for review and approval. The permittee shall operate the process wastewater treatment works in accordance with the O&M manual. Noncompliance with the O&M manual shall be deemed a violation of the permit.

c. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

- (1) Techniques to be employed in the collection, preservation, and analysis of effluent samples;
- (2) Discussion of best management practices;
- (3) Process wastewater treatment system design, operation, routine preventive maintenance of units within the process wastewater treatment system, critical spare parts inventory, and recordkeeping;
- (4) A plan for the management or disposal of waste solids and residues, which includes a requirement to clean

settling basins and lagoons (if present at the facility) in order to achieve effective treatment and a requirement that all solids shall be handled, stored, and disposed of so as to prevent a discharge to state waters;

(5) Procedures for measuring and recording the duration and volume of treated process wastewater discharged; and

(6) Location of the operational log for performing the daily inspections of the effluent. The log shall note any solids or sheens and if there is no discharge at time of inspection.

10. Owners of a facility with a daily maximum flow rate greater than or equal to 50,000 gallons per day over three consecutive monitoring periods that have not conducted whole effluent toxicity (WET) testing to demonstrate there is no reasonable potential for toxicity from their discharge shall conduct WET testing as described in subdivisions 10 a through 10 e of this subsection. Owners with changes in treatment technology or chemical usage that change the characteristics of the discharge and with a daily maximum flow rate greater than or equal to 50,000 gallons per day over three consecutive monitoring periods shall conduct WET testing as described in subdivisions 10 a through 10 e of this subsection.

a. The WET testing shall consist of a minimum of four sets (a set includes both vertebrate and invertebrate tests) of acute or chronic tests that reflect the current characteristics of the process wastewater treatment plant effluent using the following tests and organisms:

For an intermittent or batch discharger	48 hour static acute toxicity tests
Freshwater organisms	Pimephales promelas or Oncorhynchus mykiss (for cold water) (vertebrates) Ceriodaphnia dubia (invertebrate)
Saltwater organisms	Cyprinodon variegatus (vertebrate) Americamysis bahia (invertebrate)
For continuous discharger	
Freshwater	7-Day Chronic Static Renewal Larval Survival and Growth Test with Pimephales promelas (vertebrate)
	3-Brood Chronic Static Renewal Survival and Reproduction Test with Ceriodaphnia dubia (invertebrate)
Saltwater	7-Day Chronic Static Renewal Larval Survival and Growth Test with Cyprinodon variegatus (vertebrate)
	7-Day Chronic Static Renewal Survival, Growth and Fecundity Test with Americamysis bahia (invertebrate)

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b. This testing shall be completed, at a minimum, during the first year of coverage under the general permit or within one year of commencing discharge. Freshwater organisms are used where the salinity of the receiving water is less than 1.0‰ (parts per thousand). Where the salinity of the receiving water is greater than or equal to 1.0‰ but less than 5.0‰ either freshwater or saltwater organisms may be used. Saltwater organisms are used where the salinity is greater than or equal to 5.0‰. There shall be a minimum of 30 days between sets of tests, and test procedures shall follow 40 CFR Part 136, which references the EPA guidance manuals for WET testing.

c. The department will evaluate all representative data statistically to see if there is reasonable potential for toxicity in the facility discharge. If such reasonable potential exists and cannot be eliminated, the owner will be notified that the owner must apply for an individual VPDES permit at next reissuance and a WET limit will be included in that individual permit. If the potential cause of the toxicity is eliminated during the five-year term of this general permit, the owner may conduct additional WET testing to demonstrate that there is no longer reasonable potential for toxicity and an individual permit will not be required at the next reissuance.

d. If the department determines that no reasonable potential for toxicity exists in the facility discharge, no further WET testing is required unless changes in treatment technology or chemical usage are made at the plant that change the characteristics of the discharge. If there have been changes to the effluent characteristics, then four sets of WET testing, either acute or chronic tests as applicable to the current characteristics of the process wastewater treatment plant effluent, must be performed to recharacterize the discharge.

e. Any WET testing data will be submitted with the next required discharge monitoring report.

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

12. Notice of termination.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination with the department. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer discharges of process wastewater from the potable water treatment plant;

(2) A new owner has assumed responsibility for the facility. A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement form has been submitted;

(3) All discharges associated with this facility have been covered by an individual VPDES permit or a VPDES general 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 general permit registration number for the facility; and

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

(a) A statement indicating that a new owner has assumed responsibility for the facility;

(b) A statement indicating that operations have ceased at the facility and there are no longer discharges from the facility;

(c) A statement indicating that all discharges have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason and a description of the reason.

c. The following certification: "I certify under penalty of law that all process wastewater discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or a VPDES general 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 process wastewater in accordance with the general permit, and that discharging pollutants 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 submitted to the department and signed in accordance with Part II K.

13. 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 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. 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 DMR or on forms provided, approved or specified by the department. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least a three-month notice provided between the notification from the

department and the date after which such forms and reports must be submitted electronically.

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 that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the 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 the permittee's 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 that 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 that 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 (see Part II I 3) upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the

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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 (see Part II I 3), 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 reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 1 b. Unusual and extraordinary discharges include any discharge resulting from:

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

## I. Reports of noncompliance.

1. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.
  - a. 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 that shall be reported within 24 hours under this subsection:
    - (1) Any unanticipated bypass; and

- (2) Any upset that causes a discharge to surface waters.

- b. A written report shall be submitted within five days and shall contain:

- (1) A description of the noncompliance and its cause;
- (2) The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The 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.

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

~~NOTE: 3.~~ The immediate (within 24 hours) reports required in Parts II G, H and I ~~may shall~~ be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx> <https://www.deq.virginia.gov/get-involved/pollution-response> (online reporting preferred). For reports outside normal working hours, ~~a message may be left and this shall fulfill the immediate reporting requirement~~ the online portal shall be used. For emergencies, ~~call~~ the Virginia Department of Emergency Services ~~maintains a 24-hour telephone service~~ Management's Emergency Operations Center (24-hours) at 1-800-468-8892.

- ~~3.~~ 4. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement, or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information.

## J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

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

- (1) After promulgation of standards of performance under § 306 of the Clean Water Act that are applicable to such source; or
- (2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act that are applicable to such source, but only if the standards are

promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements under Part I B 6; 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 registration 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 that 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 registration 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 and other information. 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 noncompliance is grounds for enforcement action, for permit coverage termination, or for denial of permit coverage renewal.

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

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M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. 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 §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

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

R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from 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 that 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 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 that 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 preceding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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

1. Enter 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 or whenever the facility is discharging. Nothing contained in this general permit shall make an inspection unreasonable during an emergency.

X. Permit actions. Permit coverages may be terminated for cause. The filing of a request by the permittee for a permit termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permit coverage.

1. Permit coverage is not transferable to any person except after notice to the department.

2. Coverage under this permit may be automatically transferred to a new permittee if:

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

~~2.~~ 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

~~3.~~ c. The board does not notify the existing permittee and the proposed new permittee of its intent to deny the new permittee coverage under the permit. If this notice is not

received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2.

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. R21-6872; Filed March 31, 2022, 4:37 p.m.

**TITLE 12. HEALTH**

**STATE BOARD OF HEALTH**

**Proposed Regulation**

**Title of Regulation:** 12VAC5-520. Regulations Governing the Dental Scholarship and Loan Repayment Programs (amending 12VAC5-520-10, 12VAC5-520-80, 12VAC5-520-130, 12VAC5-520-150, 12VAC5-520-160, 12VAC5-520-170, 12VAC5-520-190, 12VAC5-520-200, 12VAC5-520-210; adding 12VAC5-520-155, 12VAC5-520-195, 12VAC5-520-205; repealing 12VAC5-520-20, 12VAC5-520-140).

**Statutory Authority:** §§ 32.1-12 and 32.1-122.9 of the Code of Virginia.

**Public Hearing Information:** No public hearing is currently scheduled.

**Public Comment Deadline:** June 24, 2022.

**Agency Contact:** Olivette Burroughs, Statewide Health Workforce Manager, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7431, FAX (804) 864-7440, or email [olivette.burroughs@vdh.virginia.gov](mailto:olivette.burroughs@vdh.virginia.gov).

**Basis:** The regulation is promulgated under the authority of §§ 32.1-12, 32.1-122.9, and 32.1-122.9:1 of the Code of Virginia. Section 32.1-12 grants the State Board of Health the legal authority to make, adopt, promulgate, and enforce such regulations necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Section 32.1-122.9 of the Code of Virginia directs the board to establish an annual dental scholarship for students in good standing at Virginia Commonwealth University. Section 32.1-122.9 of the Code of Virginia also directs the board to promulgate regulations to administer the scholarship program. Section 32.1-122.9:1 of the Code of Virginia directs the board to establish a dental loan repayment program for graduates of accredited dental schools who meet criteria determined by the board.

