



# VIRGINIA

## REGISTER OF REGULATIONS

VOL. 33 ISS. 26

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

AUGUST 21, 2017

### TABLE OF CONTENTS

<b>Register Information Page</b> .....	2859
<b>Publication Schedule and Deadlines</b> .....	2860
<b>Petitions for Rulemaking</b> .....	2861
<b>Regulations</b> .....	2862
2VAC5-210. Rules and Regulations Pertaining to Meat and Poultry Inspection under the Virginia Meat and Poultry Products Inspection Act (Forms) .....	2862
4VAC20-270. Pertaining to Crabbing (Final) .....	2862
4VAC20-490. Pertaining to Sharks (Final) .....	2864
4VAC20-1090. Pertaining to Licensing Requirements and License Fees (Withdrawal of Final Regulation) .....	2865
4VAC20-1140. Prohibition of Crab Dredging in Virginia Waters (Final) .....	2865
4VAC20-1270. Pertaining to Atlantic Menhaden (Final) .....	2865
6VAC35-160. Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System (Final) .....	2866
8VAC20-671. Regulations Governing the Operation of Private Schools for Students with Disabilities (Fast-Track) .....	2871
9VAC25-120. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests (Proposed) .....	2876
9VAC25-194. General Permit for Vehicle Wash Facilities and Laundry Facilities (Final) .....	2892
9VAC25-196. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less (Proposed) .....	2905
9VAC25-720. Water Quality Management Planning Regulation (Final) .....	2919
9VAC25-720. Water Quality Management Planning Regulation (Final) .....	2921
9VAC25-860. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Potable Water Treatment Plants (Proposed) .....	2964
9VAC25-870. Virginia Stormwater Management Program (VSMP) Regulation (Final) .....	2977
12VAC35-105. Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (Fast-Track) .....	2978
18VAC15-40. Home Inspector Licensing Regulations (Final) .....	2981
18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (Proposed) .....	2983
18VAC95-30. Regulations Governing the Practice of Assisted Living Facility Administrators (Proposed) .....	2983
18VAC112-20. Regulations Governing the Practice of Physical Therapy (Proposed) .....	2995
22VAC30-120. Adult Services Approved Providers (Final) .....	3000
22VAC40-601. Supplemental Nutrition Assistance Program (Proposed) .....	3003
22VAC40-880. Child Support Enforcement Program (Fast-Track) .....	3005
<b>General Notices/Errata</b> .....	3008

---

# 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**

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

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

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

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

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

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

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

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

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

## **FAST-TRACK RULEMAKING PROCESS**

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

## **EMERGENCY REGULATIONS**

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## **STATEMENT**

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

## **CITATION TO THE VIRGINIA REGISTER**

The *Virginia Register* is cited by volume, issue, page number, and date. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

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

Members of the Virginia Code Commission: **John S. Edwards**, Chair; **James M. LeMunyon**, Vice Chair; **Gregory D. Habeeb**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Carlos L. Hopkins**; **Leslie L. Lilley**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Mark J. Vucci**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **Karen Perrine**, Assistant Registrar; **Anne Bloomsburg**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Operations Staff Assistant.

---

# PUBLICATION SCHEDULE AND DEADLINES

---

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

---

## August 2017 through August 2018

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
33:26	August 2, 2017	August 21, 2017
34:1	August 16, 2017	September 4, 2017
34:2	August 30, 2017	September 18, 2017
34:3	September 13, 2017	October 2, 2017
34:4	September 27, 2017	October 16, 2017
34:5	October 11, 2017	October 30, 2017
34:6	October 25, 2017	November 13, 2017
34:7	November 8, 2017	November 27, 2017
34:8	November 21, 2017 ( <b>Tuesday</b> )	December 11, 2017
34:9	December 6, 2017	December 25, 2017
34:10	December 19, 2017 ( <b>Tuesday</b> )	January 8, 2018
34:11	January 3, 2018	January 22, 2018
34:12	January 17, 2018	February 5, 2018
34:13	January 31, 2018	February 19, 2018
34:14	February 14, 2018	March 5, 2018
34:15	February 28, 2018	March 19, 2018
34:16	March 14, 2018	April 2, 2018
34:17	March 28, 2018	April 16, 2018
34:18	April 11, 2018	April 30, 2018
34:19	April 25, 2018	May 14, 2018
34:20	May 9, 2018	May 28, 2018
34:21	May 23, 2018	June 11, 2018
34:22	June 6, 2018	June 25, 2018
34:23	June 20, 2018	July 9, 2018
34:24	July 3, 2018 ( <b>Tuesday</b> )	July 23, 2018
34:25	July 18, 2018	August 6, 2018
34:26	August 1, 2018	August 20, 2018

\*Filing deadlines are Wednesdays unless otherwise specified.

---

# PETITIONS FOR RULEMAKING

---

## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### Initial Agency Notice

**Title of Regulation: 2VAC5-319. Best Management Practices for the Operation of Apiaries in Order to Limit Operator Liability.**

**Statutory Authority:** § 3.2-4411.1 of the Code of Virginia.

**Name of Petitioner:** C. B. Ecker.

**Nature of Petitioner's Request:** Petitioner requests amendments to 2VAC5-319, Best Management Practices for the Operation of Apiaries in Order to Limit Operator Liability, to (i) provide a mechanism to offer public comment regarding the regulation via a regional apiary inspector; (ii) establish provisions for short-term waivers, long-term waivers, and permanent exemptions from the best management practices included in the regulation; and (iii) authorize the Virginia State Beekeepers Association's website as an official communication outlet for the Virginia Department of Agriculture and Consumer Services (VDACS) and direct VDACS to establish or reinstate official communication with certain entities to communicate honey beekeeping policy to best inform apiarists without broadband service.

**Agency Plan for Disposition of Request:** The Board of Agriculture and Consumer Services will consider this request at its next scheduled meeting following the public comment period. This meeting will occur on December 7, 2017.

**Public Comment Deadline:** September 10, 2017.

**Agency Contact:** Debra Martin, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, or email [debra.martin@vdacs.virginia.gov](mailto:debra.martin@vdacs.virginia.gov).

VA.R. Doc. No. R17-20; Filed July 24, 2017, 9:57 a.m.

---

# 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

### STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the following regulation have been filed by the Department of Agriculture and Consumer Services. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

**Title of Regulation:** **2VAC5-210. Rules and Regulations Pertaining to Meat and Poultry Inspection under the Virginia Meat and Poultry Products Inspection Act.**

**Contact Information:** Barry Jones, Program Manager, Office of Meat and Poultry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4569, or email [barry.jones@vdacs.virginia.gov](mailto:barry.jones@vdacs.virginia.gov).

FORMS (2VAC5-210)

~~Application for Red Meat Permit of Exemption Under the Virginia Meat and Poultry Products Inspection Act, Form VDACS-03072 (rev. 1/08).~~

~~Application for State Meat and Poultry Inspection, Form VDACS-03090 (eff. 2/06).~~

~~Application for Registration of Poultry Exemption Under the Virginia Meat and Poultry Products Inspection Act, Form VDACS-03072A (eff. 11/07).~~

[Application for Red Meat Permit of Exemption Under the Virginia Meat and Poultry Products Inspection Act, VDACS-03072 \(rev. 2/17\)](#)

[Application for State Meat and Poultry Inspection, VDACS-03090 \(rev. 2/17\)](#)

[Application for Registration of Poultry Exemption Under the Virginia Meat and Poultry Products Inspection Act, VDACS-03072A \(rev. 2/17\)](#)

[Establishment Hours of Operation, Form VDACS-03091 \(eff. 2/07\)](#)

~~Application/Approval for Voluntary Reimbursable Inspection Service, Form VDACS-03140 (eff. 6/06).~~

[Application/Approval for Voluntary Reimbursable Inspection Service, VDACS-03140 \(rev. 2/17\)](#)

VA.R. Doc. No. R17-5209; Filed July 24, 2017, 1:43 p.m.



## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

#### Final Regulation

**REGISTRAR'S NOTICE:** The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

**Title of Regulation:** **4VAC20-270. Pertaining to Crabbing (amending 4VAC20-270-40, 4VAC20-270-51, 4VAC20-270-55).**

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** August 1, 2017.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248 or email [jennifer.farmer@mrc.virginia.gov](mailto:jennifer.farmer@mrc.virginia.gov).

#### Summary:

*The amendments modify (i) the 2017 and 2018 seasons for the harvest of crabs by crab pot, (ii) the time for harvesting at a higher bushel limit, and (iii) the start date of the lower bushel limit season.*

#### 4VAC20-270-40. Season limits.

A. In ~~2016~~ 2017, the lawful season for the commercial harvest of crabs by crab pot shall be March ~~4~~ 1 through ~~December 20~~ November 30. In ~~2017~~ 2018, the lawful season for the commercial harvest of crabs by crab pot shall be March ~~4~~ 17 through ~~December 20~~ November 30. For all other lawful commercial gear used to harvest crabs, as described in 4VAC20-1040, the lawful seasons for the harvest of crabs shall be ~~April 21 through October 31 in 2016 and April 1 through October 31 in 2017.~~

B. It shall be unlawful for any person to harvest crabs or to possess crabs on board a vessel, except during the lawful season, as described in subsection A of this section.

C. It shall be unlawful for any person knowingly to place, set, fish, or leave any hard crab pot in any tidal waters of

Virginia from December ~~21, 2016~~ 1, 2017, through ~~February 28, 2017~~ March 16, 2018. It shall be unlawful for any person knowingly to place, set, fish, or leave any lawful commercial gear used to harvest crabs, except any hard crab pot, or as described in 4VAC20-460-25, in any tidal waters of Virginia from November 1, ~~2016~~ 2017, through March 31, ~~2017~~ 2018.

D. It shall be unlawful for any person knowingly to place, set, fish, or leave any fish pot in any tidal waters from March 12 through March 16, except as provided in subdivisions 1 and 2 of this subsection.

1. It shall be lawful for any person to place, set, or fish any fish pot in those Virginia waters located upriver of the following boundary lines:

- a. In the James River the boundary shall be a line connecting Hog Point and the downstream point at the mouth of College Creek.
- b. In the York River the boundary lines shall be the Route 33 bridges at West Point.
- c. In the Rappahannock River the boundary line shall be the Route 360 bridge at Tappahannock.
- d. In the Potomac River the boundary line shall be the Route 301 bridge that extends from Newberg, Maryland to Dahlgren, Virginia.

2. This subsection shall not apply to legally licensed eel pots as described in 4VAC20-500-50.

E. It shall be unlawful for any person to place, set, or fish any number of fish pots in excess of 10% of the amount allowed by the gear license limit, up to a maximum of 30 fish pots per vessel, when any person on that vessel has set any crab pots.

- 1. This subsection shall not apply to fish pots set in the areas described in subdivision D 1 of this section.
- 2. This subsection shall not apply to legally licensed eel pots as described in 4VAC20-500.
- 3. This subsection shall not apply to fish pots constructed of a mesh less than one-inch square or hexagonal mesh.

**4VAC20-270-51. Daily commercial harvester, vessel, and harvest and possession limits.**

A. Any barrel used by a harvester to contain or possess any amount of crabs will be equivalent in volume to no more than 3 bushels of crabs.

B. From July 5, ~~2016~~ 2017, through ~~November 15, 2016~~ October 31, 2017, and April 1, ~~2017~~ 2018, through July 4, ~~2017~~ 2018, any Commercial Fisherman Registration Licensee legally licensed for any crab pot license, as described in 4VAC20-270-50 B, shall be limited to the following maximum daily harvest and possession limits for any of the following crab pot license categories:

- 1. 10 bushels, or 3 barrels and 1 bushel, of crabs if licensed for up to 85 crab pots.

- 2. 14 bushels, or 4 barrels and 2 bushels, of crabs if licensed for up to 127 crab pots.
- 3. 18 bushels, or 6 barrels, of crabs if licensed for up to 170 crab pots.
- 4. 29 bushels, or 9 barrels and 2 bushels, of crabs if licensed for up to 255 crab pots.
- 5. 47 bushels, or 15 barrels and 2 bushels, of crabs if licensed for up to 425 crab pots.

C. From November ~~16, 2016~~ 1, 2017, through ~~December 20, 2016~~ November 30, 2017, and March ~~1, 2017~~ 17, 2018, through March 31, ~~2017~~ 2018, any Commercial Fisherman Registration Licensee legally licensed for any crab pot license, as described in 4VAC20-270-50 B, shall be limited to the following maximum daily harvest and possession limits for any of the following crab pot license categories:

- 1. 8 bushels, or 2 barrels and 2 bushels, of crabs if licensed for up to 85 crab pots.
- 2. 10 bushels, or 3 barrels and 1 bushel, of crabs if licensed for up to 127 crab pots.
- 3. 13 bushels, or 4 barrels and 1 bushel, of crabs if licensed for up to 170 crab pots.
- 4. 21 bushels, or 7 barrels, of crabs if licensed for up to 255 crab pots.
- 5. 27 bushels, or 9 barrels, of crabs if licensed for up to 425 crab pots.

D. When a single harvester or multiple harvesters are on board any vessel, that vessel's daily harvest and possession limit shall be equal to only one daily harvest and possession limit, as described in subsections B and C of this section, and that daily limit shall correspond to the highest harvest and possession limit of only one licensee on board that vessel.

E. When transporting or selling one or more legal crab pot licensee's crab harvest in bushels or barrels, any agent shall possess either the crab pot license of that one or more crab pot licensees or a bill of lading indicating each crab pot licensee's name, address, Commercial Fisherman Registration License number, date, and amount of bushels or barrels of crabs to be sold.

F. If any police officer finds crabs in excess of any lawful daily bushel, barrel, or vessel limit, as described in this section, that excess quantity of crabs shall be returned immediately to the water by the licensee or licensees who possess that excess over lawful daily harvest or possession limit. The refusal to return crabs, in excess of any lawful daily harvest or possession limit, to the water shall constitute a separate violation of this chapter.

G. When any person on board any boat or vessel possesses a crab pot license, it shall be unlawful for that person or any other person aboard that boat or vessel to possess a seafood buyers boat license and buy any crabs on any day.

---

# Regulations

---

## 4VAC20-270-55. Minimum size limits.

A. From March 1 through July 15, it shall be unlawful for any person to harvest, possess, sell, or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that measure less than 3-1/4 inches across the shell from tip to tip of the longest spikes. From July 16 through ~~December 20~~ November 30, it shall be unlawful for any person to harvest, possess, sell, or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that measure less than 3-1/2 inches across the shell from tip to tip of the longest spikes, except as described in subsections B and C of this section.

