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THE VIRGINIA REGISTER INFORMATION PAGE

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 <https://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: **Marcus B. Simon, Chair; Russet W. Perry, Vice Chair; Katrina E. Callsen; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Michael Mullin; Christopher R. Nolen; Steven Popp; 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, Managing Editor; Erin Comerford, Regulations Analyst**

PUBLICATION SCHEDULE AND DEADLINES

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

February 2025 through March 2026

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
41:14	February 5, 2025	February 24, 2025
41:15	February 19, 2025	March 10, 2025
41:16	March 5, 2025	March 24, 2025
41:17	March 19, 2025	April 7, 2025
41:18	April 2, 2025	April 21, 2025
41:19	April 16, 2025	May 5, 2025
41:20	April 30, 2025	May 19, 2025
41:21	May 14, 2025	June 2, 2025
41:22	May 28, 2025	June 16, 2025
41:23	June 11, 2025	June 30, 2025
41:24	June 25, 2025	July 14, 2025
41:25	July 9, 2025	July 28, 2025
41:26	July 23, 2025	August 11, 2025
42:1	August 6, 2025	August 25, 2025
42:2	August 20, 2025	September 8, 2025
42:3	September 3, 2025	September 22, 2025
42:4	September 17, 2025	October 6, 2025
42:5	October 1, 2025	October 20, 2025
42:6	October 15, 2025	November 3, 2025
42:7	October 29, 2025	November 17, 2025
42:8	November 10, 2025 (Monday)	December 1, 2025
42:9	November 24, 2025 (Monday)	December 15, 2025
42:10	December 9, 2025	December 29, 2025
42:11	December 22, 2025 (Monday)	January 12, 2026
42:12	January 6, 2026 (Tuesday)	January 26, 2026
42:13	January 21, 2026	February 9, 2026
42:14	February 4, 2026	February 23, 2026
42:15	February 18, 2026	March 9, 2026

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Agency Decision

Title of Regulation: 18VAC65-20. Regulations Governing the Practice of Funeral Services.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Name of Petitioner: Jon Gary Henninger.

Nature of Petitioner's Request: The petitioner requests that the Board of Funeral Directors and Embalmers amend 18VAC65-20-580 to exempt certain religious funeral homes that do not practice embalming from the requirement to equip preparation rooms with the instruments and apparatus of embalming under subdivision 6 of 18VAC65-20-580.

Agency Decision: Request denied.

Statement of Reason for Decision: At its January 14, 2025, meeting, the Board of Funeral Directors and Embalmers voted to take no action on the petition for rulemaking and send the issue to the regulatory committee for in-depth review and consideration of all possible changes that would need to occur to address this concern.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Funeral Directors and Embalmers, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4479, or email fanbd@dhp.virginia.gov.

VA.R. Doc. No. PFR25-06; Filed September 09, 2024, 9:59 a.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board conducted a periodic review and small business impact review of **9VAC25-110, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day**. The proposed regulation, which is published in this issue of the Virginia Register, serves as the reports of findings.

Contact Information: Jeanette Ruiz, Regulatory and Guidance Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 494-9636, or email jeanette.ruiz@deq.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board conducted a periodic review and small business impact review of **9VAC25-115, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Seafood Processing Facilities**. The proposed regulation, which is published in this issue of the Virginia Register, serves as the reports of findings.

Contact Information: Morgan Emanuel, Regulatory and Guidance Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 494-9635, or email morgan.emanuel@deq.virginia.gov.

Agency Notice

Pursuant to §§ 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: **9VAC25-860, Virginia Pollutant Discharge Elimination System General Permit Regulation for Potable Water Treatment Plants**. The review will be guided by the principles in Executive Order 19 (2022). 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 February 10, 2025, and ends March 3, 2025.

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: Azra Bilalagic, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 584-6674, or email azra.bilalagic@deq.virginia.gov.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Commonwealth Transportation Board conducted a periodic review and small business impact review of **24VAC30-200, Vegetation Control Regulations on State Rights-of-Way**. The proposed regulation, which is published in this issue of the Virginia Register, serves as the report of findings.

Contact Information: JoAnne P. Maxwell, Agency Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

REGULATIONS

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

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.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Fast-Track Regulation

Title of Regulation: 2VAC5-336. Regulations for Enforcement of the Virginia Tree and Crop Pests Law - Spotted Lanternfly Quarantine (repealing 2VAC5-336-10 through 2VAC5-336-130).

Statutory Authority: § 3.2-703 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: March 12, 2025.

Effective Date: March 27, 2025.

Agency Contact: David Gianino, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, FAX (804) 371-7793, or email david.gianino@vdacs.virginia.gov.

Basis: Section 3.2-109 of the Code of Virginia establishes the Board of Agriculture and Consumer Services as a policy board that may adopt regulations in accordance with Title 3.2 of the Code of Virginia. Section 3.2-703 of the Code of Virginia authorizes the board to quarantine the Commonwealth or any portion of the Commonwealth when it determines that such action is necessary to prevent or retard the spread of a pest into, within, or from the Commonwealth.

Purpose: The goal of the repeal of this regulation is to remove the regulatory burden on persons within the regulated areas since the regulation has not been effective at slowing the spread of spotted lanternfly (SLF) in Virginia. The regulation requires that businesses in a regulated area obtain a permit and conduct inspections of regulated articles before moving such articles out of the regulated area to ensure that the regulated article is free from SLF. The requirements of the regulation have not prevented the spread of SLF from the infested areas, and, therefore, repealing the regulation will benefit those persons moving regulated articles in the regulated area, including supporting their economic welfare by eliminating any time or financial expenditures associated with inspecting regulated articles, while having little or no impact on the rate at which SLF moves to uninfested areas of the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: The agency does not expect the repeal of this regulation to be

controversial and therefore appropriate for the fast-track rulemaking process because it will eliminate regulatory requirements that were ineffective at slowing the spread of SLF in Virginia.

Substance: The regulatory action repeals Regulations for Enforcement of the Virginia Tree and Crop Pests Law - Spotted Lanternfly Quarantine (2VAC5-336), which eliminates restrictions on the movement of regulated articles out of the quarantined localities.

Issues: The primary advantage of this regulatory change is elimination of regulatory burden placed on those businesses within the regulated areas that must currently comply with the regulation. The primary advantage to the Commonwealth is removal of administrative processes related to ensuring compliance with the regulation. There are no known disadvantages to this regulatory change for businesses, citizens, or the Commonwealth, as the repeal of this regulation is not expected to impact the rate at which SLF spreads in the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPBs best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. The Board of Agriculture and Consumer Services (board) proposes to repeal the Spotted Lanternfly quarantine that has been in place since 2019.

Background. The Spotted Lanternfly (SLF) is an invasive pest native to China, India, and Vietnam, now found in several parts of the United States. It is particularly destructive to grapevines, hardwood trees, and crops such as fruit trees and vegetables. In Virginia, the SLF was first detected in 2018 in Frederick County. In response, this regulation was established the next year, designating the City of Winchester and Frederick County as quarantine areas. The quarantine restricts the movement of SLF life stages and articles capable of transporting the pest. The SLF is primarily spread through human-assisted movement, as adult lanternflies and nymphs can inadvertently hitchhike on vehicles, construction equipment, railcars, shipping containers, plants, stone products, and other materials. The spread typically occurs along major transportation routes, including interstate highways and railroads. Since the regulation's implementation, the quarantine

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has been expanded twice, once in 2021 and again in 2022. The current quarantine encompasses 22 regulated localities, with an additional 39 localities reporting established SLF populations. The new areas are not adjacent to the original quarantine boundaries, suggesting that the infestation was due to human-assisted spread rather than natural dispersal. Together, these affected areas represent more than one-third of the Commonwealth. It is estimated that about 60% of Virginia's newly detected SLF populations are linked to the railroad system, particularly railcars moving southbound from infested areas north of Virginia over which the board has no authority. Despite the regulation being in place since 2019, surveys indicate that SLF populations continue to expand, and new infestations are occurring far beyond the regulated areas due to human-assisted movement. As a result, the board has determined that the regulation's restrictions on the movement of regulated articles have not been effective in preventing or slowing the spread of the SLF. Furthermore, when the quarantine was established, there was limited data on the SLF. Over the past five years, the damage caused by the SLF to Virginia's agricultural and forest resources has been found to be minimal. A long-term study conducted by Pennsylvania State University on forest health found that the SLF did not negatively affect forest ecosystems, and most trees were able to withstand feeding without significant damage.² Additionally, since 2019, treatment options have been developed to mitigate the SLF's impact. While there are potential concerns for the wine industry, no significant negative impacts have been observed in Virginia's vineyards, and new treatment strategies are now available to vineyard managers. Given SLF's expanded presence throughout Virginia and the limited observed impact on the state's forestry and agriculture, the board has concluded that the quarantine is ineffective and proposes its repeal. This conclusion is further supported by developments outside of Virginia. Since November 2023, three additional states, Illinois, Michigan, and Tennessee, have confirmed SLF populations but have opted not to implement quarantines. Furthermore, Georgia reported SLF presence in October 2024 and also decided against enacting a quarantine. The U.S. Department of Agriculture has similarly refrained from establishing a federal quarantine for the SLF.

Estimated Benefits and Costs. Under the current regulation, individuals or entities involved in the sale, transportation, or movement of regulated articles from or through designated regulated localities, along with out-of-state parties shipping regulated articles from infested areas into unregulated regions of the Commonwealth, are required to complete mandatory training before receiving a permit. These entities must also maintain records and perform inspections of regulated articles. Compliance costs include a \$6 fee for training per individual, which is remitted to Virginia Tech, the entity conducting the training. The permit itself is issued at no charge. Additional compliance costs include those associated with recordkeeping and personnel time spent on inspections. For example, while

each inspection process will vary based on the size of the vehicle transporting regulated articles, the agency estimates that inspecting an 18-wheel truck and completing the necessary documentation for shipment takes approximately 30 minutes. The agency further estimates that the average hourly rate for an 18-wheel truck driver is \$50, resulting in a cost of approximately \$25 per load for the driver's time spent on conducting an inspection when moving goods from or through a regulated area. As a result, the agency anticipates that repealing the regulation would benefit individuals or businesses involved in the movement of regulated articles by eliminating the time and financial costs associated with inspections, permits, and training. However, the agency notes that data regarding current compliance costs for the agency, regulated entities, and localities are not readily available, making it difficult to quantify the statewide cost savings resulting from the proposed repeal of the quarantine. It is important to note that the quarantine's primary objective is to mitigate the spread of the SLF, though it appears to have had little to no impact on the rate at which the SLF migrates to uninfested areas of the Commonwealth. Nevertheless, the agency reports that the efforts to control and treat the SLF will continue outside the scope of this regulation. The agency will maintain several key initiatives, including receiving reports of SLF populations and monitoring its distribution throughout the Commonwealth; conducting surveys for the SLF and communicating findings to the public, as well as partnering agencies and organizations; establishing compliance agreements with Virginia-based businesses to facilitate the transportation of goods to other states with exterior quarantines and shipment requirements for goods originating in Virginia; providing outreach and educational materials to raise public awareness about the SLF and how homeowners can help control the pest, in collaboration with the Virginia Cooperative Extension; treating SLFs at high-risk sites, those that pose an elevated threat of spreading the SLF to uninfested regions, particularly near vulnerable agricultural areas, until such time as the SLF becomes ubiquitous across the landscape.

Businesses and Other Entities Affected. Currently, there are 416 SLF permits issued to individuals or businesses. No entity appears to be disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ The proposal would mainly provide cost avoidance to entities currently subject to this regulation. Thus, no adverse impact is indicated.

Small Businesses⁵ Affected.⁶ The proposed amendments do not adversely affect small businesses.

Localities⁷ Affected.⁸ The localities subject to SLF quarantine are listed in the regulation, which are the counties of Albemarle, Augusta, Carroll, Clarke, Frederick, Page, Prince William, Rockbridge, Rockingham, Shenandoah, Warren, and Wythe and the cities of Buena Vista, Charlottesville,

Harrisonburg, Lexington, Lynchburg, Manassas, Manassas Park, Staunton, Waynesboro, and Winchester. However, the proposed amendments do not introduce costs for local governments. To the extent localities are currently involved in movement of regulated articles, the expected benefits to them would be the same as for any other regulant.

Projected Impact on Employment. The repeal of the quarantine is expected to free up some time for regulants and the agency from no longer requiring a permit, training, inspection, and recordkeeping. However, the magnitude and significance of these savings on labor supply or whether there would be a discernible impact on total employment are not known.

Effects on the Use and Value of Private Property. The repeal of the restrictions on movement of the SLF may provide moderate savings in terms of avoided time and administrative costs associated with securing a permit, training, and inspections adding to asset values of businesses. The proposed repeal of the SLF quarantine should not directly affect real estate development costs.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property

² See <https://academic.oup.com/ee/article/52/5/888/7254515?>

³ Pursuant to § 2.2-4007.04 D of the Code of Virginia, in the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

⁴ Statute does not define adverse impact, state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁵ 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.

⁶ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁷ Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ Section 2.2-4007.04 of the Code of Virginia defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Board of Agriculture and Consumer Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments repeal Regulations for Enforcement of the Virginia Tree and Crop Pests Law - Spotted Lanternfly Quarantine (2VAC5-336), as the regulation has not been successful in slowing the rate at which the spotted lanternfly spreads in Virginia.

VA.R. Doc. No. R25-7880; Filed January 16, 2025, 1:35 p.m.

Proposed Regulation

Title of Regulation: **2VAC5-455. Regulations for Tradespersons Installing Invasive Plant Species (adding 2VAC5-455-10, 2VAC5-455-20, 2VAC5-455-30).**

Statutory Authority: § 3.2-802 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: April 11, 2025.

Agency Contact: David Gianino, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, FAX (804) 371-7793, or email david.gianino@vdacs.virginia.gov.

Basis: Section 3.2-109 of the Code of Virginia establishes the Board of Agriculture and Consumer Services as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code of Virginia. Section 3.2-802 of the Code of Virginia directs the board to develop and adopt regulations requiring tradespersons involved with proposing or installing plants to provide written notification to property owners for all plants proposed for installation that are included on the list of invasive plants established pursuant to § 10.1-104.6:2 of the Code of Virginia.

Purpose: The proposed regulation addresses the concern that homeowners may be unaware that plants being installed on their property could have invasive characteristics. Several commonly used landscape plants are included on the Department of Conservation and Recreation list and, when not properly managed, can be challenging and costly to control. Such plants may impact the property owner or adjacent properties if the plants escape containment or respective planting. Invasive plants also have the potential to negatively impact native ecosystems, and property owners may be less inclined to install such plants if made aware of the invasive characteristics of the plants. Notification enables consumers to make an informed decision regarding invasive plants proposed

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for installation on consumer property and assists in protecting consumer economic welfare.

Substance: The proposed regulation requires that (i) a tradesperson notify a property owner in writing at the time of a proposal to install an invasive plant species or prior to the installation of an invasive plant species on the property; (ii) specific information be included on the notification; and (iii) a tradesperson maintain documentation of notifications for at least two years from the date a proposal is accepted or from the date of installation. The regulation also establishes definitions for the terms "tradesperson," "notification," and "proposal" to clarify the scope of persons and activities to which the regulation applies.

Issues: The primary advantage of the proposed regulation is that compliance with this regulation will result in consumers receiving information regarding invasive plants being planted on their property. This will increase awareness about invasive plants among the public and potentially reduce the negative impact that could result from the spread of invasive plants. The primary means by which this regulation will be enforced is through a complaint-based mechanism. The agency will conduct an inspection of the tradesperson's records to verify whether notification was given and received. The advantage of this approach to the agency and to the public is that it will not require tradespersons to be registered or routinely inspected by the agency, which saves time and money for both the agency and the public. Only companies that grow or sell nursery stock, which are not "tradespersons" under this proposed regulation, are required to be registered with the agency currently, so the agency is not able to calculate or estimate how many individuals will need to comply with this proposed regulation. The disadvantage to this approach is that the agency may not know whether a tradesperson is out of compliance with the regulation and may not have knowledge of all instances of violations of this regulation, making uniform enforcement difficult. There are no disadvantages to the public.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. The Board of Agriculture and Consumer Resources (board) seeks to adopt a new regulation as required by Chapter 153 of the 2023 Acts of Assembly. The regulation would require tradespersons who are involved with proposing or installing plants to provide a written notification to property owners for all plants proposed for installation that are included on the list of invasive plants established by the Department of Conservation and Recreation (DCR).

Background. Chapter 153 of the 2023 Acts of Assembly directed DCR to create a list of invasive plant species² no later than January 1, 2024, and directed the board to develop and adopt regulations requiring tradespersons involved with proposing or installing plants to provide written notification to property owners for all plants proposed for installation that are included on the list of invasive plants established in § 10.1-104.6:2 of the Code of Virginia.³ Accordingly, the proposed regulation would (i) define key terms, including invasive plant species, installation, and tradesperson;⁴ (ii) specify the intended recipient, the timing, and the contents of the required notification; and (iii) require tradespersons who propose and install plants to maintain a copy of the notification for two years, and to make such copies available for inspection by the Commissioner of the Virginia Department of Agriculture and Consumer Services (VDACS) upon request.

Estimated Benefits and Costs. VDACS reports that there are several commonly used landscape plants that are included on DCR's list and, when not properly managed, can be challenging or costly to control. Such plants could impact the property owner and, if allowed to grow uncontrolled, could impact neighboring properties as well. Invasive plants also have the potential to negatively impact native ecosystems by replacing native species of plants and reducing food sources and habitat for native wildlife. The proposed regulation would benefit property owners by informing them that certain plants being proposed or installed on their property are invasive. The required notification may further benefit property owners, neighboring landowners, as well as the native ecosystem if the owners decide not to install the invasive species and instead work with the tradesperson to use native plants or other alternatives. Tradespersons, defined as any person who, for compensation, proposes plants for installation, or installs plants, would incur some costs to (i) provide the written notification for each instance that they propose or install one or more plants on DCR's invasive species list and (ii) maintain a record of having provided the notification for at least two years. Under this definition, tradespersons would include landscape architects and landscape designers, who may propose certain plants but are likely to be subcontracted and may not directly interact with the property owner, as well as landscaping businesses, contract grounds maintenance crews, or other individuals who directly install plants. VDACS reports that such individuals are not currently required to be registered with the agency and may not be aware of the legislation and proposed regulation. Thus, both the level of compliance as well as the costs of compliance are difficult to estimate. VDACS intends to provide information about this regulation on its website and perform outreach. In addition, VDACS reports that the enforcement of this regulation will also be driven by reports of noncompliance, which they intend to investigate and, at least initially, remedy by educating the individuals involved on the requirements.

Businesses and Other Entities Affected. The proposed regulation would affect all individuals and entities who, for

compensation, propose or install plants. Such tradespersons would include landscape architects, who are licensed by the Department of Professional and Occupational Regulation (DPOR); DPOR reports that there were 984 licensed landscape architects as of December 2024.⁵ In addition, as mentioned previously, landscape designers, landscaping businesses, contract ground maintenance crews, and other individuals who meet the definition of a tradesperson would also be affected by the proposed requirements to the extent that they propose or install plants that are on DCR's invasive species list. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁶ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁷ The proposed regulation would include new requirements for individuals and businesses, for which they will likely incur some cost. However, the proposed requirements directly stem from the legislative mandate. Thus, an adverse impact from the regulatory proposal is not indicated.

Small Businesses⁸ Affected.⁹The proposed amendments create new costs for tradespersons who propose or install plants on DCR's invasive species list. However, as mentioned previously, any such costs arise from the legislative mandate.

Types and Estimated Number of Small Businesses Affected. As mentioned previously, VDACS does not have an estimate on the total number of tradespersons that would be affected.

Costs and Other Effects. Tradespersons affected by the proposed requirements would incur costs relating to (i) providing the required notification and (ii) maintaining a record of notifications provided for two years.

Alternative Method that Minimizes Adverse Impact. There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals. For instance, VDACS could remove the recordkeeping requirement, since it is not directly mentioned in statute; however, this would make it impossible to determine noncompliance and would prevent enforcement of the statutory requirements.

Localities¹⁰ Affected.¹¹ The proposed regulation does not disproportionately affect particular localities or affect costs for local governments.

Projected Impact on Employment. The proposed regulation is unlikely to affect total employment.

Effects on the Use and Value of Private Property. The proposed regulation could increase the value of private property to the extent that the newly required notification enables owners to either anticipate the risks of invasive plants to their property or neighboring properties and take measures to control them or else avoid installing them on the property altogether. The proposed regulation may also decrease real estate development costs to the extent that developers in receipt of a notification choose to avoid installing invasive species.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² See <https://www.dcr.virginia.gov/natural-heritage/invsppdflist>. See also <https://www.invasivespeciesva.org/about-working-group>.

³ See <https://legacylis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0153>.

⁴ The definition of invasive plant species would directly refer to the DCR list, which can be found at <https://www.dcr.virginia.gov/natural-heritage/invsppdflist>.

⁵ Source: [https://www.dpor.virginia.gov/sites/default/files/Records and Documents/reg_pop.pdf](https://www.dpor.virginia.gov/sites/default/files/Records%20and%20Documents/reg_pop.pdf).

⁶ Pursuant to § 2.2-4007.04 D of the Code of Virginia, in the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

⁷ Statute does not define adverse impact, state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁸ 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.

⁹ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

¹⁰ Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹¹ Section 2.2-4007.04 of the Code of Virginia defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Board of Agriculture and Consumer Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

Pursuant to Chapter 153 of the 2023 Acts of Assembly, the proposed amendments (i) establish definitions for "tradesperson," "notification," and "proposal," along with other important terms that define who is responsible for notifying property owners and under what circumstances;

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(ii) require a tradesperson to notify a property owner in writing at the time the tradesperson proposes to install an invasive plant species or prior to the installation of an invasive plant species on the property; (iii) require specific information to be included on the notification; and (iv) require a tradesperson to maintain documentation of notifications for at least two years from the date a proposal is accepted or from the date of installation.

Chapter 455

Regulations for Tradespersons Installing Invasive Plant Species

2VAC5-455-10. Definitions.

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

"Installing" or "installation" means the placement, replacement, or otherwise planting of outdoor plants.

"Invasive plant species" means a plant species included on the Virginia Invasive Plant Species List, established pursuant to § 10.1-104.6:2 of the Code of Virginia and maintained by the Virginia Department of Conservation and Recreation.

"Notification" means a communication provided by a tradesperson at the time of delivery of a proposal that includes an invasive plant species or prior to the installation of any invasive plant species that is acknowledged in writing by the property owner, manager, custodian, or other person responsible for the property on which an invasive plant species is proposed to be installed or is installed.

"Proposal" means a written landscape design plan.

"Propose" means to provide a proposal to a property owner, manager, custodian, or other person responsible for a property.

"Tradesperson" means any person who, for compensation, proposes plants for installation or installs plants.

2VAC5-455-20. Notification requirements.

A. A tradesperson shall provide written notification to the property owner, manager, custodian, or other person responsible for the property when the tradesperson proposes for installation or installs an invasive plant species.

B. A tradesperson who is required to provide notification pursuant to subsection A of this section shall provide the notification (i) at the time that the tradesperson proposes an invasive plant species for installation or (ii) prior to the installation of an invasive plant species. However, if the tradesperson who proposes an invasive plant species also installs the proposed invasive plant species, notification is only required at the time that the tradesperson proposes the invasive plant species.

C. A notification shall:

1. List each invasive plant species proposed for installation or being installed, identify the species as invasive, and state the invasiveness rank of the species on the Virginia Invasive Plant Species List; and

2. State that general information on the characteristics and management of invasive plant species is available in Virginia Cooperative Extension's Exotic Invasive Plants publication.

2VAC5-455-30. Recordkeeping.

A. A tradesperson who proposes plants for installation shall maintain a copy of the notification provided to a property owner, manager, custodian, or other person responsible for the property for a period of not less than two years from the date on which a proposal is accepted.

B. A tradesperson who installs plants shall maintain a copy of the notification provided to a property owner, manager, custodian, or other person responsible for the property for a period of not less than two years from the date of the installation of an invasive plant species.

C. A tradesperson shall make notifications that the tradesperson provides pursuant to this chapter available for inspection by the Commissioner of Agriculture and Consumer Services upon request.

VA.R. Doc. No. R24-7681; Filed January 15, 2025, 5:09 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: 9VAC25-110. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (amending 9VAC25-110-10 through 9VAC25-110-80).

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:

March 13, 2025 - 11 a.m. - Department of Environmental Quality, Piedmont Regional Office Training Room, 4949-A Cox Road, Glen Allen, VA 23060.

Public Comment Deadline: April 11, 2025.

Agency Contact: Jeanette Ruiz, Regulatory and Guidance Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 494-9636, or email jeanette.ruiz@deq.virginia.gov.

Background: This action addresses the proposed reissuance of the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day. The existing general permit expires on July 31, 2026. This general permit contains effluent limitations, monitoring requirements, and special conditions for discharges of treated domestic sewage to surface waters from individual single family dwellings and buildings or dwellings other than individual single family dwellings that meet the discharge threshold. The proposed changes to the regulation are being made to reissue this general permit and in response to Technical Advisory Committee suggestions.

Summary:

The proposed amendments (i) revise the term of the general permit to August 1, 2026, through July 31, 2031; (ii) update the publication date of federal regulations incorporated by reference; (iii) revise language to be consistent with Chapter 356 of the 2022 Acts of Assembly; (iv) adjust the annual monitoring period to match the new permit term; (v) revise electronic reporting language addressing permit applications to clarify that registration statements are subject to electronic submittal requirements once specified conditions are met; (vi) clarify that discharge monitoring reports for buildings or dwellings other than individual single family dwellings submitted to the department are subject to electronic submittal requirements once specified conditions are met; (vii) revise the policy for Potomac River embayment monitoring requirements to clarify that monitoring results for buildings or dwellings other than individual single family dwellings are subject to electronic submission requirements; and (viii) revise the 24-hour noncompliance reporting requirements to include online reporting.

9VAC25-110-10. Definitions.

The words and terms used in this chapter shall have the same meanings as given in the State Water Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia and the VPDES Permit Regulation (9VAC25-31), unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"7Q10" means the lowest flow averaged over a period of seven consecutive days that can be statistically expected to occur once every 10 years.

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

"Combined application" means the Virginia Department of Health Discharging System Application for Single Family Dwellings Discharging Sewage Less Than or Equal to 1,000 Gallons per Day and ~~State Water Control Board~~ Virginia Department of Environmental Quality Virginia Pollutant Discharge Elimination System General Permit Registration Statement for Domestic Sewage Discharges Less Than or Equal to 1,000 Gallons per Day. This application combines the VDH Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings (12VAC5-640) requirements with the ~~board's~~ department's registration statement requirements.

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

"Domestic sewage" means the water-carried human wastes from residences, buildings, industrial establishments, or other places.

"Individual single family dwelling" means a structure, including any accessory structure such as a garage or pool house, housing one family or household or one that is designed for one family ~~only~~. When a treatment works serving an individual single family dwelling has additional unused connections, it remains a treatment works serving an individual single family dwelling until such time that an additional single family dwelling is connected to the treatment works.

"Receiving water" means a creek, stream, river, lake, estuary, groundwater formation, or other body of water into which treated waste or untreated waste is discharged.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a ~~waterbody~~ water body 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.

"VDH" means the Virginia Department of Health.

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9VAC25-110-15. 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, ~~2021~~ 2024; however, references to 40 CFR Part 136 are incorporated as published in the July 1, 2024, update.

9VAC25-110-20. Purpose; effective date of permit.

A. This general permit regulation governs domestic sewage discharges to surface waters from treatment works with a design discharge flow of less than or equal to 1,000 gallons per day on a monthly average.

B. This general VPDES permit ~~will become~~ becomes effective ~~on August 2, 2024~~ 1, 2026, and it expires ~~on July 31, 2026~~ 2031. With respect to a particular dwelling, building, or site served, this general permit shall become effective upon the dwelling, building, or site served owner's compliance with the provisions of 9VAC25-110-60.

9VAC25-110-60. Authorization to discharge.

A. Any owner of a treatment works governed by this general permit is hereby authorized to discharge treated domestic sewage to surface waters of the Commonwealth of Virginia, provided that:

1. The owner submits a registration statement, if required to do so, in accordance with 9VAC25-110-70 and that registration statement is accepted by the ~~board~~ department. For an individual single family dwelling, the owner shall submit a combined application in place of a registration statement;
2. The owner complies with the effluent limitations and other requirements of 9VAC25-110-80; and
3. The ~~board~~ department has not notified the owner, in accordance with subsection B of this section, that the discharge is not eligible for coverage under this permit.

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

1. The owner is required to obtain an individual VPDES permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;
2. The owner is proposing to discharge to surface waters specifically named in other board regulations that prohibit such discharges;
3. The owner is proposing to discharge to surface waters in an area where there are central sewage facilities reasonably available, as determined by the ~~board~~ department;

4. The owner of any proposed treatment works or any treatment works that has not previously been issued a VPDES permit has applied to the Virginia Department of Health for an onsite sewage disposal system permit, and the Virginia Department of Health has determined that an onsite system is available to serve that parcel of land in accordance with the criteria in 12VAC5-640;

5. The discharge would violate the antidegradation policy stated in 9VAC25-260-30 of the Virginia Water Quality Standards; or

6. 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 the federal Clean Water Act §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b), 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 VPDES permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation, including, for owners of sewage treatment works that serve individual single family dwellings, the Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings (12VAC5-640) of the Virginia Department of Health adopted pursuant to §§ 32.1-12, 32.1-163, and 32.1-164 of the Code of Virginia and, for owners of sewage treatment works that serve buildings or dwellings other than individual single family dwellings, the Sewage Collection and Treatment Regulations (9VAC25-790) adopted by the State Water Control Board pursuant to § 62.1-44.19 of the Code of Virginia.