**Purpose:** In June of 2016, the Virginia Department of Health (VDH) conducted a periodic review of Regulations Governing the Dental Scholarship and Loan Repayment Programs (12VAC5-520). As a result of the review, VDH determined it

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was necessary to use the regulatory process to amend the regulation, as the regulatory chapter has not been comprehensively revised in over a decade. Further, this regulatory action is necessary to amend the regulation to conform to similar regulatory chapters. There are several scholarship and loan repayment programs administered by VDH and 12VAC5-520, as currently written, does not resemble those other programs. The regulatory action is essential to protect the health, safety, and welfare of citizens as 12VAC5-520 is currently out of date and is not consistent with other similar programs. This proposed regulatory action shall update the regulatory chapter and encourage the use of the scholarship and loan repayment programs, potentially leading to more dentists practicing within underserved areas within the Commonwealth of Virginia.

**Substance:** The substantive proposed changes are: (i) Definitions: add, remove, and update definitions; (ii) Administration of program: repeal an unnecessary section; (iii) Population and dentist data: update the Code of Federal Regulation reference to the proper section; (iv) Eligibility for scholarships and repayment awards: rename the section. Update the format of the section so that it resembles other similar regulatory chapters; (v) Scholarship and loan repayment award: repeal an unnecessary section; (vi) Number of applications per student, amount of scholarships, and selection criteria: rename the section. Minor technical amendments; (vii) How to apply: addition of a new section that is present in similar regulatory programs; (viii) Conditions of scholarships and contractual practice obligation: rename the section; update the format of the section to resemble other similar regulatory chapters; specify that obligated service must begin within 180 days of graduation rather than 90 days so that the timeframe is identical to other similar regulatory chapters; add the requirement that recipients may only take a total of four weeks of leave for personal reasons without written permission from the commissioner, which is a requirement that is present in other similar regulatory chapters; and movement of information regarding repayment to a new section; (ix) Special requests for approval: minor technical amendments; (x) Breach of contract: rename the section and update the format of the section so that it resembles other similar regulatory chapters; (xi) Deferment and waivers: addition of new section that consists of some language from the previous default section and update the format of the section so that it resembles other similar regulatory chapters; (xii) Repayment: addition of the requirement that a scholarship recipient shall pay a penalty in the event of default after graduation; (xiii) Fulfillment after default payments: addition of a new section; (xiv) Reporting requirements: update the format of the section so that it resembles other similar regulatory chapters; and (xv) general language and wording changes were also made for consistency and clarity.

**Issues:** The primary advantage of the proposed regulatory action is a potential increase in the availability of dentists in underserved areas, should this program be funded.

Additionally, these underserved areas will be better positioned to retain qualified dentists due to the obligation created by accepting the scholarship or loan repayment funds. VDH does not foresee any disadvantages to the public, the agency, or the Commonwealth associated with the proposed regulatory action.

## Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. As the result of a 2016 periodic review,<sup>1</sup> the State Board of Health (Board) proposes numerous amendments to the regulation governing the state dental scholarship and loan repayment programs. In addition to amending and adding language for improved clarity, the Board proposes amendments concerning: 1) eligibility to receive a scholarship, 2) when the dentist must start practice in a qualified location, 3) what constitutes a breach of contract, 4) the interest rate charged when scholarship or loan repayment award recipients fail to fulfill their commitment, 5) a penalty when scholarship recipients fail to inform the Virginia Department of Health (VDH) prior to dental school graduation that they will not fulfill their commitment, 6) how long VDH's commissioner may extend the repayment period for recipients in default, and 7) the conditions concerning reimbursement of repayment when a recipient fulfills their commitment after defaulting.<sup>2</sup>

Result of Analysis. Some proposed amendments produce a net benefit. The impact of other proposed amendments is indeterminate.

Estimated Economic Impact Background. Pursuant to §§ 32.1-122.9 and 32.1-122.9:1 of the Code of Virginia respectively, the Commonwealth has established the dental scholarship and dental loan repayment award programs. These programs are intended to help provide additional dental services in underserved areas of Virginia. Scholarships are awarded to students enrolled in Virginia Commonwealth University School of Dentistry.<sup>3</sup> Dentist loan repayment awards are granted to graduates of accredited dental schools.

As part of the contract agreement for receiving dental school scholarship funds, the recipient commits to after graduation continuously engaging in full-time dental practice in a dental underserved area of Virginia for a period of years equal to the number of annual scholarships received. The loan repayment award contract also requires the recipient dentist to continuously engage in full-time dental practice in an underserved area of Virginia for a period of years equal to the number of loan repayment awards received.

Currently neither program is funded.

Scholarship Eligibility. The Board proposes to add to the scholarship eligibility requirements that the candidate have a cumulative GPA of at least 3.0 and demonstrate financial need, which is verified by the Virginia Commonwealth University School of Dentistry's financial aid officer or authorized person as part of the application process. The proposal to require that the candidate have a cumulative GPA of at least 3.0 is likely



beneficial since state funds are best invested in more successful students who are more likely to graduate and be capable of fulfilling the commitment to provide dental care to underserved portions of the Commonwealth.

**Required Start of Practice.** Under the current regulation the recipient must begin practice in a dental underserved area within 90 days of graduation to not be in default. The Board proposes to amend the deadline to 180 days. The main intent of the programs is to increase dental service in underserved areas. To the extent that some newly minted dentists who do intend to fulfill their contract commitment may have trouble beginning practice in an underserved area within three months of graduation, the proposed amendment may be beneficial in that may help some recipients so serve and not default.

**Breach of Contract.** The Board proposes to specify that scholarship and loan repayment award recipients are in breach of contract: 1) if they falsify or misrepresent information on the program application, the verification of employment forms, or other required documents, or 2) if their employment is terminated for good cause as determined by the employer and confirmed by VDH. If employment is terminated for reasons beyond the participant's control (e.g. closure of site), the participant shall transfer to another site approved by the Board in the Commonwealth within six months of termination. Failure of participant to transfer to another site shall be deemed to be a breach of the contract. These situations would be considered breach of contract by the Board whether or not the language is specified in the regulation; nevertheless, having the language in regulation may help the Board enforce rules that would increase the likelihood that it can maximize the amount of quality dental care provided in underserved areas.

**Interest Rate.** When scholarship and loan repayment award payment recipients fail to fulfill their commitment, they are required to pay back their award plus interest. Under the current regulation, the interest rate is set at "the prime lending rate plus 2.0%." The Board proposed to amend the stated interest rate in the regulation to "the legal rate of interest pursuant to § 6.2-302 of the Code of Virginia." That statute states that "The judgment rate of interest shall be an annual rate of six percent, except that a money judgment entered in an action arising from a contract shall carry interest at the rate lawfully charged on such contract, or at six percent annually, whichever is higher." Considering that the statute is already in effect, under the current regulation the interest rate to be paid by recipients in default is the prime lending rate plus 2.0% or 6.0%, whichever is higher. As of the time that this report is being written, June 30, 2017, the prime lending rate is 4.25%. Thus by the current rules the interest rate to be paid by recipients in default would be 6.25%. The proposed regulation effectively sets the interest rate to be paid by those in default at 6.00%, regardless of the prime rate.

**Penalty.** The Board proposes to assess a penalty of three times the amount of all monetary scholarship awards paid to the scholarship recipient plus interest when the scholarship

recipient fails to inform VDH prior to dental school graduation that he will not fulfill his commitment. A scholarship recipient who notifies VDH in writing that he will not practice dentistry in Virginia as required by his contract would be required to repay the total amount of scholarship funds received plus interest, but no penalty. This proposed penalty gives the scholarship recipient strong incentive to notify VDH of their change in plans before graduation.

**Repayment Period Extension.** When it is determined that a scholarship or loan repayment award recipient has failed to fulfill their commitment and is deemed to be in default, the recipient is required to pay back the award plus interest. Under the current regulation, VDH's commissioner may in his discretion permit extension of the period of repayment for up to two years from the date that the recipient is deemed to be in default. The Board proposes to change the permitted extension to "two years from the date that the recipient completes postgraduate training or the recipient enters into the full-time practice of dentistry, whichever is later." Effectively this in many cases would reduce the length of time that the commissioner may extend the repayment period for recipients in default, since the date that the recipient completes postgraduate training or the recipient enters into the full-time practice of dentistry would often be before the date of default.

**Post-Default Commitment Fulfillment.** The current regulation provides that should the scholarship recipient default and consequently pays back the value of their scholarship plus interest, but later does fulfill the commitment of serving his scholarship obligation in an underserved area within five years of having paid the restitution, that the recipient will be reimbursed for all or part of any scholarship award paid based on the fulfillment of the scholarship and availability of funds. The Board proposes to instead remove the five-year deadline, reduce the reimbursement by "applicable interest and fees," and include loan repayment awardees along with scholarships recipients in the opportunity for reimbursement. The proposed amendment to remove the five-year deadline would be beneficial in that it would provide incentive for dentists who are further along in their careers to come back and provide dental service in an underserved area. It would add uncertainty for the state to know when it may require funds for reimbursement though. Reducing the reimbursement by interest provides the incentive to provide the dental service sooner rather than later.