B. From July 16 through ~~December 20~~ November 30, it shall be unlawful for any person to harvest, possess, sell, or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that are harvested from waters on the ocean side of Accomack and Northampton Counties and measure less than 3-1/4 inches across the shell from tip to tip of the longest spikes, except as described in subsection C of this section.

C. In the enforcement of these peeler crab minimum size limits aboard a vessel, the marine police officer shall select a single container of peeler crabs of his choosing to determine if the contents of that container violate the minimum size and tolerance described in this section. If the officer determines the contents of the container are in violation, then the officer shall return all peeler crabs on board the vessel to the water alive.

D. It shall be unlawful for any person to take, catch, harvest, possess, sell or offer for sale, or to destroy in any manner, any soft crab that measures less than 3-1/2 inches across the shell from tip to tip of the longest spikes.

VA.R. Doc. No. R17-5190; Filed July 27, 2017, 8:56 a.m.

### Final Regulation

<p><b>REGISTRAR'S NOTICE:</b> The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.</p>
---

**Title of Regulation:** 4VAC20-490. Pertaining to Sharks (amending 4VAC20-490-42, 4VAC20-490-46).

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** July 31, 2017.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248 or email jennifer.farmer@mrc.virginia.gov.

**Summary:**

*The amendments reduce the commercial spiny dogfish landings quota and streamline the buyer reporting process.*

## 4VAC20-490-42. Spiny dogfish commercial quota and catch limitations.

~~A. For the 12 month period of~~ From May 1, 2016, of the current calendar year through April 30, 2017 of the following calendar year, the ~~spiny dogfish~~ commercial spiny dogfish landings quota shall be limited to ~~4,356,944~~ 4,220,814 pounds.

B. It shall be unlawful for any person to take, harvest, or possess aboard any vessel or to land in Virginia any spiny dogfish harvested from federal waters for commercial purposes after it has been announced that the federal quota for spiny dogfish has been taken.

C. It shall be unlawful for any person to take, harvest, or possess aboard any vessel or to land in Virginia more than 5,250 pounds of spiny dogfish per day for commercial purposes. However, if landings are less than 80% of the quota specified in subsection A of this section, by February 15, 2017, it shall be unlawful to take, harvest, or possess aboard any vessel or to land in Virginia more than 6,000 pounds of spiny dogfish per day for commercial purposes.

D. It shall be unlawful for any person to harvest or to land in Virginia any spiny dogfish for commercial purposes after the quota specified in subsection A of this section has been landed and announced as such.

E. Any spiny dogfish harvested from state waters or federal waters, for commercial purposes, shall only be sold to a federally permitted dealer.

F. It shall be unlawful for any buyer of seafood to receive any spiny dogfish after any commercial harvest or landing quota described in this section has been attained and announced as such.

## 4VAC20-490-46. Spiny dogfish monitoring requirements.

~~A. Any Virginia seafood buyer purchasing spiny dogfish shall provide written reports to the Marine Resources Commission of weekly landings for each registered commercial fisherman to include that commercial fisherman's registration license number and exact weight of the spiny dogfish landed, in pounds, until it is projected and announced that 80% of Virginia spiny dogfish quota has been landed.~~

B. When it has been projected and announced by the Marine Resources Commission that 80% of the Virginia spiny dogfish quota has been landed, each Virginia seafood buyer shall call the Marine Resources Commission's interactive voice recording system on a daily basis to report the ~~daily landings for each registered commercial fisherman to include the commercial fisherman's registration license number and exact weight of spiny dogfish landed received or purchased,~~ in pounds, until it is projected and announced that the Virginia spiny dogfish quota has been landed and the fishery closed.

VA.R. Doc. No. R17-5189; Filed July 27, 2017, 8:58 a.m.

**Withdrawal of Final Regulation**

**Title of Regulation:** **4VAC20-1090. Pertaining to Licensing Requirements and License Fees (amending 4VAC20-1090-30).**

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

The Marine Resources Commission has WITHDRAWN the final regulatory action for **4VAC20-1090, Pertaining to Licensing Requirements and License Fees**, which was published in [33:10 VA.R. 1004-1008 January 9, 2017](#), with an effective date of December 1, 2017. Therefore, the commercial license fees will not be increased on December 1, 2017.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248 or email [jennifer.farmer@mrc.virginia.gov](mailto:jennifer.farmer@mrc.virginia.gov).

VA.R. Doc. No. R17-5006; Filed July 27, 2017, 2:25 p.m.

**Final Regulation**

**REGISTRAR'S NOTICE:** The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

**Title of Regulation:** **4VAC20-1140. Prohibition of Crab Dredging in Virginia Waters (amending 4VAC20-1140-20).**

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** August 1, 2017.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248 or email [jennifer.farmer@mrc.virginia.gov](mailto:jennifer.farmer@mrc.virginia.gov).

**Summary:**

*The amendment closes the crab dredge fishery season from December 1, 2017, through March 31, 2018.*

**4VAC20-1140-20. Crab dredging prohibited.**

In accordance with the provisions of § 28.2-707 of the Code of Virginia, the crab dredging season of December 1, ~~2016~~ [2017](#), through March 31, ~~2017~~ [2018](#), is closed, and it shall be unlawful to use a dredge for catching crabs from the waters of the Commonwealth during that season.

VA.R. Doc. No. R17-5188; Filed July 27, 2017, 9:00 a.m.

**Final Regulation**

**REGISTRAR'S NOTICE:** The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

**Title of Regulation:** **4VAC20-1270. Pertaining to Atlantic Menhaden (amending 4VAC20-1270-30, 4VAC20-1270-50).**

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** August 1, 2017.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248 or email [jennifer.farmer@mrc.virginia.gov](mailto:jennifer.farmer@mrc.virginia.gov).

**Summary:**

*The amendments increase Virginia's portion of the coastwide total allowable landings of menhaden and modify the nonpurse seine bait sector quota allocations.*

**4VAC20-1270-30. Total allowable landings for menhaden; allocation, accountability, and overages.**

A. In accordance with ~~Section~~ § 28.2-400.2 of the Code of Virginia the total allowable commercial landings for menhaden in ~~2015~~ [2017](#) and ~~2016~~ [2018](#) in metric tons shall be equivalent to ~~349,873,884~~ [372,443,990](#) pounds, and that total amount of allowable landings shall be allocated as quotas among three sectors of the menhaden fishery, as described below, pursuant to § 28.2-400.3 of the Code of Virginia. The purse seine menhaden reduction sector is allocated a quota of ~~315,036,445~~ [335,359,214](#) pounds of allowable menhaden landings; the purse seine menhaden bait sector a ~~29,313,757~~ [31,204,766](#) pound quota of allowable menhaden landings; and the nonpurse seine menhaden bait sector a ~~5,523,682~~ [5,880,010](#) pound quota of allowable menhaden landings.

B. If the total allowable landings specified in subsection A of this section are exceeded in any year, the total allowable landings for the subsequent year will be reduced by the amount of the overage. Such overage shall be deducted from the sector of the menhaden fishery that exceeded the allocation specified in subsection A of this section.

**4VAC20-1270-50. Nonpurse seine menhaden bait sector quota; allocation and bycatch provisions.**

A. The commercial nonpurse seine bait sector's allocation shall be by gear type as follows:

- 1. Cast net: ~~2,123~~ [2,261](#) pounds.
- 2. Dredge: ~~3,376~~ [3,595](#) pounds.
- 3. Fyke net: ~~2,326~~ [2,477](#) pounds.
- 4. Gill net: ~~1,673,219~~ [1,781,986](#) pounds.



---

# Regulations

---

- 5. ~~Hook and line:~~ ~~258 pounds.~~
- 6. ~~Pot:~~ ~~2,270 pounds.~~
- 7. ~~5.~~ Pound net: ~~3,753,222~~ 3,997,201 pounds.
- 8. ~~6.~~ Seine: ~~22,113~~ 23,550 pounds.
- 9. ~~7.~~ Trawl: ~~64,732~~ 68,940 pounds.
- 10. ~~Trot line:~~ ~~43 pounds.~~

B. Pursuant to § 28.2-400.4 of the Code of Virginia, once the commissioner announces the date of closure for the nonpurse seine bait fishery, any person licensed in the nonpurse seine menhaden bait sector may possess and land up to 6,000 pounds of menhaden per day.

VA.R. Doc. No. R17-5225; Filed July 27, 2017, 8:50 a.m.

◆ ————— ◆

## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### BOARD OF JUVENILE JUSTICE

#### Final Regulation

Title of Regulation: **6VAC35-160. Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System (amending 6VAC35-160-10, 6VAC35-160-30 through 6VAC35-160-70, 6VAC35-160-90, 6VAC35-160-100 through 6VAC35-160-260, 6VAC35-160-280 through 6VAC35-160-360; repealing 6VAC35-160-390).**

Statutory Authority: §§ 16.1-223 and 66-10 of the Code of Virginia.

Effective Date: September 20, 2017.

Agency Contact: Janet P. Van Cuyk, Legislative and Research Manager, Department of Juvenile Justice, 600 East Main Street, 20th Floor, Richmond, VA 23219, telephone (804) 588-3879, FAX (804) 371-6490, or email janet.vancuyk@djj.virginia.gov.

Summary:

*The amendments (i) require background checks for those individuals who will have access to juvenile record information; (ii) replace references to Department of Juvenile Justice data policies with references to the Information Technology Resource Management standards, which are the technology standards for all executive branch agencies of the Commonwealth; (iii) remove outdated terms and requirements; and (iv) clarify processes that were previously vague.*

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

## Part I General Provisions

### **6VAC35-160-10. Definitions.**

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

"Access" means the ability directly to obtain information concerning an individual juvenile contained in manual or automated files.

"Commonwealth of Virginia Information Technology Resource Management Standards" or "COV ITRM Standards" means the information technology standards applicable to all [ Commonwealth ] executive branch agencies that manage, develop, purchase, and use information technology resources in the Commonwealth of Virginia.

"Data owner" means a Department of Juvenile Justice employee who is responsible for the policy and practice decisions regarding data as identified by COV ITRM Standard Security (SEC) [ ~~§01-08 501-09.1~~ ].

"Department" means the Department of Juvenile Justice.

"Destroy" means to totally eliminate and eradicate by various methods, including, ~~but not limited to,~~ shredding, incinerating, or pulping.

"Dissemination" means any transfer of juvenile record information, whether orally, in writing, or by electronic means to any person other than an employee of a participating agency who ~~has a right to the~~ is authorized to receive the information under § 16.1-300 of the Code of Virginia and who is not barred from receiving the information by other applicable law.

"Expunge" means to destroy all records concerning an individual juvenile, or all personal identifying information related to an individual juvenile that is included in aggregated files and databases, in accordance with a court order or the Code of Virginia.

"Juvenile record information" means any information in the possession of a participating agency pertaining to the case of a juvenile who is or has been the subject of an action by an intake officer as provided by § 16.1-260 of the Code of Virginia, as well as to personal identifying information concerning such a juvenile in any database or other aggregated compilation of records. The term does not apply to statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable.

"Need to know" means the principle that a user should access only the specific information necessary to perform a particular function in the exercise of his official duties. [ ~~Once access to an application is authorized, the authorized data user is still obligated to assess the appropriateness of each specific access~~ ] on a need-to-know basis [ only necessary to perform official job duties and responsibilities. ]

"Participating agency" means the ~~Department of Juvenile Justice department~~, including state-operated court service units, ~~or~~; any locally operated court service unit, secure juvenile detention home, center, or juvenile group home or emergency shelter; or any public agency, child welfare agency, private organization, facility, or person who is treating or providing services to a child pursuant to a contract with the department or pursuant to the Virginia Juvenile Community Crime Control Act as set out in Article 12.1 (§ 16.1-309.2 et seq.) of Chapter 11 of Title 16.1 of the Code of Virginia, that is approved by the department to have direct access to juvenile record information through the ~~Virginia Juvenile Justice Information System VJJIS~~ or any of its component or derivative information systems. The term "participating agency" does not include any court.

"Remote access" means a connection to the department's systems from a remote location other than a department facility.

"Telecommunication connection" means the infrastructure used to establish a remote access to department information technology systems.

"Virginia Juvenile Justice Information System (~~VJIS~~)" or "VJJIS" means the equipment, facilities, agreements and procedures used to collect, process, preserve or disseminate juvenile record information in accordance with § 16.1-224 or § 16.1-300 of the Code of Virginia. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

~~"VJIS functional administrator" means a Department of Juvenile Justice employee who is responsible for overseeing the operation of a specific component of the Virginia Juvenile Justice Information System. Such persons are sometimes referred to as "functional proponents" of particular information reporting systems. The functional administrator is not to be confused with the department's overall administrator of the VJIS.~~

## Part II

### Participating Agencies in the ~~Virginia Juvenile Justice Information System VJIS~~

#### **6VAC35-160-30. Designation as a participating agency.**

A. The department, including its central administration, department-operated facilities, and state-operated court service units, is considered a single participating agency for purposes of this regulation.

B. Locally operated court services units, and secure juvenile detention homes and boot camps as defined in § 16.1-228 of the Code of Virginia centers shall be participating agencies in the ~~Virginia Juvenile Justice Information System VJJIS~~.

C. Any other agency that is eligible to receive juvenile record information under § 16.1-300 of the Code of Virginia may apply to the department for status as a participating agency.

#### **6VAC35-160-40. Signed memorandum of agreement and nondisclosure agreement required.**

The department shall develop a ~~written memorandum of agreement and a nondisclosure agreement~~ with each ~~other~~ participating agency delineating the participating agency's access to and responsibility for information contained in the ~~Virginia Juvenile Justice Information System VJJIS~~.

#### **6VAC35-160-50. Data submissions.**

A. All participating agencies shall submit data and other information as required by department ~~policy~~ procedures to ensure that juvenile record information is complete, accurate, current, and consistent.

B. Administrators of participating agencies are responsible for ensuring that entries into the ~~juvenile justice information system VJJIS~~ are accurate, timely, and in a form prescribed by the department.

C. All information entered into the ~~Virginia Juvenile Justice Information System VJJIS~~ shall become part of a juvenile's record and shall be subject to the confidentiality provisions of § 16.1-300 of the Code of Virginia.

#### **6VAC35-160-60. Access provided to participating agencies.**

A. In accordance with ~~policies~~ statutes, regulations, and procedures governing confidentiality of information and system security, the department may limit or expand the scope of access granted to participating agencies.

B. When individuals or participating agencies are providing treatment or rehabilitative services to a juvenile as part of an agreement with the department, their access to juvenile record information shall be limited to that portion of the information that is relevant to the provision of the treatment or service. Once access to an application is authorized, the authorized data user is still obligated to assess the appropriateness of each specific access on a need-to-know basis.