D. Continuation of permit coverage.

1. Permit coverage shall expire at the end of the applicable permit term. However, expiring permit coverages are continued if the owner has submitted a complete registration statement or, for an individual single family dwelling, a combined application, at least 60 days prior to the expiration date of the permit; or a later submittal date established by the ~~board~~ department, which cannot extend beyond the expiration date of the permit. Where the expiring permit coverage was originally based on automatic renewal as found in 9VAC25-110-70 A 2 b, such coverage is continued provided the owner continues to meet the automatic renewal criteria. The permittee is authorized to continue to discharge until such time as the ~~board~~ department 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~~ department 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 administratively continued coverage or be subject to enforcement action for operating without a permit;
- c. Issue an individual permit with appropriate conditions; or
- d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

9VAC25-110-70. Registration statement.

A. Deadlines for submitting registration statement. Any owner seeking coverage under this general permit, and who is required to submit a registration statement, shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the VPDES General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons per Day. For an individual single family dwelling, the owner shall submit a combined application in place of the registration statement.

1. New treatment works. Any owner proposing a new discharge shall submit a complete registration statement, or for an individual single family dwelling a combined application, to the department at least 60 days prior to the date planned for commencing operation of the treatment works or a later submittal date established by the ~~board~~ department.

2. Existing treatment works.

a. Any owner of an existing treatment works covered by an VPDES individual permit who is proposing to be covered by this general permit shall submit a complete registration statement, or for an individual single family dwelling a combined application, at least 240 days prior to the expiration date of the individual VPDES permit or a later submittal date established by the ~~board~~ department.

b. Any owner of a treatment works that was authorized to discharge under the expiring general permit and who intends to continue coverage under this general permit, is automatically covered by this general permit and is not required to submit a registration statement, or for an individual single family dwelling a combined application, if:

(1) The ownership of the treatment works has not changed since the registration statement or combined application for coverage under the expiring general permit was submitted, or, if the ownership has changed (i) a new registration statement or combined application or (ii) VPDES Change of Ownership form was submitted to the

department by the new owner at the time of the title transfer;

(2) There has been no change in the design or operation, or both, of the treatment works since the registration statement or combined application for coverage under the expiring general permit was submitted;

(3) For treatment works serving individual single family dwellings, VDH has no objection to the automatic permit coverage renewal for this treatment works based on system performance issues, enforcement issues, or other issues sufficient to the ~~board~~ department. If VDH objects to the automatic renewal for this treatment works, the owner will be notified by the ~~board~~ department in writing; and

(4) For treatment works serving buildings or dwellings other than individual single family dwellings, the ~~board~~ department has no objection to the automatic permit coverage renewal for this treatment works based on system performance issues, enforcement issues, or other issues sufficient to the ~~board~~ department. If the ~~board~~ department objects to the automatic renewal for this treatment works, the owner will be notified by the ~~board~~ department in writing.

c. Any owner of a treatment works that was authorized to discharge under the expiring general permit that does not qualify for automatic permit coverage renewal shall submit a complete registration statement, or for an individual single family dwelling a combined application, to the department at least 60 days prior to the expiration of the existing general permit or a later submittal date established by the ~~board~~ department.

3. Late registration statements. Registration statements, or for individual single family dwellings combined applications, for existing treatment works not covered under subdivision 2 b of this subsection will be accepted after the expiration of the existing general permit but authorization to discharge will not be retroactive.

B. Registration statement. The registration statement shall contain the following information:

1. a. Indicate if the building served by the treatment works is an individual single family dwelling. (If it is an individual single family dwelling, see the requirement to submit a combined application in 9VAC25-110-60 A 1.) If the building is not an individual single family dwelling, describe the use of the building or site served.

b. Name and street address of the building or site served by the treatment works.

2. a. Name, mailing address, email address (where available), and telephone number of the owner of the treatment works. Indicate if the owner is or will be the occupant of the dwelling or building served by the treatment works.

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- b. If the owner is not or will not be the occupant of the dwelling or building, provide an alternate contact name, mailing address, email address (where available), and telephone number of the dwelling or building, if available.
3. Name of the water body receiving the discharge. Outfall latitude and longitude. Indicate if the discharge point is on a stream that usually flows during dry weather.
4. The amount of discharge from the treatment works, in gallons per day, on a monthly average, and the design flow of the treatment works, in gallons per day.
5. A description of any pollutants, other than domestic sewage, to be discharged.
6. For a proposed treatment works, indicate if there are central sewage facilities available to serve the building or site.
7. If the treatment works currently has a VPDES permit, provide the permit number. Indicate if the treatment works has been built and begun discharging.
8. For the owner of any proposed treatment works or any treatment works that has not previously been issued a VPDES permit:
- a. A ~~7.5-minute~~ 7.5-minute U.S. Geological Survey (USGS) topographic map or equivalent (e.g., a ~~computer generated~~ computer-generated map) that indicates the discharge point, the location of the property to be served by the treatment works, and the location of any wells, springs, other water bodies, and any residences within 1/2 mile downstream from the discharge point;
- b. A site diagram of the existing or proposed treatment works; to include the property boundaries, the location of the dwelling, building, or site served, the individual sewage treatment units, the receiving water body, and the discharge line location; and
- c. A copy of the notification from the Virginia Department of Health that an onsite sewage disposal system permit was applied for and that the Virginia Department of Health has determined that an onsite system cannot be constructed to serve that parcel of land.
9. Operation and maintenance.
- a. For the owner of a treatment works serving an individual single family dwelling, operation and maintenance requirements are specified in VDH regulations at 12VAC5-640;
- b. For the owner of a treatment works serving a building or dwelling other than an individual single family dwelling, operation and maintenance must be consistent with Part I D 2 b, which requires that such owners engage a licensed operator.
10. State Corporation Commission entity identification number for dwellings other than individual single family

dwellings if the facility is required to obtain an entity identification number by law.

11. The following certification: "I hereby grant to duly authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property where the treatment works is located for the purpose of determining compliance with or the suitability of coverage under the General Permit. 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."

C. The registration statement or combined application shall be signed in accordance with 9VAC25-31-110 A of the VPDES Permit Regulation.

D. The registration statement or combined application shall be delivered to the department's regional office serving the area where the treatment 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 ~~or combined applications~~), 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'~~ a three-month notice provided between the notification from the department and the date after which such forms must be submitted electronically.

9VAC25-110-80. General permit.

Any owner whose registration statement is accepted by the ~~board~~ department, or whose permit coverage is automatically renewed, shall comply with the requirements contained ~~herein~~ in this general permit and be subject to all requirements of 9VAC25-31-170.

General Permit No.: VAG40
Effective Date: August ~~2, 2021~~ 1, 2026
Expiration Date: July 31, ~~2026~~ 2031

GENERAL PERMIT FOR DOMESTIC SEWAGE
DISCHARGES OF LESS THAN OR EQUAL TO 1,000
GALLONS PER DAY

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 (33 USC § 1251 et seq.), as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto,

owners of treatment works with domestic sewage discharges of a design flow of less than or equal to 1,000 gallons per day on a monthly average are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in board regulations that prohibit such discharges.

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

Part I Effluent Limitations, Monitoring Requirements, and Special Conditions

A. Effluent limitations and monitoring requirements - receiving waters where the 7Q10 flows are less than 0.2 MGD.

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall number 001 to receiving waters where the 7Q10 flows are less than 0.2 MGD.

The discharge shall be limited and monitored by the permittee as specified in the following table:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD) ⁽¹⁾	NA	NL	1/year	Estimate
BOD ₅	NA	30 mg/l	1/year	Grab
Total Suspended Solids	NA	30 mg/l	1/year	Grab
Total Residual Chlorine ⁽²⁾				
After contact tank	1.0 mg/l	NA	1/year	Grab
Final effluent	NA	0.016 mg/l ⁽⁶⁾	1/year	Grab
E. coli ⁽³⁾	NA	126 CFU/100 ml	1/year	Grab
enterococci ⁽⁴⁾	NA	35 CFU/100 ml	1/year	Grab
Fecal Coliform Bacteria ⁽⁵⁾	NA	200 CFU/100 ml	1/year	Grab
pH (standard units)	6.0	9.0	1/year	Grab
Dissolved Oxygen	5.0 mg/l ⁽⁶⁾	NA	1/year	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

⁽¹⁾The design flow of this treatment works is less than or equal to 1,000 gallons per day.

⁽²⁾Applies only when chlorine is used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).

⁽³⁾Applies only when methods other than chlorine are used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

⁽⁴⁾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). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

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⁽⁵⁾Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

⁽⁶⁾Does not apply when the receiving stream is an ephemeral stream. "Ephemeral streams" are drainage ways, ditches, hollows, or swales that contain only (i) flowing water during or immediately following periods of rainfall or (ii) water supplied by the discharger. These waterways would normally have no active aquatic community.

2. All monitoring data required by Part I A 1 shall be maintained on site in accordance with Part II B. Monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings shall be submitted to the department on a Discharge Monitoring Report (DMR) no later than the ~~10th of September~~ August 10 following the monitoring period ~~and are subject to the electronic submission requirements specified in Part II C 1.~~ The monitoring period is ~~September August 1~~ through ~~August July~~ 31. A copy of the maintenance log required by Part I D 2 b (2) (e) shall also be submitted with the DMR. Monitoring results for treatment works serving individual single family dwellings are submitted to the Virginia Department of Health in accordance with 12VAC5-640.

3. The 30-day average percent removal for BOD₅ and total suspended solids shall not be less than 85%.

B. Effluent limitations and monitoring requirements - receiving waters where the 7Q10 flows are equal to or greater than 0.2 MGD.

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall number 001 to receiving waters where the 7Q10 flows are equal to or greater than 0.2 MGD.

The discharge shall be limited and monitored by the permittee as specified in the following table:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD) ⁽¹⁾	NA	NL	1/year	Estimate
BOD ₅	NA	30 mg/l	1/year	Grab
Total Suspended Solids	NA	30 mg/l	1/year	Grab
Total Residual Chlorine ⁽²⁾				
After contact tank	1.0 mg/l	NA	1/year	Grab
Final effluent	NA	2.0 mg/l	1/year	Grab
E. coli ⁽³⁾	NA	126 CFU/100 ml	1/year	Grab
enterococci ⁽⁴⁾	NA	35 CFU/100 ml	1/year	Grab
Fecal Coliform Bacteria ⁽⁵⁾	NA	200 CFU/100 ml	1/year	Grab
pH (standard units)	6.0	9.0	1/year	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

⁽¹⁾The design flow of this treatment works is less than or equal to 1,000 gallons per day.

⁽²⁾Applies only when chlorine is used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).

⁽³⁾Applies only when methods other than chlorine are used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

⁽⁴⁾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). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

⁽⁵⁾Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

2. All monitoring data required by Part I B 1 shall be maintained on site in accordance with Part II B. Monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings shall be submitted to the department on a Discharge Monitoring Report (DMR) no later than the ~~10th of September~~ August 10 following the monitoring period ~~and are subject to the electronic submission requirements specified in Part II C 1.~~ The monitoring period is ~~September August 1~~ through ~~August July~~ 31. A copy of the maintenance log required by Part I D 2 b (2) (e) shall also be submitted with the DMR. Monitoring results for treatment works serving individual single family dwellings are submitted to the Virginia Department of Health in accordance with 12VAC5-640.

3. The 30-day average percent removal for BOD₅ and total suspended solids shall not be less than 85%.

C. Effluent limitations and monitoring requirements - discharges to receiving waters subject to the Policy for the Potomac River Embayments (9VAC25-415).

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall number 001 to receiving waters subject to the Policy for the Potomac River Embayments (9VAC25-415).

Discharges subject to the requirements in 9VAC25-415-40⁽¹⁾ shall be limited and monitored by the permittee as specified in the following table:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD) ⁽²⁾	NA	NL	1/3 months	Estimate
pH (standard units)	6.0	9.0	1/3 months	Grab
cBOD ₅	NA	5 mg/l	1/3 months	Grab
Total Suspended Solids	NA	6.0 mg/l	1/3 months	Grab
Ammonia as N (Apr 1 - Oct 31)	NA	1.0 mg/l	1/3 months	Grab
Ammonia as N (Nov 1 - Mar 31)	NA	3.1 mg/l	1/3 months	Grab
Dissolved Oxygen	6.0 mg/l	NA	1/3 months	Grab
E. coli ⁽⁴⁾	NA	126 CFU/100 ml	1/3 months	Grab
enterococci ⁽⁵⁾	NA	35 CFU/100 ml	1/3 months	Grab
Total Phosphorus	NA	0.18 mg/l	1/3 months	Grab

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Total Residual Chlorine ⁽³⁾				
After contact tank	1.0 mg/l	NA	1/3 months	Grab
Final effluent	NA	0.016 mg/l	1/3 months	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

⁽¹⁾Note conditional exemptions in 9VAC25-415-30.

⁽²⁾The design flow of this treatment works is less than or equal to 1,000 gallons per day.

⁽³⁾Applies only when chlorine is used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).

⁽⁴⁾Applies only when methods other than chlorine are used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

⁽⁵⁾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). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

2. All monitoring data required by Part I C 1 shall be maintained on site in accordance with Part II B. Monitoring results shall be submitted to the department on a Discharge Monitoring Report (DMR) no later than the 10th day of the month following the monitoring period. Monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings are subject to the electronic submission requirements specified in Part II C 1. The quarterly monitoring periods shall be January through March, April through June, July through September, and October through December. A copy of the maintenance log required by Part I D 2 b (2) (e) shall also be submitted with the DMR. Monitoring results for treatment works serving individual single family dwellings shall also be submitted to the Virginia Department of Health in accordance with 12VAC5-640.

3. The 30-day average percent removal for BOD₅ and total suspended solids shall not be less than 85%.

D. Special conditions.

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

2. Operation and maintenance.

a. Treatment works serving individual single family dwellings. Operation and maintenance requirements for treatment works serving individual single family dwellings are specified in the Virginia Department of Health regulations at 12VAC5-640.

b. Treatment works serving buildings or dwellings other than individual single family dwellings.

(1) To ensure the treatment works is operated, maintained, monitored, and reported properly, the permittee shall

engage a licensed operator as defined in subdivision D 3 of this section.

(2) The permittee shall:

(a) Have the system operated and maintained by a licensed operator, including the responsibilities specified in Part I D 2 b (3);

(b) Have a licensed operator visit the system at least semiannually;

(c) Have a licensed operator collect, analyze, and submit to the department any samples required under Part I A, Part I B, or Part I C, as appropriate, of this general permit;

(d) Provide prompt maintenance and repair of the treatment works once notified by the operator that repair or maintenance is necessary. The owner is responsible for all costs associated with the maintenance or repair. Immediately upon receipt of notice that repair or maintenance is required, the owner shall begin emergency pump and haul of all sewage generated from the building or dwelling or otherwise ensure that no discharge occurs if full and complete repairs cannot be accomplished within 48 hours;

(e) Maintain a copy of the log provided by the operator on the property where the system is located in electronic or hard copy form, make the log available to the department upon request, and make a reasonable effort to transfer the log to any future owner; and

(f) Follow the treatment works operation and maintenance (O&M) manual (where available) and keep a copy of the O&M manual in electronic or hard copy form on the property where the system is located, make the O&M manual available to the department upon request, and make a reasonable effort to transfer the O&M manual to any future owner;

(3) The licensed operator has the following responsibilities:

(a) Perform all monitoring required in accordance with either Part I A, Part I B, or Part I C, as appropriate, and periodic (at least semiannually) inspections of the treatment works. ~~Note:~~ Discharges from the treatment works should to the maximum extent feasible be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that treatment works);

(b) During visits required by this subsection, fulfill the operator responsibilities specified in this subsection through observing the system and through laboratory or field tests required by this permit or that the operator deems appropriate. In performing a required visit, the operator is responsible for the entire system and, where applicable, shall follow the O&M manual;

(c) Provide a written or electronic notification to the owner within 24 hours whenever the operator becomes aware that maintenance or repair of the owner's treatment works is necessary;

(d) Report monitoring results to DEQ as required in Part I A 2, Part I B 2, and Part I C 2, as applicable, as well as Part II C, and maintain at the treatment works and provide to the permittee a log of the following items:

(i) Results of all tests and sampling. ~~Note:~~ If sampling is attempted, but no sample was taken or possible, the log shall show all sampling attempts and document and explain why no sample was taken or possible;

(ii) Alarm activation incidents, including the date and time of equipment failure and return to service;

(iii) Maintenance, including the date and amount of disinfection chemicals added to the chlorinator, the date and amount of dechlorination chemicals added if applicable, the date and approximate volume of sludge removed, and date receipts for chemicals and equipment purchased and maintenance performed;

(iv) Corrective or repair activities performed;

(v) Recommended repair or replacement items;

(vi) Copies of all reports prepared by the operator; and

(vii) Sludge or solids removal; and

(e) Conduct an inspection within 48 hours after notification by the owner that a problem may be occurring.

3. All individuals who perform maintenance on discharging systems pursuant to this general permit are required to hold a valid Class IV or higher wastewater works operator license or an alternative onsite sewage system operator license issued by the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals. For purposes of this general permit, this requirement is satisfied where an individual is directly supervised by and under the

direction of a licensed operator who remains responsible for such maintenance.

4. Compliance recordkeeping under Part I A, Part I B, and Part I C.

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

Effluent Parameter	Quantification Level
BOD ₅	2 mg/l
cBOD ₅	2 mg/l
Ammonia as N	0.20 mg/l
Total Phosphorus	0.10 mg/l
TSS	1.0 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. Recording results. Any concentration data below the QL used in the analysis shall be recorded as "<QL" if it is less than the QL in ~~subdivision Part I D 4~~ of this subsection. Otherwise the numerical value shall be recorded.

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

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

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).

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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~~ department.

C. Reporting monitoring results. Monitoring results under this permit must be submitted consistent with the requirements in Part I A 2, Part I B 2, and Part I C 2, as applicable.

1. Monitoring results submitted to the department 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~~ a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically. This electronic submission requirement only applies to DMRs submitted to the department.

2. 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 on the DMR or reporting form specified by the department.

3. 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~~ department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The ~~board~~ department 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 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~~ department, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health, ~~to~~ animal or aquatic life, ~~to~~ or 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 upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate, and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

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

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge, including a bypass or upset, should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include 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~~ A report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:
 - (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~~ department may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

2. The permittee shall report all instances of noncompliance not reported under Part II I 1, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 1.
3. The immediate (within 24 hours) reports required in Part II G, H, and I ~~may shall~~ be made to the department's regional office. Reports may be made by telephone, or online at <https://www.deq.virginia.gov/our-programs/pollution-response> (online reporting is preferred). For reports outside normal working hours, ~~a message may be left and this the online portal shall fulfill the immediate reporting requirement be used.~~ For emergencies, call the Virginia Department of Emergency Management maintains a 24-hour ~~telephone service~~ Management's Emergency Operations Center at 1-800-468-8892.
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 (33 USC § 1251 et seq.) that are applicable to such source; or
 - (2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or
 - c. The alteration or addition results in a significant change in the permittee's sludge use or 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 of disposal sites not reported during the

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

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity 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 ~~which~~ 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~~ ensure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or other 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, etc~~ and other information. All reports required by permits and other information requested by the ~~board~~ department 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 or for permit coverage termination or for denial of a permit coverage renewal.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants 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.

1. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, and the permittee does not qualify for automatic permit coverage renewal, the permittee shall submit a new registration statement, or for an individual single family dwelling a combined application, at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the ~~board~~ department. The ~~board~~ department shall not grant permission for registration

statements or combined applications to be submitted later than the expiration date of the existing permit.

2. A permittee qualifies for automatic permit coverage renewal and is not required to submit a registration statement, or for an individual single family dwelling a combined application, if:

a. The ownership of the treatment works has not changed since this general permit went into effect on August 2, 2024 1, 2026, or, if the ownership has changed, (i) a new registration statement or for an individual single family dwelling a combined application or (ii) a VPDES Change of Ownership form was submitted to the department by the new owner at the time of the title transfer;

b. There has been no change in the design or operation, or both, of the treatment works since this general permit went into effect on August 2, 2024 1, 2026;

c. For treatment works serving individual single family dwellings, the Virginia Department of Health does not object to the automatic permit coverage renewal for this treatment works based on system performance issues, enforcement issues, or other issues sufficient to the ~~board~~ department. If the Virginia Department of Health objects to the automatic renewal for this treatment works, the permittee will be notified by the ~~board~~ department in writing; and

d. For treatment works serving buildings or dwellings other than single family dwellings, the ~~board~~ department has no objection to the automatic permit coverage renewal for this treatment works based on system performance issues, enforcement issues, or other issues sufficient to the ~~board~~ department. If the ~~board~~ department objects to the automatic renewal for this treatment works, the permittee will be notified by the ~~board~~ department in writing.

3. Any permittee that does not qualify for automatic permit coverage renewal shall submit a new registration statement, or for an individual single family dwelling a combined application, in accordance with Part II M 1.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, ~~nor~~. This permit does not 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~~" (~~bypass~~ as described in Part II U) and "~~upset~~" (~~upset~~ as described in Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

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

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

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

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 ensure 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~~ department may take enforcement action against a permittee for bypass, unless:

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(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~~ department may approve an anticipated bypass after considering its adverse effects if the ~~board~~ department determines that it will meet the three conditions listed in Part II U 3 a.

V. Upset.

1. An upset, defined in 9VAC25-31-10, 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 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~~ ensuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained ~~herein~~ in this general permit shall make an inspection unreasonable during an emergency.

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

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

1. 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~~ department;
2. 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. The ~~board~~ department does not notify the existing permittee and the proposed new permittee of its intent to deny the new permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2.

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.

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, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (9VAC25-110)

~~VPDES Change of Ownership Agreement Form (eff. 7/2010)~~

~~Virginia DEQ Registration Statement VPDES General Permit for Domestic Sewage Discharges Less than or Equal to 1,000 Gallons Per Day (2021 Reissuance (rev. 8/2021)~~

[VPDES Change of Ownership Agreement Form \(eff. 4/2018\)](#)

[Virginia DEQ Registration Statement VPDES General Permit for Domestic Sewage Discharges Less than or Equal to 1,000 Gallons Per Day \(rev. 12/2024\)](#)

[Combined Application - Virginia Department of Health Discharging System Application for Single Family Dwellings Discharging Sewage Less Than or Equal to 1,000 Gallons per Day and State Water Control Board Virginia Pollutant Discharge Elimination System General Permit Registration Statement for Domestic Sewage Discharges Less Than or Equal to 1,000 Gallons per Day \(eff. 4/2014\)](#)

VA.R. Doc. No. R24-7822; Filed January 14, 2025, 2:31 p.m.

Proposed Regulation

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.) 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: **9VAC25-115. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Seafood Processing Facilities (amending 9VAC25-115-10 through 9VAC25-115-50).**

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:

March 13, 2025 - 9 a.m. - Department of Environmental Quality, Piedmont Regional Office Training Room, 4949-A Cox Road, Glen Allen, VA 23060.

Public Comment Deadline: April 11, 2025.

Agency Contact: Morgan Emanuel, Regulatory and Guidance Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 494-9635, or email morgan.emanuel@deq.virginia.gov.

Background: This general permit regulation establishes limitations, monitoring requirements, and other special

conditions for point source discharge of seafood processing wastewater from seafood processing facilities to surface waters to maintain surface water quality. The general permit also regulates stormwater associated with industrial activity from seafood processing sites operating under Standard Industrial Classification (SIC) Codes 2091 (Canned and Cured Fish and Seafood) and 2092 (Prepared Fish or Frozen Fish and Seafoods) to maintain surface water quality. This regulatory action is proposed to amend and reissue the existing general permit that expires on June 30, 2026. The proposed changes to the regulation are being made in response to Technical Advisory Committee suggestions.

Summary:

The proposed amendments (i) revise the term of the general permit to July 1, 2026, through June 30, 2031; (ii) ensure consistency with Chapter 356 of the 2022 Acts of Assembly, which clarifies that regulatory actions fall under the State Water Control Board, while permitting actions fall under the Department of Environmental Quality; (iii) define the term "director"; (iv) update the publication date of the federal regulations incorporated by reference; (v) clarify language for annual and semiannual reporting requirements; (vi) reduce monitoring frequency from quarterly to semiannually; (vii) align the list of authorized non-stormwater discharges with the Industrial Storm Water General Permit; and (viii) update compliance reporting requirements, including revising provisions to address online reporting.

9VAC25-115-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) unless the context clearly indicates otherwise. Additionally, for the purposes of this chapter:

"Best management practices" or "BMPs" means schedules of activities, practices, prohibitions of practices, structures, vegetation, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the discharge of pollutants to surface waters.

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

"Control measure" means any best management practice or other method, including effluent limitations, used to prevent or reduce the discharge of pollutants to surface waters.

"Corrective action" means any action to (i) repair, modify, or replace any stormwater control used at the facility; (ii) clean up and properly dispose of spills, releases, or other deposits at

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the facility; or (iii) return to compliance with permit requirements.

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

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

"Industrial activity" means the facilities classified under NAICS 311710 and SIC Code 2091 or 2092.

"Minimize" means reduce or eliminate to the extent achievable using control measures, including best management practices, that are technologically available and economically practicable and achievable in light of best industry practice.

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

"No exposure" means all industrial materials or activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff.

"Seafood" includes crabs, oysters, hand-shucked clams, scallops, squid, eels, turtles, fish, conchs, and crayfish.

"Seafood processing facility" means any facility that processes or handles seafood intended for human consumption or as bait, except a mechanized clam facility, where the primary purpose is classified under the following NAICS and SIC codes:

1. NAICS Code 311710 – Seafood Product Preparation and Packaging and SIC Code 2091 – Canned and Cured Fish and Seafoods, 2092 – Prepared Fresh or Frozen Fish and Seafoods;
2. NAICS Code 424420 – Packaged Frozen Food Merchant Wholesalers and SIC Code 5142 – Packaged Frozen Foods; and
3. NAICS Code 424460 – Fish and Seafood Merchant Wholesalers and SIC Code 5146 – Fish and Seafoods.

This definition does not include aquaculture facilities (including hatcheries), classified under SIC Code 0272 or 0921 and NAICS Code 112512.

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

"Significant materials" includes raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production (except oyster, clam, or scallop shells); hazardous substances designated under § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601); any chemical the facility is required to report pursuant to § 313

of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 USC § 11023); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with stormwater discharges.

"Stormwater discharge associated with industrial activity" means the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under 9VAC25-31. For the categories of industries identified in the "industrial activity" definition, the term includes stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or byproducts (except for oyster, clam, or scallop shells) used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage ~~area~~ areas (including tank farms) for raw materials and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the purposes of this definition, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, byproduct, or waste product (except for oyster, clam, or scallop shells). The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with stormwater drained from the ~~above described~~ described in this definition. Industrial facilities, including industrial facilities that are federally, state, or municipally owned or operated that meet the description of the facilities listed in the "industrial activity" definition, include those facilities designated under the provisions of 9VAC25-31-120 A 1 c or A 7 a (1) or (2) of the VPDES Permit Regulation.

"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.

"Virginia Environmental Excellence Program" or "VEEP" means a voluntary program established by the department to provide public recognition and regulatory incentives to encourage higher levels of environmental performance for program participants that develop and implement environmental

management systems (EMSs). The program is based on the use of EMSs that improve compliance, prevent pollution, and utilize other measures to improve environmental performance.

9VAC25-115-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, ~~2020~~ 2024; however, references to 40 CFR Part 136 are incorporated as published in the July 1, 2024, update.

9VAC25-115-20. Purpose; effective date of permit.

A. This general permit regulation governs the discharge of wastewater from seafood processing facilities and stormwater associated with industrial activity from seafood processing facilities classified NAICS Code 311710 and as SIC Codes 2091 and 2092.

B. This general permit will become effective on July ~~24, 2021~~ 1, 2026, and will expire on June 30, ~~2026~~ 2031. For any covered owner, this general permit is effective upon compliance with all the provisions of 9VAC25-115-30.

9VAC25-115-30. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge process wastewater and stormwater as described in 9VAC25-115-20 A to surface waters of the Commonwealth of Virginia, provided that:

1. The owner files a registration statement, in accordance with 9VAC25-115-40, and that registration statement is accepted by the board department;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-115-50; and
4. The owner has not been notified by the board department that the discharge is not eligible for coverage under this permit in accordance with subsection B of this section.

B. The board department will notify an owner that the discharge is not eligible for coverage under this 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 owner is proposing to discharge annual mass loadings of total nitrogen in excess of 2,300 pounds per year or of total phosphorus in excess of 300 pounds per year;

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

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

C. Conditional exclusion for no exposure to stormwater. Any owner covered by this permit that becomes eligible for a no exposure exclusion from stormwater permitting under 9VAC25-31-120 E may file a no exposure certification. Upon submission and acceptance by the board department of a complete and accurate no exposure certification, the permit requirements for stormwater no longer apply. A no exposure certification must be submitted to the board department once every five years.

D. Compliance with this general permit constitutes compliance, for purposes of enforcement, with the federal Clean Water Act §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b) 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. 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 department, which cannot extend beyond the expiration date of the permit. The permittee is authorized to continue to discharge until such time as the board department 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 department 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

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

9VAC25-115-40. Registration statement.

A. Deadlines for submitting registration statement. Any owner seeking coverage under this general permit shall submit a complete general VPDES permit registration statement in accordance with this chapter, which shall serve as a notice of intent for coverage under the VPDES general permit regulation for seafood processing facilities.

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

2. Existing facilities.

a. Any owner of an existing seafood processing facility 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~~ department.

b. Any owner that was authorized to discharge under an expiring or expired VPDES general permit for seafood processing facilities and that intends to continue coverage under this general permit shall submit a complete registration statement to the ~~board~~ department at least 60 days prior to the expiration date of the existing permit or a later submittal established by the ~~board~~ department.

c. Any owner of an existing seafood processing facility adding a new process after coverage under the general permit is obtained shall submit an amended registration statement to the ~~board~~ department at least 60 days prior to commencing operation of the new process or a later submittal established by the ~~board~~ department.