**Businesses and Entities Affected.** The state dental scholarship and loan repayment programs are currently not funded. If the programs were to be funded, the proposed amendments would affect dental practices in dental underserved areas,<sup>4</sup> patients in underserved areas, the Virginia Commonwealth University School of Dentistry, and dentists and dental students desiring to work in underserved areas in return for a dental scholarship or loan repayment.

**Localities Particularly Affected.** If the state dental scholarship and loan repayment programs were to be funded, the proposed

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amendments would particularly affect localities that have relatively lower per capita dental care available.

**Projected Impact on Employment.** The proposed amendments are unlikely to significantly affect total employment.

**Effects on the Use and Value of Private Property.** The proposed amendments are unlikely to significantly affect the use and value of private property.

**Real Estate Development Costs.** The proposed amendments do not affect real estate development costs.

**Small Businesses:**

**Definition.** Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

**Costs and Other Effects.** The proposed amendments do not significantly affect costs for small businesses.

**Alternative Method that Minimizes Adverse Impact.** The proposed amendments do not adversely affect small businesses.

**Adverse Impacts:**

**Businesses.** The proposed amendments do not adversely affect businesses.

**Localities.** The proposed amendments do not adversely affect localities.

**Other Entities.** The proposed amendments do not adversely affect other entities.

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<sup>1</sup>More information about the periodic review can be viewed on the Virginia Regulatory Town Hall (Town Hall) at <http://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1502>.

<sup>2</sup>The current proposed language eliminates the Virginia Department of Health from the list of state agency facilities where a dentist can practice and fulfill their commitment. VDH staff indicated that this amendment is currently being reconsidered.

<sup>3</sup>Virginia Commonwealth University has the only dental school in Virginia.

<sup>4</sup>The proposed definition for "dental underserved area" is 1) a geographic area in Virginia designated by the Board as a county or city in which the ratio of practitioners of dentistry to population is less than that for the Commonwealth as a whole; 2) those cities and counties determined to be dental health professions shortage areas as defined by the U.S. Department of Health and Human Services or designated a federal shortage area for the practice of dentistry as outlined in 42 CFR 5.1; or 3) a designated state facility.

**Agency's Response to Economic Impact Analysis:** The Virginia Department of Health concurs with the economic impact analysis prepared by the Department of Planning and Budget on the proposed amendments to the regulation with the exception that under "Penalty" in 12VAC5-520-200 B, the board proposes to assess a penalty of two times the amount of all monetary scholarship awards paid to the recipient plus interest. The proposed penalty is not, as stated in the analysis, three times the amount of all monetary scholarship awards paid to the recipient.

## Summary:

*The proposed amendments make the regulation consistent with similar scholarship award programs and include (i) corrections to the definitions of terms; (ii) clarifications to regulatory provisions; (iii) reorganization of the regulatory chapter conforming it to similar programs; and (iv) updates to language regarding how to apply to the program and to penalties to be paid in the event a recipient defaults after graduation.*

## **12VAC5-520-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Accredited dental school" means any dental school in the United States receiving accreditation from the Commission on Dental Accreditation.

"Accredited residency" means an advanced dental education program in general or specialty dentistry accredited by the Commission on Dental Accreditation and approved by the American Dental Association.

"Board" or "Board of Health" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Dental practice" means the practice of dentistry by a recipient in general or specialty dentistry in a ~~geographic area determined~~ location within Virginia that is designated as a dental underserved area to be fulfillment of the recipient's scholarship or loan repayment obligation ~~or practice as a dentist within a designated state facility.~~

"Dental student" means an individual who is studying the practice of general or specialty dentistry.

"Dental underserved area" means (i) a geographic area in Virginia designated by the State Board of Health as a county or city in which the ratio of practitioners of dentistry to population is less than that for the Commonwealth as a whole ~~as determined by the commissioner or;~~ (ii) a dental health ~~professions~~ professional shortage area using criteria described in Part II (12VAC5-520-80 et seq.) of this chapter; or (iii) a designated state facility.

"Dentist loan repayment program" means the program established by § 32.1-122.9:1 of the Code of Virginia that allocates funds appropriated in conjunction with the dental scholarship program to increase the number of dentists in underserved areas of Virginia.

"Department" means Virginia Department of Health.

"Designated state facility" means practice as a dentist in a facility operated by the ~~Virginia Department of Health,~~ Virginia Department of Behavioral Health and Developmental

Services, Virginia Department of Juvenile Justice, or the Virginia Department of Corrections.

"Full-time dental practice" means the practice of dentistry for an average of a minimum of 32 hours per week for 48 weeks per year excluding those exceptions enumerated in Part III (12VAC5-520-160 et seq.) of this chapter.

~~"Interest at the prevailing bank rate for similar amounts of unsecured debt" means the prime lending rate plus 2.0% as published in the Wall Street Journal on the first day of the month in which the decision to repay is communicated to the commissioner by the recipient or on the first day of the month that the commissioner determines the recipient to be in default the legal rate of interest pursuant to § 6.2-302 of the Code of Virginia.~~

"Loan repayment award" means an award paid to a dentist for dental school loans in an amount equivalent to the current in-state tuition and mandatory fees at Virginia Commonwealth University School of Dentistry, and for which the dentist is under a contractual obligation to repay through practice in an a dental underserved area or designated state facility. This amount may be capped at the discretion of the commissioner.

"Practice of general or specialty dentistry" means the evaluation, diagnosis, prevention, and treatment (nonsurgical, surgical, or related procedures) of diseases, disorders, and conditions of the oral cavity, maxillofacial, and adjacent and associated structures and their impact on the human body.

"Recipient" means an eligible applicant who enters into a contract with the commissioner and participates in the scholarship or loan repayment program.

"Restitution" means ~~three two~~ times the award amount received plus interest ~~at the prevailing bank rate for similar amounts of unsecured debt as set forth in this regulation,~~ less any service obligation completed owed to the Commonwealth of Virginia by a scholarship or loan repayment award recipient who is in default of his contractual obligation as provided for in this chapter.

"Scholarship award" means an amount equivalent to one year of in-state tuition and mandatory fees at Virginia Commonwealth University School of Dentistry for the academic year a student is enrolled and for which the dental student entered a contractual obligation to repay through practice in an a dental underserved area or designated state facility. This amount may be capped at the discretion of the commissioner.

~~"Scholarship recipient" means an eligible dental student who enters into a contract with the commissioner and receives one or more scholarship awards from the Virginia Dental Scholarship Program.~~

"Specialty dentistry" means the advanced practice of dentistry in any specialty approved by the American Dental Association and accredited by the Commission on Dental Accreditation.

**12VAC5-520-20. Administration of program. (Repealed.)**

~~The State Health Commissioner, as executive officer of the Board of Health, shall administer this program. Any requests for deviation from the prescribed definitions shall be considered on an individual basis by the board in regular session.~~

**12VAC5-520-80. Population and dentist data.**

In order to determine the population-to-dentist ratio, the commissioner shall:

1. Use the population data or projections from the United States Census for independent cities, counties, and counties with independent cities within their boundaries;
2. Determine the number of practitioners of dentistry from data secured from the Virginia State Board of Dentistry and the American Dental Association, adjusting for those dentists licensed in Virginia but practicing in other states, the military, and retired dentists with active licenses;
3. Calculate this ratio every five years; and
4. Include as dental underserved areas those cities and counties determined to be dental health professions shortage areas as defined by the Department of Health and Human Services or designated a federal shortage area for the practice of dentistry as outlined in ~~42 CFR 5.1~~ 42 CFR 5.2.

**12VAC5-520-130. Eligible applicants Eligibility for scholarships and loan repayment awards.**

~~A. Any currently enrolled dental student in good standing and full time attendance at Virginia Commonwealth University School of Dentistry who has not entered the first year of an accredited residency shall be eligible for the Virginia Dental Scholarship Program. Preference for the scholarship award shall be given to residents of the Commonwealth, students who are residents of a dental underserved area, and students from economically disadvantaged backgrounds.~~

~~B. Any graduate of an accredited dental school in the United States who is establishing a practice in general or specialty dentistry in an underserved area or practicing dentistry in a designated state facility shall be eligible to apply for the Virginia Dentist Loan Repayment Program. General practice dentists will be within five years of graduation from an accredited undergraduate dental program and have existing loans accumulated as a result of their undergraduate dental program. Specialty practice dentists will be within five years of completion of their specialty training and have existing loans accumulated as a result of their undergraduate dental program. Dentists who received Virginia scholarship awards or other scholarships that paid their full tuition and fees are not eligible for the Dentist Loan Repayment Program for the years they received those awards.~~

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A. An applicant for the Virginia Dental Scholarship Program must submit a completed application form and required documentation before the established deadline dates.