C. An individual's juvenile record information shall be made available only to participating agencies currently supervising or providing services to the juvenile, and only upon presentation of the unique identifying number assigned to the juvenile. Once access to an application is authorized, the authorized data user [ ~~is still~~ remains ] obligated to assess the appropriateness of each specific access on a need-to-know basis.

#### **6VAC35-160-70. Designation of authorized individuals.**

A. Each participating agency shall determine what positions in the agency require regular access to juvenile record information as part of their job responsibilities and as documented in the employee work profile.

B. ~~In accordance with applicable law and regulations, the~~ The department ~~may~~ shall require a background check of any individual who will be given access to the VJJIS system through any participating agency. The department may deny access to any person based on the results of such background

---

# Regulations

---

investigation or due to the person's violation of the provisions of ~~these regulations~~ this chapter or other security requirements established for the collection, storage, or dissemination of juvenile record information.

C. Only authorized ~~employees~~ individuals shall have direct access to juvenile record information.

D. Use of juvenile record information by an unauthorized ~~employee~~ individual, or for a purpose or activity other than one for which the person is authorized to receive juvenile record information, ~~will~~ shall be considered an unauthorized dissemination.

E. Persons who are given access to juvenile record information shall be required to sign an agreement information security agreement in accordance with department procedure stating that they will use and disseminate the information only in compliance with law and ~~these regulations~~, this chapter and that they understand that there are criminal and civil penalties for unauthorized dissemination.

## **6VAC35-160-90. Security of physical records.**

A. A participating agency that possesses physical records or files containing juvenile record information shall institute procedures to ensure the physical security of such juvenile record information from unauthorized access, disclosure, dissemination, theft, sabotage, fire, flood, wind, or other natural or man-made disasters.

B. Only authorized persons ~~who are clearly identified~~ shall have access to areas where juvenile record information is collected, stored, processed, or disseminated. Locks, guards, or other appropriate means shall be used to control access.

## **6VAC35-160-100. Requirements when records are automated.**

Participating agencies having automated juvenile record information files shall:

1. Designate a ~~system administrator~~ data owner to maintain and control authorized user accounts, system management, and the implementation of security measures;
2. ~~Maintain "backup" copies of juvenile record information, preferably off site;~~
3. ~~Develop a disaster recovery plan, which shall be available for inspection and review by the department;~~
4. ~~Carefully control system specifications and documentation to prevent unauthorized access and dissemination~~ 2. Develop and implement a logical access procedure to prevent unauthorized access and dissemination; and
5. 3. Develop procedures for discarding old computers to ensure that information contained on those computers is not available to unauthorized persons. All data must be completely erased or otherwise made unreadable in accordance with COV ITRM Standard SEC 514-04, Removal of Commonwealth Data from Electronic Media

Standard [ or any successor COV ITRM standard that addresses the removal of Commonwealth data from electronic media ].

## **6VAC35-160-110. Access controls for computer security.**

A. Where juvenile record information is computerized, logical access controls shall be ~~[ put in place implemented ]~~ to ensure that records can be queried, updated, or destroyed only from approved system user accounts. Industry standard levels of encryption shall be required to protect ~~all~~ confidential juvenile record information moving through any network.

B. The logical access controls ~~described in subsection A of this section~~ shall be known only to the employees of the participating agency who are responsible for control of the juvenile record information system or to individuals and agencies operating under a specific agreement with the participating agency to provide such security programs. The access controls shall be kept ~~under maximum security conditions~~ secure.

C. Computer operations, whether dedicated or shared, that support juvenile record information shall operate in accordance with procedures developed or approved by the department.

D. Juvenile record information shall be stored ~~by the computer~~ in such a manner that it cannot be modified, destroyed, accessed, changed, purged, or overlaid in any fashion except via an approved system user account.

## **6VAC35-160-130. Security of telecommunications.**

A. ~~Ordinarily, dedicated telecommunications lines shall be required for direct or remote access to computer systems containing juvenile record information. However, the~~ The department may permit the use of a nondedicated means of data transmission to access juvenile record information when there are adequate and verifiable safeguards in place to restrict access to juvenile record information to authorized persons. Industry standard levels of encryption shall be required to protect all juvenile record information moving through any network.

B. Where remote access of juvenile record information is permitted, remote access devices must be secure. Remote access devices capable of receiving or transmitting juvenile record information shall be secured during periods of operation. When the remote access device is unattended, the device shall be made inoperable for purposes of accessing juvenile record information by implementing a screen saver lockout period after a maximum of 15 minutes of inactivity for devices as required by COV ITRM Standards SEC [ 501-09 or any successor COV ITRM Standard that addresses information security 501-09.1 ]. In addition, appropriate identification of the remote access device operator shall be required.

C. ~~Telecommunications facilities~~ The telecommunications connection used in connection with the remote access device shall also be secured. ~~The telecommunications facilities~~

Telecommunication connections shall be reasonably protected from possible tampering or tapping.

**6VAC35-160-150. Correcting errors.**

Participating agencies shall immediately notify the appropriate ~~VJJIS functional administrator data owner~~ [ ~~when it is found upon discovering~~ ] that incorrect information has been entered into the ~~juvenile justice information system VJJIS~~. The ~~VJJIS functional administrator data owner~~ [ ~~will shall~~ ] make arrangements to correct the information as soon as practicable in accordance with department procedures.

**6VAC35-160-170. Information to be disseminated only in accordance with law applicable statutes and regulation regulations.**

A. In accordance with § 16.1-223 of the Code of Virginia, data stored in the ~~Virginia Juvenile Justice Information System VJJIS~~ shall be confidential. Information from such data that identifies an individual juvenile may be released only in accordance with § 16.1-300 of the Code of Virginia, applicable federal law, and this ~~regulation chapter~~.

B. Unauthorized dissemination of juvenile record information will ~~result in subject the disseminator's being~~ subject disseminator to the administrative sanctions described in 6VAC35-160-380. Unlawful dissemination also may be prosecuted as a Class 3 misdemeanor under § 16.1-309 of the Code of Virginia or as a Class 2 misdemeanor under § 16.1-225 of the Code of Virginia.

C. Additional disclosure limitations are provided in the ~~Health Insurance Portability and Accountability Act (42 USC §§ 1320d-5 and 1320d-6) and the federal substance abuse law (42 USC § 290dd2(f))~~.

**6VAC35-160-180. Fees.**

Participating agencies may charge a reasonable fee for search and copying time expended when an individual or a nonparticipating agency requests juvenile record information. The participating agency shall inform the requester of the fees to be charged; and shall obtain written agreement from the requester to pay such costs prior to initiating the search for requested information. Any release shall be in accordance with applicable statutes and regulations.

**6VAC35-160-210. Determining requestor's eligibility to receive the information.**

A. Upon receipt of a request for juvenile record information, an appropriately designated person shall determine whether the requesting agency or individual is eligible to receive juvenile record information as provided in § 16.1-300 of the Code of Virginia, federal law, and this ~~regulation chapter~~.

B. The determination as to whether a person, agency or institution has a "legitimate interest" in a juvenile's case shall be based on the criteria specified in subdivision A 7 of § 16.1-300 A-7 of the Code of Virginia.

C. When there is a request to disseminate health records or substance abuse treatment records, the person responding to

the request shall determine whether the requested information is protected ~~by the Health Insurance Portability and Accountability Act of 1996 or by the federal law on substance abuse treatment records (42 USC § 290dd-2 and 42 CFR Part 2)~~; and may consult with designated department personnel in making this determination. Health records and substance abuse treatment records shall be disseminated only in strict compliance with the applicable federal statutory requirements, the Code of Virginia, and this chapter.

**6VAC35-160-220. Responding to requests.**

A. Once it is determined that a requestor is entitled to juvenile record information, a designated individual shall inform the requestor of the procedures for reviewing the juvenile record information, including the general restrictions on the use of the data, when the record will be available, and any costs that may be involved.

B. When the request for juvenile record information is made by an individual's parent, guardian, legal custodian or other person standing in loco parentis, the request shall be referred to designated personnel of the department. (See 6VAC35-160-230.)

~~C. Before beginning the search for the requested juvenile record information, a designated individual shall inform the requester of any fees that will be charged pursuant to 6VAC35-160-180 and shall obtain the consent of the requester to pay any charges associated with providing the requested information.~~

~~D. C.~~ All records containing sensitive data (e.g., name, date of birth, social security number, or address) shall be encrypted prior to electronic dissemination. Except as provided in subsection B of this section, requested records shall be provided as soon as practicable, but in any case within ~~seven~~ 10 business days unless compliance with other applicable regulations requires a longer response time.

~~E. D.~~ If the request for information is made to a participating agency and the participating agency does not have access to the particular information requested, the requestor shall be ~~so~~ notified and shall be told how to request the information from the appropriate source, if known.

~~F. E.~~ Personnel of the participating agency shall provide reasonable assistance to the individual or his attorney to help understand the record.

~~G. F.~~ The person releasing the record shall also inform the individual of his right to challenge the record as provided in 6VAC35-160-280.

~~H. G.~~ If no record can be found, a statement shall be furnished to this effect.

**6VAC35-160-260. Reporting unauthorized disseminations.**

A. Participating agencies shall notify the department when they observe any violations of the ~~above~~ dissemination regulations contained in this part. The department ~~will~~ shall

---

# Regulations

---

investigate and respond to the violation as provided in law and this chapter.

B. A participating agency that knowingly fails to report a violation may be subject to an immediate audit of its entire dissemination log and procedures to ensure that disseminations are being appropriately managed.

## Part IV

### Challenge ~~To~~ to and Correction of Juvenile Record Information

#### **6VAC35-160-280. Challenge.**

A. Individuals, or persons acting on an individual's behalf as provided for by law, may challenge their own juvenile record information by completing documentation provided by the department and forwarding it to the ~~functional proponent~~ data owner who is responsible for the applicable component of the ~~the Virginia Juvenile Justice Information System VJJIS~~ as prescribed in department procedures.

B. When a record that is maintained by the VJJIS is challenged, both the manual and the automated record shall be flagged with the message "CHALLENGED RECORD." The individual shall be given an opportunity to ~~make~~ provide a brief written statement describing how the information contained in the record is alleged to be inaccurate. When a challenged record is disseminated while under challenge, the record shall carry both the flagged message and the individual's statement, if one has been provided.

C. The ~~VJJIS functional administrator~~ data owner or designee shall examine the individual's record to determine if a data entry error was made. If a data entry error is not obvious, the ~~VJJIS functional administrator~~ data owner shall send a copy of the challenge form and any relevant information to all agencies that could have originated the information under challenge, and shall ask them to examine their files to determine the validity of the challenge.

D. The participating agencies shall examine their source data, the contents of the challenge, and information supplied by the VJJIS for any discrepancies or errors; and shall advise the ~~VJJIS functional administrator~~ data owner of the results of the examination.

E. If a modification of a VJJIS record is required, the ~~VJJIS functional administrator~~ data owner shall ensure that the required change is made and shall notify all participating agencies that were asked to examine their records in connection with the challenge.

F. Participating agencies that, pursuant to 6VAC35-160-220, have disseminated an erroneous or incomplete record shall in turn notify all entities that have received the erroneous juvenile record information as recorded on the agency's dissemination log.

G. The participating agency that received the challenge shall notify the individual or person acting on the individual's behalf of the results of the challenge and the right to request an administrative review and appeal those results.

#### **6VAC35-160-290. Administrative review of challenge results.**

A. If not satisfied with the results of the challenge, the individual or those acting on his behalf may, within 30 calendar days, request in writing an administrative review of the challenge by the ~~Director~~ director of the ~~Department of Juvenile Justice~~ department.

B. Within 30 days of receiving the written request for the administrative review, the ~~Director~~ director of the ~~Department of Juvenile Justice~~ department, or a designee who is not the ~~VJJIS functional administrator~~ data owner who responded to the challenge, shall review the challenge, the findings of the review, and the action taken by the ~~VJJIS functional administrator~~ data owner. If the administrative review supports correction of the juvenile record information, the correction shall be made as prescribed ~~above in~~ in [ ~~this section~~ 6VAC35-160-280 ].

#### **6VAC35-160-300. Removal of a challenge designation.**

When ~~juvenile~~ the challenge to the juvenile's record information is ~~determined to be correct~~ has been resolved, either as a result of a challenge or an administrative review of the challenge, the ~~VJJIS functional administrator~~ data owner shall notify the affected participating agencies to remove the challenge designation from their files.

## Part V

### Expungement

#### **6VAC35-160-310. Expungement requirements.**

When a court orders or law requires the expungement of an individual's juvenile records, all records and personal identifying information associated with the expungement order shall be destroyed in accordance with the court order or statutory requirement. Nonidentifying information may be kept in databases or other aggregated files for statistical purposes.

#### **6VAC35-160-320. Notification to participating agencies.**

The ~~VJJIS functional administrator~~ data owner shall notify all participating agencies to purge their records of any reference to the person whose record has been ordered expunged. The notification shall include a copy of the applicable court order, along with notice of the penalties imposed by law for disclosure of such personal identifying information (see § 16.1-309 of the Code of Virginia).

#### **6VAC35-160-330. Procedures for expunging juvenile record information.**

A. Paper versions of records that have been ordered expunged shall be destroyed ~~by shredding, incinerating, pulping, or otherwise totally eradicating the record.~~

B. Computerized versions of records that have been ordered expunged shall be deleted from all databases and electronic files in such a way that the records cannot be accessed or recreated through ordinary use of any equipment or software that is part of the ~~Virginia Juvenile Justice Information~~

~~System VJIS~~ and in accordance with the ITRM SEC [ 514-03 514-04 ] ~~Removal of [ Electronic Commonwealth ] Data from Electronic Media [ standard Standard ]~~.

C. If personal identifying information concerning the subject individual is included in records that are not ordered expunged, the personal identifying information relating to the individual whose records have been ordered expunged shall be obliterated on the original, or a new document shall be created eliminating the personal identifying references to the individual whose record has been ordered expunged.

**6VAC35-160-340. Confirmation notice required to ~~VJIS functional administrator~~ data owner.**

Within 30 calendar days of receiving expungement instructions from the ~~VJIS functional administrator~~ data owner, the participating agency shall expunge the juvenile record information in accordance with 6VAC35-160-330 and shall notify the ~~VJIS functional administrator~~ data owner when the records have been expunged. The notification to the ~~VJIS functional administrator~~ data owner shall indicate that juvenile records were expunged in accordance with court order and shall not identify the juvenile whose records ~~where~~ were expunged.