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

B. The registration statement shall contain the following information:

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

2. Facility street address (if different from mailing address);

3. Facility operator name, mailing address, email address, and telephone number if different than owner;

4. Does the facility discharge to surface waters? Name of receiving stream ~~or streams~~ if yes and, if no, describe the discharge ~~or discharges~~;

5. Does the facility have a current VPDES Permit? Include the permit number if yes;

6. The original date of construction of the seafood processing facility building and dates and description of all subsequent facility construction;

7. A U.S. Geological Survey (USGS) ~~7.5-minute~~ 7.5-minute topographic map or other equivalent ~~computer-generated~~ computer-generated map with sufficient resolution to clearly show the facility location, the discharge location ~~or locations~~, and the receiving water body;

8. Facility SIC code ~~or codes~~;

9. Nature of business at the facility;

10. Discharge outfall information, including latitude and longitude, seafood process, receiving stream, discharge flow, and days per year of discharge for each outfall;

11. Facility maximum production information;

12. Facility line (water balance) drawing;

13. Discharge and outfall descriptions for different seafood processes that operate simultaneously;

14. Treatment and solid waste disposal information;

15. Information on use of chemicals at the facility;

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.

C. The registration statement shall be delivered to the department's regional office where the seafood processing 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 ~~three months'~~ a three-month notice provided between the notification from the department and the date after which such forms must be submitted electronically.

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9VAC25-115-50. General permit.

Any owner whose registration statement is accepted by the ~~board~~ department 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.: VAG52
 Effective Date: ~~July 24, 2024~~ July 1, 2026
 Expiration Date: June 30, ~~2026~~ 2031

GENERAL PERMIT FOR SEAFOOD PROCESSING 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 to it, owners of seafood processing facilities, other than mechanized clam processing facilities, 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 and Monitoring Requirements, Special Conditions, Part II-Stormwater Pollution Prevention Plans, and Part III-Conditions Applicable to All VPDES Permits, as set forth in this general permit.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. SEAFOOD PROCESSING NOT LIMITED ELSEWHERE IN PART I: A: — SIC 2091, 2092, 5142, AND 5146 SOURCES EXCEPT MECHANIZED CLAM FACILITIES

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 from seafood processing not otherwise classified from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/YEAR	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/YEAR	Grab
TSS	NL	NL	NA	NA	NA	1/YEAR	Composite
Oil and Grease	NL	NL	NA	NA	NA	1/YEAR	Grab
Production	NA	NL	NA	NA	NA	1/YEAR	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

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Samples 1/Year = one sample shall be collected by the end of the calendar year and reported by the 10th of January of the following calendar year on the facility's (January 1 through December 31) with the Discharge Monitoring Report (DMR) due to the department no later than January 10 of the following calendar year. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

2. CONVENTIONAL (HANDPICKED) BLUE CRAB PROCESSING — EXISTING SOURCES PROCESSING MORE THAN 3,000 POUNDS OF RAW MATERIAL PER DAY ON ANY DAY

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 from conventional blue crab processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 <u>1/6</u> Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 <u>1/6</u> Months	Grab
TSS	NL	NL	0.74	2.2	NA	1/3 <u>1/6</u> Months	Composite
Oil and Grease	NL	NL	0.20	0.60	NA	1/3 <u>1/6</u> Months	Grab
Production	NA	NL	NA	NA	NA	1/3 <u>1/6</u> Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected ~~by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the~~ on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

3. CONVENTIONAL (HANDPICKED) BLUE CRAB PROCESSING — ALL NEW SOURCES

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 from conventional blue crab processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	4/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	4/3 1/6 Months	Grab
BOD ₅	NL	NL	0.15	0.30	NA	4/3 1/6 Months	Composite
TSS	NL	NL	0.45	0.90	NA	4/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.065	0.13	NA	4/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	4/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and to be reported on the DMR due July 10 following each applicable semiannual period; July 1 through December 31 and, to be reported by the 10th of the on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.~~ All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

4. MECHANIZED BLUE CRAB PROCESSING — ALL EXISTING SOURCES

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 from mechanized blue crab processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	4/3 1/6 Months	Estimate

Regulations

pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	12	36	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	4.2	13	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months~~ = Samples shall be collected by ~~March 31~~, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

5. MECHANIZED BLUE CRAB PROCESSING — ALL NEW SOURCES

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 from mechanized blue crab processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
BOD ₅	NL	NL	2.5	5.0	NA	1/3 1/6 Months	Composite
TSS	NL	NL	6.3	13	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	1.3	2.6	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected ~~by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the~~ on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

6. NON-BREADED SHRIMP PROCESSING — EXISTING SOURCES PROCESSING MORE THAN 2,000 POUNDS OF RAW MATERIAL PER DAY ON ANY DAY

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 from non-breaded shrimp processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	38	110	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	12	36	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected ~~by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the~~ on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Regulations

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

7. NON-BREADED SHRIMP PROCESSING — ALL NEW SOURCES

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 from non-breaded shrimp processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 <u>1/6</u> Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 <u>1/6</u> Months	Grab
BOD ₅	NL	NL	25	63	NA	1/3 <u>1/6</u> Months	Composite
TSS	NL	NL	10	25	NA	1/3 <u>1/6</u> Months	Composite
Oil and Grease	NL	NL	1.6	4.0	NA	1/3 <u>1/6</u> Months	Grab
Production	NA	NL	NA	NA	NA	1/3 <u>1/6</u> Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

8. BREADED SHRIMP PROCESSING — EXISTING SOURCES PROCESSING MORE THAN 2,000 POUNDS OF RAW MATERIAL PER DAY ON ANY DAY

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 from breaded shrimp processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	93	280	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	12	36	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the month on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.~~ All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

9. BREADED SHRIMP PROCESSING — ALL NEW SOURCES

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 from breaded shrimp processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
BOD ₅	NL	NL	40	100	NA	1/3 1/6 Months	Composite

Regulations

TSS	NL	NL	22	55	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	1.5	3.8	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the month on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.~~ All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

10. TUNA PROCESSING — ALL EXISTING SOURCES

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 from tuna processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	3.3	8.3	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.84	2.1	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).
~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.~~

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

11. TUNA PROCESSING — ALL NEW SOURCES

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 from tuna processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
BOD ₅	NL	NL	8.1	20	NA	1/3 1/6 Months	Composite
TSS	NL	NL	3.0	7.5	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.76	1.9	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.~~

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

12. CONVENTIONAL BOTTOM FISH PROCESSING — EXISTING SOURCES PROCESSING MORE THAN 4,000 POUNDS OF RAW MATERIAL PER DAY ON ANY DAY

Regulations

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 from conventional bottom fish processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	4/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	4/3 1/6 Months	Grab
TSS	NL	NL	2.0	3.6	NA	4/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.55	1.0	NA	4/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	4/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

13. CONVENTIONAL BOTTOM FISH PROCESSING — ALL NEW SOURCES

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 from conventional bottom fish processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	4/3 1/6 Months	Estimate

pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
BOD ₅	NL	NL	0.71	1.2	NA	1/3 1/6 Months	Composite
TSS	NL	NL	0.73	1.5	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.042	0.077	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months~~ = Samples shall be collected by ~~March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the~~ on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

14. MECHANIZED BOTTOM FISH PROCESSING — ALL EXISTING SOURCES

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 from mechanized bottom fish processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	12	22	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	3.9	9.9	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

Regulations

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.~~ All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

15. MECHANIZED BOTTOM FISH PROCESSING — ALL NEW SOURCES

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 from mechanized bottom fish processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
BOD ₅	NL	NL	7.5	13	NA	1/3 1/6 Months	Composite
TSS	NL	NL	2.9	5.3	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.47	1.2	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.~~ All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

16. HAND-SHUCKED CLAM PROCESSING — EXISTING SOURCES PROCESSING MORE THAN 4,000 POUNDS OF RAW MATERIAL PER DAY ON ANY DAY

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 from hand-shucked clam processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 <u>1/6</u> Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 <u>1/6</u> Months	Grab
TSS	NL	NL	18	59	NA	1/3 <u>1/6</u> Months	Composite
Oil and Grease	NL	NL	0.23	0.60	NA	1/3 <u>1/6</u> Months	Grab
Production	NA	NL	NA	NA	NA	1/3 <u>1/6</u> Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

17. HAND-SHUCKED CLAM PROCESSING — ALL NEW SOURCES

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 from hand-shucked clam processing, from ~~outfall(s)~~ outfalls _____.

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

Regulations

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	17	55	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.21	0.56	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the month on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

18. HAND-SHUCKED OYSTER PROCESSING — EXISTING SOURCES PROCESSING MORE THAN 1,000 POUNDS OF RAW MATERIAL PER DAY ON ANY DAY

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 from hand-shucked oyster processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab

TSS	NL	NL	16	23	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.77	1.1	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Raw material = The weight of oyster meat after shucking.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the month on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.~~ All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

19. HAND-SHUCKED OYSTER PROCESSING — ALL NEW SOURCES

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 from hand-shucked oyster processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	16	23	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.77	1.1	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Regulations

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected ~~by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the~~ on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following ~~month~~ on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

20. STEAMED AND CANNED OYSTER PROCESSING — ALL EXISTING SOURCES

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 from mechanized oyster processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	190	270	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	1.7	2.3	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected ~~by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the~~ on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following ~~month~~ on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

21. STEAMED AND CANNED OYSTER PROCESSING — ALL NEW SOURCES

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 from mechanized oyster processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	4/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	4/3 1/6 Months	Grab
BOD ₅	NL	NL	17	67	NA	4/3 1/6 Months	Composite
TSS	NL	NL	39	56	NA	4/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.42	0.84	NA	4/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	4/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected ~~by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.~~ All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

22. SCALLOP PROCESSING — ALL EXISTING SOURCES

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 from scallop processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		

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Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	1.4	5.7	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.23	7.3	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

~~1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.~~ All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

23. SCALLOP PROCESSING — ALL NEW SOURCES

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 from scallop processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
TSS	NL	NL	1.4	5.7	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.23	7.3	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.
 Grab = Individual grab sample is to be taken in the middle of a composite sampling period.
 Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.
 Production = See Special Condition No. 5 (Part I B 5).
1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the month on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

24. FARM-RAISED CATFISH PROCESSING — EXISTING SOURCES PROCESSING MORE THAN 3,000 POUNDS OF RAW MATERIAL PER DAY ON ANY DAY

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 from farm-raised catfish processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	4/3 <u>1/6</u> Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	4/3 <u>1/6</u> Months	Grab
TSS	NL	NL	9.2	28	NA	4/3 <u>1/6</u> Months	Composite
Oil and Grease	NL	NL	3.4	10	NA	4/3 <u>1/6</u> Months	Grab
Production	NA	NL	NA	NA	NA	4/3 <u>1/6</u> Months	Measurement

NL = No limitation, monitoring required.
 NA = Not applicable.
 Grab = Individual grab sample is to be taken in the middle of a composite sampling period.
 Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.
 Production = See Special Condition No. 5 (Part I B 5).
1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the month on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

25. FARM-RAISED CATFISH PROCESSING — ALL NEW SOURCES

Regulations

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 from farm-raised catfish processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 1/6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 1/6 Months	Grab
BOD ₅	NL	NL	2.3	4.6	NA	1/3 1/6 Months	Composite
TSS	NL	NL	5.7	11	NA	1/3 1/6 Months	Composite
Oil and Grease	NL	NL	0.45	0.90	NA	1/3 1/6 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected by ~~March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the~~ on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following ~~month~~ on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

26. HERRING PROCESSING — ALL

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 from herring processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		

Flow (MGD)	NA	NL	NA	NA	NA	4/3 <u>1/6</u> Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	4/3 <u>1/6</u> Months	Grab
TSS	NL	NL	24	32	NA	4/3 <u>1/6</u> Months	Composite
Oil and Grease	NL	NL	10	27	NA	4/3 <u>1/6</u> Months	Grab
Production	NA	NL	NA	NA	NA	4/3 <u>1/6</u> Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production = See Special Condition No. 5 (Part I B 5).

1/6 Months = Samples shall be collected by ~~March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the~~ on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

27. HERRING PROCESSING — ALL NEW SOURCES

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 from herring processing, from ~~outfall(s)~~ outfalls _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	4/3 <u>1/6</u> Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	4/3 <u>1/6</u> Months	Grab
BOD ₅	NL	NL	15	16	NA	4/3 <u>1/6</u> Months	Composite
TSS	NL	NL	5.2	7.0	NA	4/3 <u>1/6</u> Months	Composite
Oil and Grease	NL	NL	1.1	2.9	NA	4/3 <u>1/6</u> Months	Grab

Regulations

Production	NA	NL	NA	NA	NA	1/3 1/6 Months	Measurement
<p>NL = No limitation, monitoring required. NA = Not applicable. Grab = Individual grab sample is to be taken in the middle of a composite sampling period. Composite = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples. Production = See Special Condition No. 5 (Part I B 5). <u>1/6 Months = Samples shall be collected by March 31, once each semiannual period with the following schedule: January 1 through June 30, September 30, and December 31 and to be reported by the 10th of the month on the DMR due July 10 following each applicable semiannual period; July 1 through December 31, to be reported on the DMR due January 10 following month on the facility's Discharge Monitoring Report (DMR) each applicable semiannual period.</u> All calculations shall be submitted with the DMR.</p>							

B. SPECIAL CONDITIONS APPLYING TO PART I A 1 THROUGH PART I A 27.

1. No sewage shall be discharged from a point source to surface waters at this facility except under the provisions of another VPDES permit specifically issued for that purpose.
2. There shall be no chemicals added to the water or waste to be discharged, other than those listed on the owner's accepted registration statement.
3. Wastewater should be reused or recycled to the maximum extent practicable.
4. The permittee shall comply with the following solids management ~~plan~~ requirements:
 - a. There shall be no discharge of floating solids or visible foam in other than trace amounts.
 - b. All floors, machinery, conveyor belts, dock areas, ~~etc.~~ and other processing areas shall be dry swept or dry brushed prior to washdown.
 - c. All settling basins shall be cleaned frequently in order to achieve effective settling.
 - d. All solids resulting from the seafood processes covered under this general permit, other than oyster, clam, or scallop shells, shall be handled, stored, and disposed of so as to prevent a discharge to state waters of such solids or industrial wastes or other wastes from those solids.
 - e. The permittee shall install and properly maintain wastewater treatment necessary ~~in order~~ to remove organic solids present in the wastewater that may settle and accumulate on the substrate of the receiving waters in other than trace amounts.
 - f. All employees shall receive training relative to preventive measures to be taken to control the release of solids from the facility into surface waters.
5. Production to be reported and used in calculating effluent discharge levels in terms of kg/kkg shall be the weight in

kilograms of raw material processed, in the form in which it is received at the processing plant, on the day of effluent sampling, except for the hand-shucked oyster, steamed and canned oyster, and scallop processing subcategories, for which production shall mean the weight of oyster or scallop meat after processing. The effluent levels in terms of kg/kkg shall be calculated by dividing the measured pollutant load in kg/day by the production level in kkg (thousands of kilograms).

6. The permittee shall notify the department as soon as they know or have reason to believe:
 - a. That any activity has occurred or will occur that would result in the discharge on a routine or frequent basis of any toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
 - (1) One hundred micrograms per liter (100 µg/l) of the toxic pollutant;
 - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The level established by the board or department.
 - 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 the permit if that discharge will exceed the highest of the following notification levels:
 - (1) Five hundred micrograms per liter (500 µg/l) of the toxic pollutant;
 - (2) One milligram per liter (1 mg/l) for antimony;
 - (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the ~~board~~ department.

7. Compliance reporting and recordkeeping under Part I A.

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

Effluent Parameter	Quantification Level
BOD	2 mg/l
TSS	1.0 mg/l
Oil and Grease	5.0 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. Recording results. Any concentration below the QL used in the analysis shall be recorded as "<QL" if it is less than the QL used in the analysis (the QL must be less than or equal to the QL in subdivision 7 a of this subsection. Otherwise, the numerical value shall be recorded.

c. Monitoring results shall be recorded using the same number of significant digits as listed in the permit. Regardless of the rounding conventions used by the permittee (e.g., five always rounding up or to the nearest even number), the permittee shall use the convention consistently; and shall ensure that consulting laboratories employed by the permittee use the same convention.

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

9. If a new process is added after coverage under the general permit is obtained, an amended registration statement must be submitted at least 60 days prior to commencing operation of the new process or a later submittal approved by the ~~board~~ department.

10. Notice of termination.

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

(1) Operations have ceased at the facility and there are no longer discharges of process wastewater or stormwater associated with the industrial activity;

(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 an alternative VPDES permit; or

(4) Termination of coverage is being requested for another reason, provided the ~~board~~ department agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES 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 an alternative VPDES permit; or

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

(5) The following certification: "I certify under penalty of law that all wastewater and stormwater discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge seafood processing wastewater or, for facilities classified as SIC Code 2091 or 2092, stormwater associated with industrial activity 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."

c. The notice of termination shall be submitted to the department and signed in accordance with Part III K.

Part II
Stormwater Management

The following stormwater management requirements apply only to seafood processors classified as Standard Industrial Classifications (SIC) Codes 2091 and 2092.

A. Monitoring and inspections.

1. Quarterly visual monitoring of stormwater quality. The permittee shall perform and document visual monitoring of stormwater discharges associated with industrial activity from each outfall, except discharges waived in ~~subdivision d of this subsection~~ Part II A 1 d. The visual monitoring must be made during normal working hours; at least once in each of the following three-month periods: January through

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March, April through June, July through September, and October through December.

a. Samples will be in clean, colorless glass or plastic containers and examined in a well-lit area;

b. Samples will be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed three hours, provided that the permittee explains in the stormwater pollution prevention plan (SWPPP) why an examination during the first 30 minutes was impractical) of when the runoff or snowmelt begins discharging. All such samples shall be collected from the discharge resulting from a storm event that results in an actual discharge from the site (defined as a "measurable storm event") ~~providing~~ provided the interval from the preceding measurable storm event is at least 72 hours. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted.

c. The examination shall observe color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution.

d. If no qualifying storm event resulted in discharge from the facility during a monitoring period, or adverse weather conditions create dangerous conditions for personnel during each measurable storm event during a monitoring period, visual monitoring is exempted, provided this is documented in the SWPPP. Acceptable documentation includes dates and times the outfalls were viewed or sampling was attempted, national Climatic Data Center weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data.

e. Representative outfalls – substantially identical stormwater discharges. If the facility has two or more outfalls that discharge substantially identical stormwater effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, frequency of discharges, and stormwater management practices occurring within the drainage areas of the outfalls, the permittee may conduct quarterly visual monitoring on the stormwater discharges of just one representative outfall.

f. Visual monitoring reports shall be maintained ~~on-site~~ on site with the SWPPP. The report shall include:

- (1) Outfall location;
- (2) Monitoring date and time;
- (3) Duration of storm event;
- (4) Rainfall measurement or estimate (in inches) of the storm event that generated the discharge;

(5) Duration between the storm event sampled and the end of the previous measurable storm event;

(6) Monitoring personnel;

(7) Nature of the discharge (i.e., runoff or snow melt);

(8) Visual quality of the stormwater discharge, including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution;

(9) Probable sources of any observed stormwater contamination;

(10) ~~Why it was not possible to take~~ The reason taking the sample within the first 30 minutes was not possible (if applicable); and

(11) Documentation to support substantially identical outfalls (if applicable) required by Part II A 1 e.

g. Corrective action. Whenever the visual monitoring shows evidence of stormwater pollution, the SWPPP and stormwater control measures shall be updated per Part II B.

2. Routine facility inspections. Personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can also evaluate the effectiveness of control measures shall regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater.

a. Inspections include loading and unloading areas, storage areas, including associated containment areas, waste management units, vents and stacks emanating from industrial activities, spoiled product and broken product container hold areas, animal holding pens, staging areas, air pollution control equipment, areas where spills or leaks have occurred in the past three years, discharge points, and control measures.

b. At least one member of the pollution prevention team shall participate in the routine facility inspections.

c. The inspection frequency shall be specified in the SWPPP based upon a consideration of the level of industrial activity at the facility but shall be at a minimum of once per calendar quarter unless written approval is received from the department for less frequent intervals. Inspections shall be performed during operating hours. At least once each calendar year, the routine facility inspection shall be conducted during a period when a stormwater discharge is occurring.

d. Any deficiencies in the implementation of the SWPPP that are found shall be corrected as soon as practicable, but not later than within 60 days of the inspection, unless permission for a later date is granted in writing by the director. The results of the inspections shall be documented in the SWPPP and shall include, at a minimum:

- (1) The inspection date;
- (2) The names of the inspectors;

- (3) Weather information and a description of any discharges occurring at the time of the inspection;
- (4) Any previously unidentified discharges of pollutants from the site;
- (5) Any control measures needing maintenance or repairs;
- (6) Any failed control measures that need replacement;
- (7) Any incidents of noncompliance observed; and
- (8) Any additional control measures needed to comply with the permit requirements.

e. Corrective action. Whenever the routine inspection shows evidence of stormwater pollution, the SWPPP and stormwater control measures shall be updated per Part II B.

f. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

3. Nonstormwater discharges.

a. Allowable nonstormwater discharges. Discharges of certain sources of nonstormwater listed in Part II A 3 c are allowable discharges under this permit. All other nonstormwater discharges are not authorized and shall be either eliminated, covered under this permit, or covered under a separate VPDES permit.

b. Annual outfall inspection for unauthorized discharges. The SWPPP shall include documentation that all stormwater outfalls associated with industrial activity have been evaluated annually for the presence of unauthorized discharges. The documentation shall include:

- (1) The date of the evaluation;
- (2) A description of the evaluation criteria used;
- (3) A list of the outfalls or on-site drainage points that were directly observed during the evaluation;
- (4) A description of the results of the evaluation for the presence of unauthorized discharges; and
- (5) The actions taken to eliminate unauthorized discharges if any were identified.

c. The following nonstormwater discharges are authorized by this permit:

- (1) Discharges from emergency firefighting activities or firefighter training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia;
- (2) Fire hydrant flushing, managed in a manner to avoid an instream impact;
- (3) Potable water, including water line flushing, managed in a manner to avoid an instream impact;
- (4) Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
- (5) Irrigation drainage;

(6) Landscape watering, provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling;

(7) Pavement wash waters where no detergents or hazardous cleaning products are used and no spills or leaks of toxic or hazardous materials have occurred, unless all spilled material has been removed. Pavement wash waters shall be managed in a manner to avoid an instream impact;

(8) Routine external building washdown ~~that does not use~~ provided no soaps, solvents, or detergents or are used, external surfaces do not contain hazardous cleaning products substances, and the wash water is filtered, settled, or similarly treated prior to discharge;

(9) Pavement wash waters, provided no soaps, solvents, detergents, or hazardous cleaning products are used, and no spills or leaks of toxic or hazardous materials have occurred, unless all spilled or leaked material is removed prior to washing, and the wash water is filtered, settled, or similarly treated prior to discharge;

~~(9)~~ (10) Uncontaminated groundwater or spring water;

~~(10)~~ (11) Foundation or footing drains where flows are not contaminated with process materials; and

~~(11)~~ (12) Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

B. Corrective actions. The permittee shall take corrective action whenever:

1. Routine facility inspections, visual monitoring, inspections by local, state, or federal officials, or any other process, observation, or event result in a determination that modifications to the stormwater control measures are necessary to meet the permit requirements;

2. The department determines, or the permittee becomes aware, that the stormwater control measures are not stringent enough for the discharge to meet applicable water quality standards.

3. The permittee shall review the SWPPP and modify it as necessary to address any deficiencies. Revisions to the SWPPP shall be completed within 60 days following the discovery of the deficiency. When control measures need to be modified or added, implementation shall be completed before the next anticipated storm event, if possible, but no later than 60 days after the deficiency is discovered, or as otherwise provided or approved by the department. In cases where construction is necessary to implement control measures, the permittee shall include a schedule in the SWPPP that provides for the completion of the control measures as expeditiously as practicable, but no later than three years after the deficiency is discovered. Where a construction compliance schedule is included in the SWPPP, the SWPPP shall include appropriate nonstructural and

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temporary controls to be implemented in the affected portion of the facility prior to completion of the permanent control measure. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP.

4. Any corrective actions taken shall be documented and retained with the SWPPP. Reports of corrective actions shall be signed in accordance with Part III K.

C. Stormwater pollution prevention plans (SWPPPs). An SWPPP shall be developed and implemented for the facility covered by this permit, which has stormwater discharges associated with industrial activity and is classified under SIC Code 2091 or 2092. The SWPPP is intended to document the selection, design, and installation of control measures, including BMPs, to minimize the pollutants in all stormwater discharges from the facility and to meet applicable effluent limitations and water quality standards.

The SWPPP requirements of this general permit may be fulfilled, in part, by incorporating by reference other plans or documents, such as an erosion and sediment control (ESC) plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the Clean Water Act, or best management practices (BMP) programs otherwise required for the facility, provided that the incorporated plan meets or exceeds the plan requirements of Part II C 2 (Contents of the SWPPP). If an ESC plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate ~~plan~~ approving plan-approving authority authorized under the Virginia Erosion and Stormwater Management Regulation (9VAC25-875). All plans incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP of Part III C 2, the permittee shall develop the missing SWPPP elements and include them in the required plan.

1. Deadlines for SWPPP preparation and compliance.

a. Owners of facilities that were covered under the 2016 Seafood Processing Facilities General Permit who are continuing coverage under this general permit shall update and implement any revisions to the SWPPP within 60 days of the ~~board~~ department granting coverage under this permit.

b. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit that elect to be covered under this general permit shall prepare and implement the SWPPP within 60 days of the ~~board~~ department granting coverage under this permit.

c. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility must update and implement any revisions to the SWPPP within 60 days of the ownership change.

d. Upon a showing of good cause, the director may establish a later date in writing for preparation of and compliance with the SWPPP.

2. Contents of the SWPPP. The contents of the SWPPP shall include, at a minimum, the following items:

a. Pollution prevention team. The SWPPP shall identify the staff individuals by name or title who comprise the facility's stormwater pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, revising, and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.

b. Site description. The SWPPP shall include the following:

(1) A description of the nature of the industrial activities at the facility.

(2) ~~Site map.~~ A site map identifying the following:

(a) The boundaries of the property and the size of the property in acres;

(b) The location and extent of significant structures and impervious surfaces;

(c) Locations of all stormwater conveyances, including ditches, pipes, swales, and inlets, and the directions of stormwater flow, using arrows to ~~indicate~~ show which direction stormwater will flow;

(d) Locations of stormwater control measures, including BMPs;

(e) Locations of all water bodies receiving discharges from the site, including wetlands;

(f) Locations of identified potential pollutant sources identified in Part II C 2 c;

(g) Locations where significant spills or leaks identified under Part II C 2 c (3) have occurred;

(h) Locations of stormwater outfalls, monitoring locations, an approximate outline of the area draining to each outfall, the drainage area of each outfall in acres, the longitude and latitude of each outfall, the location of any municipal separate storm sewer system (MS4) conveyance receiving discharge from the facility, and each outfall identified with a unique numerical identification ~~codes.~~ code (e.g., Outfall Number 001, Outfall Number 002, etc.);

(i) Location and description of all nonstormwater discharges;

(j) Location of any storage piles containing salt;

(k) Location and source of suspected run-on to the site from an adjacent property if the run-on is suspected of containing significant quantities of pollutants; and

(l) Locations of vents and stacks from cooking, drying, and similar operations; dry product vacuum transfer lines;

animal holding pens; spoiled product; and broken product container storage area if exposed to precipitation or runoff.

c. Summary of potential pollutant sources. The SWPPP shall identify each separate area at the facility where industrial materials or activities are exposed to stormwater. Industrial materials or activities include material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, byproducts, final products, waste products, and application and storage of pest control chemicals used on facility grounds. Material handling activities include the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product, or waste product. For each separate area identified, the description shall include:

- (1) Activities in area. A list of the industrial activities exposed to stormwater;
- (2) Pollutants. A list of the pollutants, pollutant constituents, or industrial chemicals associated with each industrial activity that could potentially be exposed to stormwater. The pollutant list shall include all significant materials handled, treated, stored, or disposed that have been exposed to stormwater in the three years ~~prior to~~ before the date the SWPPP was prepared or amended. The list shall include any hazardous substances or oil at the facility.
- (3) Spills and leaks. The SWPPP shall clearly identify areas where potential spills and leaks that can contribute pollutants to stormwater discharges can occur and their corresponding outfalls. The SWPPP shall include a list of significant spills and leaks of toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance during the three-year period ~~prior to~~ before the date ~~this~~ the SWPPP was prepared or amended. The list shall be updated within 60 days of the incident if significant spills or leaks occur in exposed areas of the facility during the term of the permit.

d. Control measure considerations. Control measures shall be implemented for all the areas identified in Part II C 2 c (Summary of potential pollutant sources) to prevent or control pollutants in stormwater discharges from the facility. If applicable, regulated stormwater discharges from the facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at the facility. The SWPPP shall describe the type, location, and implementation of all control measures for each area where industrial materials or activities are exposed to stormwater. Selection of control measures shall take into consideration:

- (1) That preventing stormwater from coming into contact with polluting materials is generally more effective, and less costly, than trying to remove pollutants from stormwater;

- (2) Control measures generally must be used in combination with each other for most effective water quality protection;

- (3) Assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to designing effective control measures;

- (4) That minimizing impervious areas at the facility can reduce runoff and improve groundwater recharge and stream base flows in local streams (however, care must be taken to avoid groundwater contamination);

- (5) Flow attenuation by use of open vegetated swales and natural depressions can reduce instream impacts of erosive flows;

- (6) Conservation or restoration of riparian buffers will help protect streams from stormwater runoff and improve water quality; and

- (7) Treatment interceptors (e.g., swirl separators and sand filters) may be appropriate in some instances to minimize the discharge of pollutants.

e. ~~Control measures~~ Nonnumeric technology-based effluent limits. The permittee shall implement the following types of control measures to prevent and control pollutants in the stormwater discharges from the facility, unless it can be demonstrated and documented that ~~such~~ the controls are not relevant to the discharges.