B. To be considered for the Virginia Dental Scholarship Program, an applicant must:

1. Be a United States citizen, a United States national, or a qualified alien pursuant to 8 USC § 1621;
2. Be currently enrolled, in good standing with a cumulative GPA of at least 3.0, which is verified by an appropriate grade transcript, and attend the Virginia Commonwealth University School of Dentistry;
3. Not have entered the first year of an accredited residency; and
4. Demonstrate financial need, which is verified by the school's financial aid officer or authorized person as part of the application process.

C. Preference for scholarships shall be given to:

1. Bona fide residents of Virginia as evidenced by being domiciled in the Commonwealth for at least one year as defined by § 23.1-502 of the Code of Virginia;
2. Students who are residents of a dental underserved area; and
3. Students from economically disadvantaged backgrounds.

D. An applicant for the Virginia Dentist Loan Repayment Program must submit a completed application form and required documentation before the established deadline dates.

E. To be considered for the Virginia Dentist Loan Repayment Program, an applicant must:

1. Be a United States citizen, a United States national, or a qualified alien pursuant to 8 USC § 1621;
2. Be a graduate of an accredited dental school in the United States;
3. Secure employment at an approved practice site in general or specialty dentistry in a dental underserved area;
4. Be a general practice dentist within five years of graduation from an accredited dental program or a specialty practice dentist within five years of completion of specialty training;
5. Have existing loans accumulated as a result of the applicant's dental program;
6. Not have received Virginia scholarship awards or other scholarships that paid the applicant's full tuition and fees; and
7. Not have received a combined maximum of four scholarships or loan repayment awards.

F. Preference for loan repayment awards shall be given to Virginia Commonwealth University School of Dentistry graduates.

**12VAC5-520-140. Scholarship and loan repayment award. (Repealed.)**

~~A Virginia dental scholarship or loan repayment shall be awarded to the recipient upon or following the recipient's execution of a contract with the commissioner for scholarship or loan repayment by practicing dentistry in an underserved area or designated state facility as defined in this chapter.~~

**12VAC5-520-150. Distribution of scholarships and loan repayment awards. Scholarships and loan repayment awards details and selection criteria.**

The Virginia General Assembly establishes the total combined appropriation for the dental scholarship and dentist loan repayment programs. Funds shall be awarded for these programs based on the following criteria:

1. Scholarship. The governing board of Virginia Commonwealth University School of Dentistry shall use the application procedure established by the commissioner and annually submit the names of qualified students to receive scholarships in accordance with the criteria ~~for preference~~ enumerated in 12VAC5-520-130. The total number of scholarship awards ~~will~~ shall be based on availability of funds. Scholarship awards ~~will~~ shall be made annually by October 30 to third-year and fourth-year dental students. First-year and second-year students ~~will~~ shall be considered for an award only in the event of extreme financial need. Individual scholarship recipients may receive a maximum of ~~five~~ four scholarship awards.
2. Loan repayment. The application period for the Dentist Loan Repayment Program ~~will~~ shall begin in October with awards made by the end of each fiscal year. Preference for loan repayment awards ~~will~~ shall be given to graduates of Virginia Commonwealth University School of Dentistry. Individual loan repayment award recipients may receive a maximum of four awards upon graduation from dental school. All awards ~~will~~ shall be competitive and will be based on availability of funds.
3. Scholarship and loan repayment. A combination of scholarship and loan repayment awards shall not exceed a total of four awards for any individual recipient.

**12VAC5-520-155. How to apply.**

Eligible applicants shall submit a complete application made available by the department on the department's website, [www.vdh.virginia.gov](http://www.vdh.virginia.gov). A complete application shall include documentation of all eligibility requirements. The deadline for submission of the application shall be announced by the department on the department's website.

**12VAC5-520-160. ~~Contractual practice obligation~~  
Conditions of scholarships, loan repayment awards, and  
contractual practice obligation.**

~~A. Prior to the payment of money to becoming a scholarship or loan repayment award recipient, the applicant shall enter into a contract with the commissioner shall prepare and enter into a contract with the recipient. The contract shall, agreeing to terms and conditions upon which the scholarship or loan repayment award is granted.~~

~~1. Provide B. The contract shall provide that the recipient of the scholarship award shall pursue the dental course of Virginia Commonwealth University until graduation and upon graduation or upon graduation from an accredited residency program that does not exceed four years. For each scholarship received, the recipient agrees to engage in the equivalent of one year full-time dental practice in a dental underserved area of Virginia. The recipient shall notify the commissioner department in writing of his proposed practice location or intent to enter a residency not more than 30 days after graduation and begin his approved practice within 90 days after completing dental school or residency, and thereafter within 180 days of graduation from the dental course of Virginia Commonwealth University or upon graduation from an accredited residency program that does not exceed four years of the type of dental practice to be performed or intent to enter a residency. The notice shall include the name and address of the employer for approval. Thereafter the recipient shall continuously engage in full-time dental practice in a dental underserved area of Virginia or in a designated state facility for a period of years equal to the number of annual scholarships received. Dental practice in federal agencies, military service, or the U.S. Public Health Service may not be substituted for scholarship obligation.~~

~~2. Provide C. The contract shall provide that upon graduation from an accredited dental school and receiving notification of the dentist loan repayment award or residency program, the dentist shall begin his approved practice within 90 180 days and thereafter continuously engage in. For each loan repayment award received, the recipient agrees to engage in the equivalent of one year full-time dental practice in an a dental underserved area of Virginia or in a designated state facility for a period of years equal to the number of loan repayment awards received as designated by the State Board of Health.~~

~~3. Provide D. The contract shall provide that at any time prior to entering practice, the scholarship or loan repayment award recipient shall be allowed to select a future practice location from the listing of dental underserved areas maintained by the board.~~

~~4. Provide E. The contract shall provide that the recipient may request approval of a change of practice location. The commissioner in his discretion may approve such a request, but only if the change is to a practice location in a dental~~

underserved area or a state facility designated by the State Board of Health.

~~5. Provide F. The contract shall provide that the recipient shall repay the scholarship or loan repayment obligation by practicing dentistry on a full-time basis in a dental underserved area, shall maintain office hours convenient for the population of the area to have access to the recipient's services, and shall participate in all government-sponsored insurance programs designed to ensure access to dental services of recipients of public assistance, including programs established pursuant to §§ 32.1-325 and 32.1-351 of the Code of Virginia. The recipient shall not selectively place limits on the numbers of such patients admitted to the practice.~~

~~6. Provide G. The contract shall provide that the scholarship recipient shall not voluntarily obligate himself for more than the minimum period of military service required of dentists by the laws of the United States and that upon completion of the minimum period of military service, the recipient shall promptly begin and thereafter continuously engage in full-time dental practice in a dental underserved area of Virginia or in a designated state facility for the period of years equal to the number of scholarships received. Dental practice in federal agencies, military service or the U.S. Public Health Service may not be substituted for scholarship obligation.~~

~~7. Provide that the recipient shall receive credit toward fulfillment of his contractual obligation at the rate of 12 months of dental practice for each scholarship or loan repayment award paid to the recipient. The recipient may be absent from the place of approved practice for a total of four weeks in each 12-month period for personal reasons. Absence for a period in excess of four weeks without the written permission of the commissioner shall result in proportional reduction of the period of credit toward fulfillment of the contractual obligation.~~

~~8. Provide that should the scholarship recipient pay restitution by not serving his scholarship obligation in an underserved area, and within five years of paying restitution fulfills the terms of his contract through dental practice as outlined in this section, that the recipient will be reimbursed for all or part of any scholarship award paid based on the fulfillment of the scholarship and availability of funds.~~

~~H. Absence for a period in excess of four weeks annually without the written permission of the commissioner shall result in proportional reduction of the period of credit toward fulfillment of the contractual obligation. The commissioner, in the commissioner's sole discretion, shall consider requests on an individual basis and determine the remaining fulfillment obligation.~~

**12VAC5-520-170. Special requests for approval.**

Special requests for approval of the practice of dentistry in an area in which the ratio does not meet the definition of an area of need a dental underserved area shall be considered by the

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State Board of Health on an individual basis. To obtain the board's approval, the scholarship or loan repayment award recipient shall substantiate to the board's satisfaction that the ratio does not correctly depict the provision of dental services in the city or county and that additional practitioners are necessary. Examples of situations deserving special consideration may include topography, age, or physical health of dental practitioners in the area, and sub-areas of high density population that can be geographically identified and shown to have a ratio less than the state ratio.