**6VAC35-160-350. Expungement order received directly by participating agency.**

When a participating agency receives an expungement order directly from a court, the participating agency shall promptly comply with the expungement order in accordance with 6VAC35-160-330 and shall notify the ~~VJIS functional administrator~~ data owner of the court-ordered expungement. The ~~VJIS functional administrator~~ data owner, upon receipt of such notification, ~~obtain a copy of the order from the appropriate court~~ shall contact the appropriate court and determine the validity of the notification, as applicable.

Part VI

Disposition of Records in the [ ~~Virginia Juvenile Justice Information System VJIS~~ ]

**6VAC35-160-355. Record retention.**

All records in the ~~Virginia Juvenile Justice Information System VJIS~~ shall be retained and disposed of in accordance with the applicable records retention schedules approved by the Library of Virginia. When a participating agency or a unit of a participating agency disposes of records in the physical possession of the participating agency or the unit of a participating agency, the person who disposes of such records shall notify the ~~VJIS functional administrator~~ data owner to remove that same information from VJIS.

Part VII

Enforcement

**6VAC35-160-360. Oversight by the ~~Department of Juvenile Justice~~ department.**

A. The ~~Department of Juvenile Justice~~ department shall have the responsibility for monitoring compliance with this chapter and for taking enforcement action as provided in this

chapter or ~~by law~~ applicable state and federal statutes and regulations.

B. The department shall have the right to audit, monitor, and inspect any facilities, equipment, software, systems, or procedures ~~established pursuant to~~ required by this chapter.

**6VAC35-160-390. Annual report to the board. (Repealed.)**

~~The department shall annually report to the board on the status of the Juvenile Justice Information System, including a summary of (i) any known security breaches and corrective actions taken; (ii) any audits conducted, whether random or for cause; and (iii) any challenges received alleging erroneous information and the outcome of any investigation in response to such a challenge.~~

[ DOCUMENTS INCORPORATED BY REFERENCE (6VAC35-160)

[Information Technology Resource Management Standard - Removal of Commonwealth Data from Electronic Media Standard, 514-04, Virginia Information Technologies Agency \(rev. 12/2015\)](#)

[Commonwealth of Virginia Information Technology Resource Management Standard, Information Security Standard, 501-09.1, Virginia Information Technologies Agency \(rev. 12/2016\)](#) ]

VA.R. Doc. No. R16-4311; Filed July 24, 2017, 7:17 a.m.

## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

#### Fast-Track Regulation

Title of Regulation: **8VAC20-671. Regulations Governing the Operation of Private Schools for Students with Disabilities (amending 8VAC20-671-710).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: September 20, 2017.

Effective Date: October 5, 2017.

Agency Contact: John Eisenberg, Special Education and Student Services, Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 786-8079, or email john.eisenberg@doe.virginia.gov.

Basis: Chapter 387 of the 2015 Acts of Assembly amends §§ 8.01-225, 54.1-3408, and 22.1-321.1 of the Code of Virginia, relating to the possession and administration of epinephrine in private schools for students with disabilities. Specifically, § 22.1-321.1 requires that the Board of Education promulgate regulations for the possession and administration of epinephrine in every school for students with disabilities, to be administered by any employee of the

---

# Regulations

---

school who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction.

**Purpose:** The amendments to 8VAC20-671-710 conform the regulations to the provisions of Chapter 387 of the 2015 Acts of Assembly. Without amending 8VAC20-671-710 to include requirements related to the possession and use of epinephrine, students who are believed to be having an anaphylactic reaction could be put at significant risk of a serious medical condition or potentially death. The amended regulation will provide the administrators of private schools for students with disabilities with much needed and requested provisions related to the possession and use of epinephrine.

**Rationale for Using Fast-Track Rulemaking Process:** Use of the fast-track rulemaking process for the amendments to 8VAC20-671-710 is appropriate because (i) the Board of Education does not foresee a significant human resource or fiscal impact on the private school facilities; (ii) there is no fiscal impact on the Commonwealth; and (iii) these amendments are long awaited by the private school community and its accrediting agencies, primarily the Virginia Council for Private Education and the Virginia Association of Independent Specialized Education Facilities.

**Substance:** The amendments to 8VAC20-671-710 address the requirements for procurement, storage, and use of epinephrine and also address the training requirements for staff and the required reporting activities when epinephrine is administered to a student enrolled in a private school licensed by the Virginia Department of Education.

**Issues:** An advantage for the public is that parents of children who are enrolled in such private schools will have access to the required expectations when a child experiences an anaphylactic episode at school or during a school sponsored activity off of school grounds and how care will be provided by trained personnel in accordance with established guidelines and protocols. An advantage for the Virginia Department of Education and the Commonwealth of Virginia is that there will be a defined protocol for monitoring and enforcing what were already established in guidelines but are now incorporated by reference into law. There are no foreseen disadvantages to the public or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 387 of the 2015 Acts of Assembly, the Board of Education (Board) proposes to establish requirements for the possession and administration of epinephrine in private schools for students with disabilities. Epinephrine is used to treat persons believed to be having an anaphylactic reaction.

Result of Analysis. The benefits likely exceed the costs.

Estimated Economic Impact. Anaphylaxis is a severe, potentially life-threatening allergic reaction. It can occur

within seconds or minutes of exposure to something you're allergic to, such as peanuts or bee stings. Anaphylaxis causes your immune system to release a flood of chemicals that can cause you to go into shock — your blood pressure drops suddenly and your airways narrow, blocking breathing. Signs and symptoms include a rapid, weak pulse; a skin rash; and nausea and vomiting. Common triggers include certain foods, some medications, insect venom and latex. Anaphylaxis requires an injection of epinephrine. If anaphylaxis isn't treated right away with epinephrine, it can be fatal.<sup>1</sup>

The Board proposes to require that each school has: 1) on campus at least two auto-injectable epinephrine units for both dosage sizes, 0.3 mg (for students weighing more than 66 pounds) and 0.15 mg (for students who weigh 33 to 66 pounds), 2) a written policy consistent with the Department of Education's (DOE) Guidelines for Recognition and Treatment of Anaphylaxis in the School Setting for its procedures to address students with severe allergies who may be at risk of an anaphylactic reaction necessitating the use of an epinephrine auto-injector, 3) for students with known life threatening allergies, "student specific" written instructions from the student's health care provider for handling anaphylaxis and all necessary medications, and 4) a standing order (from an authorized medical provider) to prescribe "non-student specific" epinephrine for students within the school who do not presently have a health care plan addressing the administration of epinephrine. Additionally, the Board proposes to specify documentation and storage requirements, as well as procedures once epinephrine is administered. Finally, the Board proposes to require that at least two school employees in addition to the school nurse are trained in the administration of epinephrine by auto-injector.

As of May 10, 2017, generic auto-injectable epinephrine units were listed at a cost of \$109.99 for a two-pack on CVS's website.<sup>2</sup> Thus requiring that each school has at least two auto-injectable epinephrine units for both dosage sizes would cost about \$220. The auto-injectable epinephrine units are expected to last at least 12 months before expiry.<sup>3</sup> Thereafter, the replacement costs for used and expired auto-injectors is projected to be at about the same rate. DOE's Guidelines for Recognition and Treatment of Anaphylaxis in the School Setting provides the information needed for schools to produce a written policy related to its procedures to address students with severe allergies who may be at risk of an anaphylactic reaction necessitating the use of an epinephrine auto-injector. The annual administrative costs for recordkeeping and other administrative costs required for compliance is projected at \$240 (1hr per month at \$20 per hour).<sup>4</sup> Thus most years, obtaining and maintaining the required auto-injectable epinephrine units and the associated procedures would likely cost less than \$500.

Given the not insignificant chance that the presence of auto-injectable epinephrine and staff who know how to properly administer it could save the life of a child at the school, the

benefits of the proposed amendments likely exceed the costs (less than \$500 annually most years).

**Businesses and Entities Affected.** The proposed amendments affect the 136 licensed private schools for students with disabilities in the Commonwealth.<sup>5</sup> Most would likely qualify as small businesses.

**Localities Particularly Affected.** The proposed amendments do not disproportionately affect particular localities.

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

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

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

**Small Businesses:**

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

**Costs and Other Effects.** The proposed amendments increase costs for small private schools for students with disabilities.

**Alternative Method that Minimizes Adverse Impact.** There is no apparent alternative that would reduce costs while meeting the intended policy goal of increasing the likelihood that children at private schools for students with disabilities who go into anaphylactic shock survive.

**Adverse Impacts:**

**Businesses.** The proposed amendments increase costs for private schools for students with disabilities.

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

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

<sup>1</sup> Source: Mayo Clinic <http://www.mayoclinic.org/diseases-conditions/anaphylaxis/home/ovc-20307210>

<sup>2</sup> See <https://www.cvs.com/content/epipen-alternative>

<sup>3</sup> See <http://www.epipen.ca/en/about-epipen/frequently-asked-questions>

<sup>4</sup> Source: Department of Education

<sup>5</sup> Ibid

**Agency's Response to Economic Impact Analysis:** The agency concurs with the economic impact analysis completed by the Department of Planning and Budget.

**Summary:**

*Pursuant to Chapter 387 of the 2015 Acts of Assembly, the amendments establish requirements for the possession and administration of epinephrine in private schools for students with disabilities.*

**8VAC20-671-710. Medication and health.**

A. Each student shall have on file evidence of a comprehensive physical examination prescribed by the State Health Commissioner from a qualified licensed (i) physician, (ii) nurse practitioner, or (iii) physician assistant acting under the supervision of a licensed physician. The examination must contain, at a minimum, information required on the Commonwealth of Virginia School Entrance Health Form.

B. Each student shall have an up-to-date certificate of immunization.

C. Any student or staff with a medical condition that is contagious or infectious shall take leave from school while in that condition unless attendance is approved by a qualified health care provider. Conditions meeting this requirement must be provided in the parent/student handbook or other print materials.

D. A first aid kit shall be maintained and readily accessible for minor injuries and medical emergencies in each building used for instruction or other school activity.

E. Each private school for students with disabilities shall develop a written policy related to its procedures to address students with severe allergies who may be at risk of an anaphylactic reaction necessitating the use of an epinephrine auto-injector. The policy shall address, but is not limited to (i) an overview of anaphylaxis and its symptoms; (ii) staff training in the possession and administration of epinephrine auto-injectors; (iii) standing orders; (iv) responding to anaphylaxis; (v) post administration of epinephrine actions; and (vi) storage, access, and maintenance. School administrators shall ensure that the school's policy is consistent with the Recognition and Treatment of Anaphylaxis in the School Setting guidelines dated June 28, 2012 that are published on the Virginia Department of Education's website.

F. Each private school for students with disabilities shall ensure that it has at least two auto-injectable epinephrine units in both dosage sizes, 0.3 mg for a student who weighs more than 66 pounds and 0.15 mg for a student who weighs 33 to 66 pounds, on school premises, to be administered by any employee of a school for students with disabilities licensed by the Board of Education who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. Stock epinephrine is intended for use on school premises and should not be carried offsite. Additional epinephrine should be made available along with arrangements for administration during field trips and other official offsite school activities.

G. Procurement and acceptance of medication.

1. All medications shall be accepted only in the original container with written permission signed and dated by the parent to administer to the child.

2. The use of all prescriptive medication must be authorized in writing by a licensed prescriber.



---

# Regulations

---

3. For students enrolled in private schools for students with disabilities with known life threatening allergies or anaphylaxis the school administrator shall obtain on an annual basis, through the student's parent or legal guardian, "student specific" written instructions from the student's health care provider for handling anaphylaxis and all necessary medications for implementing the student specific order.

4. The private school for students with disabilities administrator shall designate an authorized medical provider with prescriptive authority, such as a medical doctor, doctor of osteopathy, physician assistant, or nurse practitioner, and obtain a standing order to prescribe "non-student specific" epinephrine for students within the school who do not presently have a health care plan addressing the administration of epinephrine, to be administered to any student believed to be having an anaphylactic reaction.

5. School administrators shall coordinate with, among other resources as they deem appropriate, placing school divisions, local health department directors, local practitioners, and the Virginia Chapter of the American Academy of Pediatrics to assist them in obtaining the required standing orders for treatment of anaphylaxis and prescriptions to order auto-injectable epinephrine.

6. Standing orders and prescriptions shall be renewed annually and with any change in prescriber.

H. The expiration date of epinephrine solutions shall be checked periodically but not less than monthly. The auto-injector unit should be replaced if it is approaching its expiration date. The contents should be inspected through the clear window of the auto-injector. The solution should be clear; if it is discolored or contains solid particles, discard and replace the unit. Used, expired, or epinephrine auto-injectors with discolored solution or solid particles shall not be used and shall be discarded in a sharps container. The school shall maintain a sufficient number of extra doses of epinephrine for replacement of used or expired school stock on the day it is used or discarded. Each school shall maintain documentation that its stock of epinephrine has been checked on a monthly basis to ensure proper storage, review of expiration dates, medication stability, and replacement upon use or disposal under the criteria in this subsection.

F. I. All medication and medical paraphernalia, with the exception of epinephrine auto-injectors, shall be properly labeled and securely locked or stored in accordance with the Virginia School Health Guidelines. Epinephrine auto-injectors must be stored in a safe, unlocked, and accessible location in a dark place at room temperature (between 59°F - 86°F). Epinephrine cannot be stored in a refrigerator. Although epinephrine should not be maintained in a locked cabinet or behind locked doors, precautions must be in place to ensure that the epinephrine auto-injectors are not readily available to student access. The location of the epinephrine

must be clearly marked at the storage location, and staff must be made aware of the storage location in each school.

G. J. An individual medication administration record shall be maintained for each medication a student receives and shall include student name, date the medication is to begin, drug name, schedule for administration, strength, route, identification of the individual who administered the medication, and dates the medication was discontinued or changed.

K. Once epinephrine is administered, local Emergency Medical Services (911) shall be activated and the student transported to the emergency room for follow-up care. In some reactions, the symptoms go away, only to return one to three hours later. This is called a "biphasic reaction." Often these second-phase symptoms occur in the respiratory tract and may be more severe than the first-phase symptoms. Therefore, follow-up care with a health care provider is necessary. The student will not be allowed to remain at school or return to school on the day epinephrine is administered. The administration of epinephrine shall be treated as a serious incident and shall be reported to the parent or legal guardian immediately using all means of contact provided by the parent (i.e., home, cell, or work telephone number, email, or text message), but no later than the end of the school day. The school administrator shall ensure that an appropriate serious incident form is completed by the end of the day on which the administration of epinephrine occurred. The incident report shall include the following information: (i) the date and time the incident occurred; (ii) the name of the staff who administered the epinephrine; (iii) a record of the attempts made (including date, time, and mode of communication, and name of employee making the attempt) to notify the parent of the use of epinephrine; (iv) summary of contact with parent; and (v) the name of the person who completed the incident report. The school administrator shall provide a copy of the incident report via email or facsimile to the department within 24 hours of completing the report.