- (1) Good housekeeping. The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants to stormwater discharges. The permittee shall perform the following good housekeeping measures to minimize pollutant discharges:

- (a) The SWPPP shall include a schedule for regular pickup and disposal of waste materials along with routine inspections for leaks and conditions of drums, tanks, and containers;

- (b) Sweep or vacuum as feasible;

- (c) Store materials in containers constructed of appropriate materials;

- (d) Manage all waste containers to prevent a discharge of pollutants;

- (e) Minimize the potential for waste, garbage, and floatable debris to be discharged by keeping areas exposed to stormwater free of ~~such~~ the materials or by intercepting ~~such~~ the materials ~~prior to~~ before discharge; and

- (f) Implement BMPs to eliminate stormwater discharges of plastics.

- (2) Eliminating and minimizing exposure. To the extent practicable, manufacturing, processing, and material storage areas, including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations, shall be located inside; or protected by a storm-resistant covering to prevent exposure to rain, snow, snowmelt, and

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runoff. Unless infeasible, facilities shall implement the following:

- (a) Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from potential sources of pollutants;
- (b) Locate materials, equipment, and activities so that potential leaks and spills are contained, or able to be contained, or diverted before discharge;
- (c) Clean up spills and leaks immediately, upon discovery of the spills or leaks, using dry methods (e.g., absorbents) to prevent the discharge of pollutants;
- (d) Store leaking vehicles and equipment indoors, or if stored outdoors, use drip pans and adsorbents;
- (e) Utilize appropriate spill or overflow protections equipment;
- (f) Perform all vehicle maintenance or equipment cleaning operations indoors, under cover, or in bermed areas that prevent runoff and run-on and also capture any overspray; and
- (g) Drain fluids from equipment and vehicles that will be decommissioned, and for any equipment and vehicles that remain unused for extended periods of time, inspect at least monthly for leaks.

(3) Preventive maintenance. The SWPPP shall include preventive maintenance that includes a description of procedures and a regular schedule for inspection of the following:

- (a) All control measures ~~that includes~~, including a description of the back-up practices that are in place should a runoff event occur while a control measure is ~~off line~~ offline; and
- (b) Testing, maintenance, and repairing of all industrial equipment and systems to avoid situations that could result in leaks, spills, and other releases of pollutants in stormwater discharged from the facility.

(4) Spill prevention and response procedures. The SWPPP shall describe the procedures that will be followed for preventing and responding to spills and leaks, including:

- (a) Preventive measures, such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- (b) Response procedures, including notification of appropriate facility personnel, emergency agencies, and regulatory agencies and procedures for stopping, containing, and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with the applicable ~~the~~ Resource Conservation and Recovery Act regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible,

one of these individuals shall be a member of the pollution prevention team;

(c) Procedures for plainly labeling containers (e.g., "used oil," "spent solvents," and "fertilizers and pesticides") that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur; and

(d) Contact information for individuals and agencies that must be notified in the event of a spill shall be included in the SWPPP and maintained in other locations where it will be readily available.

(5) Employee training. The permittee shall implement a stormwater employee training program for the facility. The SWPPP shall include a schedule for all training and shall document all training sessions and the employees who received the training. Training shall be provided at least annually for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors and maintenance personnel). The training shall cover the components and goals of the SWPPP and include such topics as spill response, good housekeeping, material management practices, BMP operation and maintenance, and pest control. The SWPPP shall include a summary of any training performed.

(6) Sediment and erosion control. The SWPPP shall identify areas at the facility that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative, or stabilization control measures to prevent or control on-site and off-site erosion and sedimentation. Flow velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel if the flows would otherwise create erosive conditions.

(7) Management of runoff. The plan shall describe the stormwater runoff management practices (i.e., permanent structural control measures) for the facility. These types of control measures shall be used to divert, infiltrate, reuse, or otherwise reduce pollutants in stormwater discharges from the site.

Structural control measures may require a separate permit under § 404 of the federal Clean Water Act and the Virginia Water Protection Permit Program Regulation (9VAC25-210) before installation begins.

3. Signature and SWPPP review.

a. Signature and location. The SWPPP, including revisions to the SWPPP to document any corrective actions taken as required by Part II B, shall be signed in accordance with Part III K, dated, and retained ~~on-site~~ on site at the facility covered by this permit. All other changes

to the SWPPP, and other permit compliance documentation, must be signed and dated by the person preparing the change or documentation.

b. Availability. The permittee shall retain a copy of the current SWPPP (hard copy or electronic) required by this permit at the facility, and it shall be immediately available to the department, EPA, or the operator of an MS4 receiving discharges from the site at the time of an on-site inspection or upon request.

c. Required modifications. The permittee shall modify the SWPPP whenever necessary to address all corrective actions required by Part II B. Changes to the SWPPP shall be made in accordance with the corrective action deadlines in Part II B and shall be signed and dated in accordance with Part III K. The director may notify the permittee at any time that the SWPPP, control measures, or other components of the facility's stormwater program do not meet one or more of the requirements of this permit. The notification shall identify specific provisions of the permit that are not being met and may include required modifications to the stormwater program, additional monitoring requirements, and special reporting requirements. The permittee shall make any required changes to the SWPPP within 60 days of receipt of ~~such~~ the notification, unless permission for a later date is granted in writing by the director, and shall submit a written certification to the director that the requested changes have been made.

4. Maintaining an updated SWPPP. The permittee shall review and amend the SWPPP as appropriate whenever:

- a. There is construction or a change in design, operation, or maintenance at the facility that has an effect on the discharge, or the potential for the discharge, of pollutants from the facility;
- b. Routine inspections or visual monitoring determine that there are deficiencies in the control measures, including BMPs;
- c. Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;
- d. There is a significant spill, leak, or other release at the facility; or
- e. There is an unauthorized discharge from the facility.
- f. SWPPP modifications shall be made within 60 calendar days after the discovery, observation, or event requiring a SWPPP modification. Implementation of new or modified control measures shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the director. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP.
- g. If the SWPPP modification is based on a significant spill, leak, release, or unauthorized discharge, include a

description and date of the incident, the circumstances leading to the incident, actions taken in response to the incident, and measures to prevent the recurrence of such releases. Unauthorized discharges are subject to the reporting requirements of Part III G of this permit.

Part III

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~~ department.

C. Reporting monitoring results.

- 1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the

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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'~~ 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~~ department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The ~~board~~ department 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~~ department, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical, or biological properties of ~~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 III F (Unauthorized discharges); or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify (see Part III I 3) the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after ~~said~~ the discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

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

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

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge, including a bypass or upset, should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse 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 III 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.

1. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.
 - a. ~~An oral~~ A report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:
 - (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~~ department may waive the written report on a case-by-case basis for reports of noncompliance under Part III 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 III I 1 ~~or 2~~, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I ~~2~~ 1.
3. The immediate (within 24 hours) reports required in Part III G, H, and I ~~may~~ shall be made to the department's regional office. Reports may be made by telephone; or online at <https://www.deq.virginia.gov/our-programs/pollution-response>.

For reports outside normal working hours, ~~leave a message and this the online portal shall fulfill the immediate reporting requirement be used.~~ For emergencies, call the Virginia Department of Emergency Management maintains a 24 hour telephone service Management's Emergency Operations Center (24 hours) at 1-800-468-8892.

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 federal Clean Water Act that are applicable to such source; or
 - (2) After proposal of standards of performance in accordance with § 306 of the federal 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 specified 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 purposes 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 capital investment recommendations, and initiating and directing other comprehensive measures to ~~assure long-term~~ ensure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or other actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned

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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~~ and (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,~~ department shall be signed by a person described in Part III 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 III 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 III 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 III 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 III 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 federal 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 federal Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit coverage termination or denial of a permit renewal.

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

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the ~~board~~ department. The ~~board~~ department shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, ~~nor~~. This permit does ~~not~~ authorize any injury to private property or invasion of personal rights or any infringement of federal, state, or local laws 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 federal Clean Water Act. Except as provided in permit conditions in Part III U (Bypass) and Part III V (Upset), 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 that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part III 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 III I (Reports of noncompliance).

3. Prohibition of bypass.

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

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to the bypass, 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 III U 2.

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

V. Upset.

1. An upset, defined in 9VAC25-31-10, constitutes an

affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III 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 that 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 III I; and
- d. The permittee complied with any remedial measures required under Part III 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 federal 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 ~~herein~~ in this general permit shall make an inspection unreasonable during an emergency.

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

Y. Transfer of permit coverage.

Regulations

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, unless permission for a later date has been granted by the board department;
 - b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - c. The board department does not notify the existing permittee and the proposed new permittee of its intent to deny the 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 III 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. R24-7823; Filed January 14, 2025, 2:40 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Notice of Objection to Fast-Track Rulemaking Action

REGISTRAR'S NOTICE: Pursuant to § 2.2-4012.1 of the Code of Virginia, the Board of Medicine has filed a notice of objection to the fast-track rulemaking action published in [41:10 VA.R. 1246-1250 December 30, 2024](#). The board intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia, with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Title of Regulation: **18VAC85-40. Regulations Governing the Practice of Respiratory Therapists (amending 18VAC85-40-10, 18VAC85-40-55, 18VAC85-40-66, 18VAC85-40-70, 18VAC85-40-86; repealing 18VAC85-40-20, 18VAC85-40-30, 18VAC85-40-89).**

Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

The Board of Medicine received a letter from Senator Todd Pillion objecting to the fast-track rulemaking process for the amendments proposed for 18VAC85-40 as published in [41:10 VA.R. 1246-1250 December 30, 2024](#). The objections describe

concerns about amendments striking language in 18VAC85-40-70. Due to Senator Pillion's objection, the board has discontinued using the fast-track rulemaking process. The board will proceed with adoption of the amendments using the standard process under Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, and the publication on December 30, 2024, will serve as the Notice of Intended Regulatory Action in accordance with § 2.2-4012.1 of the Code of Virginia.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 750-3912, FAX (804) 915-0382, or email erin.barrett@dhp.virginia.gov.

VA.R. Doc. No. R25-7378; Filed January 29, 2025, 7:14 a.m.

REAL ESTATE APPRAISER BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Real Estate Appraiser Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC130-30. Appraisal Management Company Regulations (amending 18VAC130-30-60).**

Statutory Authority: § 54.1-201 of the Code of Virginia.

Effective Date: March 12, 2025.

Agency Contact: Anika Coleman, Executive Director, Real Estate Appraiser Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (866) 826-8863, or email reappraisers@dpor.virginia.gov.

Summary:

The amendments (i) align the regulation with federal requirements by clarifying that a National Registry fee of \$25 will be charged for each appraiser who has performed an appraisal for the appraisal management company in Virginia during the previous year and (ii) remove outdated provisions.

18VAC130-30-60. Fee schedule.

Fee Type	Fee Amount	When Due
Initial Application - Appraisal Management Company	\$340	With application

Renewal - Appraisal Management Company	\$150	With renewal application
Reinstatement - Appraisal Management Company	\$490 (includes a \$340 reinstatement fee in addition to the regular \$150 renewal fee)	With reinstatement application

~~For licenses expiring on August 31, 2019, and before February 1, 2020, the renewal fee shall be as follows:~~

Renewal - Appraisal Management Company	\$75	With renewal application
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~~For licenses expiring on August 31, 2019, and before February 1, 2020, the reinstatement fee shall be as follows:~~

Reinstatement - Appraisal Management Company	\$415 (includes a \$340 reinstatement fee in addition to the \$75 renewal fee)	With reinstatement application
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Each appraisal management company shall be assessed a National Registry fee in accordance with § 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 USC §§ 3331-3356) (the Act). The National Registry fee will be \$25 multiplied by the number of appraisers ~~working for or contracting with who have performed an appraisal for the appraisal management company in Virginia during the previous year.~~ The minimum National Registry fee will be \$25. This fee may be adjusted and charged to the appraisal management company in accordance with the Act. If an applicant fails to qualify for licensure, then the National Registry fee will be refunded.

VA.R. Doc. No. R25-8137; Filed January 10, 2025, 9:19 a.m.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS, WETLAND PROFESSIONALS, AND GEOLOGISTS

Proposed Regulation

Title of Regulation: 18VAC145-20. Professional Soil Scientists Regulations (amending 18VAC145-20-60, 18VAC145-20-91, 18VAC145-20-100, 18VAC145-20-120 through 18VAC145-20-145, 18VAC145-20-160).

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Hearing Information:

February 24, 2025 - 10 a.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, Training Room One, Richmond, VA 23233.

Public Comment Deadline: April 11, 2025.

Agency Contact: Kathleen R. Nosbisch, Executive Director, Board for Professional Soil Scientists, Wetland Professionals, and Geologists, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (804) 527-4294, or email soilscientist@dpor.virginia.gov.

Basis: Section 54.1-201 of the Code of Virginia authorizes the Board for Professional Soil Scientists, Wetland Professionals, and Geologists to promulgate regulations necessary to ensure continued competency and prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system.

Purpose: The board regulates those who engage or offer to engage in the practice of soil evaluation by requiring that such individuals obtain a license in order to engage in this occupation. Proper assessment of soils relating to composition, drainage, and stability is crucial for construction, agriculture, and environmental projects. Soil scientists who lack sufficient expertise to perform soil evaluation may pose a risk to the public health, safety, and welfare. These risks include the potential for damage to persons or property and environmental damage. Additional risks include the potential of financial harm to property owners. The proposed amendments eliminate current requirements that the board does not deem necessary to protect the public health, safety, and welfare or to effectively administer the licensure program.

Substance: The proposed amendments:

1. Revise 18VAC-145-20-60 to (i) remove an unnecessary provision that specifies that applications and accompanying materials become property of the board upon receipt and (ii) add a provision requiring applicants to provide a current mailing address;
2. Revise 18VAC-145-20-91 to remove provisions pertaining to the submission of petitions for board review of course syllabi and other documents for courses not listed in the section as an acceptable soil science course;
3. Revise 18VAC-145-20-100 to remove duplicative provisions regarding requirements for licensure and streamline provisions regarding the requirement for individuals to reapply to the board following the expiration of an applicant's examination eligibility period;
4. Revise 18VAC-145-20-130 to remove a provision that renewal notice will be sent to a licensee's last known address of record;
5. Revise 18VAC-145-20-140 to (i) extend the period for reinstatement of a license from one year to two years and (ii) clarify provisions regarding failure to reinstate a license; and
6. Revise 18VAC-145-20-145 to (i) remove a requirement that continuing education (CE) activity involving interaction with instructors be taught by instructors who are competent in the subject matter, either by education or experience; (ii) revise provisions regarding the requirement for CE activity to have an assessment by the sponsor; and (iii) revise provisions regarding the computation of CE credit.

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Issues: The primary advantages to the public and regulated community include providing clarification to provisions of the regulation, ensuring the regulation complements Virginia law and reflects current agency procedures, and reducing regulatory burdens by removing requirements that are not necessary to protect the health, safety, and welfare of the public. There are no identifiable disadvantages to the public or the Commonwealth. It is not anticipated that the proposed amendments will create any substantial disadvantages to the regulated community.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. The Board for Professional Soil Scientists, Wetland Professionals, and Geologists (board) proposes to amend the Professional Soil Scientists Regulations to update and clarify the provisions of the regulation and ensure that it conforms to statute. In response to Executive Order 19 (2022) and Executive Directive 1 (2022), the board also seeks to reduce certain requirements, while still protecting public health, safety, and welfare. This action proposes changes to (i) requirements for initial licensure and (ii) provisions for the renewal and reinstatement of licenses, including continuing education requirements.

Background. Executive Directive 1 (2022) directs executive branch entities under the authority of the Governor to initiate regulatory processes to reduce by at least 25% the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth.² Accordingly, the board proposes to provide additional time to reinstate a lapsed license by increasing the timeframe from one to two years. Other changes are intended to update and clarify language and to reflect current practice. The most substantive changes are summarized as follows:

18VAC145-20-91 would be amended to remove a provision that allows applicants to petition the board to review the syllabus for a course not listed in that section. The Department of Professional and Occupational Regulation (DPOR) reports that no such requests have been received in at least 16 years, and that the courses listed in that section are standard courses.

18VAC145-20-145 would be amended to remove a current requirement that CE courses be taught by "instructors who are competent in the subject matter, either by education or experience" because it places an undue burden on regulants to vet providers. The board also seeks to remove a requirement that the number of hours for a CE activity must have been predetermined by the sponsor and that licensees shall not claim

more credit for any CE activity than was predetermined by the sponsor. This requirement was deemed redundant because the number of hours is typically included on the required documentation that verifies the licensee's successful completion of the activity. Lastly, the board also proposes to clarify that self-directed CE activities must contain an assessment by the sponsor at the conclusion of the activity. DPOR reports that these changes would not affect current practice.

Estimated Benefits and Costs: The proposed amendments largely serve to clarify and update the regulation and are not expected to create new costs. Applicants for license reinstatement whose license expired more than a year prior, but within the past two years, would benefit from not having to reapply for a new license. The proposed changes to Sections 91 and 145 are not expected to create any new costs, and would benefit licensees by clarifying and updating the CE requirements.

Businesses and Other Entities Affected. The proposed amendments would affect the 81 currently licensed soil scientists as well as future licensees. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ As the proposed amendments neither increase net costs nor reduce net benefits, no adverse impact is indicated.

Small Businesses⁵ Affected.⁶ The proposed amendments do not adversely affect small businesses.

Localities⁷ Affected.⁸ The proposed amendments do not disproportionately affect particular localities or affect costs for local governments.

Projected Impact on Employment. The proposed amendments do not affect total employment.

Effects on the Use and Value of Private Property. The proposed amendments neither affect the use and value of private property nor real estate development costs.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² See <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/ed/ED-1-Regulatory-Reduction.pdf>.

³ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities

should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁴ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁵ Pursuant to § 2.2-4007.04, 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."

⁶ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁷ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Board for Professional Soil Scientists, Wetland Professionals, and Geologists concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments (i) remove unnecessary provisions; (ii) extend the period for reinstatement of a license to two years; (iii) clarify provisions regarding failure to reinstate a license; (iv) remove a requirement that continuing education (CE) activity involving interaction with instructors be taught by instructors who are competent in the subject matter, either by education or experience; (v) revise provisions regarding the requirement for CE activity to have an assessment by the sponsor; and (vi) revise provisions regarding the computation of CE credit.

18VAC145-20-60. General application requirements.

A. Applicants for licensure shall meet the requirements established in Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia.

B. ~~All applications and accompanying materials become the property of the board upon receipt by the board.~~ The applicant must provide a current mailing address.

C. The board may make further inquiries and investigations with respect to ~~applicants'~~ an applicant's qualifications and documentation to confirm or amplify information supplied.

D. Applicants who do not meet the requirements of this chapter may be approved following consideration by the board

in accordance with the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC145-20-91. Core course requirements.

~~A.~~ At least 15 semester hours selected from the identified courses in this ~~subsection~~ section or the equivalent are required for course work or a degree core to be considered a degree in a soil science curriculum or a related natural science degree.

Intro to Crop and Soil Environmental Sciences	Soil - Plant - Animal Interrelationships in Grasslands
Soil Evaluation	Aluminum Chemistry in the Soil System
Soils	Soil Physics or Physical Properties
Soils Lab	Soil Genesis/Classification
Man and Environment	Soil Fertility/Management
Soil Survey/Taxonomy	Soil Fertility/Management Lab
Soil Microbiology	Soil/Groundwater Pollution
Soil Resource Management	Soils for Waste Disposal
Soil Chemistry	Soil Microbiology Lab
Topics in Soil Genesis	Forest Soils/Hydrology
Soil Seminar	Clay Mineralogy
Special Studies (Soils Based)	Soil Interpretations
Field Studies (Soils Based)	Advanced Concepts in Soil Genesis
Soils and Land Use	Independent Studies (Soil Based)
Soil Physical and Colloidal Chemistry	Soil Biochemistry
	Soil Geomorphology
Soil - Plant Relations	Soil Conservation

~~B. Applicants may petition the board to review the syllabus and other supporting documents of a course not listed in subsection A of this section for academic credit. The course must contain content that enhances applicants' knowledge in the study of soils. Applicants must demonstrate course equivalency in order to receive academic credit. Petitions to the board for such review must be made in writing.~~

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18VAC145-20-100. Examination.

A. Applicants shall be required to pass all parts of the CSSE-prepared exam.

~~B. Applicants shall meet all other requirements established in Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia in order to be granted board approval to sit for the exam.~~

~~C. B.~~ Completed applications must be received by the board no less than 60 days prior to the exam date or applicants may be deferred to the next exam administration.

~~D. C.~~ Applicants approved by the board shall be exam-eligible for a period of three years from the date of ~~their~~ initial board approval. Applicants who do not pass the exam at the end of the three-year period are no longer exam-eligible and must reapply as a new applicant.

~~E. To become exam-eligible again, applicants shall reapply to the board and meet all entry requirements current at the time of their reapplication. Upon approval by the board, applicants shall become exam-eligible for another period of three years.~~

~~F. D.~~ Board-approved applicants eligible for admission to both parts of the exam must first pass the Fundamentals in Soil Science exam before being admitted to the Professional Practices in Soil Science exam.

~~G. E.~~ Applicants will be notified by the board of whether they passed or failed the exam. The exam may not be reviewed by applicants. Exam scores are final and not subject to change.

18VAC145-20-120. Expiration.

Licenses issued under this chapter shall expire two years from the last day of the month in which ~~they were~~ the license was issued, ~~as indicated on the license.~~

18VAC145-20-130. Procedures for renewal.

A. The board ~~sends~~ will send a renewal notice to the license holder ~~at the last known address of record~~ at least 30 days prior to expiration of the license. Failure to receive this notice does not relieve the license holder from the requirement to renew the license. License holders shall keep the board informed of their current mailing address. Changes of address shall be reported to the board in writing within 30 calendar days of the change.

B. In addition to the established fee, proof of satisfactory completion of continuing education (CE) shall be required to renew a license. Documentation submitted as proof of completion of CE must demonstrate that the CE meets the requirements established in 18VAC145-20-145.

C. If the renewal fee and proof of completion of CE are not received by the board within 30 days following the license expiration date, a late renewal fee of \$25 shall be required in addition to the regular renewal fee. Upon receipt of the requisite fee and proof of completion of CE, the license shall be renewed

for an additional two years. A license that is not renewed within six months after its expiration is no longer eligible for renewal. The license may be reinstated pursuant to the requirements of 18VAC145-20-140.

D. The date the fee and documented proof of completion of CE are received by the board or its agent shall determine whether a late renewal fee, the reinstatement fee, or reapplication is required.

E. A license suspended by board order may not be renewed until the period of suspension has ended and all terms and conditions of the board's order have been met. Individuals renewing licenses within 30 days after the suspension is lifted will not be required to pay a late fee.

F. A revoked license may not be renewed. An individual whose license has been revoked shall file a new application and obtain board approval to recover licensure. Examination may not be waived.

18VAC145-20-140. Reinstatement.

A. If the renewal fee, late renewal fee, and documented proof of completion of CE are not received by the board within six months following the license expiration date, the license holder shall be required to pay the fee for reinstatement. The fee for reinstatement shall include the regular renewal fee plus the reinstatement fee.

B. If the reinstatement fee and documented proof of completion of CE are not received by the board within ~~one year~~ two years following the license expiration date, the individual shall no longer be ~~considered a license holder~~ eligible for reinstatement. To become licensed again, the individual shall apply as a new applicant and meet all current education, experience, and examination requirements as established in this chapter.

18VAC145-20-145. Continuing education requirements.

A. Licensees shall complete eight ~~contact~~ hours of continuing education (CE) per year for renewal or reinstatement. CE shall be completed pursuant to the provisions of this section.

B. CE must be completed during the time prior to the renewal or reinstatement of a license and shall be valid for that renewal or reinstatement only.

C. CE activities completed by licensees may be accepted by the board, provided the activity:

1. Consists of content and subject matter directly related to the practice of soil science;
2. Has a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the practice of soil science and may be in areas related to business practices, including project management, risk management, and ethics, that have demonstrated relevance to the practice of soil science as defined in § 54.1-2200 of the Code of Virginia;

~~3. Is taught by instructors who are competent in the subject matter, either by education or experience, for those activities involving an interaction with an instructor;~~

~~4. 3. Contains an assessment by the sponsor at the conclusion of the self-directed activity that verifies that the licensee has successfully achieved the purpose and objective for any self-directed activity; and~~

~~5. 4. Results in documentation that verifies the licensee's successful completion of the activity.~~

D. Computation of credit.

1. Fifty contact minutes shall equal one hour of CE. For activities that consist of segments that are less than 50 minutes, those segments shall be totaled for computation of CE for that activity.

~~2. The number of hours required to successfully complete any CE activity must have been predetermined by the sponsor. A licensee shall not claim more credit for any CE activity than was predetermined by the sponsor at the time the activity was completed.~~

~~3. 2. A licensee may not receive credit for any CE activity that was not completed in its entirety. No credit shall be given for partial completion of a CE activity.~~

4. 3. A licensee applying for renewal or reinstatement shall not receive credit for completing a CE activity with the same content more than once during the time period prior to the renewal or reinstatement.

18VAC145-20-160. Professional conduct.

A licensed professional soil scientist:

1. Shall not submit any false statements, make any misrepresentations, or fail to disclose any facts requested concerning any application for initial licensure, renewal, or reinstatement;

2. Shall not engage in any fraud, deceit, or misrepresentation in advertising, ~~in~~ soliciting, or ~~in~~ providing professional services;

3. Shall not knowingly sign, stamp, or seal any plans, drawings, blueprints, surveys, reports, specifications, maps, or other documents not prepared or reviewed and approved by ~~him~~ the licensed professional;

4. Shall not knowingly represent a client or employer on a project on which ~~he~~ the licensed professional represents or has represented another client or employer without making full disclosure ~~thereof~~ of such representation;

5. Shall express a professional opinion only when it is founded on adequate knowledge of established facts at issue and based on a background of technical competence in the subject matter;

6. Shall not knowingly misrepresent factual information in expressing a professional opinion;

7. Shall immediately notify the client or employer and the appropriate regulatory agency if ~~his professional~~ the judgment of the licensed professional is overruled and not adhered to when advising appropriate parties of any circumstances of a substantial threat to the public health, safety, or welfare; and

8. Shall exercise reasonable care when rendering professional services and shall apply the technical knowledge, skill, and terminology ordinarily applied by practicing soil scientists.

VA.R. Doc. No. R24-7619; Filed January 13, 2025, 3:22 p.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS AND ONSITE SEWAGE SYSTEM PROFESSIONALS

Proposed Regulation

Title of Regulation: **18VAC160-30. Waterworks and Wastewater Works Operators Licensing Regulations (amending 18VAC160-30-10 through 18VAC160-30-240, 18VAC160-30-260 through 18VAC160-30-370; adding 18VAC160-30-95, 18VAC160-30-235, 18VAC160-30-255, 18VAC160-30-265, 18VAC160-30-275; repealing 18VAC160-30-250).**

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Public Hearing Information:

February 10, 2025 - 2 p.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, Second Floor, Board Room, Richmond, VA 23233.

Public Comment Deadline: April 11, 2025.

Agency Contact: Cameron Parris, Regulatory Operations Administrator, Department of Occupational and Professional Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-9183, FAX (866) 350-5354, or email cameron.parris@dpor.virginia.gov.

Basis: Subdivision 5 of § 54.1-201 of the Code of Virginia authorizes the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals to promulgate regulations necessary to ensure continued competency, prevent deceptive or misleading practices by practitioners, and effectively administer the regulatory system. Section 54.1-2301 D of the Code of Virginia requires the board to adopt regulations for the licensure of onsite soil evaluators, installers of alternative onsite sewage systems, and operators of alternative onsite sewage systems.

Purpose: The operation of waterworks or wastewater works by those who lack sufficient expertise, competence, and integrity poses a risk to the public health, safety, and welfare. These risks include the potential for contamination of drinking water

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supply and environmental damage. Additional risks include potential financial harm to the owners of waterworks and wastewater works facilities, which typically include local government entities, resulting from improperly operated facilities. This action protects the public health, safety, and welfare by clarifying requirements to ensure competence throughout the regulated community.