Part VI  
Default Breach of contract

**12VAC5-520-190. Default Breach of contract.**

~~A. With respect to default, the contract shall provide that a scholarship or loan repayment recipient who fails to fulfill his obligation to practice dentistry as described in 12VAC5 520-160 shall be deemed in default under the following circumstances and shall forfeit all monetary scholarship or loan repayment awards made to him and shall repay the Commonwealth of Virginia as provided for in this chapter. The contract shall:~~

- ~~1. Provide that if the scholarship recipient defaults while still in dental school, by voluntarily notifying the commissioner in writing that he will not practice dentistry in a Virginia dental underserved area as required by his contract, by voluntarily not proceeding to the next year of dental education, or by withdrawing from dental school, the student shall pay the Commonwealth of Virginia all monetary scholarship awards plus interest at the prevailing bank rate for similar amounts of unsecured debt.~~
- ~~2. Provide that the scholarship recipient who defaults by failing to maintain grade levels that will allow the dental student to graduate, or by reason of his dismissal from dental school for any reason, shall repay the Commonwealth of Virginia all monetary scholarship awards plus interest at the prevailing bank rate for similar amounts of unsecured debt.~~
- ~~3. Provide that if the scholarship or loan repayment recipient is in default due to death or permanent disability so as not to be able to engage in dental practice, the recipient or his personal representative shall repay the Commonwealth all monetary awards plus 8.0% interest on the amount of the award. Partial fulfillment of the recipient's contractual obligation by the practice of dentistry as provided for in this contract prior to death or permanent disability shall reduce the amount of repayment plus interest due by a proportionate amount of money, such proportion being determined as the ratio of the number of whole months that a recipient has practiced dentistry in an approved location to the total number of months of the contractual obligation the recipient has incurred. The commissioner may waive all or part of the scholarship or loan repayment obligation under application by the recipient or his estate under these conditions and consider whole or partial forgiveness of payment or service~~

~~in consideration of individual cases of hardship or inability to pay.~~

~~4. Provide that any recipient of a scholarship or loan repayment who defaults by evasion or refusal to fulfill the obligation to practice dentistry in an underserved area or designated state facility for a period of years equal to the number of annual scholarships or loan repayment awards received shall make restitution to the Commonwealth of Virginia.~~

~~B. A scholarship or loan repayment recipient will be considered to be in such default on the date:~~

- ~~1. The commissioner is notified in writing by the recipient that he does not intend to fulfill his contractual obligation;~~
- ~~2. The recipient has not accepted a placement and commenced his period of obligated practice as provided for in subdivisions 1 and 2 of 12VAC5 520-160; or~~
- ~~3. The recipient absents himself without the consent of the commissioner from the place of dental practice that the commissioner has approved for fulfillment of his contractual obligation.~~

A. A scholarship recipient shall be in breach of contract if:

1. The recipient fails to complete his dental studies;
2. The recipient fails to begin or complete the terms of obligated service under the terms and conditions of the scholarship contract;
3. The recipient falsifies or misrepresents information on the program application, the verification of employment forms, or other required documents; or
4. The recipient's employment is terminated for good cause as determined by the employer and confirmed by the department. If employment is terminated for reasons beyond the recipient's control (e.g., closure of site), the recipient shall transfer to another site in the Commonwealth approved by the board within 180 days of termination. Failure of recipient to transfer to another site shall be deemed to be a breach of the contract.

B. A loan repayment award recipient shall be in breach of contract if:

1. The recipient fails to begin or complete the term of obligated service under the terms and conditions of the loan repayment contract;
2. The recipient falsifies or misrepresents information on the program application, the verification of employment forms, or other required documents; or
3. The recipient's employment is terminated for good cause as determined by the employer and confirmed by the department. If employment is terminated for reasons beyond the recipient's control (e.g., closure of site), the recipient

shall transfer to another site approved by the board in the Commonwealth within 180 days of termination. Failure of the recipient to transfer to another site shall be deemed to be a breach of the contract.

C. In the event of a breach of contract and in accordance with the terms of the contract, the recipient shall make payments as described in 12VAC5-520-200. In the event of a breach of contract where the recipient has partially fulfilled the recipient's obligation, the total amount of reimbursement shall be prorated by the proportion of obligation completed.

**12VAC5-520-195. Deferment, waivers and variances.**

A. Scholarship and loan repayment award recipients have the obligation to complete full-time continuous service for the period of their commitment. Under unusual circumstances as described in subsection C of this section, a recipient may request that the board agree to a deferment of the service obligation. This deferment, if granted, shall not relieve the recipient of the responsibility to complete the remaining portion of the obligation. Such deferment shall not be permitted as a matter of course, but may be allowed in the most compelling cases.

B. For recipients completing part of the scholarship or loan obligation prior to becoming permanently disabled or in the event of death, the total amount of the funds owed plus applicable interest shall be reduced by the proportion of obligated years served. The obligation to make repayment and restitution may be waived by the board upon application of the recipient or the recipient's personal representative to the board.

C. Individual cases of undue hardship may be considered for a variance by the board of payment or service pursuant to § 32.1-12 of the Code of Virginia.

D. All requests for deferments, waivers, or variances must be submitted in writing to the department for consideration and final disposition by the board.

**12VAC5-520-200. Repayment.**

A. Repayment requirements for scholarship and loan repayment award recipients are as follows:

1. Payment of restitution or repayment of award plus interest shall be due on the date that the recipient is deemed by the commissioner to be in ~~default~~ breach of contract.
2. The commissioner in his discretion shall permit extension of the period of repayment for up to ~~24 months~~ two years from the date that the recipient is deemed to be in ~~default~~ breach of contract.
3. Partial fulfillment of the recipient's contractual obligation by the practice of dentistry as provided for in ~~this the~~ recipient's contract shall reduce the amount of ~~restitution~~ repayment by a percentage based on the number of whole months that the recipient has practiced dentistry in an

approved location and the total number of months of the contractual obligation the recipient has incurred.

4. Failure of a recipient to make any payment on his debt when it is due shall be cause for the commissioner to refer the debt to the Attorney General of the Commonwealth of Virginia for collection. The recipient shall be responsible for any costs of collection as may be provided in Virginia law.

B. A scholarship recipient who commits a breach of contract while still in dental school by voluntarily notifying the commissioner in writing that the scholarship recipient will not practice dentistry in Virginia as required by the scholarship recipient's contract shall repay the total amount of scholarship funds received plus interest to the Commonwealth of Virginia. A scholarship recipient who commits a breach of contract after graduation shall pay a penalty of two times the amount of all monetary scholarship awards paid to the scholarship recipient plus interest, less any service obligation completed, to the Commonwealth of Virginia.

**12VAC5-520-205. Fulfillment after breach of contract payments.**

In the event that a recipient, in accordance with the terms of the contract, fully repays the Commonwealth for part or all of any scholarship or loan repayment award because of breach of contract and then later fulfills the terms of the contract after repayment, the Commonwealth shall reimburse the award amount repaid by the recipient minus applicable interest and fees. The award recipient shall request, in writing, the commissioner's approval to complete fulfillment as specified in the original terms of the contract.

**12VAC5-520-210. Reporting requirements.**

A. Reporting requirements of Virginia Commonwealth University School of Dentistry scholarship and loan repayment award recipients are as follows:

1. Virginia Commonwealth University School of Dentistry shall maintain accurate records of the enrollment and academic status of scholarship recipients until the recipient's graduation from dental school. The dental school shall provide a report listing the status of each recipient annually to the commissioner.
2. Each scholarship and loan repayment award recipient shall at any time provide information as requested by the commissioner to verify compliance with the contractual practice requirements obligation of the scholarship or loan repayment contract.

B. The recipient shall ~~report any changes of mailing address, change of academic standing, change of intent to fulfill his contractual obligation and any other information that may be relevant to the contract at such time as changes or information may occur.~~ The recipient shall respond within 30 days with such information as may be requested by the commissioner. notify the department in writing within 30 days if any of the following events occur:

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1. Recipient changes name;
2. Recipient changes address;
3. Recipient changes practice site (a recipient is required to request in writing and obtain prior approval of changes in practice site);
4. Recipient no longer intends or is unable to fulfill service obligation as a dentist in the Commonwealth; or
5. Recipient ceases to practice as a dentist.

C. In addition to the requirements listed in subsections A and B of this section, scholarship award recipients shall also notify the department within 30 days if the following events occur:

1. Scholarship recipient changes dental program; or
2. Scholarship recipient ceases or no longer intends to complete his dental program.

**NOTICE:** The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

## FORMS (12VAC5-520)

[Dental Scholarship and Loan Repayment Verification of Enrollment form \(eff. 4/2022\)](#)

[Dental Scholarship and Loan Repayment Verification of Financial Need form \(eff. 4/2022\)](#)

[Virginia Dental Scholarship and Loan Repayment Program Application \(eff. 2022\)](#)

VA.R. Doc. No. R17-4924; Filed March 30, 2022, 10:21 a.m.