H. L. The provider shall develop and implement written policies and procedures regarding:

1. Managing medication errors to include the following: administering first aid; contacting the poison control center; notifying the prescribing physician; taking action as directed; documenting the incident; reviewing medication errors and staff responses; and reporting errors to the parent and placing agency;
2. Handling adverse drug reactions;
3. Revising procedures as events may warrant;
4. Disposing of medication and medical supplies such as needles, syringes, lancets, etc.;
5. Storing of controlled substances;
6. Distributing medication off campus; and
7. Documenting medication refusal.

~~F~~ M. The telephone number of a regional poison control center and other emergency numbers shall be posted on or near the phone.

~~F~~ N. Medication training.

1. All staff responsible for medication administration shall have successfully completed medication training, including refresher training, in a program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medication before they can administer medication.

2. The school administrator shall identify an appropriate number of staff, but not less than two employees, in addition to the school nurse, as appropriate, to be trained in the administration of epinephrine by auto-injector. Only trained personnel shall administer epinephrine to a student believed to be having an anaphylactic reaction. Training shall be conducted in accordance with the most current edition of the Virginia Department of Education's Manual for Training Public School Employees in the Administration of Medication or other approved training programs, such as, Medication Administration Training for Youth or Medication Administration Training. Training shall be conducted as often as needed to ensure adequate staff are trained, but not less than annually.

3. Training shall be provided to staff in medication procedures and effects and infection control measures, including the use of standard precautions.

~~3.~~ 4. Staff certified in first aid and CPR shall be available at all times on the school grounds and during any school-sponsored activity.

4. 5. Documentation of medication training must be maintained in personnel files.

~~5.~~ 6. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

~~K.~~ O. Monitoring the supply of medications.

1. Upon receiving any medication, staff members handling medication shall count individual tablets and measure the level of liquid medicine in the presence of the ~~parent(s)~~ parent or another staff member and record the count on the medication log.

2. The medication log shall include the signature or initials of the staff member who counted the medication and the parent or staff who witnessed the occurrence. When initials are used, the medication administration record must contain the full name of the staff with corresponding initials for identification purposes.

3. Students shall be prohibited from transporting medication unless directed otherwise by the student's health care plan.

P. The requirements outlined in subsections F and K of this section related to the possession and administration of

epinephrine extend to activities off the school premises. Therefore, school policies shall include specific protocols for responding to anaphylaxis in the school setting, both onsite and at offsite school events, such as field trips.

Q. In accordance with § 8.01-225 A 13 of the Code of Virginia, any person who is an employee of a school for students with disabilities, as defined in § 22.1-319 of the Code of Virginia and licensed by the Board of Education, who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omission resulting from rendering of such treatment. Whenever any employee is covered by the immunity granted in § 8.01-225 A 13 of the Code of Virginia, the school shall not be liable for any civil damages for ordinary negligence in acts or omission resulting from such administration or assistance.

DOCUMENTS INCORPORATED BY REFERENCE (8VAC20-671)

[Virginia School Health Guidelines - General Guidelines for Administering Medication in School \(pages 253-256\), May 1999, Virginia Department of Health](#)

[Dietary Guidelines for Americans 2010, 7th Edition, December 2010, U.S. Department of Agriculture and U.S. Department of Health and Human Services, Washington, D.C.: U.S. Government Printing Office, www.dietaryguidelines.gov](#)

[Virginia School Health Guidelines - Recognition and Treatment of Anaphylaxis in the School Setting, dated June 28, 2012, Virginia Department of Health](#)

VA.R. Doc. No. R17-4941; Filed July 31, 2017, 5:11 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.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 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; (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

---

# Regulations

---

affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

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

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

**Public Hearing Information:**

September 28, 2017 - 3 p.m. - Department of Environmental Quality, 629 East Main Street, 2nd Floor Conference Room, Richmond, VA 23219

**Public Comment Deadline:** October 20, 2017.

**Small Business Impact Review Report of Findings:** This proposed regulatory action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

**Agency Contact:** Matthew Richardson, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4195, FAX (804) 698-4032, or email matthew.richardson@deq.virginia.gov.

**Summary:**

*This general permit contains effluent limitations, monitoring requirements, and special conditions for discharges of petroleum-contaminated wastewater, chlorinated hydrocarbon contaminated wastewater, and wastewater from hydrostatic tests. The proposed changes to the regulation make this general permit similar to other general permits issued recently and clarify and update permit limits and conditions.*

*Proposed substantive changes to the existing regulation include (i) including "associated distribution equipment" as components that can be hydrostatically tested under general permit coverage; (ii) requiring the permittee to notify a municipal separate storm sewer system (MS4) owner of the existence of the discharge at the time of registration under the general permit and to include a copy of that notification with the registration statement; (iii) clarifying that dewatering projects "shall be managed to control the volume and velocity of the discharge, including peak flow rates and total volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion"; (iv) requiring that hydrostatic discharge flows "be managed to control the volume and velocity of the discharge, including peak flow rates and total volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion"; and (v) clarifying that*

*total residual chlorine data below the quantification level of 0.1 mg/L shall be reported as "<QL."*

CHAPTER 120

~~GENERAL~~ VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) ~~GENERAL~~ PERMIT REGULATION FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES, GROUNDWATER REMEDIATION, AND HYDROSTATIC TESTS

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

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

"Board" means the State Water Control Board.

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

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

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

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

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

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

**9VAC25-120-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set forth in Title 40 of the Code of Federal Regulations is referenced or adopted ~~herein~~ in this chapter and incorporated by reference, that

regulation shall be as it exists and has been published as a final regulation in the Federal Register prior to July 1, 2012, with the effective date as published in the Federal Register notice or February 26, 2013, whichever is later as of July 1, 2017.

**9VAC25-120-20. Purpose.**

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

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

This general permit will become effective on February 26, ~~2013~~ 2018. This general permit will expire on February 25, ~~2018~~ 2023. This general permit is effective as to any covered owner upon compliance with all the provisions of 9VAC25-120-60.

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

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

1. The owner submits a registration statement, if required to do so, in accordance with 9VAC25-120-70, and that registration statement is accepted by the board;
2. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-120-80; and
3. The board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

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

1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170 B of the VPDES Permit Regulation;

2. The owner is proposing to discharge within five miles upstream of a public water supply intake or to state waters specifically named in other board regulations which prohibit such discharges;
3. The owner is proposing to discharge to surface waters where there are permitted central wastewater treatment facilities reasonably available, as determined by the board;
4. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30; or
5. The discharge is not consistent with the assumptions and requirements of an approved TMDL.

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

D. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the petroleum contaminated sites, groundwater remediation, and hydrostatic tests general permit issued in ~~2008~~ 2013 and that submits a complete registration statement on or before February 26, ~~2013~~ 2018, is authorized to continue to discharge under the terms of the ~~2008~~ 2013 general permit until such time as the board either:

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

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

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

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

A. Any owner seeking coverage under this general permit ~~who that~~ is required to submit a registration statement shall submit a complete VPDES general permit registration

---

# Regulations

---

statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for discharges from petroleum contaminated sites, ~~ground water~~ groundwater remediation, and hydrostatic tests.

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

1. Short term projects (14 consecutive calendar days or less in duration) including:
  - a. Emergency repairs;
  - b. Dewatering projects;
  - c. Utility work and repairs in areas of known contamination;
  - d. Tank placement or removal in areas of known contamination;
  - e. Pilot studies or pilot tests, including aquifer tests; and
  - f. New well construction discharges of groundwater;
2. Hydrostatic testing of petroleum and natural gas storage tanks ~~and~~ pipelines, or distribution system components; and
3. Hydrostatic testing of water storage tanks ~~and~~ pipelines, or distribution system components.

Owners of these types of discharges are authorized to discharge under this permit immediately upon the permit's effective date of February 26, ~~2013~~ 2018.

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

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

C. Deadlines for submitting registration statements.

1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least 30 days prior to the date planned for commencing operation of the new discharge, unless exempted by subsection B of this section.
2. Existing facilities.
  - a. Any owner covered by an individual VPDES permit who is proposing to be covered by this general permit shall submit a complete registration statement at least 210 days prior to the expiration date of the individual VPDES permit.
  - b. Any owner that was authorized to discharge under the petroleum contaminated sites, ~~ground water~~ groundwater remediation, and hydrostatic tests general VPDES permit

that became effective on February 26, ~~2008~~ 2013, ~~who~~ that is not exempted under subsection B of this section and who intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before January 27, ~~2013~~ 2018.

D. Late registration statements. Registration statements will be accepted after February 26, ~~2013~~ 2018, but authorization to discharge will not be retroactive. Owners described in subdivision C 2 b of this section that submit registration statements after January 27, ~~2013~~ 2018, are authorized to discharge under the provisions of 9VAC25-120-60 D if a complete registration statement is submitted on or before February 26, ~~2013~~ 2018.

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

1. ~~Legal name of facility~~ Facility name and mailing address, owner name and mailing address, telephone number, and email address (if available);
2. ~~Location of facility, address, telephone number, and email address (if available)~~ Facility street address (if different from mailing address) or location (if the facility location does not have a mailing address);
3. ~~Facility owner name, address, telephone number, and email address (if available)~~ Facility operator (local contact) name, address, telephone number, and email address (if available) if different than owner;
4. Nature of business conducted at the facility;
5. Type of petroleum or natural gas products, or chlorinated hydrocarbon solvents causing or that caused the contamination;
6. Identification of activities that will result in a point source discharge from the ~~contaminated~~ site;
7. Whether a site characterization report for the site has been submitted to the Department of Environmental Quality;
8. Characterization or description of the wastewater or nature of contamination including all related analytical data;
9. The location of the discharge point and identification of the waterbody into which the discharge will occur. For linear projects, the location of all the proposed discharge points along the project length and the associated waterbody for each discharge point;
10. The frequency with which the discharge will occur (i.e., daily, monthly, continuously);
11. An estimate of how long each discharge will last;
12. An estimate of the total volume of wastewater to be discharged;
13. An estimate of the average and maximum flow rate of the discharge;

14. A diagram of the proposed wastewater treatment system identifying the individual treatment units;

15. A USGS 7.5 minute topographic map or equivalent computer generated map that indicates the receiving waterbody name or names, the discharge point or points, the property boundaries, as well as springs, other surface waterbodies, drinking water wells, and public water supplies that are identified in the public record or are otherwise known to the applicant within a 1/2 mile radius of the proposed discharge or discharges;

16. ~~Whether the facility will discharge to a municipal separate storm sewer system (MS4). If so, the name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit and shall copy the DEQ regional office with the notification. A determination of whether the facility will discharge to an MS4. If the facility discharges to an MS4, the facility owner must notify the owner of the MS4 of the existence of the discharge information at the time of registration under this permit and include that notification with the registration statement. The notification notice shall include the following information: the name of the facility, a contact person and phone telephone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number;~~

17. Whether central wastewater facilities are available to the site, and if so, whether the option of discharging to the central wastewater facility has been evaluated and the results of that evaluation;

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

19. Any applicable pollution complaint number associated with the project;

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

21. The following certification:

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

permission to enter the property for the purpose of determining the suitability of the general permit."

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

G. The registration statement shall be delivered by either postal or electronic mail to the DEQ regional office serving the area where the facility is located.

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

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

General Permit No.: VAG83

Effective Date: February 26, ~~2013~~ 2018

Expiration Date: February 25, ~~2018~~ 2023

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

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. SHORT TERM PROJECTS.

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

# Regulations

- a. Emergency repairs;
- b. Dewatering projects<sup>(4)</sup>. Dewatering projects shall be managed to control the volume and velocity of the discharge, including peak flow rates and total volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
- c. Utility work and repairs in areas of known contamination;
- d. Tank placement or removal in areas of known contamination;
- e. Pilot studies or pilot tests, including aquifer tests; and
- f. New well construction discharges of groundwater.

Effluent limits for short term projects correspond to the type of contamination at the project site and are given in Tables A 2 3 through A 5 below. The sampling frequency for these projects shall be once per ~~project term~~ discharge. Discharge monitoring reports for these projects are not required to be submitted to the department, but shall be retained by the owner for a period of at least three years from the completion date of the project.

Owners shall notify the department's regional office in writing within 14 days of the completion of the project discharge. The notification shall include the owner's name

and address, the type of discharge that occurred, the physical location of the project work, and the receiving stream. If the discharge is to a municipal separate storm sewer system (MS4), the owner shall also notify the MS4 owner within 14 days of the completion of the discharge.

<sup>(4)</sup>Dewatering projects shall be managed to ensure that they are discharging to an adequate channel or pipe and do not cause erosion in the receiving stream.

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### 2. DISCHARGES OF HYDROSTATIC TEST WATERS -- ALL RECEIVING WATERS.

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

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>		<u>MONITORING REQUIREMENTS<sup>(2)</sup></u>	
	<u>Instantaneous Minimum</u>	<u>Instantaneous Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>
<u>Flow (GPD)</u>	<u>NA</u>	<u>NL</u>	<u>1/discharge</u>	<u>Estimate</u>
<u>pH (standard units)</u>	<u>6.0</u>	<u>9.0</u>	<u>1/discharge</u>	<u>Grab</u>
<u>Total Petroleum Hydrocarbons (TPH, mg/l)<sup>(1)</sup></u>	<u>NA</u>	<u>15.0</u>	<u>1/discharge</u>	<u>Grab</u>
<u>Total Organic Carbon (TOC, mg/l)</u>	<u>NA</u>	<u>NL</u>	<u>1/discharge</u>	<u>Grab</u>
<u>Total Residual Chlorine (TRC, mg/l)<sup>(3)</sup></u>	<u>NA</u>	<u>0.011<sup>(3)</sup></u>	<u>1/discharge</u>	<u>Grab</u>
<u>Total Suspended Solids (TSS)</u>	<u>NA</u>	<u>NL</u>	<u>1/discharge</u>	<u>Grab</u>

NL = No limitation, monitoring required

NA = Not applicable

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

The discharge flow shall be managed to control the volume and velocity of the discharge, including peak flow rates and total volume, to minimize erosion at outlets, and to minimize downstream channel and stream bank erosion.

<sup>(1)</sup>TPH is the sum of individual gasoline range organics and diesel range organics or TPH-GRO and TPH-DRO to be measured by EPA SW 846 Method 8015C (2000) or EPA SW 846 Method 8015C (2007) for gasoline and diesel range organics, or by EPA SW 846 Methods 8260B (1996) and 8270D (2014).