Substance: The amendments:

1. Remove the definition of "onsite sewage system" as the meaning of the term as provided in statute is included in the added definition of "master alternative onsite sewage system operator";
2. Add definitions for "address of record" and "master alternative onsite sewage system operator";
3. Revise the terms "applicant" and "maintenance" to make the terms clearer;
4. Remove the definition of "treatment works" as the term is not used in the regulation;
5. Revise 18VAC160-30-20 to increase from 12 months to 24 months the time that an applicant has to take the board-approved examination after being approved;
6. Revise 18VAC160-30-40 to remove obsolete language regarding temporarily reduced fees;
7. Revise 18VAC160-30-60 to (i) reduce the requirement that an applicant report all felony convictions to requiring an applicant to report felony convictions that have occurred within 20 years preceding submission of an application and narrow the scope of misdemeanor convictions that an applicant must report; (ii) remove unnecessary and overly burdensome requirements; (iii) amend provisions pertaining to disclosure of prior disciplinary action to make these provisions clearer by requiring applicants to disclose any disciplinary action taken against a professional or occupational license issued to the applicant; (iv) require that an applicant be in compliance with the standards of conduct and practice outlined in Part VI of the regulation at the time of application, while the application is under review, and when the license is in effect; and (v) make changes to language consistent with other department regulations and to remove unnecessary and redundant language;
8. Revise 18VAC160-30-70 to (i) remove unnecessary language and reflect revisions made in 18VAC160-30-20 regarding the increase in time an applicant has to take the board-approved examination after being approved and (ii) provide that passing examination scores are valid for a period of 10 years from the date of examination;
9. Revise 18VAC160-30-90 to remove unnecessary language and to relocate provisions regarding qualifying work experience to newly proposed 18VAC160-30-95;
10. Add 18VAC160-30-95, which contains provisions for experience that may be used to qualify for licensure and includes language relocated from 18VAC160-30-90 and

18VAC160-30-110 and incorporates guidance from a guidance document the board adopted in April 2022;

11. Revise (i) the qualifications table included in 18VAC160-30-110 to reduce education and experience requirements for most waterworks and wastewater works operator licenses and (ii) relocate language regarding verification of experience to 18VAC160-30-95;
12. Revise 18VAC160-30-120 to clarify experience that will be counted as a provisional operator or operator-in-training;
13. Revise 18VAC160-30-140 to (i) reduce the minimum number of semester credit hours of science and math required for individuals seeking to qualify for licensure with certain degrees and (ii) update a current provision regarding the use of a degree to both meet education requirements and as experience substitution;
14. Revise 18VAC160-30-140 to remove language naming a specific entity as an acceptable authority for the accreditation or approval of a college or university from which a degree was obtained;
15. Revise 18VAC160-30-150 to provide that the board will send, instead of mail, a renewal notice to a licensee and remove unnecessary language;
16. Revise 18VAC160-30-160 to increase from one year to 24 months the timeframe in which an expired license may be reinstated and to remove unnecessary language;
17. Revise 18VAC160-30-170 to provide clarity regarding the status of a licensee who reinstates an expired license.
18. Revise 18VAC160-30-190 to reduce the amount of continuing education contact hours required for renewal of Class 1, 2, and 3 waterworks and wastewater works operator licenses, and renewal of Class 5 waterworks operator licenses;
19. Revise 18VAC160-30-190 to (i) increase from two hours to four hours the amount of continuing professional education (CPE) hours a licensee may receive for the initial development or substantial updating of a CPE course and (ii) reduce the number of hours safety subjects can count toward total required CPE hours;
20. Revise 18VAC160-30-190 to clarify provisions regarding additional time that may be provided to licensees to meet CPE requirements;
21. Revise 18VAC160-30-200 and 18VAC160-30-210 to (i) reduce the amount of continuing education contact hours pertaining to utility management required for Class 1 and 2 operators and (ii) provide that technology may be included in the scope of CPE training on monitoring, evaluating, and adjusting treatment processes and systems;
22. Remove language in 18VAC160-30-220 establishing the equivalence of one quarter hour of college credit to 10 CPE credit hours;
23. Revise 18VAC160-30-230 to provide that evidence of CPE completion includes the contact information of the sponsor, instead of a telephone number;

24. Significantly amend Part V to restructure the sections in the part and revise provisions related to the approval of training courses that may be used for substitution of experience required for licensure;

25. Add 18VAC160-30-235, which provides general provisions related to approval of training courses used to substitute for experience, and how training credits will be awarded;

26. Revise 18VAC160-30-240 to replace various requirements and standards for approval of training courses with provisions pertaining to application requirements and relocate provisions regarding application for training course approval from 18VAC160-30-250 to 18VAC160-30-240;

27. Repeal 18VAC160-30-250, as the provisions of the section have been clarified and incorporated into other sections;

28. Add 18VAC160-30-255, which requires training providers to provide participants with a certificate of completion for courses completed, to include specific details;

29. Revise 18VAC160-30-260 to replace current provisions with new provisions pertaining to recordkeeping for training providers. The section provides for records to be maintained by training providers, which must include specific details about the participant, the course, the instructors, and date of completion. The section also establishes a required retention period and requires records to be accessible for inspection by representatives of the board;

30. Add 18VAC160-30-265, which consolidates requirements related to reporting changes in information to the board within a specific timeframe. The timeframe in which a change must be reported to the board is also increased from 30 days to 90 days;

31. Revise 18VAC160-30-270 to (i) clarify circumstances in which the board may withdrawal approval of a training course and (ii) include the provision of false information by the training program contact person as a basis for withdrawal;

32. Add 18VAC160-30-275 to set apart and clarify the board's authority to audit approved training courses;

33. Revise the catchline of 18VAC160-30-280 and remove language naming a specific entity as an acceptable authority for the accreditation or approval of a college or university from which training is obtained to reflect the same revision made in 18VAC160-30-140;

34. Revise 18VAC160-30-300 to (i) reorganize the provisions of the section, (ii) increase the time from 30 to 60 days in which a licensee must report changes to a name or address, and (iii) remove unnecessary requirements;

35. Revise 18VAC160-30-310 to make changes related to the reporting of disciplinary actions and criminal convictions, including reducing the scope of reportable misdemeanor convictions;

36. Revise prohibited acts in 18VAC160-30-320 and reorder subdivisions outlining specific prohibited acts to group similar

types of offenses together. Most existing prohibited acts are categorized under either (i) a prohibited act pertaining to actions constituting negligence, misconduct, or incompetence in the practice of the profession or (ii) actions constituting engaging in improper, fraudulent, or dishonest conduct;

37. Revise 18VAC160-30-320 to (i) prohibit actions constituting improper, fraudulent, and dishonest conduct; (ii) prohibit reinstating a license by false or fraudulent representation; and (iii) clarify prohibited acts related to adverse actions (e.g. regulatory discipline and criminal convictions);

38. Revise 18VAC160-30-330 to clarify that soliciting or accepting financial or other valuable consideration from material or equipment suppliers for specifying their products or services and soliciting or accepting gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the licensee is responsible are allowable if the circumstances are fully disclosed to and agreed to by all interested parties in writing;

39. Revise 18VAC160-30-340 to remove the requirement that a licensee inform the board of another individual potentially violating board regulations or laws; and

40. Revise 18VAC160-30-360 and 18VAC160-30-370, which specify the scope of practice allowed for each class of waterworks or wastewater works operator license, to streamline these provisions and provide clarity.

Issues: The primary advantages to the public and the regulated community are that the amendments (i) provide needed updating and clarification, including incorporating the board's previous interpretive guidance; (ii) reduce regulatory burdens while still protecting the public health, safety, and welfare, including revising entry requirements to allow for more individuals to qualify for licensure; (iii) remove requirements in the regulation that are not necessary to protect the public welfare; and (iv) enhance standards of conduct and practice that will better serve to protect members of the public. The primary advantage to the Commonwealth is that the amendments will permit the agency to better administer the licensure program.

An anticipated advantage is that the amendments potentially increases the number of individuals who qualify for licensure and may therefore be available to members of the public to provide waterworks and wastewater works services. There are no identifiable disadvantages to the public. The board does not anticipate any substantial disadvantages to the regulated community.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best

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estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (board) proposes to (i) increase the time that an applicant has to pass the board-approved examination once an application has been approved from 12 to 24 months;² (ii) state that an examination score received by an applicant is valid for a period of 10 years from the date of the examination; (iii) no longer require that felony convictions that occurred more than 20 years from the date of application be disclosed; (iv) no longer require that misdemeanor convictions that do not involve lying, cheating, or stealing be disclosed; (v) reduce the experience requirements for all Class 5 and Class 6 waterworks licensure applicants; (vi) allow Class 4 applicants without a high diploma or equivalent and Class 3 applicants without a bachelor's or master's degree to substitute experience in the other profession (waterworks experience for wastewater works licensure and vice versa) or education for part of the experience requirement; (vii) reduce the experience requirements for Class 2 and Class 3 applicants who have an associate's degree and for those without a high diploma or equivalent; (viii) reduce the experience requirements for all Class 1 applicants; (ix) reduce the minimum required number of credit hours in science or math when using an associate's, bachelor's, or master's degree for licensure qualification; (x) state that the board will send, instead of mail, the renewal notice to the licensee; (xi) increase the reinstatement period for licenses from one year to 24 months; (xii) reduce the minimum number of continuing professional education (CPE) contact hours required for Class 1, Class 2, and Class 3 licensure renewal; (xiii) reduce the minimum number of CPE contact hours required for Class 5 waterworks licensure renewal; (xiv) increase the CPE credit for teaching a relevant course; (xv) reduce the amount of CPE hours that can be in safety subjects; (xvi) reduce the minimum number of required contact hours for CPE pertaining to utility management (xvii) allow training courses to be approved retroactively; (xviii) require that training course providers provide each participant with a certificate of completion or similar documentation; (xix) reduce required training course provider record retention from seven years to five years; (xx) increase from 30 days to 90 days the time within which training providers must report changes in information that is required to be sent to the board; (xxi), increase from 30 days to 60 days the time within which licensees must report changes of name or address; (xxii) no longer require that licensees inform the board of all licenses, certificates, or registrations affected by an address change; (xxiii) allow soliciting or accepting financial or other valuable consideration from material or equipment suppliers for specifying their products or service if the circumstances are fully disclosed to, and agreed to by, all interested parties in writing; (xxiv) allow soliciting or accepting gratuities, directly or indirectly, from contractors, their agents, or other parties

dealing with a client or employer in connection with work for which the licensee is responsible if the circumstances are fully disclosed to, and agreed to by, all interested parties in writing; (xxv) no longer require that a licensee who has direct knowledge that another individual may be violating any of the provisions of this chapter or the provisions of Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia immediately inform the board in writing; and (xxvi) remove descriptions of waterworks and wastewater works facility classifications, and instead include references to the Virginia Department of Health (VDH) and Department of Environmental Quality (DEQ) regulations, respectively, where the descriptions are also contained.

Background. In order to operate a waterworks or wastewater works, individuals must possess the appropriate category of license in a classification equal to or higher than the classification of the applicable waterworks or wastewater works. For example, an individual with a Class 6 waterworks license can operate a Class 6 waterworks facility, but not a Class 5, 4, 3, 2, or 1 facility. An individual with a Class 5 waterworks license can operate a Class 5 or 6 waterworks facility, but not a Class 4, 3, 2, or 1 facility, and so on.

Waterworks facilities. A Class 1 facility is (i) a waterworks or a water treatment plant serving 50,000 or more persons or having a water treatment plant capacity of 5.0 million gallons per day (MGD) or more and employing conventional filtration or chemical coagulation in combination with membrane filtration or (ii) a waterworks designated by VDH to be a Class 1 waterworks. A Class 2 facility is (i) a waterworks or a water treatment plant serving 5,000 or more persons but fewer than 50,000 persons or having a water treatment plant capacity of 0.5 MGD or more but less than 5.0 MGD, whichever range applies, and employing rapid rate conventional filtration (see 12VAC5-590-874) or chemical coagulation in combination with membrane filtration; (ii) a waterworks or a water treatment plant serving fewer than 50,000 persons or having a water treatment plant capacity of less than 5.0 MGD and employing high rate conventional filtration; or (iii) a waterworks designated by VDH to be a Class 2 waterworks. A Class 3 facility is (i) a waterworks or a water treatment plant serving fewer than 5,000 persons or having a water treatment plant capacity less than 0.5 MGD, whichever is greater, and employing conventional filtration or chemical coagulation in combination with membrane filtration; (ii) a waterworks or a water treatment plant serving 5,000 or more persons or having a water treatment plant capacity of 0.5 MGD or more, whichever is greater, and employing one or more of the following: disinfection other than with hypochlorination, caustic soda feed, iron and manganese removal, ion exchange, slow sand filtration, aeration, rechlorination other than with hypochlorination, activated carbon contactors, membrane or other filtration technologies without chemical coagulation, and fluoridation with a saturator or acid feed; (iii) a waterworks or a water treatment plant employing fluoridation with other than a saturator not considered a Class 1 or Class 2 waterworks; or

(iv) a waterworks designated by the department to be a Class 3 waterworks. A Class 4 facility is (i) a waterworks or a water treatment plant serving fewer than 5,000 persons or having a water treatment plant capacity of less than 0.5 MGD and employing one or more of the following: disinfection other than with hypochlorination, caustic soda feed, iron and manganese removal, ion exchange, slow sand filtration, aeration, rechlorination other than with hypochlorination, activated carbon contactors, membrane or other filtration technologies without chemical coagulation, and fluoridation with a saturator or (ii) a waterworks designated by the department to be a Class 4 waterworks. A Class 5 facility is (i) a waterworks serving 400 or more persons that provides no treatment or employs one or more of the following treatment processes: hypochlorination for disinfection, corrosion control with calcite or magnesium oxide contactors or solution feed except with caustic soda, or sequestration by solution feed or (ii) a waterworks designated by the department to be a Class 5 waterworks. A Class 6 facility is (i) a waterworks serving fewer than 400 persons that provides no treatment or employs one or more of the following treatment processes: hypochlorination for disinfection, corrosion control with calcite or magnesium oxide contactors or solution feed except with caustic soda, or sequestration by solution feed or (ii) a waterworks designated by the department to be a Class 6 waterworks.

Wastewater works facilities. A Class 1 facility is (i) a wastewater works using biological treatment methods consisting of but not limited to suspended growth reactors, aerated lagoons or constructed wetlands, filters or other attached growth contactors, processes utilizing biological nutrient control, processes utilizing land treatment and having a hydraulic capacity greater than 5.0 MGD; (ii) a wastewater works using advanced waste treatment methods consisting of but not limited to ammonia stripping, breaking chlorination, carbon adsorption, chemical coagulation, flocculation, precipitation, filtration, demineralization (i.e., ion exchange, reverse osmosis, or electrodialysis) and having a design capacity greater than 2.5 MGD; or (iii) a wastewater works classified by DEQ or VDH as a Class 1 wastewater works. A Class 2 facility is (i) a wastewater works using biological treatment methods consisting of but not limited to suspended growth reactors, aerated lagoons or constructed wetlands, filters or other attached growth contactors, processes utilizing biological nutrient control, processes utilizing land treatment and having a hydraulic capacity greater than 0.5 MGD but equal to or less than 5.0 MGD; (ii) a wastewater works using advanced waste treatment methods consisting of but not limited to ammonia stripping, breaking chlorination, carbon adsorption, chemical coagulation, flocculation, precipitation, filtration, demineralization (i.e., ion exchange, reverse osmosis, or electrodialysis) and having a design capacity greater than 0.1 MGD but equal to or less than 2.5 MGD; or (iii) a wastewater works classified by DEQ or VDH as a Class 2 wastewater works. A Class 3 facility is (i) a wastewater

works using biological treatment methods consisting of but not limited to suspended growth reactors, aerated lagoons, constructed wetlands, filters or other attached growth contactors, processes utilizing biological nutrient control, or processes utilizing land treatment having a design hydraulic capacity greater than 0.04 MGD, but equal to or less than 0.5 MGD; (ii) a wastewater works using natural treatment methods (land treatment utilizing a secondary process for pretreatment followed by irrigation, overland flow infiltration-percolation, or combination thereof or aquatic ponds or constructed wetlands) with a design hydraulic capacity greater than 1.0 MGD; (iii) a wastewater works using advanced waste treatment methods consisting of but not limited to ammonia stripping, breakpoint chlorination, carbon adsorption, chemical coagulation, flocculation, precipitation, filtration, or demineralization (i.e., ion exchange, reverse osmosis, or electrodialysis) having a design hydraulic capacity greater than 1,000 gallons per day but equal to or less than 0.1 MGD; or (iv) a wastewater works classified by DEQ or VDH as a Class 3 wastewater works. A Class 4 facility is (i) a wastewater works employing biological mechanical methods (i.e., mechanical treatment process defined as those containing aerated and mixed flows using electrical or outside energy sources) with a design hydraulic capacity greater than 1,000 gallons per day but equal to or less than 0.04 MGD; (ii) a wastewater works using natural treatment methods (land treatment utilizing a secondary process for pretreatment followed by irrigation, overland flow infiltration-percolation, or combination thereof or aquatic ponds or constructed wetlands) with a design hydraulic capacity greater than 1.0 MGD; or (iii) a wastewater works classified by DEQ or VDH as a Class 4 wastewater works.

Estimated Benefits and Costs:

Examinations and reinstatement. Under the current regulation, an applicant has 12 months from approval of the application to pass the board-approved examination. Failure to pass the board-approved examination within 12 months of approval results in the applicant being required to submit a new application to be considered for licensure. The proposed increase in the time that an applicant has to pass the board-approved examination once an application has been approved from 12 to 24 months would save applicants who need the extra time from paying another \$100 application fee as well as the time associated with assembling and sending another application. Currently, individuals who were previously licensed, but allowed the license to expire and lapse, must retake the licensure examination. The proposal to state that an examination score received by an applicant is valid for a period of 10 years from the date of the examination would be beneficial in that it would allow some such individuals to regain licensure without having to retake the examination. Under the current regulation, a license may be reinstated for up to one year following the expiration date of the license. An individual who fails to reinstate the license within 12 months after the expiration date must apply for a new license and meet

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entry requirements in effect at the time of the submittal of the new application. The proposal to increase the reinstatement period for licenses from one year to 24 months would likely enable individuals to resume practicing legally more quickly as they would not need to wait for a new license to be approved. It would not result in fee savings though, as the reinstatement fee is \$105 and the new license fee is \$100.

Disclosures. Under the current regulation, licensure applicants must disclose all felony convictions regardless of when they occurred and all misdemeanor convictions (except for marijuana) that occurred within three years of the date of application. By no longer requiring disclosure of felony convictions that occurred more than 20 years from the date of application, or misdemeanor convictions that do not involve lying, cheating, or stealing, applicant time tracking down specific information about the convictions and Department of Professional and Occupational Regulation (DPOR) staff time reviewing the applications could be saved.

Experience requirements. Under the current regulation, Class 6 waterworks licensure requires at least six months of experience at a Class 6 or higher waterworks facility for those with a high school diploma or equivalent, or one year of experience at a Class 6 or higher waterworks for those without a high school diploma or equivalent. Class 5 waterworks licensure requires at least six months of experience at a Class 5 or higher waterworks facility for those with a high school diploma or equivalent, or one year of experience at a Class 5 or higher waterworks for those without a high school diploma or equivalent. Experience can be gained as an operator-in-training at a facility for which the operator is not yet licensed, under the direct supervision of an operator holding a valid license. For both Class 6 and Class 5, the board proposes to reduce the required minimum experience to three months for those with a high school diploma or equivalent and six months for those without a high school diploma or equivalent. Under the current regulation, Class 3 licensure for both professions (waterworks and wastewater works) requires at least nine months of experience in the same profession at a Class 4 or higher facility for those with an associate's degree, or three years of experience in the same profession at a Class 3 or higher facility for those without a high school diploma or equivalent. The board proposes to reduce the required minimum experience to six months for those with an associate's degree and 18 months for those without a high school diploma or equivalent. Additionally, the board proposes to allow experience at a Class 4 facility to count toward the experience requirement for those without a high school diploma or equivalent. Under the current regulation, Class 2 licensure for both professions requires at least 18 months of experience in the same profession at a Class 3 or higher facility for those with an associate's degree, or five years of experience at a Class 2 or higher facility for those without a high school diploma or equivalent. The board proposes to reduce the required minimum experience to one year for those with an associate's degree and three years for those without a high

school diploma or equivalent. Additionally, the board proposes to allow experience at a Class 3 facility to count toward the experience requirement for those without a high school diploma or equivalent. Under the current regulation, Class 1 licensure for both professions requires at least two years of experience in the same profession at a Class 2 or higher facility for those with a bachelor's or master's degree, three years of experience at a Class 2 or higher facility for those with an associate's degree, four years of experience at a Class 2 or higher facility for those with a high school diploma or equivalent, or nine years of experience at a Class 2 or higher facility for those without a high school diploma or equivalent. The board proposes to reduce the required minimum experience to 18 months for those with a bachelor's, master's, or associate's degree, three years for those with a high school diploma or equivalent, and four years for those without a high school diploma or equivalent. Under the current regulation, for some licensure classes and educational backgrounds, up to half of the minimum experience requirements can be satisfied by substituting experience in the other profession so long as the experience was gained in an equivalent or higher class of facility. Also, education may substitute for part of the required experience in the category of license applied for at a rate of one month of experience credit for each semester hour of college credit. Coursework must be relevant to the category and classification of the license sought. The college credit must be from an accredited college or university that is approved or accredited by a regional or national accreditation association, or by an accreditation agency that is recognized by the U.S. Secretary of Education. Board-approved waterworks or wastewater works operator training courses may be utilized for experience at a rate of one month experience for each training credit approved by the board. In total, substitutions may not exceed 50% of the total experience required for licensure. The board proposes to allow Class 4 applicants without a high diploma or equivalent and Class 3 applicants with a bachelor's, master's, or associate's degree to utilize substitutions for minimum experience. The proposal to reduce the minimum experience requirements, add facilities at which experience can count toward the minimum experience requirements and allow additional applicants to utilize substitutions for minimum experience all make it easier for professionals to qualify for higher classes and the initial classes for Class 6 waterworks and Class 4 wastewater works. This would likely increase the supply of individuals qualified for licensure.

Science and math. Applicants seeking to qualify for licensure based on completion of an associate's, bachelor's, or master's degree must have specific elements as part of the degree: (i) a bachelor's or master's degree in engineering or engineering technology in a related physical, biological, environmental, or chemical science; (ii) a bachelor's degree in a related physical, biological, environmental, or chemical science that includes a minimum 40 semester credit hours in any combination of science and math; (iii) a master's degree in a related physical, biological, environmental, or chemical science and a bachelor's

degree in any major such that the combined degrees include a minimum 40 semester credit hours in any combination of science and math; or (iv) an associate's degree in waterworks, wastewater works, or a related physical, biological, environmental, or chemical science that includes a minimum of 20 credit hours in any combination of science and math. For the second and third pathways, the board proposes to reduce the minimum number of semester credit hours in any combination of science and math from 40 to 32. For the fourth pathway, the board proposes to reduce the minimum number of semester credit hours in any combination of science and math from 20 to 16. These proposed changes make it easier for some professionals to qualify for Classes 1, 2, and 3 for both professions. This would likely increase the supply of individuals qualified for Classes 1, 2, and 3 licensure.

Renewal notice. According to DPOR, the board does not currently distribute renewal notifications through email. The current regulation states that "Prior to the expiration date shown on the license, the board shall mail a renewal notice to the licensee's address of record." The board proposes to replace "shall mail" with "will send." This would facilitate faster notifications through electronic means and reduce postal costs.

CPE contact hours. Under the current regulation, Class 1, Class 2, and Class 3 operators must obtain a minimum of 20 CPE contact hours; Class 4 operators must obtain a minimum of 16 CPE contact hours; Class 5 waterworks operators must obtain a minimum of eight CPE contact hours; and Class 6 waterworks operators must obtain a minimum of four CPE contact hours within the two-year licensure period in order to renew their license. The board proposes to reduce the required minimum CPE contact hours to 18 for Class 1, Class 2, and Class 3, and six for Class 5 waterworks operators. The required minimum CPE contact hours would not change for Class 4 operators and Class 6 waterworks operators. The current regulation states that "Of the total 20 hours required, a minimum of five contact hours pertaining to utility management is required of Class 1 and Class 2 waterworks operators." In addition to reducing the required total minimum contact hours from 20 to 18, the board also proposes to commensurately reduce the required minimum contact hours pertaining to utility management from five to four. The current regulation also states that "Safety subjects shall not count for more than one-half of the total required CPE hours." The board wishes to place greater emphasis on other approved topics and proposes to reduce the cap on safety subjects to 25% of the total required CPE hours. The regulation allows licensees to receive two hours of CPE no more than once during a single licensing renewal cycle for the initial development or substantial updating of a CPE course. The board proposes to increase the credit to four hours of CPE. Reducing the required number of CPE hours for license renewal reduces costs for licensees. Examples of costs for CPE courses from providers included by DPOR include At Your Pace Online:³ \$19 for one-hour course, \$20 for two-hour course, \$50 for five-hour and six-hour courses, etc., and American Water College:⁴ \$59.95

for four-hour course, \$109.95 for eight-hour course, etc. Thus, by reducing required CPE by two hours, licensees could save approximately \$20 in fees plus the value of two hours of their time. The most recent edition of the U.S. Bureau of Labor Statistics State Occupational Employment and Wage Estimates⁵ indicates that the mean hourly wage for water and wastewater treatment plant and system operators in Virginia is \$27.91. Valuing their time by the average wage, \$55.82 in time would be saved by reducing required CPE by two hours. While Class 1, Class 2, and Class 3, and Class 5 operators would have savings, providers of CPE would commensurately lose some business.

Training courses. The current regulation requires that training courses be approved by the board prior to commencing. This is replaced in the proposed regulation by a statement that credit for a course will not be awarded until a course is approved by the board. This is less restrictive as training courses could be approved retroactively. If a licensee does choose to take a training course that is not yet approved, the licensee would assume the risk of potentially wasting their time and money if the board does not subsequently approve it. The board proposes to reduce required training course provider record retention from seven years to five years. This would modestly reduce costs for training providers.

Reporting. The board proposes to increase from 30 days to 90 days the time within which training providers must report changes in information that is required to be sent to the board and increase from 30 days to 60 days the time within which licensees must report changes of name or address. This is moderately beneficial for training providers and operators. The board also proposes to no longer require that licensees inform the board of all licenses, certificates, or registrations affected by an address change. This would save operators time. The current regulation requires that "A licensee who has direct knowledge that another individual may be violating any of the provisions of this chapter or the provisions of Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia shall immediately inform the board in writing..." The board proposes to strike this requirement, which would reduce some burden on licensees but may also reduce the likelihood wrongdoing is found and remedied.

Financial considerations and gratuities. The current regulation prohibits both (i) soliciting or accepting financial or other valuable consideration from material or equipment suppliers in exchange for specifying their products or services and (ii) soliciting or accepting gratuities, directly or indirectly, from contractors or their agents or other parties dealing with a client or employer in connection with work for which the licensee is responsible. The board proposes to append to both "unless the circumstances are fully disclosed to and agreed to by all interested parties in writing." This could be financially beneficial for licensees who choose to accept considerations or gratuities. Otherwise, the impact of these proposed changes is unclear.

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Facility classifications. The current regulation includes descriptions of waterworks and wastewater works facility classifications. The board proposes to remove the descriptions and instead include references to the VDH⁶ and DEQ⁷ regulations, respectively, where the descriptions are also contained. This would add time for interested readers to find the information, but if VDH or DEQ amend the descriptions, having the references rather than text in the DPOR regulation would avoid having inconsistent information and the need for DPOR to start a time-consuming regulatory action to regain consistency.

Businesses and Other Entities Affected. The proposed amendments affect the 2,044 licensed wastewater works operators, 2,215 licensed waterworks operators, licensure applicants, and wastewater works and waterworks facilities.⁸ There are 71 Class 1, 119 Class 2, 198 Class 3, and 120 Class 4 wastewater works facilities;⁹ and 36 Class 1, 77 Class 2, 42 Class 3, 286 Class 4, 277 Class 5, and 893 Class 6 waterworks facilities.¹⁰ The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.¹¹ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.¹² While the proposed reductions in required CPE hours are beneficial for licensees, they would likely reduce business for some training providers. Thus, an adverse impact is indicated for training providers.

Small Businesses¹³ Affected.¹⁴

Types and Estimated Number of Small Businesses Affected: According to DPOR, there are currently 23 board-approved specialized training programs and courses, most of which are likely small businesses.

Costs and Other Effects: Proposed amendments would likely reduce hiring costs for small waterworks and wastewater works and reduce business for some small training providers. Operator licenses are issued to individuals, not business entities. However, according to DPOR, many licensed waterworks and wastewater works professionals are likely owners or employees of business entities that meet the definition of small business.

Alternative Method that Minimizes Adverse Impact: There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities¹⁵ Affected.¹⁶ The proposed amendments neither disproportionately affect particular localities nor increase costs for local governments.

Projected Impact on Employment. The proposed amendments that make it easier for professionals to qualify for higher operator classes and the initial classes for Class 6 waterworks and Class 4 wastewater works may make it easier to fill vacancies by expanding the supply of qualified operators. This may moderately increase the number of individuals who are employed.

Effects on the Use and Value of Private Property. The proposed amendments that are likely to increase the supply of qualified operators may moderately reduce hiring costs for waterworks and wastewater works, moderately increasing their value. The proposed reduction in required CPE hours would likely moderately reduce business for some training providers, which may moderately reduce their value. The proposed amendments do not affect real estate development costs.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² In this document, if neither waterworks nor wastewater works are specified, then the statement applies to both professions..

³ See <https://www.aypotech.com/virginia-water-operator-continuing-education>.

⁴ See <https://www.americanwatercollege.org/virginia/>.

⁵ See <https://www.bls.gov/oes/current/oes518031.htm>.

⁶ Waterworks Regulations (12VAC5-590)..

⁷ Sewage Collection and Treatment Regulations (9VAC25-790). Note, the DEQ regulation uses Roman numerals instead of Arabic numerals when referring to licensure classes.

⁸ Data source: Department of Professional and Occupational Regulation.

⁹ Data source: DEQ.

¹⁰ Data source: VDH.

¹¹ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

¹² Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

¹³ Pursuant to § 2.2-4007.04, 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."

¹⁴ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may

have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

¹⁵ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁶ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments revise (i) entry requirements for waterworks and wastewater works operators, (ii) continuing education requirements for renewal of licenses, (iii) requirements for board approval of training courses, and (iv) standards of practice and conduct.

18VAC160-30-10. Definitions.

A. Section 54.1-2300 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

- "Board"
- ~~"Onsite sewage system"~~
- "Operator"
- "Owner"
- "Wastewater works"
- "Waterworks"

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

"Address of record" means the address designated by the licensee to receive notices and correspondence from the board.

~~"Applicant" means an individual who submits~~ has submitted an application ~~with the appropriate fee and other required documentation for licensure.~~

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation.

"Category" means a profession under the board's purview, which includes waterworks and wastewater works as applicable to the licensure of waterworks and wastewater works operators.

"Classification" means the division within each category of license as it relates to the classified facility. Class 1 represents the highest classification for each category of license.

"Contact hour" means 50 minutes of participation in a structured training activity.

"Department" means the Virginia Department of Professional and Occupational Regulation.

"DEQ" means the Virginia Department of Environmental Quality.

"Direct supervision" means being immediately available and fully responsible for the provision of waterworks and wastewater works operation regulated pursuant to Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

"Direct supervisor" means a licensed waterworks or wastewater works operator who assumes the responsibility of direct supervision.

"Licensee" means an individual holding a valid license issued by the board.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation that is unlawful to practice without such license.