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF OPTOMETRY

#### Final Regulation

**REGISTRAR'S NOTICE:** The Board of Optometry is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 14 of the Code of Virginia, which exempts the Board of Optometry from the Administrative Process Act when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1 of the Code of Virginia.

**Title of Regulation:** **18VAC105-20. Regulations Governing the Practice of Optometry (amending 18VAC105-20-47).**

**Statutory Authority:** §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

**Effective Date:** May 25, 2022.

**Agency Contact:** Leslie L. Knachel, Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 597-4130, FAX (804) 527-4471, or email [leslie.knachel@dhp.virginia.gov](mailto:leslie.knachel@dhp.virginia.gov).

#### Summary:

*The amendment adds cholinergic agonists to the therapeutic Pharmaceutical agent formulary in the category of a topically administered Schedule VI medication.*

#### **18VAC105-20-47. Therapeutic pharmaceutical agents.**

A. A TPA-certified optometrist, acting within the scope of his practice, may procure, administer, and prescribe medically appropriate therapeutic pharmaceutical agents (or any therapeutically appropriate combination thereof) to treat diseases and abnormal conditions of the human eye and its adnexa within the following categories:

1. Oral analgesics - Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III, IV, and VI narcotic and nonnarcotic agents.
2. Topically administered Schedule VI agents:
  - a. Alpha-adrenergic blocking agents;
  - b. Alpha-adrenergic agonists;
  - c. Cholinergic agonists;
  - d. Anesthetic (including esters and amides);
  - ~~d.~~ e. Anti-allergy (including antihistamines and mast cell stabilizers);
  - ~~e.~~ f. Anti-fungal;
  - ~~f.~~ g. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
  - ~~g.~~ h. Anti-infective (including antibiotics and antivirals);
  - ~~h.~~ i. Anti-inflammatory;
  - ~~i.~~ j. Cycloplegics and mydriatics;
  - ~~j.~~ k. Decongestants; and
  - ~~k.~~ l. Immunosuppressive agents.
3. Orally administered Schedule VI agents:
  - a. Aminocaproic acids (including antifibrinolytic agents);
  - b. Anti-allergy (including antihistamines and leukotriene inhibitors);
  - c. Anti-fungal;
  - d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
  - e. Anti-infective (including antibiotics and antivirals);



- f. Anti-inflammatory (including steroidal and nonsteroidal);
- g. Decongestants; and
- h. Immunosuppressive agents.

B. Schedules I, II, and V drugs are excluded from the list of therapeutic pharmaceutical agents with the exception of controlled substances in Schedule II consisting of hydrocodone in combination with acetaminophen and gabapentin in Schedule V.

C. Over-the-counter topical and oral medications for the treatment of the eye and its adnexa may be procured for administration, administered, prescribed, or dispensed.

D. Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in subsection C of § 54.1-3408.02. Upon written request, the board may grant a one-time waiver of the requirement for electronic prescribing, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

VA.R. Doc. No. R22-7092; Filed March 31, 2022, 8:35 p.m.

**BOARD OF PHARMACY**

**Final Regulation**

**REGISTRAR'S NOTICE:** The Board of Pharmacy is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 54.1-3442.6 of the Code of Virginia, which excludes actions of the board relating to the permits to operate pharmaceutical processors or cannabis dispensing facilities.

**Title of Regulation:** 18VAC110-60. Regulations Governing Pharmaceutical Processors (amending 18VAC110-60-210, 18VAC110-60-310).

**Statutory Authority:** §§ 54.1-3442.6 and 54.1-3447 of the Code of Virginia.

**Effective Date:** May 25, 2022.

**Agency Contact:** Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4456, FAX (804) 527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

**Summary:**

*The amendments (i) clarify the process by which a pharmacist, pharmacy technician, or an employee of the pharmaceutical processor or cannabis dispensing facility who has routine access to confidential patient data and who has signed a patient data confidentiality agreement with the processor or dispensing facility may determine eligibility*

*for access to the processor or facility and (ii) eliminate certain requirements to be included on a product label if the information is found on the batch label.*

**18VAC110-60-210. General provisions.**

A. A pharmaceutical processor or cannabis dispensing facility shall only sell cannabis products in a child-resistant, secure, and light-resistant container. Upon a written request from the registered patient, parent, legal guardian, or registered agent, the product may be dispensed in a non-child-resistant container so long as all labeling is maintained with the product.

B. Only a pharmacist may dispense cannabis products to registered patients or parents or legal guardians of patients who are minors or incapacitated adults and who are registered with the board, or to a registered agent. A pharmacy technician who meets the requirements of 18VAC110-60-170 C may assist, under the direct supervision of a pharmacist, in the dispensing and selling of cannabis products.

C. The PIC, pharmacist, responsible party, or person who is qualified to provide supervision in accordance with 18VAC110-60-170 on duty shall restrict access to the pharmaceutical processor or cannabis dispensing facility to:

1. A person whose responsibilities necessitate access to the pharmaceutical processor or cannabis dispensing facility and then for only as long as necessary to perform the person's job duties; or
2. A person who is a registered patient, parent, legal guardian, registered agent, or a companion of the patient, in which case such person shall not be permitted behind the service counter or in other areas where Cannabis plants, extracts, or cannabis products are stored

D. A pharmacist, pharmacy technician, or an employee of the pharmaceutical processor or cannabis dispensing facility who has routine access to confidential patient data and who has signed a patient data confidentiality agreement with the processor or dispensing facility may determine eligibility for access to the processor or facility by verifying through a verification source recognized by the board that the registration of the patient, parent, legal guardian, or registered agent is current.

E. All pharmacists and pharmacy technicians shall at all times while at the pharmaceutical processor or cannabis dispensing facility have their current license or registration available for inspection by the board or the board's agent.

~~E.~~ F. While inside the pharmaceutical processor or cannabis dispensing facility, all employees shall wear name tags or similar forms of identification that clearly identify them, including their position at the pharmaceutical processor or cannabis dispensing facility.

~~F.~~ G. A pharmaceutical processor or cannabis dispensing facility shall be open for registered patients, parents, legal

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guardians, or registered agents to purchase cannabis products for a minimum of 35 hours a week, except as otherwise authorized by the board.

**G. H.** A pharmaceutical processor or cannabis dispensing facility that closes the dispensing area during its normal hours of operation shall implement procedures to notify registered patients, parents, legal guardians, and registered agents of when the pharmaceutical processor or cannabis dispensing facility will resume normal hours of operation. Such procedures may include telephone system messages and conspicuously posted signs. If the cultivation, production, or dispensing area of the pharmaceutical processor or if a cannabis dispensing facility is or will be closed during its normal hours of operation for longer than two business days, the pharmaceutical processor or cannabis dispensing facility shall immediately notify the board.

**H. I.** A pharmacist shall counsel registered patients, parents, legal guardians, and registered agents, if applicable, regarding the use of cannabis products. Such counseling shall include information related to safe techniques for proper use and storage of cannabis products and for disposal of the products in a manner that renders them nonrecoverable.

**I. J.** The pharmaceutical processor or cannabis dispensing facility shall establish, implement, and adhere to a written alcohol-free, drug-free, and smoke-free work place policy that shall be available to the board or the board's agent upon request.

## **18VAC110-60-310. Dispensing of cannabis products.**

A. A pharmacist in good faith may dispense cannabis products to any registered patient, parent, or legal guardian as indicated on the written certification or to a registered agent for a specific patient.

1. Prior to the initial dispensing of cannabis products pursuant to each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor or cannabis dispensing facility shall view in person or by audiovisual means a current photo identification of the patient, parent, legal guardian, or registered agent. The pharmacist or pharmacy technician shall verify in the Virginia Prescription Monitoring Program of the Department of Health Professions or other program recognized by the board that the registrations are current, the written certification has not expired, and the date and quantity of the last dispensing of cannabis products to the registered patient.

2. A pharmacist or pharmacy technician employed by the processor or cannabis dispensing facility shall make a paper or electronic copy of the current written certification that provides an exact image of the document that is clearly legible and shall maintain it on site or by electronic means for two years.

3. Prior to any subsequent dispensing, the pharmacist or pharmacy technician shall verify that the written certification on file has not expired. An employee or delivery agent shall view a current photo identification and current registration of the patient, parent, legal guardian, or registered agent and shall maintain record of such viewing in accordance with policies and procedures of the pharmaceutical processor or cannabis dispensing facility.