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

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

<sup>(3)</sup>Total residual chlorine limitation of 0.011 mg/l and chlorine monitoring only apply to discharges of test water that have been chlorinated or come from a chlorinated water

supply. All data below the quantification level (QL) of 0.1 mg/L shall be reported as "<QL."

Part I

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.**

**2. 3. GASOLINE CONTAMINATION -- ALL RECEIVING WATERS.**

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's

expiration date, the permittee is authorized to discharge from outfall serial number ~~XXXX~~ xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS		
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type	
Flow (GPD)	NA	NL	(4)	Estimate	
Benzene (µg/l) <sup>(1)</sup>	NA	12.0	(4)	Grab	
Toluene (µg/l) <sup>(1)</sup>	NA	43.0	(4)	Grab	
Ethylbenzene (µg/l) <sup>(1)</sup>	NA	4.3	(4)	Grab	
Total Xylenes (µg/l) <sup>(1)</sup>	NA	33.0	(4)	Grab	
MTBE (methyl tert-butyl ether) (µg/l) <sup>(1)</sup>	Freshwaters not listed as public water supplies and saltwater	NA	440.0	1/Month <sup>(4)</sup>	Grab
	Freshwaters listed as public water supply	NA	15.0	2/Month <sup>(4)</sup>	Grab
pH (standard units)	6.0	9.0	(4)	Grab	
Total Recoverable Lead (µg/l) <sup>(2)</sup>	Freshwaters not listed as public water supplies and saltwater	NA	$e^{(1.273(\ln \text{hardness})) - 3.259}$	(4)	Grab
	Freshwaters listed as public water supply	NA	Lower of $e^{(1.273(\ln \text{hardness})) - 3.259}$ or 15	(4)	Grab
Hardness (mg/l CaCO <sub>3</sub> ) <sup>(2)</sup>	NL	NA	(4)	Grab	
Ethylene Dibromide (µg/l) <sup>(2)</sup>	Freshwaters not listed as public water supplies and saltwater	NA	1.9	1/Month <sup>(4)</sup>	Grab
	Freshwaters listed as public water supply	NA	0.161	2/Month <sup>(4)</sup>	Grab
1,2 Dichloroethane (µg/l) <sup>(2)</sup>	NA	3.8	(4)	Grab	
Ethanol (µg/l) <sup>(3)</sup>	NA	4100.0	(4)	Grab	

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>Benzene, Toluene, Ethylbenzene, Total Xylenes and MTBE shall be analyzed according to a current and appropriate EPA Wastewater Method (40 CFR Part 136) or EPA SW 846 Method 8021B (~~1996~~) (2014).

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



# Regulations

and ethylene dibromide (EDB) shall be analyzed by a current and appropriate EPA SW 846 Method or EPA Wastewater Method from 40 CFR Part 136. EDB in wastewaters discharged to public water supplies shall be analyzed using EPA SW 846 Method 8011 (1992) or EPA Drinking Water Method 504.1 (1995).

<sup>(3)</sup>Monitoring for ethanol is only required for discharges of water contaminated by gasoline containing greater than 10% ethanol. Ethanol shall be analyzed according to EPA SW 846 Method 8015C (2000) or EPA SW 846 Method 8015C (2007) or EPA SW 846 Method 8260B (1996).

<sup>(4)</sup>The monitoring frequency for discharges into freshwaters not listed as public water supplies and saltwater shall be once per month. If the first ~~year~~ 12 months of permit coverage results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency for ethanol be reduced from monthly to 1/quarter. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, monitoring frequency ~~shall may~~ be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation, or be the subject of an active enforcement action, monitoring frequency for ethanol shall revert to 1/month upon issuance of the letter or notice or ~~initiation~~ execution of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January in each year of permit coverage.

The monitoring frequency for discharges into freshwaters listed as public water supplies shall be twice per month for all constituents or parameters. If the first ~~year's~~ 12 months of permit coverage results demonstrate full compliance with

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

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### ~~3-~~ 4. CONTAMINATION BY PETROLEUM PRODUCTS OTHER THAN GASOLINE -- ALL RECEIVING WATERS.

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

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

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

NL = No limitation, monitoring required

NA = Not applicable

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

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

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

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

The monitoring frequency for discharges into freshwaters listed as public water supplies shall be twice per month for all constituents or parameters. If the first year's 12 months of permit coverage results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced to once per month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, the monitoring frequency for ethanol shall may be reduced to 1/quarter or the other parameters to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation, or be the subject of an active enforcement action,

monitoring frequency shall revert to 2/month upon issuance of the letter or notice or ~~initiation~~ execution of the enforcement action and remain in effect until the permit's expiration date.

Part I

~~A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS~~

~~4. DISCHARGES OF HYDROSTATIC TEST WATERS— ALL RECEIVING WATERS.~~

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

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS <sup>(2)</sup>	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	1/discharge	Estimate
pH (standard units)	6.0	9.0	1/discharge	Grab
Total Petroleum Hydrocarbons (TPH, mg/l) <sup>(1)</sup>	NA	15.0	1/discharge	Grab
Total Organic Carbon (TOC, mg/l)	NA	NL	1/discharge	Grab
Total Residual Chlorine (TRC, mg/l) <sup>(3)</sup>	NA	0.011 <sup>(3)</sup>	1/discharge	Grab
Total Suspended Solids (TSS)	NA	NL	1/discharge	Grab

NL = No limitation, monitoring required

NA = Not applicable

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

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

<sup>(1)</sup>TPH is the sum of individual gasoline range organics and diesel range organics or TPH GRO and TPH DRO to be measured by EPA SW 846 Method 8015C (2000) or EPA SW 846 Method 8015C (2007) for gasoline and diesel range organics, or by EPA SW 846 Methods 8260B (1996) and 8270D (2007).

<sup>(2)</sup>Discharge monitoring reports for hydrostatic test discharges are not required to be submitted to the department, but shall be retained by the owner for a period

of at least three years from the completion date of the hydrostatic test.

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

<sup>(3)</sup>Total Residual Chlorine limitation of 0.011 mg/l and chlorine monitoring only apply to discharges of test water that have been chlorinated or come from a chlorinated water supply.

# Regulations

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's

expiration date, the permittee is authorized to discharge from outfall serial number xxxx. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: outfall from the final treatment unit prior to mixing with any other waters.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	1/Month	Estimate
			2/Month if public water supply <sup>(2)</sup>	Estimate
Chloroform (CAS # 67663), (µg/l) <sup>(1)</sup>	NA	80.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1 Dichloroethane (CAS # 75343) (µg/l) <sup>(1)</sup>	NA	2.4	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,2 Dichloroethane (CAS # 107062) (µg/l) <sup>(1)</sup>	NA	3.8	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1 Dichloroethylene (CAS # 75354) (µg/l) <sup>(1)</sup>	NA	7.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
cis-1,2 Dichloroethylene (CAS # 159592) (µg/l) <sup>(1)</sup>	NA	70.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
trans 1,2 Dichloroethylene (CAS # 156605) (µg/l) <sup>(1)</sup>	NA	100.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Methylene Chloride (CAS # 75092) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab

## Regulations

Tetrachloroethylene (CAS # 127184) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1,1 Trichloroethane (CAS # 71556) (µg/l) <sup>(1)</sup>	NA	54.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,1,2 Trichloroethane (CAS # 79005) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Trichloroethylene (CAS # 79016) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Vinyl Chloride (CAS # 75014) (µg/l) <sup>(1)</sup>	NA	2.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Carbon Tetrachloride (CAS # 56235) (µg/l) <sup>(1)</sup>	NA	2.3	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
1,2 Dichlorobenzene (CAS # 95501) (µg/l) <sup>(1)</sup>	NA	15.8	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Chlorobenzene (CAS # 108907) (µg/l) <sup>(1)</sup>	NA	3.4	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Trichlorofluoromethane (CAS # 75694) (µg/l) <sup>(1)</sup>	NA	5.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
Chloroethane (CAS # 75003) (µg/l) <sup>(1)</sup>	NA	3.6	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab
pH (standard units)	6.0	9.0	1/Month	Grab
			2/Month if public water supply <sup>(2)</sup>	Grab

---

# Regulations

---

NL = No limitation, monitoring required

NA = Not applicable

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

<sup>(2)</sup>Monitoring frequency for discharges into surface waters listed as public water supplies shall be 2/month for the first year of permit coverage. If the first ~~year~~ 12 months of permit coverage results demonstrate full compliance with the effluent limitations, the permittee may request that the monitoring frequency be reduced from 2/month to 1/month. The written request shall be sent to the appropriate DEQ regional office for review. Upon written notification from the regional office, monitoring frequency ~~shall~~ may be reduced to 1/month. Should the permittee be issued a warning letter related to violation of effluent limitations or a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 2/month upon issuance of the letter or notice or initiation execution of the enforcement action and remain in effect until the permit's expiration date.

## Part I

### B. Special conditions.

1. There shall be no discharge of floating solids or visible foam in other than trace amounts.
2. The permittee shall sample each permitted outfall each calendar month in which a discharge occurs. When no discharge occurs from an outfall during a calendar month, the discharge monitoring report for that outfall shall be submitted indicating "No Discharge."
3. ~~O & M Manual~~ Operation and maintenance (O&M) manual. If the permitted discharge is through a treatment works, within 30 days of coverage under this general permit, the permittee shall develop and maintain ~~on-site on-site, an Operations and Maintenance (O & M) Manual~~ O&M manual for the treatment works permitted herein. This manual shall detail practices and procedures ~~which that~~ that will be followed to ensure compliance with the requirements of this permit. The permittee shall operate the treatment works in accordance with the ~~O & M Manual~~ O&M manual. The manual shall be made available to the department upon request.
4. Operation schedule. The permittee shall construct, install and begin operating the treatment works described in the registration statement prior to discharging to surface waters. The permittee shall notify the department's regional office within five days after the completion of installation and commencement of operation.
5. Materials storage. Except as expressly authorized by this permit or another permit issued by the board, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport,

preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters.

6. If the permittee discharges to surface waters through a ~~municipal separate storm sewer system~~ an MS4, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system in writing of the existence of the discharge and provide the following information: the name of the facility, a contact person and ~~phone~~ telephone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number. A copy of such notification shall be provided to the department. Discharge Monitoring Reports (DMRs) required to be submitted under this permit shall be submitted to both the department and the owner of the municipal separate storm sewer system.

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

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

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

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

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

## Part II

Conditions Applicable ~~To~~ to All VPDES Permits

## A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.
4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

## B. Records.

1. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individuals who performed the sampling or measurements;
  - c. The dates and times analyses were performed;
  - d. The individual or individuals who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of all reports required by this permit; and records of all data used to complete the registration statement for this permit for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

## C. Reporting monitoring results.

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

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

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

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

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

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

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

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

G. Reports of unauthorized discharges. Any permittee ~~who~~ 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 ~~who~~ 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 the discovery. A written report of the unauthorized discharge shall be submitted to the department

---

# Regulations

---

within five days of discovery of the discharge. The written report shall contain:

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

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

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

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

I. Reports of noncompliance. The permittee shall report any noncompliance ~~which that~~ may adversely affect state waters or may endanger public health as follows:

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information, which shall be reported within 24 hours under this subsection:
  - a. Any unanticipated bypass; and
  - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
  - a. A description of the noncompliance and its cause;

- b. The period of noncompliance including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

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

J. Notice of planned changes.

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

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

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

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

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

- c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or

absent in the existing permit, including notification of additional use or disposal sites not reported during the permit ~~application~~ registration process or not reported pursuant to an approved land application plan.

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

K. Signatory requirements.

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

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

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

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

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

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

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

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

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under ~~Parts~~ Part II K 1 or 2 shall make the following certification:

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

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

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

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 30 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for



---

# Regulations

---

registration statements to be submitted later than the expiration date of the existing permit.

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

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

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Article 11 (§ 62.1-44.34:14 et seq.) of the State Water Control Law.

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

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

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

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

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not

cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

2. Notice.

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

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

3. Prohibition of bypass.

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

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

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

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

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

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset and before an action for noncompliance is not a final administrative action subject to judicial review.

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

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

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

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

d. The permittee complied with any remedial measures required under Part II S.

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

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

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law any substances or parameters at any location.

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

X. Permit actions. ~~Permits~~ Permit coverage 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~~ coverage termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of ~~permits~~ permit coverage.

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

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

- a. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. The board does not notify the existing permittee and the proposed new permittee of its intent to ~~modify or revoke and reissue the permit~~ deny permit coverage. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

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

DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-120)

Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846, U.S. Environmental Protection Agency, Third Edition as amended by Final Updates I, II, IIA, IIB, IIIA, IIIB, IVA, and IVB, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847, <http://www.epa.gov/SW-846>  
<https://www.epa.gov/hw-sw846>

[Method 504.1, rev. 1.1 \(August 1995\)](#)

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

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

[Method 8015C \(November 2000\)](#)

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

~~Method 8021B (December 1996)~~ [Method 8021B \(July 2014\)](#)

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

~~Method 8270D (February 2007)~~ [Method 8270D \(July 2014\)](#)

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

Methods for the Determination of Organic Compounds in Drinking Water, Supplement III, EPA Publication 600/R-95/131 (August 1995), U.S. Environmental Protection Agency, Office of Research and Development, Washington, D.C. 20460

VA.R. Doc. No. R16-4715; Filed August 1, 2017, 9:00 a.m.

**Final Regulation**

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from Article 2 of 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 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, if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially

---

# Regulations

---

affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

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

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

**Effective Date:** October 16, 2017.

**Small Business Impact Review Report of Findings:** This final regulatory action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

**Agency Contact:** Eleanore Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, or email eleanore.daub@deq.virginia.gov.

**Summary:**

*The regulatory action amends and reissues the existing Virginia Pollutant Discharge Elimination System (VPDES) general permit that expires October 15, 2017. The general permit contains limitations and monitoring requirements for point source discharge of wastewaters from vehicle wash facilities and laundry facilities. The general permit regulation is being reissued to continue making it available for these facilities to continue to discharge.*

*Substantive changes (i) allow washing of maintenance and construction equipment and towed small recreational boats (less than 8.6 feet beam and 25 feet in length); (ii) require permittees to notify the municipal separate storm sewer system (MS4) owners before obtaining coverage under the general permit if their discharges are into an MS4; (iii) require stormwater inlet protection measures to be described as part of the registration and included in weekly visual examinations and the operation and maintenance manual, where applicable; (iv) clarify that inspections of the effluent include sheen, floating solids, visible foam, examination date and time, and examination personnel; (v) require the effluent to be free of sheens; and (vi) require discharges of vehicle wash water directly to a stormwater drain to provide inlet protection measures in addition to meeting all other requirements of the permit.*

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

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

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

"Construction equipment" means trenchers, backhoes, boring equipment, bulldozers [ , loaders, dump trucks ], and any other piece of [ earthmoving equipment; equipment used in the paving industry; and dump trucks earth moving equipment ] .