"Maintenance" or "maintain" means performing adjustments to equipment and controls and in-kind replacement and cleaning of normal wear and tear parts such as light bulbs, fuses, filters, pumps, motors, or other like components. ~~Maintenance includes pumping the tanks or cleaning the building sewer on a periodic basis.~~

"Master alternative onsite sewage system operator" means an individual licensed by the board who possesses the minimum skills and competency to operate and maintain conventional and alternative onsite sewage systems.

"Operate" means the act of (i) placing into or taking out of service a unit process ~~or unit processes~~ or (ii) making or causing adjustments in the operation of a unit process at a waterworks or wastewater works.

"Renewal" means the process and requirements for periodically approving the continuance of a license.

"Training credit" means a unit of board-approved training or formal education completed by an individual that may be used to substitute for experience when applying for a license.

~~"Treatment works" means any device or system used in the storage, treatment, disposal, or reclamation of sewage or combinations of sewage and industrial wastes including pumping power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment processes or (ii) used for ultimate disposal or residues or effluent resulting from such treatment.~~

"VDH" means the Virginia Department of Health.

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18VAC160-30-20. Application procedures.

A. All applicants seeking licensure ~~shall will~~ submit an application with the appropriate fee specified in 18VAC160-30-40. Application ~~shall will~~ be made on forms provided by the board or its agent.

1. By submitting the application to the department, the applicant certifies that the applicant has read and understands the applicable statutes and the board's regulations.

2. The receipt of an application and the deposit of fees by the board does not indicate approval of the application by the board.

B. The board may make further inquiries and investigations with respect to the applicant's qualifications to confirm or amplify information supplied. All applications ~~shall must~~ be completed in accordance with the instructions contained in this chapter and on the application. Applications will not be considered complete until all required documents are received by the board. ~~At No~~ applicant will ~~not~~ be permitted to sit for the applicable board-approved examination until the application is complete and approved.

C. The applicant will be notified within 30 days of the board's receipt of an initial application if the application is incomplete. An individual who fails to complete the application process within 12 months of receipt of the application in the board's office must submit a new application. An applicant has ~~12 24~~ months from approval of the application to pass the board-approved examination. Failure to pass the board-approved examination within ~~12 24~~ months of approval will result in the applicant being required to submit a new application to be considered for licensure.

D. The applicant ~~shall must~~ immediately report all changes in information supplied with the application, if applicable, prior to issuance of the license or expiration of the application or examination period.

18VAC160-30-30. General fee requirements.

All fees are nonrefundable and ~~shall will~~ not be prorated. The date on which the fee is received by the department or ~~its the~~ department's agent will determine whether the fee is on time. Checks or money orders ~~shall must~~ be made payable to the Treasurer of Virginia.

18VAC160-30-40. Fee schedule.

Fees for a waterworks operator or a wastewater works operator license are as provided in this section.

Fee Type	Fee Amount	When Due
Initial application (for each profession, class, and category of license)	\$100	With application

Renewal (for each profession, class, and category of license)	\$80	With renewal application
Reinstatement (for each profession, class, and category of license)	\$105 (renewal fee + \$25 reinstatement fee)	With reinstatement application

~~For wastewater works operator licenses expiring on February 28, 2018, and waterworks operator licenses expiring on February 28, 2019, the renewal fee shall be \$50. For reinstatement applications received after February 28, 2018, and on or before February 29, 2020, the total reinstatement fee shall be \$75.~~

18VAC160-30-50. Examination fee.

The ~~fee fees~~ for ~~examination or reexamination~~ is all examinations are subject to charges to the department by an outside vendor based on a contract entered into in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with this contract.

18VAC160-30-60. General requirements for licensure.

A. In addition to the specific qualifications for each category and classification of licensure, each applicant for licensure ~~shall must~~ meet the requirements provided in this section.

~~1. B.~~ The applicant ~~shall must~~ be at least 18 years ~~old of age~~.

~~2. C.~~ The applicant ~~shall disclose the applicant's~~ must provide a mailing address, which will serve as the address of record. A post office box is only acceptable as ~~a mailing the~~ the address of record when a physical address is also provided.

~~3. D.~~ In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall must~~ disclose the following information.

~~a. 1.~~ All felony convictions that occurred within 20 years of the date of application.

~~b. 2.~~ All misdemeanor convictions involving lying, cheating, or stealing, except marijuana convictions, in any jurisdiction that occurred within three years of the date of application.

~~Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.~~

~~B-~~ The board, ~~at in~~ in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et. seq. of the Code of Virginia).

~~C. E.~~ The applicant ~~shall~~ must report any ~~suspension, revocation, or surrender of a license, certification, or registration in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction prior to applying for licensure~~ action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other corrective action. The board, ~~at~~ in its discretion, may deny licensure to any applicant ~~based on prior suspensions, revocations, or surrenders of licenses based on disciplinary action by~~ for any prior action taken by any board or administrative body in any jurisdiction. The applicant has the right to request further review of any such action by the board under the Administrative Process Act.

F. The applicant for licensure must be in compliance with the standards of conduct and practice set forth in Part VI (18VAC160-30-290 et seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the license is in effect.

18VAC160-30-70. Examination procedures and conduct.

A. Upon approval of the application, the board will notify the applicant of ~~his~~ the applicant's eligibility to take the applicable examination. ~~The license will not be issued prior to receipt of a passing score for the applicable examination.~~

B. An applicant who does not receive a passing score within ~~one year~~ 24 months after the date of approval of the application by the board to sit for the examination, ~~must submit a new application and meet the entry requirements in effect at the time of submittal of the new application.~~

C. The applicant ~~shall~~ must follow all rules established by the board with regard to conduct at the examination. Such rules ~~shall~~ include all written instructions communicated prior to the examination date and all instructions communicated at the site, ~~either written or oral,~~ on the date of examination. Failure to comply with all rules established by the board and the testing organization with regard to conduct at the examination may be grounds for denial of the application, ~~or voiding of examination scores, or any combination thereof.~~

D. The passing examination score received by an applicant for the category and class of license for which the applicant has applied is valid for a period of 10 years from the date of the examination.

18VAC160-30-80. Individuals certified or licensed in another jurisdiction.

An applicant holding a ~~valid~~ an active, current license or certificate in another jurisdiction who meets the requirements of this chapter, including having equivalent experience and

education, ~~shall~~ must pass a board-approved examination to become licensed.

18VAC160-30-90. License required.

A. No individual ~~shall serve as the operator of~~ will operate a waterworks or wastewater works without possessing a valid category of license issued by the board in a classification equal to or greater than the classification of the applicable waterworks or wastewater works.

~~B. An individual cannot simultaneously hold two licenses of different classifications in the same category.~~

~~C. Experience used to qualify for licensure must be obtained under the direct supervision of an operator holding a valid license of the same category and of a classification equal to or higher than the classification of the waterworks or wastewater works at which the experience was gained.~~

~~D. Experience operating and maintaining water distribution systems shall only be considered for Class 5 or Class 6 waterworks operator license applicants.~~

~~E. Experience limited solely to the operation and maintenance of wastewater collection systems, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator or an operator-in-training.~~

~~F. B.~~ Provisional licensure alone ~~shall~~ will not authorize an individual to ~~serve as the operator of~~ operate a classified waterworks or wastewater works facility.

18VAC160-30-95. Qualifying experience.

A. Experience used to qualify for licensure must be obtained under the direct supervision of an operator holding a valid license of the same category and of a classification equal to or higher than the classification of the waterworks or wastewater works at which the experience was gained.

B. The direct supervisor must certify the applicant's experience on the application as accurate and relevant to the classification and category of license for which licensure is sought. In the event that a licensed operator is not available to certify the experience of the applicant, the experience may be certified by a representative of the facility owner with first-hand knowledge of the applicant's experience.

C. Experience operating and maintaining water distribution systems will only be considered for Class 5 or Class 6 waterworks operator license applicants.

D. Experience limited solely to nonoperating duties will not be counted as experience as an operator or an operator-in-training.

E. The board will accept an applicant's experience obtained in a previously unclassified wastewater treatment facility that has recently been classified as requiring a licensed Class 3 or Class 4 operator, provided that (i) the application includes verification from the appropriate DEQ regional office that the

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operator license requirement is a new requirement and (ii) the applicant's experience is verified by the owner of the facility.

18VAC160-30-100. Full-time experience or equivalent.

For the purposes of this part, experience requirements are expressed in terms of calendar periods of full-time employment as an operator or as an operator-in-training at a waterworks or wastewater works in the same category for which licensure is sought pursuant to this chapter.

1. A year of full-time employment is defined as a minimum of 1,760 hours during a 12-month period or a minimum of 220 workdays in a 12-month period. A workday is defined as attendance at a waterworks or wastewater works to the extent required for proper operation. More than 1,760 hours or 220 workdays during a 12-month period will not be considered as more than one year of full-time employment.

2. Partial credit may be given for actual hours of work experience if the applicant works as an operator or as an operator-in-training less than full time.

18VAC160-30-110. Qualifications for examination approval.

A. An applicant for licensure as a waterworks or wastewater works operator shall furnish acceptable documentation that one of the following qualifications has been met.

TABLE 1 Waterworks and Wastewater Works Operator Experience and Education					
Classes	Education Required	Current License	Minimum Experience	Facility Type	Experience with Substitutions
Class 6 (Waterworks Operator Only)	High school diploma or <u>GED equivalent</u>	N/A	Six <u>Three months</u>	Class 6 or higher facility	N/A
	No high school diploma or <u>GED equivalent</u>	N/A	One year <u>Six months</u>	Class 6 or higher facility	N/A
Class 5 (Waterworks Operator Only)	High school diploma or <u>GED equivalent</u>	N/A	Six <u>Three months</u>	Class 5 or higher facility	N/A
	No high school diploma or <u>GED equivalent</u>	N/A	One year <u>Six months</u>	Class 5 or higher facility	N/A
Class 4	High school diploma or <u>GED equivalent</u>	N/A	Six months	Class 4 or higher facility	N/A
	No high school diploma or <u>GED equivalent</u>	N/A	One year	Class 4 or higher facility	N/A <u>Six months</u>
Class 3	Bachelor's or or master's, or associate's degree	N/A	Six months	Class 4 or higher facility	N/A <u>Three months</u>
	Associate's degree	N/A	Nine <u>months</u>	Class 4 or <u>higher facility</u>	Six <u>months</u>
	High school diploma or <u>GED equivalent</u>	N/A	One year	Class 4 or higher facility	Six months
	No high school diploma or <u>GED equivalent</u>	Class 4 <u>license N/A</u>	Three <u>One and one-half years</u>	Class 3 <u>4</u> or higher facility	One and one half <u>years</u> <u>Nine months</u>
Class 2	Bachelor's or or master's, or associate's degree	N/A	One year	Class 3 or higher facility	Six months
	Associate's degree	N/A	18 <u>months</u>	Class 3 or <u>higher facility</u>	Nine <u>months</u>

	High school diploma or <u>GED equivalent</u>	N/A	Two years	Class 3 or higher facility	One year
	No High school diploma or <u>GED equivalent</u>	Class 3 license	Five <u>Three</u> years	Class 2 <u>3</u> or higher facility	Three <u>One</u> and one-half years
Class 1	Bachelor's or master's, or associate's degree	Class 2 license	Two <u>One and one-half</u> years	Class 2 or higher facility	One year <u>Nine months</u>
	Associate's degree	Class 2 license	Three years	Class 2 or higher facility	One and one-half years
	High school diploma or <u>GED equivalent</u>	Class 2 license	Four <u>Three</u> years	Class 2 or higher facility	Two <u>One and one-half</u> years
	No high school diploma or <u>GED equivalent</u>	Class 2 license	Nine <u>Four</u> years	Class 2 or higher facility	Four and one-half <u>Two</u> years
Where applicable, the current license held, minimum experience, and the facility type must coincide with the category of license for which the application is being submitted.					

~~B. The direct supervisor shall certify the experience on the application form as accurate and relevant to the classification and category of license for which is being submitted. In the event that a licensed operator is not available to certify the experience of the applicant, the experience may be certified by a representative of the facility owner with first hand knowledge of the applicant's experience.~~

18VAC160-30-120. Provisional licensure for nonclassified facility operation.

An applicant for licensure as a provisional waterworks or wastewater works operator shall ~~shall~~ must furnish acceptable documentation of having met all of the requirements of 18VAC160-30-110, except that the experience requirement may be met through experience gained as an operator or operator-in-training of a nonclassified facility. Such experience must be gained under the following conditions:

1. The experience is obtained at a nonclassified facility that is comparable in size and in treatment process as described in 18VAC160-30-360 and 18VAC160-30-370, as applicable.
2. The experience is obtained while performing nonclassified facility operation duties that provide experience comparable to that obtained at a classified facility. Experience operating and maintaining water distribution systems shall only be considered for a Class 5 or Class 6 provisional waterworks operator license. Experience limited solely to ~~the operation and maintenance of wastewater collection system, laboratory work, plant maintenance, and other~~ nonoperating duties shall ~~shall~~ will not be counted as experience as a provisional operator or operator-in-training.

3. Any individual holding a provisional license may apply for licensure by submitting evidence of having met 50% of the experience required by 18VAC160-30-110 and submitting the appropriate application.

18VAC160-30-130. Experience substitutions.

A. Experience obtained as a licensed alternative onsite sewage system operator before April 1, 2017, or a master alternative onsite sewage system operator may be substituted for the Class 4 wastewater works operator-in-training experience requirements.

B. 18VAC160-30-110 A provides the maximum experience substitutions that may be applied for each applicable class of license.

1. Experience gained in either waterworks or wastewater works operations may be substituted for up to ~~one-half~~ 50% of the required experience in the alternate category so long as the experience was gained in an equivalent or higher class of facility.
2. Education may substitute for part of the required experience in the category of license applied for at a rate of one month of experience credit for each semester hour of college credit. Coursework must be relevant to the category and classification of the license ~~being~~ sought. The college credit must be from an accredited college or university that is approved or accredited by ~~the Commission on Colleges of the Southern Association of Colleges and Schools~~, a regional or national accreditation association, or by an accreditation agency that is recognized by the U.S. Secretary of Education.
3. Board-approved waterworks or wastewater works operator training courses may be utilized for experience at a

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rate of one month experience for each training credit approved by the board.

C. Substitutions shall not exceed 50% of the total experience required for licensure.

18VAC160-30-140. Education.

A. Applicants seeking to qualify for licensure based on completion of an associate's, bachelor's, or master's degree ~~shall must submit an official a transcript from the school where the applicable degree was obtained. Only degrees from an accredited college or university that is approved or accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, a regional or national accreditation association; or by an accrediting agency that is recognized by the U.S. Secretary of Education will be considered. Formal education used to meet a specific education requirement for license entry cannot also be used as a training credit for experience substitution.~~

B. The following degrees ~~shall~~ will be considered to qualify in accordance with 18VAC160-30-110:

1. Bachelor's or master's degree in engineering or engineering technology in a related physical, biological, environmental, or chemical science;
2. Bachelor's degree in a related physical, biological, environmental, or chemical science that includes a minimum ~~40~~ 32 semester credit hours in any combination of science and math;
3. Master's degree in a related physical, biological, environmental, or chemical science; and a bachelor's degree in any major such that the combined degrees include a minimum ~~40~~ 32 semester credit hours in any combination of science and math; or
4. Associate's degree in waterworks, in wastewater works, or in a related physical, biological, environmental, or chemical science that includes a minimum of ~~20~~ 16 credit hours in any combination of science and math.

C. Formal education used to meet a specific education requirement for license entry cannot also be used as a training credit for experience substitution.

18VAC160-30-150. Expiration and renewal.

A. Licenses for waterworks operators ~~shall~~ will expire on the last day of February of each odd-numbered year. Licenses for wastewater works operators ~~shall~~ will expire on the last day of February of each even-numbered year.

B. Prior to the license expiration date ~~shown on the license,~~ the board ~~shall mail~~ will send a renewal notice to the licensee's address of record. The licensee ~~shall~~ must return to the board a renewal notice and the applicable renewal fee. ~~Failure to receive a renewal notice from the board does not relieve the licensee of the obligation to renew. If the licensee fails to~~

~~receive the renewal notice, a copy of the license may be submitted with the required fee as an application for renewal.~~

C. By submitting the renewal or reinstatement fee, the licensee is certifying ~~his~~ continued compliance with the Standards of Practice and Conduct (Part VI (18VAC160-30-290 et seq.)) of this chapter, as established by the board. In addition, by submitting the renewal or reinstatement fee, licensees are certifying compliance with the continuing professional education requirements of this chapter.

18VAC160-30-160. Reinstatement.

A. If all of the requirements for renewal of the license as specified in 18VAC160-30-150 are not completed within 30 days of the license expiration date, a reinstatement fee ~~shall be~~ is required as established in 18VAC160-30-40.

B. A license may be reinstated for up to ~~one year~~ 24 months following the expiration date of the license. An individual who fails to reinstate the license within ~~12~~ 24 months after the expiration date ~~shall~~ must apply for a new license and meet entry requirements in effect at the time of the submittal of the new application. ~~Such individual shall be deemed to be eligible to sit for the examination for the same category and classification of license as the expired license.~~

C. Any regulated activity conducted subsequent to the license expiration date may constitute unlicensed activity and be subject to the prosecution under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

18VAC160-30-170. Status of license during period prior to reinstatement.

A licensee who ~~applies for reinstatement of the~~ reinstates a license ~~shall~~ will be subject to all laws and regulations as if the licensee had been continuously licensed without interruption. The licensee ~~shall~~ will remain under and be subject to the disciplinary authority of the board during this entire period.

18VAC160-30-180. Board discretion to deny renewal or reinstatement.

A. The board may deny renewal or reinstatement of a license for the same reasons as the board may refuse initial licensure or discipline a licensee. The licensee has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

B. The board may deny renewal or reinstatement of a license if the licensee has been subject to a disciplinary proceeding and has not met the terms of an agreement for licensure, has not satisfied all sanctions, or has not fully paid monetary penalties and costs imposed by the board.

18VAC160-30-190. Continuing professional education.

A. Each licensee ~~shall~~ must have completed the following number of continuing professional education (CPE) contact

hours during each renewal cycle. CPE provisions do not apply for the renewal of licenses that were held for less than two years on the date of expiration.

1. Class 1, Class 2, and Class 3 waterworks and wastewater works operators ~~shall~~ must obtain a minimum of ~~20~~ 18 contact hours.
2. Class 4 waterworks and wastewater works operators ~~shall~~ must obtain a minimum of 16 contact hours.
3. Class 5 waterworks operators ~~shall~~ must obtain a minimum of ~~eight~~ six contact hours.
4. Class 6 waterworks operators ~~shall~~ must obtain a minimum of four contact hours.

~~B. CPE contact hours completed during the license period immediately prior to the expiration date of the license shall be acceptable in order to renew the license. The licensee may request additional time to meet the CPE requirement. However, CPE contact hours completed during a current licensing renewal cycle to satisfy the CPE requirements of the preceding licensing renewal cycle shall will be valid only for that preceding license renewal cycle and shall will not be accepted for any subsequent renewal cycles. The grant of any request for additional time to meet the CPE requirement is at the discretion of the board.~~

C. The licensee will not receive CPE credit for completing the same continuing education course with the same content more than once during a license ~~period~~ renewal cycle.

D. A licensee may receive CPE credit for teaching a course that otherwise meets the requirements of this chapter; however, additional credit ~~shall~~ will not be given for subsequent offerings of a course or activity with the same content within the same licensing renewal cycle. In addition, a licensee may receive ~~two~~ four hours of CPE no more than once during a single licensing renewal cycle for the initial development or substantial updating of a CPE course.

E. Safety subjects ~~shall~~ will not count for more than ~~one-half~~ 25% of the total required CPE hours.

18VAC160-30-200. CPE subject matter for waterworks operators.

A. The following course topics will be accepted for CPE credit for waterworks operators:

1. Waterworks operations;
2. Monitoring, evaluating, and adjusting treatment processes and systems, including technology;
3. Operating and maintaining equipment;
4. Security and safety procedures;
5. General science and mathematical principles;

6. Administrative processes and procedures applicable to licensure; and

7. Laws and regulations applicable to the profession.

B. Of the total ~~20~~ 18 hours required, a minimum of ~~five~~ four contact hours pertaining to utility management is required of Class 1 and Class 2 waterworks operators.

18VAC160-30-210. CPE subject matter for wastewater works operators.

A. The following course topics will be accepted for CPE credit for wastewater works operators:

1. Wastewater works operations;
2. Monitoring, evaluating, and adjusting treatment processes and systems, including technology;
3. Operating and maintaining equipment;
4. Security and safety procedures;
5. General science and mathematical principles;
6. Administrative processes and procedures applicable to licensure; and
7. Laws and regulations applicable to the profession.

B. Of the total ~~20~~ 18 hours required, a minimum of ~~five~~ four contact hours pertaining to utility management is required of Class 1 and Class 2 wastewater works operators.

18VAC160-30-220. Use of training credits and formal education for CPE credit.

Any course approved by the board for substitution as training credits or formal education semester hours, as provided for in Part V (18VAC160-30-240 et seq.) of this chapter, ~~shall~~ will also be acceptable on an hour-for-hour basis for CPE contact hours. One semester hour of college credit ~~shall equal~~ equals 15 CPE contact hours, ~~and one-quarter hour of college credit shall equal 10 CPE credit hours.~~

18VAC160-30-230. Maintenance of CPE.

A. For a period of at least two years following the end of the license renewal cycle for which the CPE was taken, the following evidence ~~shall~~ must be maintained to document completion of the required hours of CPE:

1. Evidence of completion of a structured training activity, which ~~shall~~ must consist of the name, address, and ~~telephone number~~ contact information of the sponsor;
2. The dates the licensee participated in the training;
3. Description of the subject matter presented; and
4. A statement from the sponsor verifying the number of hours completed.

B. The board may conduct an audit of its licensees to ensure compliance with the applicable CPE requirements. Licensees

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who are selected for audit ~~shall~~ must provide the necessary documentation stipulated in this section.

18VAC160-30-235. Training courses, generally.

In accordance with 18VAC160-30-110, training courses approved by the board may be substituted for experience. All training courses must be approved by the board in accordance with the provisions of this part. Training courses may be delivered using distance, virtual, or online education technology. Training courses may be approved retroactively; however, no applicant will receive credit for the training course until such approval is granted by the board.

1. Up to one training credit will be awarded for each 10 hours of classroom contact time or for each 20 hours of laboratory exercises and field trip contact time. Training credit will not be earned for breaks, meals, or receptions. A training credit awarded is equivalent to one month of experience.

2. Training courses that meet the requirements of 18VAC160-30-280 may be accepted for substitution of experience without approval by the board.

18VAC160-30-240. Approval of training courses.

~~A. Training courses may be substituted for experience pursuant to the provisions of Part II (18VAC160-30-20 et seq.) of this chapter. With the exception of training courses provided pursuant to 18VAC160-30-280, training courses that may be substituted for required experience must be approved by the board prior to commencing.~~

~~B. Each A training provider seeking approval of a training course approval shall must submit an application for training course approval on a form provided by the board. Only classroom, laboratory, and field trip contact time will be used to compute training credits. No credit will be given for breaks, meals, or receptions.~~

~~1. Organization. The board will only approve training offered by a provider that is an identifiable organization with a mission statement outlining its functions, structure, process, and philosophy and that has a staff of one or more persons with the authority to administer and coordinate a training course.~~

~~2. Training course records. The board will only approve training offered by a provider that maintains training course records for all participants for a minimum of seven years and that has a written policy on retention and release of training course records.~~

~~3. Instructors. The board will only approve training conducted by personnel who have demonstrated competence in the subject being taught, an understanding of the learning objective, and knowledge of the learning process to be used.~~

~~4. Objectives. The board will only approve courses that have a series of stated objectives that are pertinent to the tasks~~

~~performed by a licensee. The training course content must be consistent with those objectives.~~

~~5. Course completion requirements. For successful completion of a training course, participants must attend 90% or more of the class contact time and must demonstrate their learning through written examinations, completion of a project, oral examination, or other similar assessment technique.~~

The application must include:

1. The name of the training provider;

2. Provider contact person, address, email address, and telephone number;

3. Training course title;

4. Identification of the profession, category, and class of license to which the course is applicable;

5. Method of delivery;

6. Detailed course schedule, including start and end times and a list of planned breaks;

7. Instructor qualifications, including name, license number, if applicable, and a list of trade-appropriate designations, as well as a professional resume with a summary of teaching experience and subject matter knowledge and qualifications acceptable to the board;

8. Training course syllabus or outline;

9. Materials to be provided to participants; and

10. A description of the means that will be used to assess the learning of each participant to determine successful completion of the training course, such as examinations, projects, personal evaluations by the instructor, or other recognized evaluation techniques.

18VAC160-30-250. Application for training course approval. (Repealed.)

~~A. The board shall consider the following information, to be submitted by the course provider or instructor on forms provided by the board:~~

~~1. Course information:~~

~~a. Course title;~~

~~b. Planned audience;~~

~~c. Name of provider;~~

~~d. Name, physical address, email address, and phone number of contact person;~~

~~e. Scheduled presentation dates;~~

~~f. Detailed course schedule, hour by hour, including start and ending times;~~

~~g. List of planned breaks;~~

~~h. Scheduled presentation location; and~~

i. Identification of the category and classification of license to which the course is applicable and relevancy to the identified license type.

2. Instructor qualifications.

- a. Name of instructor;
- b. Title;
- c. Employer;
- d. Board license number or numbers, if applicable; and
- e. Summary of qualifications to teach the course.

3. Training materials.

- a. Course objectives. A listing of the course objectives stated in terms of the skills and knowledge the participant will be able to demonstrate as a result of the training.
- b. Course outline. A detailed outline showing the planned activities that will occur during the training course, including major topics, planned presentation sequence, laboratory and field activities, audiovisual presentation, and other major activities.
- c. Course reference materials. A list of the name, publisher, and publication date for commercially available publications. For reference materials developed by the course provider or available exclusively through the course, a copy of the reference.
- d. Audiovisual support materials. A listing of any commercially available audiovisual support material that will be used in the program. A brief description of any provider or instructor generated audiovisual material that will be used.
- e. Handouts. Identification of all commercially available handout materials that will be used, as well as copies of all other planned handouts.

4. Determination of successful completion. A description of the means that will be used to assess the learning of each participant to determine successful completion of the training program, such as examinations, projects, personal evaluations by the instructor, or other recognized evaluation techniques. Correspondence and other distance learning courses must include appropriate testing procedures to verify completion of the course.

B. Recurring training programs. If there are plans to present the same course of instruction routinely at multiple locations with only minor modifications and changes, the board may approve the overall program rather than individual presentations if so requested by the provider.

1. The board shall consider all of the information listed in subsection A of this section except those items related to specific offerings of the course.
2. Board approval will apply only to those specific offerings certified by the provider as having been conducted by instructors meeting the established criteria and in accordance with the board approved course outlines and objectives.

18VAC160-30-255. Documentation of training course completion required.

All training course providers must provide each participant with a certificate of training course completion or other documentation that the participant may use as proof of training course completion. Such documentation must contain the hours completed, the date of training, and the training course identification number assigned by the board.

18VAC160-30-260. Maintenance of training approval records.

A. At times established by the board, the board may require that course providers that have previously obtained course approval provide the board with evidence, in a form set forth by the board, that the provider continues to comply with the requirements of this chapter. Failure to continue to comply with the board's requirements or respond to such a request may result in the board withdrawing its approval.

B. Substantial modifications or changes to the information provided in 18VAC160-30-240 and 18VAC160-30-250 must be reported to the board within 30 days of the change. Failure to report the changes as required may result in the withdrawal of approval by the board.

C. Any change of the address of the training provider shall be reported in writing within 30 days of the change.

D. The board may conduct an audit of the training provider to ensure compliance with this chapter.

All providers of approved training course must establish and maintain a record for each participant. The record must include the participant's name and address, the course name and hours attended, the course syllabus or outline, the names of the instructors, the date of successful completion, and the board's approved training course identification number. Records must be available for inspection during normal business hours by authorized representatives of the board. Providers must maintain these records for a minimum of five years.

18VAC160-30-265. Reporting of changes.

Any change in the information provided in 18VAC160-30-240 must be reported to the board within 90 days of the change. Any change in information submitted will be reviewed to ensure compliance with the provisions of this chapter.

18VAC160-30-270. Withdrawal of approval.

The board may withdraw approval of any provider a training course for the following reasons:

1. The courses course being offered no longer meet the standards established by the board.
2. The provider, through an agent or otherwise, advertises its services in a fraudulent or deceptive manner.

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3. The provider, instructor, contact person, or designee of the provider falsifies any information relating to the application for approval, course information, ~~and student~~ or participant records.

4. A change in the information provided results in noncompliance with this part.

5. The provider fails to comply with 18VAC160-30-265.

6. The provider fails to respond to the board or any of its agents.

18VAC160-30-275. Board authority to audit approved training courses.

The board may conduct an audit of any board-approved training course provider to ensure continued compliance with this chapter.

18VAC160-30-280. Training Acceptance of training courses offered by certain entities; board approval not required.

A. Training courses provided by (i) federal, state, or local government agencies; (ii) ~~accredited colleges or universities approved or accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;~~ (iii) a regional or national accreditation association; or ~~(iv)~~ (iii) an accrediting agency that is recognized by the U.S. Secretary of Education do not require board approval to be used for experience substitution, provided the training course information submitted to the board includes the following:

1. The course must include the continuing education units awarded by the entity.
2. The course's subject matter must be related to the license category and classification, if applicable, for which experience substitution is sought.

B. The board may request additional information from the provider as necessary to ensure compliance with this section. ~~If such assurance cannot be made by the board~~ cannot ensure compliance, the training course may not be used for experience substitution, or the provider may pursue board approval pursuant to this chapter.

18VAC160-30-290. Grounds for disciplinary action.

The board may place a licensee on probation in accordance with § 54.1-201 A 7 of the Code of Virginia; impose a monetary penalty in accordance with § 54.1-202 A of the Code of Virginia; or revoke, suspend, or refuse to renew any license when the licensee has been found to have violated or cooperated with others in violating any provision of the regulations of the board or Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia.