B. A pharmacist may dispense a portion of a registered patient's 90-day supply of cannabis product. The pharmacist may dispense the remaining portion of the 90-day supply of cannabis products at any time except that no registered patient, parent, legal guardian, or registered agent shall receive more than a 90-day supply of cannabis products for a patient in a 90-day period from any pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. However, no more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. In determining the appropriate amount of cannabis product to be dispensed to a patient, a pharmacist shall consider all cannabis products dispensed and adjust the amount dispensed accordingly.

C. A dispensing record shall be maintained for three years from the date of dispensing, and the pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label to the container of cannabis product that contains:

1. A serial number assigned to the dispensing of the product;
2. The brand name of cannabis product that was registered with the board pursuant to 18VAC110-60-285 and its strength;
3. The serial number assigned to the product during production;
4. The date of dispensing the cannabis product;
5. The quantity of cannabis products dispensed;
6. A terpenes profile and a list of all active ingredients, including:
  - a. Tetrahydrocannabinol (THC);
  - b. Tetrahydrocannabinol acid (THC-A);
  - c. Cannabidiol (CBD); and
  - d. Cannabidiolic acid (CBDA);

For botanical cannabis products, only the total cannabidiol (CBD) and total tetrahydrocannabinol (THC) are required;

7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, pesticide chemical residue analysis, and for botanical cannabis, the water activity and moisture content analysis;

8. The name and registration number of the registered patient;

9. The name and registration number of the certifying practitioner;
10. Directions for use as may be included in the practitioner's written certification or otherwise provided by the practitioner;
11. For botanical cannabis, the amount recommended by the practitioner or dispensing pharmacist;
12. The name or initials of the dispensing pharmacist;
13. Name, address, and telephone number of the pharmaceutical processor or cannabis dispensing facility;
14. Any necessary cautionary statement; ~~and~~
15. A prominently printed expiration date based on stability testing ~~and the pharmaceutical processor's or cannabis dispensing facility's recommended conditions of use and storage that can be read and understood by the ordinary individual; and~~
16. The pharmaceutical processor's or cannabis dispensing facility's recommended conditions of use and storage that can be read and understood by the ordinary individual.

D. The label shall be exempt from containing the items listed in subdivisions C 6, C 7, and C 15 if the items are included on the batch label as required in 18VAC110-60-290 and are clearly visible to the patient.

E. A pharmaceutical processor shall not label cannabis products as "organic" unless the Cannabis plants have been organically grown and the cannabis oil products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.

~~F.~~ F. The cannabis products shall be dispensed in child-resistant packaging, except as provided in 18VAC110-60-210 A. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4).

~~F.~~ G. No person except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist shall alter, deface, or remove any label so affixed.

~~G.~~ H. A pharmacist shall be responsible for verifying the accuracy of the dispensed product in all respects prior to dispensing and shall document that each verification has been performed.

~~H.~~ I. A pharmacist shall document a registered patient's self-assessment of the effects of cannabis products in treating the registered patient's diagnosed condition or disease or the symptoms thereof. If the authorization for botanical cannabis for a minor is communicated verbally or in writing to the pharmacist at the time of dispensing, the pharmacist shall also document such authorization. A pharmaceutical processor or cannabis dispensing facility shall maintain such documentation

in writing or electronically for three years from the date of dispensing and such documentation shall be made available in accordance with regulation.

~~I.~~ J. A pharmacist shall exercise professional judgment to determine whether to dispense cannabis products to a registered patient, parent, legal guardian, or registered agent if the pharmacist suspects that dispensing cannabis products to the registered patient, parent, legal guardian, or registered agent may have negative health or safety consequences for the registered patient or the public.

VA.R. Doc. No. R22-7130; Filed March 25, 2022, 4:55 p.m.

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**Final Regulation**

REGISTRAR'S NOTICE: The Department of Professional and Occupational Regulation is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The department will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC120-30. Regulations Governing Polygraph Examiners (amending 18VAC120-30-100).**

Statutory Authority: § 54.1-1802.1 of the Code of Virginia.

Effective Date: June 1, 2022.

Agency Contact: Marjorie King, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, FAX (866) 430-1033, TDD (804) 527-4290, or email [contractors@dpor.virginia.gov](mailto:contractors@dpor.virginia.gov).

Summary:

*The amendments provide a temporary reduction in renewal and reinstatement fees for Polygraph Examiner licenses on or before June 30, 2024, to comply with § 54.1-113 of the Code of Virginia.*

**18VAC120-30-100. Fees.**

A. All application fees for licenses and registrations are nonrefundable and shall not be prorated. The date of receipt by the department is the date that will be used to determine whether or not the fee is on time.

B. Application and examination fees must be submitted with the application for licensure. All other fees are discussed in greater detail in later sections of this chapter.

C. In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution

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named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge set by the department.

D. 1. The following fees listed in the table apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
Application for Examiner's License	\$90	With application
Application for Examiner's License by Reciprocity	\$190	With application
Application for Intern Registration	\$75	With application
Application for Examiner's License by Examination	\$200	With application
Reexamination	\$200	With approval letter
Renewal	\$110	Up to the expiration date on the license
Reinstatement	\$150	From the expiration date to 24 calendar months after the expiration date on license

2. For renewal fees received on or before June 30, ~~2022~~ 2024, the fee shall be \$40.

V.A.R. Doc. No. R22-7089; Filed March 24, 2022, 3:32 p.m.

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# GUIDANCE DOCUMENTS

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## PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

### BOARD OF HEALTH PROFESSIONS

Title of Document: [Virginia Board of Health Professions Bylaws.](#)

Public Comment Deadline: May 25, 2022.

Effective Date: May 26, 2022.

Agency Contact: Erin Barrett, Senior Policy Analyst, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Document: [Enslaved Ancestors College Access Scholarship and Memorial Program Guidelines.](#)

Public Comment Deadline: May 25, 2022.

Effective Date: May 26, 2022.

Agency Contact: Beverly Rebar, Senior Associate for Academic and Legislative Affairs, State Council of Higher Education for Virginia, Monroe Building, 101 North 14th Street, 9th Floor, Richmond, VA 23219, telephone (804) 371-0571, or email [beverlyrebar@schev.edu](mailto:beverlyrebar@schev.edu).

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Document: [2023 Virginia Telecommunications Initiative Program Guidelines and Criteria.](#)

Public Comment Deadline: May 25, 2022.

Effective Date: May 26, 2022.

Agency Contact: Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, or email [kyle.flanders@dhcd.virginia.gov](mailto:kyle.flanders@dhcd.virginia.gov).

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# GENERAL NOTICES

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## STATE AIR POLLUTION CONTROL BOARD

### **Public Comment Opportunity- Draft Permit from the Department of Environmental Quality to Limit Air Pollution Emitted by a Facility in Henrico County, Virginia**

Purpose of notice: To seek public comment on a draft permit from the Department of Environmental Quality (DEQ) limit air pollution emitted by a facility in Henrico County, Virginia.

Public comment period: April 6, 2022, to May 6, 2022.

Permit name: Federal Operating Permit issued by DEQ, under the authority of the Air Pollution Control Board.

Applicant name and address: BFI Waste Systems of Virginia LLC, 2001 Charles City Road, Richmond, VA 23231.

Facility name, address, and registration number: Old Dominion Landfill, 2001 Charles City Road, Henrico, VA, Reg# PRO51227.

Project description: BFI Waste Systems of Virginia LLC has applied for renewal of the permit for Old Dominion Landfill. The facility is located between Charles City Road and the CSX railroad tracks in Henrico County, Virginia. The facility is classified as a major source of air pollution. The permit would allow the source to operate a municipal solid waste landfill.

How to comment or request a public hearing: DEQ accepts comments and requests for public hearing by hand-delivery, email, fax, or postal mail. All comments and requests must be in writing and be received by DEQ during the comment period. Submittals must include the names, mailing addresses, and telephone numbers of the commenter or requestor and of all persons represented by the commenter or requestor. A request for public hearing must also include (i) the reason why a public hearing is requested; (ii) a brief, informal statement regarding the nature and extent of the interest of the requester or of those represented by the requester, including how and to what extent such interest would be directly and adversely affected by the permit; and (iii) specific references, where possible, to terms and conditions of the permit with suggested revisions. Please note this draft permit is being concurrently reviewed as a proposed permit by the U.S. Environmental Protection Agency. A public hearing may be held, including another comment period, if public response is significant, based on individual requests for a public hearing, and there are substantial, disputed issues relevant to the permit.

Contact for public comments, document requests, and additional information and the DEQ office where the public may review the draft permit and application or may request copies of the documents from the contact person are listed.

Contact Information: Alison Sinclair, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 489-1008, FAX (804) 698-4178, or email [alison.sinclair@deq.virginia.gov](mailto:alison.sinclair@deq.virginia.gov).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### **Fisher Chewing Solar Notice of Intent for Small Renewable Energy Project (Solar) - Louisa County**

Aura Power Developments (USA) LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documents for a permit by rule for a small renewable energy project (solar) in Louisa County. Fisher Chewing Solar will be located south of Route 22 approximately one mile west of the Town of Mineral. Latitude and longitude coordinates are 38.009056, -77.941630. The project will have a maximum generating capacity of 150 megawatts alternating current across approximately 1,365 acres.