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

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

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

"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 (WLA) for point source discharges, and load allocations (LA) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

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

~~"Vehicle wash" means any fixed or mobile facility where the manual, automatic, or self-service exterior washing of vehicles is conducted [ . It includes, but is not limited to, automobiles, trucks (except below), motor homes, buses, motorcycles, ambulances, fire trucks, tractor trailers, and other devices that convey passengers or goods on streets or highways. This definition also includes golf course equipment, and lawn maintenance equipment, and recreational boats less than 8.6 feet beam and 25 feet in length towed by a vehicle. It also includes any incidental floor cleaning wash waters associated with facilities that wash vehicles where the floor wash water also passes through the vehicle wash water treatment system. Vehicle wash does not mean engine, acid caustic metal brightener, or steam heated water washing. It does not include cleaning the interior of bulk carriers. It does not include tanker trucks, garbage trucks, logging trucks, livestock trucks, construction equipment, trains, boats and ships that are more than 8.6 feet beam and 25 feet in length, or aircraft. It does not include~~

~~floor cleaning wash waters from vehicle maintenance areas, and includes the following:~~

- ~~1. Vehicles that convey passengers or goods on streets or highways as designated by Standard Industrial Classification (SIC) Code 7542 such as automobiles, trucks, motor homes, buses, motorcycles, ambulances, fire trucks, and tractor trailers;~~
- ~~2. Incidental floor cleaning wash waters associated with facilities that wash vehicles where the floor wash water also passes through the vehicle wash treatment system;~~
- ~~3. Golf course equipment and lawn maintenance equipment;~~
- ~~4. Maintenance and construction equipment; and~~
- ~~5. Recreational boats less than 8.6' beam and 25' in length towed by a vehicle.~~

~~"Vehicle wash" does not mean engine cleaning or degreasing; the cleaning of floors in vehicle maintenance areas, cleaning of the interior of tanks or trailers carrying bulk or raw material, cleaning of equipment used in the paving industry, cleaning of chemical spreading equipment, or cleaning of tanker trucks, garbage trucks, livestock trailers, trains, boats larger than 8.6' beam and 25' in length, or aircraft; or the use of acid caustic metal brighteners or steam heated water. ]~~

**9VAC25-194-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set forth in Title 40 of the Code of Federal Regulations is referenced or adopted ~~herein in this chapter~~ and incorporated by reference, that regulation shall be as it exists and has been published ~~as a final regulation in the Federal Register prior to as of July 1, 2012, with the effective date as published in the Federal Register notice or October 16, 2012, whichever is later [ 2016 2017 ]~~.

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

This general permit will become effective on October 16, ~~2012~~ 2017. This general permit will expire on October 15, ~~2017~~ 2022. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-194-50.

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

A. Any owner governed by this general permit is hereby authorized to discharge wastewater as described in 9VAC25-194-20 to surface waters of the Commonwealth of Virginia provided that ~~the owner submits and receives acceptance by the board of the registration statement of 9VAC25-194-60, submits the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-194-70, and provided that the board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section;~~

1. The owner files a registration statement in accordance with 9VAC25-194-60, and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-194-70; and
4. The owner has not been notified by the board that the discharge is not eligible for coverage under this permit in accordance with subsection B of this section.

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

1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;
- ~~2. Other board regulations prohibit such discharges~~ The owner is proposing to discharge to state waters specifically named in other board regulations that prohibit such discharges;
3. The discharge ~~violates or~~ would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30;
4. The discharge is not consistent with the assumptions and requirements of an approved TMDL; or
5. The discharge is to surface waters where there are central wastewater treatment facilities reasonably available, as determined by the board.

C. Mobile vehicle wash owners shall operate such that there is no discharge to surface waters and storm sewers unless they have coverage under this permit.

D. Compliance with this general permit constitutes compliance, for purposes of enforcement, with §§ 301, 302, 306, 307, 318, 403, and 405(a) through (b) of the federal Clean Water Act, and the State Water Control Law, and applicable regulations under either with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

E. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the car wash facilities general permit issued in ~~2007~~ 2012, and that submits a complete registration statement on or before October 16, ~~2012~~ 2017, is authorized to continue to discharge under the terms of the ~~2007~~ 2012 general permit until such time as the board either:
  - a. Issues coverage to the owner under this general permit; or
  - b. Notifies the owner that the discharge is not eligible for coverage under this permit is denied.

---

# Regulations

---

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

- a. Initiate enforcement action based upon the 2012 general permit ~~that has been continued~~;
- b. Issue a notice of intent to deny coverage under the ~~amended~~ reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by coverage under the 2012 continued general permit or be subject to enforcement action for discharging without a permit;
- c. Issue an individual permit with appropriate conditions; or
- d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

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

A. Deadlines for submitting registration statements. ~~The~~ Any owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for vehicle wash facilities and laundry facilities.

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

2. Existing facilities.

- a. Any owner covered by an individual VPDES permit ~~who that~~ is proposing to be covered by this general permit shall submit a complete registration statement at least ~~240~~ 240 days prior to the expiration date of the individual VPDES permit.
- b. ~~Any owner that was authorized to discharge under the general VPDES permit for coin-operated laundries (9VAC25-810) that became effective on February 9, 2011, and who intends to continue coverage under this general permit, shall submit a complete registration statement to the board prior to September 16, 2012.~~
- e. ~~b.~~ Any owner that was authorized to discharge under the general VPDES permit for ~~car wash~~ vehicle wash facilities (9VAC25-194) that became effective on October 16, ~~2007~~ 2012, and ~~who that~~ intends to continue coverage under this general permit, shall submit a complete registration statement to the board prior to September ~~16, 2012~~ 15, 2017.
- d. ~~c.~~ Any owner of a vehicle wash facility covered under this permit ~~who that~~ had a monthly average flow rate of less than 5,000 gallons per day, and the flow rate increases above a monthly average flow rate of 5,000 gallons per day, shall submit an amended registration statement within 30 days of the increased flow.

B. Late registration statements. Registration statements for existing facilities covered under subdivision A 2 b of this section will be accepted; after October 15, 2017, but authorization to discharge will not be retroactive. Owners described in ~~subdivisions~~ subdivision A 2 b and e of this section that submit ~~late~~ registration statements after September 15, 2017, are authorized to discharge under the provisions of 9VAC25-194-50 E if a complete registration statement is submitted ~~on or~~ before October 16, ~~2012~~ 2017.

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

1. Facility name and mailing address, owner name and mailing address, telephone number, and email address (if available);
2. Facility street address (if different from mailing address);
3. Facility operator (local contact) name, address, telephone number, and email address (if available) if different than owner;
4. Does the facility discharge to surface waters? If "yes," name of receiving stream; if "no," describe the discharge;
5. Does the facility discharge to a Municipal Separate Storm Sewer System (MS4)? If "yes," the facility owner must notify the owner of the municipal separate storm sewer system of the existence of the discharge ~~within 30 days of coverage under the general permit and provide the following information~~ at the time of registration under this permit and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number;
6. Does the facility have a current VPDES Permit? If "yes," provide permit number;
7. Does your locality require connection to central wastewater treatment facilities?
8. Are central wastewater treatment facilities available to serve the site? If "yes," the option of discharging to the central wastewater facility must be evaluated and the result of that evaluation reported here;
9. A USGS 7.5 minute topographic map or equivalent computer generated map showing the facility discharge location(s) and receiving stream;
10. Provide a brief description of the type of washing activity. Include (as applicable) the type of vehicles washed, number of vehicle washing bays, and the number of laundry machines;
11. Highest average monthly flow rate for each washing activity or combined washing activity, reported as gallons per day;
12. Facility line (water balance) drawing;

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

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

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

16. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry

of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

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

[ D. The registration statement shall be delivered by either postal or electronic mail to the DEQ regional office serving the area where the facility is located. ]

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

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

General Permit No.: VAG75

Effective Date: October 16, ~~2012~~ 2017

Expiration Date: October 15, ~~2017~~ 2022

GENERAL PERMIT FOR VEHICLE WASH FACILITIES AND LAUNDRY FACILITIES

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS [  ]

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

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/Year	Estimate
pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/Year	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Year	[ <del>5G/8HC</del> <u>Composite</u> <sup>(4)</sup> ]
Oil and Grease (mg/l)	NA	15	1/Year	Grab

# Regulations

NL - No Limitation, monitoring requirement only

NA - Not applicable

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

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

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

<sup>(3)</sup>Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January of each year. ~~[ The first DMR is due January 10, 2014. ]~~

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

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS [ \_ ]

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

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/6 Months	Estimate
pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/6 Months	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/6 Months	<del>[ 5G/8HC Composite<sup>(4)</sup> ]</del>
Oil and Grease (mg/l)	NA	15	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

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

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

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

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

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

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS [ \_ ]

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

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency <sup>(3)</sup>	Sample Type
Flow (GPD)	NA	NL	1/Quarter	Estimate

pH (S.U.)	6.0 <sup>(1)</sup>	9.0 <sup>(1)</sup>	1/Quarter	Grab
TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Quarter	Grab
BOD <sub>5</sub> (mg/l)	NA	60 <sup>(1), (2)</sup>	1/Quarter	Grab
Dissolved Oxygen (mg/l)	6.0 <sup>(1)</sup>	NA	1/Quarter	Grab
Temperature °C	NA	32 <sup>(1), (4)</sup>	1/6 Months	Immersion Stabilization
Total Residual Chlorine (mg/l)	NA	.011 <sup>(1)</sup>	1/Quarter	Grab
E. Coli <sup>(5)</sup>	NA	235 CFU/100 ml	1/6 Months	Grab
Enterococci <sup>(6)</sup>	NA	104 CFU/100 ml	1/6 Months	Grab
Fecal Coliform <sup>(7)</sup>	NA	200 CFU/100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

CFU – Colony Forming Units forming units

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

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

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

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

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

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

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

## Part I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

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

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

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



# Regulations

TSS (mg/l)	NA	60 <sup>(2)</sup>	1/Quarter	5G/8HC
BOD <sub>5</sub> (mg/l)	NA	60 <sup>(1), (2)</sup>	1/Quarter	Grab
Oil & <u>and</u> Grease	NA	15	1/6 Months	Grab
Dissolved Oxygen (mg/l)	6.0 <sup>(1)</sup>	NA	1/Quarter	Grab
Temperature °C	NA	32 <sup>(1), (4)</sup>	1/6 Months	Immersion Stabilization
Total Residual Chlorine (mg/l)	NA	.011 <sup>(1)</sup>	1/Quarter	Grab
E. Coli <sup>(5)</sup>	NA	235 CFU/100 ml	1/6 Months	Grab
Enterococci <sup>(6)</sup>	NA	104 CFU/100 ml	1/6 Months	Grab
Fecal Coliform <sup>(7)</sup>	NA	200 CFU/100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

CFU – Colony ~~Forming Unit~~ forming units

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

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

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

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

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

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

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

## B. Special conditions.

1. The permittee of a vehicle wash facility shall perform ~~inspections~~ visual examinations of the effluent including sheens, floating solids, or visible foam and maintenance of the wastewater treatment facilities [and inlet protection measures, if applicable,] at least once per week and document ~~activities on~~ this visual examination [and maintenance activities] in the operational log. This operational log shall include the examination date and time, examination personnel, and the visual quality of the

discharge and shall be made available for review by the department personnel upon request.

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

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

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

5. Wastewater should be reused or recycled whenever feasible.

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

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

b. All solids shall be handled, stored, and disposed of so as to prevent a discharge to state waters of such solids.

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

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

9. ~~Any~~ A permittee submitting a registration statement in accordance with Part II M and discharging into a municipal separate storm sewer shall notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit and provide at the time of registration under this permit and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person and [ phone number contact information ], the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number.

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

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

[ ~~44-~~ 12. ] The permittee shall notify the department as soon as ~~they know~~ the permittee knows or ~~have~~ has reason to believe:

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

that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter of the toxic pollutant;

(2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

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

(1) Five hundred micrograms per liter of the toxic pollutant;

(2) One milligram per liter for antimony;

(3) Ten times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

[ ~~12-~~ 13. ] Operation and maintenance manual requirement. The permittee shall develop and maintain an accurate operations and maintenance (O&M) manual for the [ ~~vehicle wash~~ ] wastewater treatment works [ and inlet protection measures, if applicable ]. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of this permit. The permittee shall operate the treatment works in accordance with the O&M manual. The O&M manual shall be reviewed and updated at least annually and shall be signed and certified in accordance with Part II K of this permit. The O&M manual shall be made available for review by the department personnel upon request. The O&M manual shall include, but not necessarily be limited to, the following items, as appropriate:

a. Techniques to be employed in the collection, preservation, and analysis of effluent samples;

b. Discussion of best management practices, ~~if applicable~~ [ or stormwater inlet protection methods ];

c. Treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory, and recordkeeping;

d. A sludge/solids ~~disposal~~ management plan as required by Part I B 6; and

e. Procedures for performing the visual examination and maintenance required by Part I B 1 including example log sheets [ and the location of the operational log ]; and

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

---

# Regulations

---

[ ~~13~~. 14. ] Compliance ~~Reporting~~ reporting under Part I A 1- 4.

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

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

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

b. Reporting. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision [ ~~13~~ 14 ] a of this ~~subdivision~~ subsection. Otherwise, the numerical value shall be reported. The QL must be less than or equal to the QL in subdivision [ ~~13~~ 14 ] a of this subsection.

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

~~14. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.~~

[ 15. ~~14~~. ] The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards in 9VAC25-260.

[ 16. ~~15~~. ] Discharges to waters with an approved total maximum daily load (TMDL). Owners of facilities that are a source of the specified pollutant of concern to waters where an approved TMDL has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.