18VAC160-30-300. Maintenance of license.

A. No license issued by the board ~~shall~~ will be assigned or otherwise transferred.

B. A licensee ~~shall~~ must report, in writing, ~~all changes of address and name to the board within 30 days of the change and shall return the license to the board. In addition to the address of record, a physical address is required for each license. If the licensee holds more than one license, the licensee shall inform the board of all licenses, certificates, and registrations affected by the address change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's failure to report a change of address; any change of the following:~~

1. The licensee's legal name. Such report must be accompanied by documentation acceptable to the board that verifies the name change.
2. The licensee's address, to include the physical address when applicable.

C. ~~Any change in any of the requirements and qualifications for licensure found in Part II (18VAC160-30-20 et seq.) or Part III (18VAC160-30-150 et seq.) of this chapter shall~~ A change of name or address must be reported to the board within 30 60 days of the change. The board is not responsible for the licensee's failure to receive notices, communications, and correspondence caused by the licensee's failure to report to the board any change of name or address.

18VAC160-30-310. Notice of adverse action.

A. ~~Licensees shall~~ A licensee must notify the board of the following actions against the licensee:

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including any reprimand, ~~license or certificate~~ revocation, suspension, or denial; of a license, certificate, or registration; imposition of a monetary penalty; requirement ~~for~~ to take remedial education; or other corrective action.
2. Any voluntary surrendering of a ~~related~~ license, certificate, or registration done in connection with a disciplinary action ~~in another~~ taken by any jurisdiction, board, or administrative body.
3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any (i) misdemeanor involving lying, cheating, or stealing, sexual offense, non-marijuana drug distribution, or physical injury, or relating to the practice of the profession ~~except marijuana convictions,~~ or (ii) felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions ~~shall~~ will be subject to the requirements of § 54.1-204 of the Code of Virginia. ~~Any plea of nolo contendere shall be considered a conviction for the purpose of this section.~~

B. The notice must be ~~made given~~ to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. ~~The record of conviction, finding, or case decision shall be considered prima facie evidence of a conviction or finding of guilt.~~

18VAC160-30-320. Prohibited acts.

The following acts are prohibited and any violation may result in disciplinary action by the board:

1. Violating, inducing another to violate, cooperating with another to violate, or combining or conspiring with or acting as agent, partner, or associate for another to violate any of the provisions of Chapter 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.), or 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia, or any of the regulations of the board.

~~2. Allowing a license issued by the board to be used by another.~~

~~3. 2.~~ Obtaining or attempting to obtain a license by false or fraudulent representation; or maintaining ~~or~~ renewing, ~~or~~ reinstating a license by false or fraudulent representation.

3. Failing to report a change as required by 18VAC160-30-300.

4. A licensee having been convicted; ~~or found guilty; in any jurisdiction~~ or disciplined by any jurisdiction, board, or administrative body in any jurisdiction of any offense or violation enumerated in 18VAC160-30-310. Review of convictions ~~shall~~ will be subject to the requirements of § 54.1-204 of the Code of Virginia.

5. Failing to inform the board in writing within 30 days that the licensee was convicted, found guilty in any jurisdiction, or disciplined ~~in~~ by any jurisdiction, board, or administrative body of any offense or violation enumerated in 18VAC160-30-310.

~~6. Not demonstrating reasonable care, judgment, or application of the required knowledge, skill, and ability in the performance of the licensee's duties.~~

~~7. Having undertaken to perform or performed a professional assignment that the licensee is not qualified to perform by education, experience, training, or any combination thereof.~~

~~8. Failing to report a change as required by 18VAC160-30-300.~~

~~9. Negligence~~ 6. Actions constituting negligence, misconduct, or incompetence in the practice of the profession, including:

a. Having undertaken to perform or having performed a professional assignment that the licensee is not qualified to perform by education, experience, or training.

b. Not demonstrating reasonable care, judgment, or application of the required knowledge, skill, and ability in the performance of the licensee's duties.

c. Failing to adequately supervise and review work performed by licensed or unlicensed employees under direct supervision of the licensee.

d. Failing to act in providing waterworks and wastewater works operator services in a manner that safeguards the interests of the public.

7. Actions constituting improper, fraudulent, or dishonest conduct, including:

a. Making any misrepresentation or engaging in acts of fraud or deceit when providing professional services.

b. Submitting or recording or assisting another in the submission or recording of false or misleading operational information relating to the performance and monitoring requirements of a waterworks or wastewater works.

c. Allowing a license issued by the board to be used by another.

~~10. Making any misrepresentation or engaging in acts of fraud or deceit in providing professional services.~~

~~11. Failing to adequately supervise and review work performed by licensed or unlicensed employees under direct supervision of the licensee.~~

~~12. Submitting or recording or assisting another in the submission or recording of false or misleading operational information relating to the performance and monitoring requirements of a waterworks or wastewater works.~~

~~13. Failing to act in providing waterworks and wastewater works operator services in a manner that safeguards the interests of the public.~~

18VAC160-30-330. Conflicts of interest.

The licensee ~~shall~~ must:

1. Promptly and fully inform an employer or client of any business association, interest, or circumstance that may influence the licensee's judgment or the quality of service.

2. Not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to and agreed to by all interested parties in writing.

3. Neither solicit nor accept financial or other valuable consideration from material or equipment suppliers for specifying their products or services, unless the circumstances are fully disclosed and agreed to by all interested parties in writing.

4. Not solicit or accept gratuities, directly or indirectly, from contractors or their agents or other parties dealing with a

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client or employer in connection with work for which the licensee is responsible, unless the circumstances are fully disclosed and agreed to by all interested parties in writing.

18VAC160-30-340. Licensee responsibility.

A. The primary obligation of the licensee is to the public. If the licensee's judgment is overruled and not adhered to when advising appropriate parties of circumstances of a substantial threat to the public health, safety, or welfare, the licensee ~~shall~~ must inform the employer or client, as applicable, of the possible consequences and notify appropriate authorities.

B. The licensee ~~shall~~ will not knowingly associate in a business venture with, or permit the use of the licensee's name by, any person where there is reason to believe that person is engaging in activity of a fraudulent or dishonest nature or is violating any law or regulation of the board.

~~C. A licensee who has direct knowledge that another individual may be violating any of the provisions of this chapter or the provisions of Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia shall immediately inform the board in writing and shall cooperate in furnishing any further information or assistance that may be required.~~

18VAC160-30-350. Response to inquiry and provision of records.

A. A licensee must respond within 10 days to a request by the board or any of its agents regarding any complaint filed with the department.

B. Unless otherwise specified by the board, a licensee of the board ~~shall~~ must produce to the board or any of its agents within 10 days of the request any document, book, or record concerning any transaction pertaining to a complaint filed in which the licensee was involved, or for which the licensee is required to maintain records. The board may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

C. A licensee ~~shall~~ must not provide a false, misleading, or incomplete response to the board or any of its agents seeking information in the investigation of a complaint filed with the board.

D. With the exception of the requirements of subsections A and B of this section, a licensee must respond to an inquiry by the board or its agent within 21 days.

18VAC160-30-360. Wastewater works.

A. A Class 4 wastewater works licensee may operate any wastewater works as follows:

~~1. A wastewater works employing biological-mechanical methods (i.e., mechanical treatment process defined as those containing aerated and mixed flows using electrical or outside energy sources) with a design hydraulic capacity~~

~~greater than 1,000 gallons per day but equal to or less than 0.04 MGD;~~

~~2. A wastewater works employing natural treatment methods (referenced in 9VAC25-790-870 as land treatment utilizing a secondary process for pretreatment followed by irrigation, overland flow infiltration percolation, or combination thereof or aquatic ponds or constructed wetlands) with a design hydraulic capacity greater than 1,000 gallons per day but equal to or less than 1.0 MGD; or~~

~~3. Any classified under the Sewage Collection and Treatment Regulations (9VAC25-790) as a Class IV treatment works or any other wastewater works classified by DEQ or VDH as a Class IV or Class 4 wastewater works.~~

B. A Class 3 wastewater works licensee may operate any wastewater works as follows:

~~1. A wastewater works using biological treatment methods consisting of but not limited to (i) suspended growth reactors, (ii) aerated lagoons, (iii) constructed wetlands, (iv) filters or other attached growth contactors, (v) processes utilizing biological nutrient control, or (vi) processes utilizing land treatment having a design hydraulic capacity greater than 0.04 MGD, but equal to or less than 0.5 MGD;~~

~~2. A wastewater works using natural treatment methods (referenced in 9VAC25-790-870 as land treatment utilizing a secondary process for pretreatment followed by irrigation, overland flow infiltration percolation, or combination thereof or aquatic ponds or constructed wetlands) with a design hydraulic capacity greater than 1.0 MGD;~~

~~3. A wastewater works using advanced waste treatment methods consisting of but not limited to (i) ammonia stripping, (ii) breakpoint chlorination, (iii) carbon adsorption, (iv) chemical coagulation, (v) flocculation, (vi) precipitation, (vii) filtration, or (viii) demineralization (i.e., ion exchange, reverse osmosis, or electrodialysis) having a design hydraulic capacity greater than 1,000 gallons per day but equal to or less than 0.1 MGD; or~~

~~4. A classified under the Sewage Collection and Treatment Regulations as a Class III or Class IV treatment works or any wastewater works classified by DEQ or VDH as a Class III or Class IV or Class 3 or Class 4 wastewater works facility.~~

C. A Class 2 wastewater works licensee may operate any wastewater works as follows:

~~1. A wastewater works using biological treatment methods consisting of but not limited to (i) suspended growth reactors, (ii) aerated lagoons or constructed wetlands, (iii) filters or other attached growth contactors, (iv) processes utilizing biological nutrient control, or (v) processes utilizing land application having a design hydraulic capacity greater than 0.5 MGD but equal to or less than 5.0 MGD;~~

~~2. A wastewater works using advanced waste treatment methods consisting of but not limited to (i) ammonia stripping, (ii) breakpoint chlorination, (iii) carbon adsorption, (iv) chemical coagulation, (v) flocculation, (vi) precipitation, (vii) filtration, (viii) demineralization (i.e., ion exchange, reverse osmosis, or electrodialysis) and having a hydraulic capacity greater than 0.1 MGD but equal to or less than 2.5 MGD; or~~

~~3. A classified under the Sewage Collection and Treatment Regulations as a Class II, Class III, or Class IV treatment works or any wastewater works classified by DEQ or VDH as a Class II, Class III, or Class IV or Class 2, Class 3, or Class 4 wastewater works.~~

D. A Class 1 wastewater works licensee may operate any wastewater works as follows:

~~1. A wastewater works using biological treatment methods consisting of but not limited to (i) suspended growth reactors, (ii) aerated lagoons or constructed wetlands, (iii) filters or other attached growth contactors, (iv) processes utilizing biological nutrient control, (v) processes utilizing land treatment and having a hydraulic capacity greater than 5.0 MGD;~~

~~2. A wastewater works using advanced waste treatment methods consisting of but not limited to (i) ammonia stripping, (ii) breaking chlorination, (iii) carbon adsorption, (iv) chemical coagulation, (v) flocculation, (vi) precipitation, (vii) filtration, (viii) demineralization (i.e., ion exchange, reverse osmosis, or electrodialysis) and having a design capacity greater than 2.5 MGD; or~~

~~3. A classified under the Sewage Collection and Treatment Regulations as a Class I, Class II, Class III, or Class IV treatment works or any wastewater works classified by DEQ or VDH as a Class I, Class II, Class III, or Class IV or Class 1, Class 2, Class 3, or Class 4 wastewater works.~~

18VAC160-30-370. Waterworks.

A. A Class 6 waterworks licensee may operate any waterworks as follows:

~~1. A waterworks serving fewer than 400 persons that provides no treatment or employs one or more of the following treatment processes: (i) hypochlorination for disinfection, (ii) corrosion control with calcite or magnesium oxide contactors or solution feed except with caustic, or (iii) sequestration by solution feed; or~~

~~2. A classified under the VDH Waterworks Regulations (12VAC5-590) as a Class 6 waterworks or any waterworks classified by VDH as a Class 6 waterworks.~~

B. A Class 5 waterworks licensee may operate any waterworks as follows:

~~1. A waterworks serving 400 or more persons that provides no treatment or employs one or more of the following~~

~~treatment processes: (i) hypochlorination for disinfection, (ii) corrosion control with calcite or magnesium oxide contactors or solution feed except with caustic, or (iii) sequestration by solution feed; or~~

~~2. A classified under the VDH Waterworks Regulations as a Class 5 or Class 6 waterworks or any waterworks classified by VDH as a Class 5 or Class 6 waterworks.~~

C. A Class 4 waterworks licensee may operate any waterworks as follows:

~~1. A waterworks or treatment facility serving fewer than 5,000 persons or having a treatment facility capacity of less than 0.5 MGD and employing one or more of the following: (i) disinfection other than with hypochlorination, (ii) caustic soda feed, (iii) iron and manganese removal, (iv) ion exchange, (v) slow sand filtration, (vi) aeration, (vii) rechlorination other than with hypochlorination, (viii) activated carbon contactors, (ix) membrane or other filtration technologies without chemical coagulation, or (x) fluoridation with a saturator; or~~

~~2. A classified under the VDH Waterworks Regulations as a Class 4, Class 5, or Class 6 waterworks or any waterworks classified by VDH as a Class 4, Class 5, or Class 6 waterworks.~~

D. A Class 3 waterworks licensee may operate any waterworks as follows:

~~1. A waterworks or treatment facility serving fewer than 5,000 persons or having a treatment facility capacity less than 0.5 MGD, whichever is greater, and employing conventional filtration or chemical coagulation in combination with membrane filtration;~~

~~2. A waterworks or treatment facility serving 5,000 or more persons or having a treatment facility capacity of 0.5 MGD or more, whichever is greater, and employing one or more of the following: (i) disinfection other than with hypochlorination, (ii) caustic soda feed, (iii) iron and manganese removal, (iv) ion exchange, (v) slow sand filtration, (vi) aeration, (vii) rechlorination other than with hypochlorination, (viii) activated carbon contactors, (ix) membrane or other filtration technologies without chemical coagulation, or (x) fluoridation with a saturator or acid feed;~~

~~3. A waterworks or treatment facility employing fluoridation with other than a saturator not considered a Class 1 or Class 2 waterworks; or~~

~~4. A classified under the VDH Waterworks Regulations as a Class 3, Class 4, Class 5, or Class 6 waterworks or any waterworks classified by VDH as a Class 3, Class 4, Class 5, or Class 6 waterworks.~~

E. A Class 2 waterworks licensee may operate any waterworks as follows:

~~1. A waterworks or treatment facility serving 5,000 or more persons but fewer than 50,000 persons or having a treatment~~

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~~facility capacity of 0.5 MGD or more but less than 5.0 MGD, whichever range applies, and employing rapid rate conventional filtration chemical coagulation in combination with membrane filtration;~~

~~2. A waterworks or treatment facility serving fewer than 50,000 persons or having a treatment facility capacity of less than 5.0 MGD employing high rate conventional filtration; or~~

~~3. A classified under the VDH Waterworks Regulations as a Class 2, Class 3, Class 4, Class 5, or Class 6 waterworks or any waterworks classified by the VDH as a Class 2, Class 3, Class 4, Class 5, or Class 6 waterworks.~~

F. A Class 1 waterworks licensee may operate any waterworks as follows:

~~1. A waterworks or treatment facility serving 50,000 or more persons or having a treatment facility capacity of 5.0 MGD or more and employing conventional filtration or chemical coagulation in combination with membrane filtration; or~~

~~2. A classified under the VDH Waterworks Regulations as a Class 1, Class 2, Class 3, Class 4, Class 5, or Class 6 waterworks or any waterworks classified by VDH as a Class 1, Class 2, Class 3, Class 4, Class 5, Class 6 waterworks.~~

VA.R. Doc. No. R24-7558; Filed January 13, 2025, 7:40 a.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Notice of Suspension of Effective Date

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **20VAC5-340. Rules Governing Shared Solar Program (amending 20VAC5-340-10 through 20VAC5-340-90, 20VAC5-340-110; adding 20VAC5-340-65; repealing 20VAC5-340-100).**

Statutory Authority: §§ 12.1-13 and 56-594.3 of the Code of Virginia.

AT RICHMOND, DECEMBER 13, 2024

COMMONWEALTH OF VIRGINIA, ex rel.

CASE NO. PUR-2024-00122

STATE CORPORATION COMMISSION

Ex parte: In the matter of amending regulations governing shared solar programs

ORDER GRANTING RECONSIDERATION

On November 25, 2024, the State Corporation Commission ("Commission") entered an Order Adopting Regulations in this case. On December 12, 2024, the Coalition for Community Solar Access filed a Petition for Reconsideration and Clarification ("Petition").

NOW THE COMMISSION, upon consideration of this matter, and pursuant to 5VAC5-20-220 of the Commission's Rules of Practice and Procedure, 5VAC5-20-10 et seq., find that reconsideration should be granted for the purpose of continuing jurisdiction over this matter and considering the Petition. The Order Adopting Regulations should be suspended pending the Commission's reconsideration.

Accordingly, IT IS ORDERED THAT:

(1) Reconsideration is granted for the purpose of continuing jurisdiction over this matter and considering the Petition.

(2) Pending the Commission's consideration of the Petition, the Order Adopting Regulations is suspended.

(3) This matter is continued generally.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

Notice is hereby given pursuant to Case No. PUR-2024-00122, Order Granting Reconsideration that, as of December 13, 2024, the State Corporation Commission is suspending the effective date of the final regulatory stage amending **Rules Governing Shared Solar Program (20VAC5-340)** to address a request for reconsideration and clarification of the final rules pursuant to 5VAC5-20-220. This regulation was adopted by the State Corporation Commission on November 25, 2024, and published in [41:9 VA.R. 1053-1068 December 16, 2024](#). The final regulatory action implements Chapters 715, 716, 763, and 765 of the 2024 Acts of Assembly and (i) extends the existing shared solar program to customers of a Phase I Utility, (ii) increases the caps on participation by customers of a Phase II Utility, and (iii) requires the commission to recalculate the minimum bill that prescribes the amount a participating customer must pay the utility each month after accounting for any bill credits. After reconsideration, the commission will publish an Order Adopting Regulations and associated notification in the Virginia Register.

Agency Contact: Matthew Unger, Senior Analyst, Division of Public Utility Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9849, FAX (804) 371-9350, or email matthew.unger@scc.virginia.gov.

VA.R. Doc. No. R25-7988; Filed January 23, 2025, 12:30 p.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Proposed Regulation

Title of Regulation: 24VAC30-200. **Vegetation Control Regulations on State Rights-of-Way (amending 24VAC30-200-10, 24VAC30-200-20, 24VAC30-200-30; repealing 24VAC30-200-40).**

Statutory Authority: § 33.1-210 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: April 11, 2025.

Agency Contact: JoAnne P. Maxwell, Agency Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

Basis: Section 33.2-1221 of the Code of Virginia grants the Virginia Department of Transportation (VDOT) the authority to promulgate regulations necessary to administer selective pruning permits.

Purpose: The proposed amendments are essential to protecting public health, safety, and welfare as the amendments advance improved maintenance of vegetation within the state highway right-of-way and ensure that permittees are better able to understand and comply with various standards by incorporating the appropriate standards into the terms and conditions of the required land use permit, which must be secured before work may be conducted in the right-of-way.

Substance: In addition to administrative updates, eliminating redundancy, adding clarifying language, and bringing the text in line with current practice, the proposed amendments remove the DIBR from the chapter and instead include the relevant documents in the terms of the land use permit. To ensure consistent treatment and regulation of both outdoor advertising signs and businesses, application of the restriction on cutting vegetation in front of businesses will be amended from trunks two inches in diameter to trunks six inches in diameter, and application of the restriction on pruning vegetation in front of businesses will be amended from limbs two inches in diameter to limbs four inches in diameter.

Other changes include replacing the definition of "unsightly" with a definition of "undesirable" and including invasive species and trees that pose a safety threat in the definition, removing the protection for nonnative flowering trees, eliminating language on creating a picture frame effect around signs, removing the requirement for the submission of 8" x 10" glossy photographs with permit applications, and eliminating the phrase "chipped and beneficially used" to discourage leaving wood chips on site.

Issues: The primary benefit to both the public and the agency of the removal of the DIBR section is improved clarity for regulated entities, ensuring regulated entities are aware of the specific documents relevant to them by including the documents in the terms of the land use permit. This change will also ensure the most updated version of each document is clearly specified for compliance. There are no disadvantages to this proposed change, as the permit forms will be updated to correspond with this change and all permit documents are publicly available on the VDOT website.

The inconsistency between the requirements for cutting and pruning in front of businesses and in front of outdoor advertising has made enforcement of this chapter inconsistent. VDOT has determined through surveying VDOT roadside managers that the less than two inch in diameter limitation for cutting and pruning vegetation in front of businesses is too restrictive and is impractical in many cases due to the rate of vegetation growth. The proposed amendments will relax restrictions on vegetation control in front of businesses, allowing such businesses to be more visible from highways, while maintaining the requirements for replacing cut vegetation under a landscape plan. Since replacement vegetation is required for trees that are removed, no negative impact to the environment or landscape is anticipated from these amendments.

The other proposed changes to the regulation benefit the public by removing redundant or outdated language or providing additional clarity and are not anticipated to present a disadvantage to the public or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. The Commonwealth Transportation Board (board) proposes to (i) increase the maximum allowable diameters of vegetation that can be cut or pruned to make a business more visible from the roadway, and (ii) remove the Documents Incorporated by Reference (DIBR) section from the regulatory text and instead incorporate the relevant documents within the terms of the land use permit applications.

Background. This regulation provides the regulatory requirements for individuals applying for a permit to remove vegetation when it obscures the view of an existing outdoor advertising structure (e.g., a billboard or sign) or a business that is visible from a Virginia Department of Transportation (VDOT) maintained highway. The current regulation specifies that: "All cutting to make an outdoor advertising structure more visible from the roadway shall be limited to vegetation with trunk base diameters of less than six inches. All cutting to

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make a business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than two inches." Additionally, the current regulation specifies that: "No pruning of vegetation to make an outdoor advertising sign more visible from the roadway will be permitted if the cut at the point of pruning will exceed four inches in diameter. No pruning of vegetation to make a business more visible from the roadway will be permitted if the cut at the point of pruning will exceed two inches in diameter." As a result of a periodic review conducted on this regulation in 2019,² VDOT determined that the inconsistency between the requirements for cutting and pruning in front of businesses and outdoor advertising made enforcement inconsistent. The agency also determined through surveying VDOT roadside managers that the less than two inch in diameter limitation for cutting and pruning vegetation in front of businesses is too restrictive and impractical in many cases due to the rate of vegetation growth. Consequently, the board proposes to amend the regulation to make the maximum diameters for cutting and pruning vegetation to make a business more visible from the roadway consistent with the maximum diameters for outside advertising: six inches for cutting and four inches for pruning. The current and proposed regulation requires that there be replacement vegetation. A certified arborist and a VDOT official or when applicable, a local government official must agree on the size and species of replacement vegetation in a landscape plan.

Estimated Benefits and Costs: Increasing the diameter of trees and branches that can be cleared for a business location from two inches to six inches for trunk base, and to four inches for branches, could spark new attention for businesses alongside roadways due to increased visibility. Thus, the proposed increase in allowable diameter for cutting and trimming may increase the number of permit applications for such work. From 2020 to 2023 there were on average 19.5 permits issued by VDOT to perform cutting or trimming for business locations. The agency delegates its authority to issue such permits to cities or towns when the relevant public right-of-way is within their jurisdictional limits. Therefore, it is likely there were more than the average of 19.5 businesses permitted annually from 2020 to 2023, but VDOT does not have these data. The main benefit of this proposed change is allowing businesses to make their frontage more visible from the roadway if they are interested in doing so and consequently, potentially increasing their number of customers. However, VDOT notes that any cutting and pruning would still require setting up a road-work zone and may create a work road hazard to drivers in that area while the work is being done. Given that the current diameter standards make cutting and pruning impractical in some instances, the new proposed standards may result in an increase in road-work zones to the extent that it encourages new cutting and pruning activity. According to the U.S. Environmental Protection Agency, "Trees are increasingly recognized for their importance in managing runoff. Their leaf canopies help reduce erosion caused by falling rain. They also provide surface area where rainwater

lands and evaporates. Roots take up water and help create conditions in the soil that promote infiltration."³ Thus, cutting down trees without replacement could lead to increased flooding and other problems related to runoff such as pollution. The current and proposed regulations do require that there be replacement vegetation in a landscape plan approved by a certified arborist and a VDOT or local official. Thus, if the vegetation is replaced in a timely fashion and according to the approved plan, potential runoff risk may be largely mitigated. Removing the DIBRs from the regulation and incorporating the relevant documents within the terms of the land use permits does not change the applicability of the requirements, but it changes how they are enforced by shifting from administrative (i.e., regulatory) to contractual compliance. Some, but not all of the requirements reiterate or clarify requirements from the Code of Virginia or regulation. To the extent that VDOT is able to enforce these requirements contractually instead of administratively, by treating each permit as a contract, there is not likely to be a substantial economic impact.

Businesses and Other Entities Affected. The proposed changes potentially apply to any business wishing to improve their visibility from a highway by cutting or pruning vegetation. From 2020 to 2023 there were on average 19.5 permits issued by VDOT for this work. An unknown additional number of permits were likely issued by local governments. The proposed changes would likely increase the demand for permits. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ The proposed amendments may be substantially beneficial for some businesses wishing to increase their visibility. Nevertheless, the proposal is likely to increase road-work zones, which may cause some delays for motorists. Since an adverse impact is indicated if there is any increase in net cost for any entity, even if the benefits exceed the costs for all entities combined, an adverse impact is indicated.

Small Businesses⁶ Affected.⁷ The proposed amendments do not appear to adversely affect small businesses.

Localities⁸ Affected.⁹ The proposed amendments could potentially lead to an increase in permit applications received by localities, especially cities. Localities are authorized to collect \$400 per permit application. Assuming that the permit fee is sufficient to cover the administrative costs of the locality, no adverse impact on localities is expected.

Projected Impact on Employment. The proposed changes could lead to an increase in tree clearing and landscaping work and demand for such labor, but it does not appear that it would substantively affect total employment.

Effects on the Use and Value of Private Property. By allowing increased visibility, the proposed amendments may lead to increased business for some firms, which could increase their value. The likely increase in tree clearing and landscaping

work may moderately increase the value of some firms that provide such services. Certified arborists and their firms may have increased work and a moderate increase in firm value as well. No other impact on real estate development costs is expected.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1847>.

³ See <https://www.epa.gov/soakuptherain/soak-rain-trees-help-reduce-runoff>.

⁴ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁵ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁶ Pursuant to § 2.2-4007.04, 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."

⁷ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁸ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁹ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Commonwealth Transportation Board accepts the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

Pursuant to a comprehensive review of Vegetation Control Regulations on State Rights-of-Way (24VAC30-200) and in accordance with Executive Order 19 (2022),

the proposed amendments (i) remove the documents incorporated by reference from the chapter and add two land use permit forms containing requirements for vegetation control; (ii) make administrative updates, eliminate redundancy, clarify language, and align text with current practice; (iii) update restrictions on cutting vegetation and pruning vegetation in front of businesses; (iv) remove the protection for nonnative flowering trees; (v) eliminate the requirement to create a picture frame effect around signs; (vi) remove size and print quality requirements for the photographs submitted with permit applications; and (vii) eliminate the phrase "chipped and beneficially used" to discourage leaving wood chips on site.

24VAC30-200-10. Definitions.

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

"Agent" means the person, firm, or corporation representing the permittee.

"Board" means the Commonwealth Transportation Board as defined in § 33.2-200 of the Code of Virginia.

"Certified arborist" means an individual who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status.

"Cutting" means to completely remove at ground level.

~~"Daylighting" means to prune or remove vegetation to improve the motorists' view of an outdoor advertising structure or business.~~

"Department" means the Virginia Department of Transportation (VDOT) and its employees.

~~"Federal aid primary highway" means any highway as defined in § 33.2-1200 of the Code of Virginia.~~

"Inspector" means any department employee ~~designated by the Commissioner of Highways~~ or local government official, authorized to review and approve or deny the permit application and landscape plan, inspect the work performed under authority of this chapter, and make a final approval concerning the work performed.

"Interstate system" means any highway as defined in § 33.2-100 of the Code of Virginia.

"Land Use Permit Regulations" means the regulations (24VAC30-151) promulgated by the board for the purpose of authorizing activities within the limits of state rights-of-way.

"Limited access highway" means any highway as defined in § 33.2-400 of the Code of Virginia.

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"Local beautification project" means any project ~~in a locality that includes installation of plant materials, using public or other funds, in any public right of way within a city or town, or on a highway or street in a county with the county manager form of government as defined in § 33.2-1221 of the Code of Virginia.~~

"Local government official" means an employee of a local government delegated authority by the city or town council or county board of supervisors where the public right-of-way is within the jurisdictional limits of a city or town on a highway or street not within the jurisdiction of the Commissioner of Highways under § 33.2-1202 of the Code of Virginia, or on a highway or street in a county with the county manager form of government.

"Permittee" means the person, firm, or corporation owning the outdoor advertising sign, advertisement, or advertising structure or the business for whom the vegetation control work is being performed.

"Pruning" means to remove branches from healthy vegetation in a manner that is acceptable using the natural method under the standards and guidelines ~~listed in 24VAC30-200-40 published by the American National Standards Institute, the American Association of Nurserymen, and the International Society of Arboriculture specified in the terms of the permit.~~

"Specifications" ~~means the current Virginia Department of Transportation's Road and Bridge Specifications (effective January 2002).~~

"Unightly" ~~means vegetation to be selectively removed at VDOT's or the local government official's discretion.~~

"Undesirable" ~~means trees that are invasive, trees with defects, or trees that pose a significant safety risk.~~

24VAC30-200-20. General provisions.