Contact Information: Susan Tripp, Renewable Energy Permit by Rule Coordinator, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 664-3470, or email [susan.tripp@deq.virginia.gov](mailto:susan.tripp@deq.virginia.gov).

### **Surry Solar Center, LLC Notice of Intent for Small Renewable Energy Project (Solar) - Surry County**

Surry Solar Center LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documents for a permit by rule for a small renewable energy project (solar) in Surry County. Surry Solar Center LLC will be located in the City of Surry, Virginia adjacent to Colonial Trail East Road. Latitude and longitude coordinates are 37.103781, -76.721944. Sited on approximately 225 acres, the project will have a maximum capacity of 20 megawatts alternating current and, depending on final design, consist of approximately 65,000 solar photovoltaic modules installed on single-axis tracking racking structures and inverters installed on approximately five separate concrete pads.

Contact Information: Susan Tripp, Renewable Energy Permit by Rule Coordinator, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 664-3470, or email [susan.tripp@deq.virginia.gov](mailto:susan.tripp@deq.virginia.gov).

## FORENSIC SCIENCE BOARD

### **Rescission of Approval of Marijuana Field Tests for Trial Under 6VAC40-50**

Under the Regulations for the Approval of Marijuana Field Tests for Detection of Marijuana Plant Material (6VAC40-50), the Department of Forensic Science has rescinded the approval of all Duquenois-Levine field tests for use during trial. All manufacturers will have been notified of this action by the department. Law-enforcement agencies have been notified that the previously-approved Duquenois-Levine field tests should no longer be utilized for purposes of trial testimony under § 19.2-188.1 B of the Code of Virginia as to whether or not any plant material is marijuana. Currently, there are no marijuana

field tests approved by the department for use at trial under 6VAC40-50 and § 19.2-188.1 B of the Code of Virginia.

This action does not affect the approval by the department of any Duquenois-Levine field tests for use during preliminary hearing under the Regulations for Approval of Field Tests for Detection of Drugs (6VAC40-30) and § 19.2-188.1 A of the Code of Virginia. A list of approved field tests under 6VAC40-30 can be found in [32:8 VA.R. 1507-1514 December 14, 2015](#).

**Contact Information:** Amy Jenkins, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857.

**DEPARTMENT OF GENERAL SERVICES**

**Revision to Fees for Drinking Water Laboratory Certification - Final General Notice**

The Division of Consolidated Laboratory Services (DCLS), Department of General Services, published a general notice in [38:14 VA.R. 2110-2111 February 28, 2022](#) seeking comment on the revision to fees charged for certifying drinking water laboratories under 1VAC30-41-270 as required by 1VAC30-41-270 I 2.

No comments were received on the revision to the fees. The revision to the fees will stand as published. The following fees are effective for May 1, 2022, through April 30, 2023, for drinking water laboratory certification under 1VAC30-41-270.

TESTING CATEGORY	FEE (\$)
<b>Microbiological testing</b>	
1 - 2 methods	698
3 - 5 methods	814
6+ methods	931
<b>Inorganic chemistry, nonmetals testing</b>	
1 - 2 methods	756
3 - 5 methods	986
6 - 8 methods	1221
9+ methods	1452
<b>Inorganic chemistry, metals testing</b>	
1 - 2 methods	1161
3 - 5 methods	1394
6+ methods	1624
<b>Organic chemistry</b>	
1 - 2 methods	1221

3 - 5 methods	1452
6 - 8 methods	1684
9+ methods	1918
<b>Radiochemistry</b>	
1 - 2 methods	1278
3 - 5 methods	1510
6+ methods	1743
<b>Asbestos</b>	
1 - 2 methods	1045
3 - 5 methods	1278
6+ methods	1510

**HOW FEES ARE CALCULATED**

DCLS calculates a laboratory's total fee by adding the fees for the number of test methods in each category in the fee table for which the laboratory is certified or applies to be certified. Contact [lab\\_cert@dgs.virginia.gov](mailto:lab_cert@dgs.virginia.gov) for more information about the fee category for a specific method.

**ADDITIONAL FEES**

Additional fees apply when a laboratory:

- Applies for modification of certification under 1VAC30-41-110.
- Is moving its location when the move requires DCLS to perform an onsite assessment.
- Requests reinstatement of certification when DCLS requires an onsite assessment.

Hourly review fee and calculation of total fee. The fee to be charged is the sum of the total hourly charges for all reviewers plus any onsite assessment costs incurred. The hourly charge per reviewer is \$71. The charge per reviewer is determined by multiplying the number of hours expended in the review by \$71.

Onsite review and travel expenses. If an onsite review is required, travel time and onsite review time will be charged at the same hourly rate of \$71 and any travel expenses will be added.

**WHEN TO PAY**

Payment is due at the time the application is made or annually thereafter upon receipt of the invoice from DCLS. Annual billing precedes the expiration of the current certificate.

**HOW TO PAY**

Fees may be paid by check, draft, or postal money order payable to the Treasurer, Commonwealth of Virginia, or

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## General Notices

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submitted electronically if available. Payment must be in United States currency, except that agencies and institutions of the Commonwealth of Virginia may submit interagency transfers for the amount of the fee. Laboratories may also pay fees using credit cards. All fees must be sent to the following address, or submitted electronically, if available: DCLS, Attn: Lab Certification, 600 North 5th Street, Richmond, VA 23219. A fee payment form is available on the Drinking Water page of the DCLS website at [www.dgs.virginia.gov/dcls](http://www.dgs.virginia.gov/dcls).

**Contact Information:** Rhonda Bishton, Director's Executive Administrative Assistant, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305.

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Draft Local Education Agency Provider Manual

The draft Local Education Agency Provider Manual Chapters II, IV, and VI are now available on the Department of Medical Assistance services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment until May 4, 2022.

**Contact Information:** Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, or email [meredith.lee@dmas.virginia.gov](mailto:meredith.lee@dmas.virginia.gov).

### STATE WATER CONTROL BOARD

#### Notice of Enforcement Action for Goochland County

The State Water Control Board proposes to issue a consent special order to Goochland County for alleged violation of the State Water Control Law at 12320 Patterson Avenue in Goochland County, Virginia. A description of the proposed action is available at the Department of Environmental Quality (DEQ) office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). DEQ will accept comments by email or postal mail from April 26, 2022, to May 26, 2022, using the contact information listed.

**Contact Information:** Jeff Reynolds, Enforcement Manager, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 720-4754, or email [jefferson.reynolds@deq.virginia.gov](mailto:jefferson.reynolds@deq.virginia.gov).

#### Notice of Enforcement Action for Surry County

The State Water Control Board proposes to issue a consent special order to Surry County for alleged violation of the State Water Control Law at 1239 Colonial Trail West in Surry County, Virginia. A description of the proposed action is available at the Department of Environmental Quality (DEQ)

office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). DEQ will accept comments by email or postal mail from April 26, 2022, to May 26, 2022, using the contact information listed.

**Contact Information:** Jeff Reynolds, Enforcement Manager, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 720-4754, or email [jefferson.reynolds@deq.virginia.gov](mailto:jefferson.reynolds@deq.virginia.gov).

#### Proposed Enforcement Action for the Virginia Peninsulas Public Service Authority

An enforcement action has been proposed for the Virginia Peninsulas Public Service Authority (VPPSA) for violations of the State Water Control Law and regulations at the VPPSA Vehicle Maintenance Facility located at the intersection of Clancie Road and Enterprise Lane in King and Queen County, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with the VPPSA Vehicle Maintenance Facility. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders](http://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders). The staff contact listed will accept comments by email or postal mail from April 25, 2022, through May 26, 2022.

**Contact Information:** Matt Richardson, Enforcement Specialist, Department of Environmental Quality, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 659-2696, or email [matthew.richardson@deq.virginia.gov](mailto:matthew.richardson@deq.virginia.gov).

#### Proposed Enforcement Action for the Wise County Public Service Authority

An enforcement action has been proposed for the Wise County Public Service Authority for violations of the State Water Control Law at the Pound Wastewater Treatment Plant in Wise County. The State Water Control Board proposes to issue a consent order to resolve violations associated with the facility. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The staff contact person listed will accept comments by email or postal mail from April 26, 2022, through May 26, 2022.

**Contact Information:** Jonathan Chapman, Enforcement Specialist, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, or email [jonathan.chapman@deq.virginia.gov](mailto:jonathan.chapman@deq.virginia.gov).

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *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 <https://commonwealthcalendar.virginia.gov>.

**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/documents/cumultab.pdf>.

**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.

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## General Notices

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