A. Permits will be issued by the department to control vegetation in front of a ~~sign/structure~~ sign or structure that is not exempt from the provisions of § 33.2-1204 of the Code of Virginia or business that is visible from any highway as defined in § 33.2-1200 of the Code of Virginia and regulated by the territorial limitations as defined in § 33.2-1202 of the Code of Virginia, provided the vegetation control work meets the criteria set forth in § 33.2-1221 and this chapter. An application may be filed with the ~~Commissioner of Highways department~~ by ~~an~~ the owner's agent, including ~~but not limited to~~ companies that trim trees. In all other areas the local government official shall issue the permits.

B. All cutting to make an outdoor advertising structure or business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than six inches. ~~All cutting to make a business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than two inches.~~ All stumps shall be treated with a cut-stump pesticide applied by a licensed pesticide applicator with a

license issued by the Virginia Department of Agriculture and Consumer Services in Category 6, as defined in 2VAC5-685-70. All pesticides shall be approved by the department or local government official prior to use. Selective thinning in accordance with ~~specifications~~ the terms of the permit or removal of ~~unsightly~~ undesirable vegetation will be allowed on an individual basis to enhance the health and growth of the best trees or to eliminate roadway hazards if recommended by the certified arborist supervising the work and agreed to by the department or local government official. Trees that are diseased, damaged by insects, ~~unsightly,~~ or ~~that pose a safety hazard~~ undesirable may be removed when recommended by the certified arborist supervising the work and approved by the department or local government official. When tree removal is recommended by the certified arborist and approved by this permit, the permittee shall provide a list of suitable trees and shrubs and a landscape plan to replace vegetation removed to the inspector or local government official for review and approval prior to issuance of the permit. The certified arborist and the department or local government official shall agree on size and species of replacement vegetation. The permittee shall plant, at ~~his~~ the permittee's expense, all replacement vegetation at the locations shown on the landscape plan in accordance with the ~~specifications~~ terms of the permit. The establishment period for replacement vegetation shall be in accordance with ~~§ 605.05 of the specifications~~ the terms of the permit. No pruning of vegetation to make an outdoor advertising sign or business more visible from the roadway will be permitted if the cut at the point of pruning will exceed four inches in diameter. ~~No pruning of vegetation to make a business more visible from the roadway will be permitted if the cut at the point of pruning will exceed two inches in diameter.~~ No leader branches shall be cut off in such a manner as to retard the normal upright growth of the tree unless recommended by the certified arborist and approved by the department or local government official. All trees and brush removed shall be cut at ground level. Dogwood or other ~~small~~ native flowering trees on the site shall not be removed, unless undesirable. The use of climbing irons or spurs is positively forbidden in any tree.

~~C. When daylighting signs, every effort shall be made to form a picture frame around the sign with remaining vegetation so as to accent the beauty of the surrounding roadside. A picture frame effect shall be achieved by leaving vegetation in place that will cover the sign structure supports below the face as seen from the main traveled way.~~

~~D. C.~~ A permit must be obtained from the department or local government official prior to any vegetation control work on the state's rights-of-way. All work shall be performed by the permittee at ~~his~~ the permittee's expense, including permit and inspection fees.

~~E. D.~~ A violation of this chapter shall, in addition to penalties provided in § 33.2-1229 of the Code of Virginia, result in a permittee ~~or its,~~ the permittee's agent, or both losing ~~its~~ a vegetation control permit privilege for five years. Additionally,

the bond amount used to secure the permit will be used for any reparations to the site. Inadvertent violations of this permit will require replacement on a four-to-one basis with other suitable small trees approved by the department or local government official to enhance the roadside beauty. The department or local government official shall have full authority to determine specie and size of all replacement vegetation if inadvertent cutting occurs.

24VAC30-200-30. Special provisions.

A. The permittee shall attach two ~~each 8" x 10" color glossy~~ photographs (a closeup view and a distant view) with the permit application showing the vegetation to be controlled, the highway, and the sign or business.

The permit for selective pruning ~~or~~ tree cutting, or both, will be inspected by the department or local government official and approval or denial given.

A permit may be denied any applicant, and all permits issued by the ~~board~~ department or local government official may be revoked, whenever, in the opinion of the inspector, the safety, use, or maintenance of the highway so requires or the integrity of the permit system so dictates.

If, during or before work begins, it is deemed necessary by the department or local government official to assign inspectors to the work, the permittee shall pay the department or local government issuing the permit an additional inspection fee in an amount that will cover the salary, expense and mileage allowance, and equipment rental, ~~etc.~~, of the inspector ~~or inspectors~~ assigned by the department or local government for handling work covered by this chapter. ~~Said~~ The inspection fee ~~to~~ must be paid promptly each month on bills rendered by the department or local government.

The absence of a state or local government inspector does not in any way relieve the permittee of ~~his~~ the permittee's responsibility to perform the work in accordance with provisions of § 33.2-1221 of the Code of Virginia, this chapter, or the permit.

B. The inspector or local government official shall be notified at least seven days in advance of the date any work is to be performed and when completed, ~~in order that~~ so that an inspection may be made.

C. ~~No trees, shrubs, vines, or plant material, except as covered by this chapter, shall be cut or disturbed. Stubs and dead wood in trees covered by this chapter must be removed, whether occasioned by present requirements or not.~~ Pruning of trees shall only be performed by qualified tree workers who, through related training or experience or both, are familiar with the techniques and hazards of arboricultural work, including trimming, maintaining, repairing or removing trees, and the equipment used in such operations. The supervisor, a certified arborist, and tree workers shall be approved by the inspector or local government official, prior to issuance of a permit to

perform work under this chapter. The certified arborist supervising the work shall remain ~~on site~~ on site whenever work is underway.

All brush, wood, ~~etc.~~, and other resulting slash shall be ~~chipped and beneficially used or~~ removed immediately and disposed of in accordance with the Solid Waste Management Regulations (9VAC20-81) of the Virginia Waste Management Board.

D. All access and work shall be accomplished from the abutting property side of rights-of-way on interstate and other limited access highways, except where a local beautification project has allowed landscape plant material to be planted within a median area. Plant material in median areas may be relocated to other areas within the local beautification project limits in accordance with an approved landscape plan. All work performed on VDOT department rights-of-way shall comply with the Virginia Work Area Protection Manual (~~part of 24VAC30-310-10 et seq.~~ 24VAC30-315). Any damage caused to property owned by the Commonwealth shall be repaired or replaced in kind when work is complete.

All work done under this chapter on the right-of-way shall in all respects be subject to department or local government official directions and shall be completed to the satisfaction of the inspector or local government official, or ~~his~~ the inspector's or local government official's representative.

E. The department or local government official reserves the right to stop the work at any time the terms of this chapter are not satisfactorily complied with, and the department or local government official may, at its discretion, complete any of the work covered in the permit at the expense of the permittee. If it is in the best interest of traffic safety, the department or local government official may complete or have completed at the expense of the permittee any of the work that must be done to properly protect the traveling public.

F. The permittee shall immediately ~~have corrected~~ correct any condition that may arise as a result of this work that the department or local government official deems hazardous to the traveling public or state maintenance forces even though such conditions may not be specifically covered in this chapter or in the Land Use Permit Regulations (24VAC30-151).

G. Permittees and ~~their~~ permittee agents to whom permits are issued shall at all times indemnify and save harmless the ~~Commonwealth Transportation Board~~ board, local city or town councils, local boards of supervisors, and the Commonwealth of Virginia and its employees, agents, and officers from responsibility, damage, or liability arising from the exercise of the privilege granted in such permit except if political subdivisions are the applicants. Then special arrangements will be made whereby the agent of the political subdivision performing the work will indemnify and save harmless the board and others. All work shall be performed by the permittee at ~~his~~ the permittee's expense. All permit and inspection fees

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shall be paid to the department or local government official by the permittee.

H. The permittee agrees that if the work authorized by this chapter, including any work necessary to restore shoulders, ditches, and drainage structures to their original condition, is not completed by the permittee to the satisfaction of the department or local government official, the department or local government official will do whatever is required to restore the area within the right-of-way to department standards, and the permittee will pay to the Commonwealth or local government official the actual cost of completing the work. When the permittee is a political subdivision, this requirement will be satisfied by a sum certain that will appear in the permit.

I. Road and street connections and private and commercial entrances are to be kept in a satisfactory condition. Entrances shall not be blocked. Ample provisions must be made for safe ingress and egress to adjacent property at all times. Where entrances are disturbed, they shall be restored to the satisfaction of the department or local government official.

J. Road drainage shall not be blocked. The pavement, shoulders, ditches, roadside, and drainage facilities, shall be kept in an operable condition satisfactory to the department or local government official. Necessary precautions shall be taken by the permittee to ensure against siltation of adjacent properties, streams, ~~etc.,~~ or other topographical features in accordance with the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Erosion and Sediment Control Regulations (9VAC25-840).

K. Any conflicts with existing utility facilities shall be resolved between the permittee and the utility owners involved. The permittee shall notify and receive clearance from the utility owner ~~or owners~~ and comply with the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq. of the Code of Virginia) before proceeding with work in the vicinity of utilities.

L. Where landscape is disturbed on state rights-of-way or local street and roads not under the jurisdiction of the Commissioner of Highways in accordance with § 33.2-1202 of the Code of Virginia, it shall be replaced with a minimum of two inches of topsoil and reseeded according to ~~department specifications~~ the terms of the permit.

24VAC30-200-40. Listing of documents incorporated by reference. (Repealed.)

~~Information pertaining to the availability and cost of any of these publications should be directed in writing to the Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219, or to the agency address indicated.~~

~~1. 24VAC30-151, Land Use Permit Regulations (2010), VDOT~~

~~2. VDOT Road and Bridge Specifications (effective January 2002), VDOT~~

~~3. 24VAC30-310-10, Virginia Supplement to the Manual on Uniform Traffic Control Devices (Virginia Work Area Protection Manual), VDOT~~

~~4. 4VAC50-30, Virginia Erosion and Sediment Control Regulations, Division of Soil and Water Conservation, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219~~

~~5. 9VAC20-81, Solid Waste Management Regulations, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219~~

~~6. American National Standards Institute (ANSI) Standard for Tree Care Operations, Tree, Shrub and Other Woody Plant Maintenance Standard Practices—ANSI A300 1995 (effective June 1, 1995), Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements—ANSI Z133.1 1994 (effective August 1, 1994), American National Standards Institute, 11 West 42nd Street, New York, NY 10036~~

~~7. American National Standards Institute (ANSI) American Standard for Nursery Stock—ANSI Z60.1 1996 (effective November 6, 1996), American Association of Nurserymen, 1250 I Street, N.W., Suite 500, Washington, DC 20005~~

~~8. Tree Pruning Guidelines (effective 1995), International Society of Arboriculture, P.O. Box GG, Savoy, IL 61874~~

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, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (24VAC30-200)

~~Vegetation Control Application, Form TTB (rev. 10/98).~~

[Land Use Permit Application for Outdoor Advertising Vegetation Control, LUP-OAVC \(rev. 7/2024\)](#)

[Land Use Permit Application for Vegetation Control Single Business, LUP-VCSB \(rev. 7/2024\)](#)

VA.R. Doc. No. R23-7621; Filed January 22, 2025, 11:51 a.m.

GUIDANCE DOCUMENTS

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, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Title of Document: [Vocational Rehabilitation Policy and Procedure Manual - Chapters 1.5, 4.01, 5, 8.09, 12, and 14.3.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, or email charlotte.arbogast@dars.virginia.gov.

BOARD OF DENTISTRY

Titles of Documents: [Approved Continuing Education Sponsors and CPR Training for Dentists and Dental Hygienists.](#)

[Closing of a Dental Practice on Death of a Dentist.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 750-3912, or email erin.barrett@dhp.virginia.gov.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Titles of Documents: [Certified Public Accountant Agreed-Upon Procedures Instruction Manual.](#)

[Job Creation Grant Instruction Manual.](#)

[Real Property Investment Grant Instruction Manual.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Chase Sawyer, Policy and Legislative Services Manager, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 310-5872, or email chase.sawyer@dhcd.virginia.gov.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Title of Document: [Enterprise Architecture Policy.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Joshua Heslinga, Director, Legal and Legislative Services, Virginia Information Technologies Agency, 7325 Beaufont Springs Drive, Richmond, VA 23225, telephone (804) 551-2902, or email joshua.heslinga@vita.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: [Provider Manual, Chapter 3 - Member Eligibility.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, or email syreeta.stewart@dmas.virginia.gov.

DEPARTMENT OF TAXATION

Title of Document: [Internet Root Infrastructure Providers Hybrid Sales Factor Guidelines.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Austin Smith, Tax Law Analyst, Department of Taxation, P.O. Box 37185, Richmond, VA 23261-7185, telephone (804) 371-5107, or email austin.smith@tax.virginia.gov.

GUIDANCE DOCUMENTS

The following guidance documents have been submitted for deletion and the listed agencies have opened up a 30-day public comment period. The listed agencies had previously identified these documents as certified guidance documents, pursuant to § 2.2-4002.1 of the Code of Virginia. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to view the deleted document and comment. This information is also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact.

BOARD OF ACCOUNTANCY

Title of Document: [Virginia Board of Accountancy Policy - Substantially Equivalent Jurisdictions.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Alessandra Gabriel, Information and Policy Advisor, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, telephone (804) 367-0728, or email alessandra.gabriel@boa.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

Titles of Documents: [Comprehensive Community Corrections Act and Pretrial Services Act.](#)

[Local Community-Based Probation and Pretrial Services Grant Application Guide and Continuation Funding.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Kristi Shalton, Agency Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, or email kristi.shalton@dcjs.virginia.gov.

BOARD OF DENTISTRY

Titles of Documents: [Educational Requirements for Dental Assistants II.](#)

[Teledentistry.](#)

[Questions and Answers about Sedation.](#)

Public Comment Deadline: March 12, 2025.

Effective Date: March 13, 2025.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 750-3912, or email erin.barrett@dhp.virginia.gov.

GENERAL NOTICES

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Public Comment Opportunity for Draft Amendments to Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services

In accordance with Executive Directive 1 (2022), the Department of Behavioral Health and Developmental Services (DBHDS) Office of Human Rights has reviewed 12VAC35-115, Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (Human Rights Regulations), to identify noncontroversial amendments, and has developed a draft for consideration as a fast-track rulemaking action. This is the second draft the Office of Human Rights (OHR) is publishing for this purpose. This second draft has incorporated previous public comment and aligned the draft with the Health Care Decisions Act (§ 54.1-2981 et seq. of the Code of Virginia).

Deadline for public comment on this draft, which is available at <https://dbhds.virginia.gov/wp-content/uploads/2025/01/Human-Rights-General-Notice-Publication.pdf>, is February 26, 2025.

Purpose: The purpose of the draft revisions of the Human Rights Regulations is to improve the ability of OHR to perform mandated responsibilities in a manner that promotes understanding of ensured rights and access to rights protection and due process for all individuals receiving services.

Goals: The goals of the amendments are to (i) make the regulations easier to understand, (ii) increase access for individuals to due process and rights protection, and (iii) improve administrative and program efficiencies to facilitate provider compliance and increase availability of advocates for direct involvement with individuals receiving services.

Revisions: High-level revisions to the chapter include (i) enhancing usability of the regulations; (ii) simplifying and clarifying to make the regulations easier to understand; (iii) expanding definitions of coercion and investigation; (iv) removing references to "allegation" and referring to everything as a complaint, adding call-out of exploitation where there is mention of abuse and neglect, adding the term "human rights" to advocate references to help individuals differentiate from provider and other protective agency advocate staff; (v) consistently labeling timeframes (e.g., "working days" to "business days", clarifying the term "calendar days"); and (vi) eliminating redundant references (12VAC35-115-10 removes call-out of restraint and time-out as restrictions; 12VAC35-115-50, 12VAC35-115-175, and 12VAC35-115-230 reference each other by citation only).

Streamline of administrative processes: The amendments streamline the administrative process by (i) clarifying the relationship between OHR and local human rights committees (LHRC), (ii) updating and clarifying the investigation and resolution timeframe, (iii) updating the determination of capacity to align with the Health Care Decisions Act, and (iv) developing timeframes.

Emphasis on individual rights and expansion of access to due process: The amendments (i) reorganize subsections to emphasize individual rights and provider duties; (ii) eliminate legal terminology related to administrative review processes, including changing the term "hearing" to "fact-finding review" and "petition" to "statement of disagreement"; (iii) institute advocate review of objections regarding an authorized representative (AR) appointment, which used to be delayed waiting for LHRCs to meet and simply required record review; (iv) reinstate advocate ability to grant extensions to allow more time for a thorough investigation, which was accidentally removed in a 2017 revision of the regulations; and (v) emphasize that changes to previously approved provider policies must be submitted to OHR for review (12VAC35-115-100, Program rules, 12VAC35-115-260).

Reduction in ambiguity related to provider compliance: The amendments (i) clarify particular regulations and processes that apply to special populations (12VAC35-115-100 acknowledges privileging process for individuals with a forensic status, 12VAC35-115-50 removes call-out process for substance use disorder providers to use program rules); (ii) refine expectations for complaint investigation (12VAC35-115-30 defines investigation, 12VAC35-115-175 adds expectation for provider to identify a person to oversee investigation and make decisions when the accused is the director, 12VAC35-115-260 requires competency training for provider investigators annually); and (iii) specify expectations for mitigating human rights violations (12VAC35-115-230 expands requirement to enter information about corrective actions taken in reports to OHR, 12VAC35-115-260 informs individuals and ARs of any actions taken to correct or remediate the abuse even if identified by OHR).

Contact Information: Susan Puglisi, Regulatory Research Specialist, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, Fourth Floor, Richmond, VA 23219, FAX (804) 371-6638, or email susan.puglisi@dbhds.virginia.gov.

Decision on Proposed Variances to the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services

Notice of action: The Department of Behavioral Health and Developmental Services (DBHDS), in accordance with Part VI, Variances (12VAC35-115-220), of the Regulations to Assure the Rights of Individuals Receiving Services from

General Notices

Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115) (Human Rights Regulations), is announcing a decision on an application for proposed variances to the Human Rights Regulations submitted to the State Human Rights Committee (SHRC). The purpose of the Human Rights Regulations is to ensure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed, or funded by DBHDS.

Each variance application references the specific part of the Human Rights Regulations to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for a variance. The application also describes time limits and other conditions for duration and the circumstances that will end the applicability of the variance.

Purpose of notice: After considering all available information at its January 16, 2025, meeting, the SHRC voted to approve the application for variances to the Human Rights Regulations for Youth for Tomorrow for a three-year period, with quarterly updates to the local human rights committee and annual updates to the SHRC.

Variance to Procedures to Ensure Dignity:

12VAC35-115-50 C 7 and C 8 (generally granting an individual the right to communicate privately with anyone via telephone and to have or refuse visitors, unless certain listed exceptions are met).

Explanation: In order to maintain the safety and security of individuals (youth), the program may restrict communication via telephone and in-person visitation to only those names placed on a list generated by the parent or legal guardian and the individual.

The requested variance will allow Youth for Tomorrow New Life Center, Inc. to utilize an approved contact list for telephone calls and an approved contact list for visitation for each individual. The lists shall be developed by the individual's parent or legal guardian in order to protect the best interests of the individual. The individual shall be present and given the opportunity to participate with the parent or legal guardian in creating the telephone and visitation lists.

Contact Information: Taneika Goldman, Director, Office of Human Rights, Department of Behavioral Health and Developmental Services, 1220 East Bank Street, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988, FAX (833) 734-1241, or email taneika.goldman@dbhds.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Halifax CSG LLC - United Renewable Energy LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Halifax CSG LLC - United Renewable Energy LLC for violations of the Virginia Pollutant Discharge Elimination System (VPDES) Permit

Regulations in South Boston, Virginia. The proposed action is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions/>. The DEQ contact will accept comments by email or postal mail from February 10, 2025, through March 12, 2025.

Contact Information: Michael Puckett, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 577-6719, or email michael.puckett@deq.virginia.gov.

Public Availability of the 2025 Water Quality Monitoring Plan

Purpose of Notice: The Virginia Department of Environmental Quality (DEQ) is announcing the availability of the 2025 Water Quality Monitoring Plan (Monitoring Plan) and requests nominations of water bodies for inclusion in the 2026 Monitoring Plan. The 2025 Monitoring Plan is now available on the agency's website at <https://www.deq.virginia.gov/our-programs/water/water-quality/monitoring/water-quality-monitoring-plan>. An overview map showing each of the 2025 monitoring stations and the monitoring activities to occur at each station will be added to the agency's Environmental Data Mapper in February and will be viewable at <https://geohub.vadeq.hub.arcgis.com/pages/environmental-data-mapper-help>. To nominate water bodies for monitoring, please follow the instructions in the agency's nomination form at <https://www.deq.virginia.gov/home/showpublisheddocument/4344/638718402131230000>.

Background: Every year, DEQ staff from central office and the agency's six regional offices collect water samples for testing at more than 1,000 locations across the Commonwealth. The agency's various monitoring activities for each calendar year are outlined in the annual statewide Water Quality Monitoring Plan.

2025 Water Quality Monitoring Plan: The 2025 Monitoring Plan summarizes DEQ's water quality monitoring activities to be conducted from January 1 through December 31, and is developed for the purpose of implementing the goals and objectives of DEQ's Water Quality Monitoring Strategy, available at <https://www.deq.virginia.gov/home/showpublisheddocument/9481/637798468895600000>. This water quality information is presented in compliance with the Virginia Water Quality Monitoring, Information and Restoration Act (§ 62.1-44.19:5 of the Code of Virginia). The 2025 Monitoring Plan contains detailed information on DEQ's monitoring activities, including the station locations, specific conditions, frequency of monitoring, and costs.

Citizen Nominations for the 2026 Monitoring Plan: In accordance with § 62.1-44.19:5 of the Code of Virginia, any person may request that a specific body of water be included in DEQ's annual water quality monitoring plan. Such requests shall include, at a minimum, (i) a geographical description of the

water body recommended for monitoring, (ii) the reason the monitoring is requested, and (iii) any water quality data that the petitioner may have collected or compiled. Each request received by April 30, 2025, shall be reviewed when DEQ develops the annual water quality monitoring plan for the following calendar year. DEQ will respond in writing on its approval or denial of each nomination by August 31, 2025.

Contacts for more information: For more information on the 2025 Water Quality Monitoring Plan please contact the DEQ staff member listed at the end of this notice or Sandra Mueller at telephone (804) 659-1388 or email sandra.mueller@deq.virginia.gov. For more information on nominating water bodies for monitoring, please contact Meighan Wisswell at telephone (571) 886-6494 or email citizenwater@deq.virginia.gov. Additional information is also available on DEQ's Water Quality Monitoring website at <https://www.deq.virginia.gov/our-programs/water/water-quality/monitoring>.

Contact Information: Andrew Garey, Department of Environmental Quality, PO Box 1105, Richmond, VA 23218, telephone (804) 659-2673, or email andrew.garey@deq.virginia.gov.

Public Meeting and Opportunity for Public Comment for a Cleanup Study of Broad Run Tributary in Loudoun and Fairfax Counties

Purpose of Notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup study, also known as a total daily maximum daily load (TMDL) report, for the Broad Run Tributary in Loudoun and Fairfax Counties.

These streams are listed as impaired waters and require a cleanup study since monitoring data indicates that the waters do not meet Virginia's water quality standards for aquatic life (benthic macroinvertebrate community) or bacteria (E. Coli). Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law requires DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. A component of a cleanup study is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Code of Virginia for any future adoption of the WLA into the Water Quality Management Planning Regulation (9VAC25-720) after completion of the study. The adoption of the WLA may require new or additional requirements for entities holding a Virginia Pollutant Discharge Elimination System (VPDES) permit along Broad Run and its connected tributaries and the Virginia portion of Selden Island-Potomac River tributary.

At the public meeting, DEQ will introduce the community to the process used in Virginia to improve stream water quality and invite the public to participate in the study by attending community engagement meetings or through a TMDL advisory group (TAG). DEQ will also provide further details on the specific impairments, stressor analysis, and proposed project timeline.

Cleanup Study Location: The cleanup study addresses the following impaired stream segments: the Broad Run stream segment, located in Loudoun County, drains approximately 77.8 square miles and is subdivided into three subwatersheds: Lenah Run (26.4 square miles), Horsepen Run (23.7 square miles), and Beaverdam Run (27.8 square miles). The headwaters of Broad Run originate approximately three miles northeast of the unincorporated community of Aldie, Virginia and flow for 19.7 miles in an easterly direction until emptying into the Potomac River near the southern end of Seldon Island.

TMDL Advisory Group: DEQ invites public comment on the establishment of a TAG to assist in development of this cleanup study. A TAG is a standing group of interested parties established by the department for the purpose of advising the department during developing of the cleanup study. Any member of the public may attend and observe proceedings. However, only group members who have been invited by the department to serve on the TAG may actively participate in the group's discussions. Persons requesting the department use a TAG and those interested in participating should notify the DEQ contact person by the end of the comment period and provide their name, address, telephone number, email address, and organization being represented (if any). If DEQ convenes a TAG, all individuals who wish to participate on the TAG will be considered on a case-by-case basis. TAG members will be expected to attend all TAG meetings. Notification of the composition of the panel will be sent to all individuals who requested participation.

If DEQ receives no requests to establish a TAG, the department will not establish a standing group but will still solicit public feedback by conducting community engagement meetings during cleanup study development. At these community meetings, which are open to the public and at which any person may participate, DEQ will present its progress on the cleanup study and solicit feedback.

Public Meeting: The first public meeting on the development of the cleanup study will be held at the Sterling Public Library, 22330 South Sterling Boulevard, Suite A117, Sterling Library Meeting Rooms A and B, Sterling, VA 20164, on February 27, 2025, at 6:30 p.m.

Please note that if Loudoun County schools or the library is closed on February 27 due to inclement weather, the alternate meeting date will be March 4, 2025, at 6:30 p.m. at the Cascades Public Library, 21030 Whitfield Place, Cascades Library Meeting Room A, Potomac Falls, VA 20165.

Public Comment Period: February 27, 2025, to March 31, 2025.

How to Comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing address, and telephone number of the commenter or requester.

Contact Information: Amanda Thompson, Department of Environmental Quality, Northern Regional Office, 13091 Crown Court, Woodbridge, VA 22193, telephone (571) 866-6048, or email amanda.r.thompson@deq.virginia.gov.

General Notices

Notice of Public Meeting and Opportunity for Public Comment on a No-Discharge Zone Application for Selected Waters in Richmond, Lancaster, Northumberland, and Westmoreland Counties

Purpose of Notice: The Department of Environmental Quality (DEQ) will hold public meetings and seek public comment on an application to the U.S. Environmental Protection Agency (EPA) to designate federal no-discharge zones (NDZs) for selected waters in Richmond, Lancaster, Northumberland, and Westmoreland Counties. It is illegal to discharge raw sewage in U.S. territorial waters. An NDZ designation additionally prohibits the overboard discharge of treated vessel sewage from marine sanitation devices in waters.

Section 62.1-44.33 of the Code of Virginia establishes all tidal creeks in Virginia as federal NDZs and directs DEQ to pursue the designation. NDZs are federal designations; therefore, an NDZ is established by EPA upon satisfactory application from a state congruent with federal guidance. DEQ will seek to adopt the NDZs into 9VAC25-71-70, Regulations Governing the Discharge of Sewage and Other Wastes from Boats, after EPA approves the designation. 9VAC25-71-60 specifies the requirements that apply within designated NDZs in Virginia.

The application has been completed for selected waters of Richmond, Lancaster, Northumberland, and Westmoreland Counties and describes the vessel population, vessel sewage pump-out needs, and vessel sewage pump-out options in those counties. Public meetings will be held by DEQ to present a summary of the application. Citizens are invited to provide comment on the application.

No-Discharge Zone Locations: The NDZ application addresses the waters listed. Maps showing locations for these waters is provided in the draft application at the link provided.

Rosier Creek, Mattox Creek and Monroe Bay, Nomini Creek and Currioman Bay, Lower Machodoc Creek, Ragged Point, Gardner Creek, Jackson Creek, Bonum Creek, Yeocomico River, Coan River and the Glebe, Judith Sound, Cod Creek, Little Wicomico River, Great Wicomico and Ingram Bay, Cloverdale Creek, Dividing Creek, Indian Creek, Dyer Creek, Tabbs Creek, Antipoison Creek, Windmill Point Resort, Little Oyster and Windmill Point Creek, Mosquito Creek, Carter Creek, Corrotoman River, Greenvale Creek, Deep Creek, Mulberry Creek, Lancaster Creek, Morattico Creek, Farnham Creek.

Public Meetings: Public meetings on the application will be held at:

A.T. Johnson Museum, 18849 Kings Highway, Montross, VA 22520 on February 25, 2025, at 6:30 p.m.

Richmond County Administrative Building, 101 Court Circle, Warsaw, VA 22572 on February 26, 2025, at 6:30 p.m.

In the event of inclement weather causing the cancelation of either of these two meetings, a meeting will be held on March 11, 2025, at 6:30 p.m. at the A.T. Johnson Museum, 18849 Kings Highway, Montross, VA 22520.

Northumberland County Library, 7204 Northumberland Highway, Heathsville, VA 22473 on March 5, 2025, at 6:30 p.m.

Lancaster Administration Building, Board Room, 8311 Mary Ball Road, Lancaster, VA 22503 on March 6, 2025, at 6:30 p.m.

In the event of inclement weather causing the cancelation of either of these two meetings, a meeting will be held on March 12, 2025, at 6:30 p.m. at the Lancaster Administration Building, Board Room, 8311 Mary Ball Road, Lancaster, VA 22503.

Public Comment Period: DEQ will accept comments from February 26, 2025, to April 7, 2025.

How to Comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing address, and telephone number of the commenter.

The public may review the application at <https://www.deq.virginia.gov/our-programs/water/water-quality/implementation/no-discharge-zone-program>.

Contact Information: Anne Schlegel, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 774-9368, or email anne.schlegel@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* 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.