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

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

(1) Operations have ceased at the facility and there are no longer wastewater discharges from vehicle wash or laundry activities from the facility;

(2) A new owner has assumed responsibility for the facility [ ~~(NOTE:)~~ ] A notice of termination does not

have to be submitted if a VPDES Change of Ownership Agreement form has been [ ~~submitted~~ ] submitted ];

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

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

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

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

(2) Facility name and location;

(3) VPDES vehicle wash facilities and laundry facilities general permit number; and

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

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

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

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

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

c. The following certification:

"I certify under penalty of law that all wastewater discharges from vehicle wash or laundry facilities from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the industrial activity, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge wastewater from vehicle wash facilities or laundry facilities in accordance with the general permit, and that discharging pollutants in wastewater from vehicle wash facilities or laundry facilities to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

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

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

## Part II

### CONDITIONS APPLICABLE TO ALL VPDES PERMITS

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.
4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

#### B. Records.

1. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individuals who performed the sampling or measurements;
  - c. The dates and times analyses were performed;
  - d. The individuals who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

#### C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit.

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

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

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

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

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

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

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

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

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge

---

# Regulations

---

immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

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

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

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

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

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

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

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

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

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

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

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

NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/dep/h2rpt.html> <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx>. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

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

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

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

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

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

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

and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit [ ~~application~~ registration ] process or not reported pursuant to an approved land application plan.

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

K. Signatory requirements.

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

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

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

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

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

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

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of

plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

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

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action [ ~~§ 2~~ ] for permit [ coverage ] termination, [ ~~revocation and reissuance, or modification;~~ ] or [ for ] denial of a permit [ coverage ] renewal application.

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

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 30 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for

---

# Regulations

---

registration statements to be submitted later than the expiration date of the existing permit.

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

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

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Article 11 (§ 62.1-44.34:14 et seq.) of the State Water Control Law.

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

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

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

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

U. Bypass.

1. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient

operation. These bypasses are not subject to the provisions of Part II U 2 and U 3.

2. Notice.

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

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

3. Prohibition of bypass.

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

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

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

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

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

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

a. An upset occurred and that the permittee can identify the causes of the upset;

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

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

d. The permittee complied with any remedial measures required under Part II S.

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

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

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

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

X. Permit actions. [~~Permits~~ Permit coverage] 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 coverage~~] termination [;] or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of [~~permits permit coverage. Permits are not transferable to any person except after notice to the department~~].

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

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

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

[~~b. 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

[~~e. 3.~~] The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 [~~b~~].

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

VA.R. Doc. No. R16-4617; Filed July 31, 2017, 10:22 a.m.

**Proposed Regulation**

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from Article 2 of 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 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, if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** **9VAC25-196. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less (amending 9VAC25-196-10, 9VAC25-196-15, 9VAC25-196-40 through 9VAC25-196-70).**

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

**Public Hearing Information:**

September 28, 2017 - 3 p.m. - Department of Environmental Quality, 629 East Main Street, 2nd Floor Conference Room, Richmond, VA 23219

**Public Comment Deadline:** October 20, 2017.

**Small Business Impact Review Report of Findings:** This proposed regulatory action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

**Agency Contact:** Matthew Richardson, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105,



---

# Regulations

---

Richmond, VA 23218, telephone (804) 698-4195, FAX (804) 698-4032, or email [matthew.richardson@deq.virginia.gov](mailto:matthew.richardson@deq.virginia.gov).

## Summary:

*This proposed regulatory action revises and reissues the existing general permit that expires on March 1, 2018. This general permit establishes effluent limitations and monitoring requirements for point source discharges of 50,000 gallons per day or less of noncontact cooling water and cooling equipment blow down to surface waters. The general permit regulation is being reissued to continue making it available as a permitting option for this type of discharger. The proposed changes make this general permit similar to other general permits issued recently and clarify and update permit limit and conditions.*

*Proposed substantive changes to the existing regulation include (i) requiring permittees to notify a municipal separate storm sewer system (MS4) owner of the existence of the discharge at the time of registration under the general permit and to include a copy of that notification with the registration statement; (ii) removing the effluent limitations and monitoring requirements for the first four years of the previous permit term as these requirements are not applicable for this reissuance; (iii) clarifying that the "1/3 months" monitoring frequency means the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December; and (iv) requiring the permittee to develop an operation and maintenance manual for equipment or systems used to meet effluent limitations within 90 days of permit coverage.*

## CHAPTER 196

### ~~GENERAL~~ VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) ~~GENERAL~~ PERMIT FOR NONCONTACT COOLING WATER DISCHARGES OF 50,000 GALLONS PER DAY OR LESS

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

The words and terms used in this chapter shall have the meanings defined in § 62.1-44.2 et seq. of the Code of Virginia (State Water Control Law) and ~~9VAC25-31-40~~ 9VAC25-31 (VPDES Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

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

"Board" means the State Water Control Board.

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

~~through either a single pass (once through) or recirculating system.~~

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

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

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

#### **9VAC25-196-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted ~~herein~~ in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as a ~~final regulation in the Federal Register prior to July 1, 2012, with the effective date as published in the Federal Register notice or March 2, 2013, whichever is later~~ as of July 1, 2017.

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

This general permit will become effective on March 2, ~~2013~~ 2018. This general permit will expire on March 1, ~~2018~~ 2023. This general permit is effective as to any covered owner upon compliance with all the provisions of 9VAC25-196-50.

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

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner submits and receives acceptance by the board of the registration statement of 9VAC25-196-60, submits the required permit fee, and complies with the effluent limitations and other requirements of 9VAC25-196-70, and provided that the board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

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

1. The owner 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 Class V stockable trout waters, Class VI natural trout waters, or any state waters specifically named in other board regulations that prohibit such discharges;
3. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30; or

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

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

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

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

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

G. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the noncontact cooling water discharges general permit issued in ~~2008~~ 2013 and that submits a complete registration statement on or before March 2, ~~2013~~ 2018, is authorized to continue to discharge under the terms of the ~~2008~~ 2013 general permit until such time as the board either:

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

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

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

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

A. Deadlines for submitting registration statements. The owner seeking coverage under this general permit shall submit a complete VPDES general permit registration

statement in accordance with this section, which shall serve as a notice of intent for coverage under the ~~general~~ general permit for noncontact cooling water discharges of 50,000 gallons per day or less.

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

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

- b. Any owner that was authorized to discharge under the VPDES general ~~VPDES~~ permit that became effective on March 2, ~~2008~~ 2013, and ~~who~~ that intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before February 1, ~~2013~~ 2018.

B. Late registration statements. Registration statements will be accepted after March 2, ~~2013~~ 1, 2018, but authorization to discharge will not be retroactive. Owners described in subdivision A 2 b of this section that submit registration statements after February 1, ~~2013~~ 2018, are authorized to discharge under the provisions of 9VAC25-196-50 G if a complete registration statement is submitted on or before March 2, ~~2013~~ 1, 2018.

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

- 1. Facility name and address, owner name, mailing address, telephone number, and email address (if available);
- 2. Operator name, mailing address, telephone number, and email address (if available) if different from owner;
- 3. ~~Does the facility currently have a VPDES permit? Permit Number if yes~~ Current VPDES permit registration number (if applicable);
- 4. ~~Listing~~ List of point source discharges that are not composed entirely of cooling water;
- 5. ~~Listing~~ List of type and size (tons) of cooling equipment or noncontact cooling water processes;
- 6. The following information if any chemical or nonchemical treatment, ~~or both~~, is employed in each of the cooling water ~~systems~~ system:
  - a. Description of the treatment to be employed (both chemical and nonchemical) and its purpose; for chemical additives other than chlorine, provide the information prescribed in subdivisions 6 b, c, d, e, and f;
  - b. Name and manufacturer of each additive used;
  - c. List of active ingredients and percent composition of each additive;

---

# Regulations

---

d. Proposed dosing schedule and quantity of chemical usage, and either an engineering analysis, or a technical evaluation of the active ingredients, to determine the discharge concentration in the discharge of each contaminant;

e. Available aquatic toxicity information for each proposed additive used; ~~and~~

f. Any other information such as product or constituent degradation, fate, transport, synergies, bioavailability, etc., that will aid the board with the toxicity evaluation of the discharge; and

g. Safety data sheet for each proposed additive.

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

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

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

10. The following discharge information:

a. A listing list of all cooling water discharges identified by a unique number, latitude, and longitude;

b. The source of cooling water for each discharge;

c. An estimate of the maximum daily flow in gallons per day for each discharge;

d. The name of the waterbody receiving direct discharge or discharge through the municipal separate storm sewer system (MS4); and

e. The duration and frequency of the discharge for each separate discharge point; ~~continuous, intermittent, or seasonal~~;

11. ~~Whether the facility will discharge to a municipal separate storm sewer system (MS4). If so, the name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit and shall copy the DEQ regional office with the notification. A determination of whether the facility will discharge to a MS4. If the facility discharges to a MS4, the facility owner must notify the owner of the MS4 of the existence of the discharge at the time of registration under this permit and include that notification with the registration statement.~~ The notification notice shall include the following information: the name of the facility, a contact person and ~~phone~~ telephone number, the location of the discharge, the

nature of the discharge, and the facility's VPDES general permit registration number if a reissuance; and

12. The following certification:

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

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

E. The registration statement shall be delivered by either postal or electronic mail to the DEQ regional office serving the area where the facility is located.

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

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

General Permit No: VAG25

Effective Date: March 2, ~~2013~~ 2018

Expiration Date: March 1, ~~2018~~ 2023

### **GENERAL PERMIT FOR NONCONTACT COOLING WATER DISCHARGES OF 50,000 GALLONS PER DAY OR LESS**

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

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of noncontact cooling water discharges of 50,000 gallons per day or less are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except Class V stockable trout waters, Class VI natural trout waters, and those specifically named in board regulations that prohibit such discharges. Chlorine or any other halogen compounds shall not be used for disinfection or other treatment purposes, including biocide applications, for any discharges to waters containing endangered or threatened species as identified in 9VAC25-260-110 C of the Water Quality Standards.

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

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

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	0.05	NA	1/3 Months	Estimate
Temperature (°C)	<sup>(4)</sup>	NA	1/3 Months	Immersion Stabilization
pH (SU)	9.0 <sup>(2)</sup>	6.0 <sup>(2)</sup>	1/3 Months	Grab
Ammonia-N <sup>(3)</sup> (mg/l)	NL	NA	1/3 Months	Grab
Total Residual Chlorine <sup>(3)</sup> (mg/l)	Nondetectable	NA	1/3 Months	Grab
Hardness (mg/l CaCO <sub>3</sub> ) <sup>(7)</sup>	NL	NA	1/3 Months	Grab
Total Recoverable Copper <sup>(4)</sup> (µg/l)	NL	NA	1/3 Months	Grab
Total Recoverable Zinc <sup>(4)</sup> (µg/l)	NL	NA	1/3 Months	Grab
Total Recoverable Silver <sup>(4),(5)</sup> (µg/l)	NL	NA	1/3 Months	Grab
Total Phosphorus <sup>(6)</sup> (mg/l)	NL	NA	1/3 Months	Grab

NL = No limitation, monitoring required  
 NA = Not applicable

<sup>(4)</sup>The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, or 31°C for mountain and upper piedmont waters. No maximum temperature limit, only monitoring, applies to discharges to estuarine waters.

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

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

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

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

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

# Regulations

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

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

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

~~(7) Hardness monitoring is only required for discharges to freshwater streams, perennial streams, or dry ditches.~~

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

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

NL = No limitation, monitoring required

NA = Not applicable

1/3 Months = the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December

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

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

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

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

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

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

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

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

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

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

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

NL = No limitation, monitoring required

NA = Not applicable

1/3 Months = the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December

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

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

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

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

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

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

---

# Regulations

---

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

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

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

## B. Special conditions.

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

2. No discharges other than cooling water, as defined, are permitted under this general permit.

3. The use of any chemical additives not identified in the registration statement, except chlorine, without prior approval is prohibited under this general permit. Prior approval shall be obtained from the DEQ before any changes are made to the chemical or nonchemical treatment technology employed in the cooling water system. Requests for approval of the change shall be made in writing and shall include the following information:

a. Describe the chemical or nonchemical treatment to be employed and its purpose; if chemical additives are used, provide the information prescribed in subdivisions 3 b, c, d, e, and f;

b. Provide the name and manufacturer of each additive used;

c. Provide a list of active ingredients and percentage of composition;

d. Give the proposed schedule and quantity of chemical usage, and provide either an engineering analysis; or a technical evaluation of the active ingredients; to determine the concentration in the discharge;

e. Attach available aquatic toxicity information for each additive proposed for use; ~~and~~

f. Attach any other information such as product or constituent degradation, fate, transport, synergies, bioavailability, etc., that will aid the board with the toxicity evaluation for the discharge; ~~and~~

g. Attach a safety data sheet for each proposed additive.

~~4. Where cooling water is discharged through a municipal storm sewer system to surface waters, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system in writing of the existence of the discharge and provide the following information: the name of the facility, a contact person and phone number, the nature of the discharge, the location of the discharge, and the facility's VPDES general permit number. A copy of such notification shall be provided to the department. Discharge Monitoring Reports (DMRs) required by this permit shall be submitted to both the department and the owner of the municipal separate storm sewer system. A determination of whether the facility will discharge to a MS4. If the facility discharges to a MS4, the facility owner must notify the owner of the MS4 of the existence of the discharge at the time of registration under this permit and include that~~

notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person and telephone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number if a reissuance. Discharge monitoring reports (DMRs) required by this permit shall be submitted to both the department and the owner of the MS4.

~~5. The permittee shall at all times properly operate and maintain all cooling water systems. Inspection shall be conducted for each cooling water unit by the plant personnel at least once per year with reports maintained on site~~ Operation and maintenance manual requirement.

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

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

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

(1) Techniques to be employed in the collection, preservation, and analysis of effluent samples;

(2) Discussion of best management practices;

(3) Design, operation, routine preventative maintenance of equipment or systems used to meet effluent limitations, critical spare parts inventory, and recordkeeping;

(4) A plan for the management or disposal of waste solids and residues, and a requirement that all solids shall be handled, stored, and disposed of so as to prevent a discharge to state waters; and

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

~~6. The permittee shall notify the department as soon as they know the permittee knows or have has reason to believe:~~

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

- (1) One hundred micrograms per liter (100 µg/l);
- (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; 500 micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- (3) Five times the maximum concentration value reported for that pollutant in the permit ~~application~~ registration statement; or
- (4) The level established by the board in accordance with 9VAC25-31-220 F.

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

- (1) Five hundred micrograms per liter (500 µg/l);
- (2) One milligram per liter (1 mg/l) for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board in accordance with 9VAC25-31-220 F.

7. Geothermal systems using groundwater and no chemical additives. Geothermal systems using groundwater and no chemical additives may be eligible for reduced monitoring requirements.

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

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

Should the permittee be issued a warning letter or notice of violation related to violation of effluent limitations, ~~a notice of violation~~, or be the subject of an active enforcement action regarding effluent limit violations, upon issuance of the letter or notice, or initiation of the enforcement action, the monitoring frequency shall revert

to 1/3 months and remain in effect until the permit's expiration date.

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

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

10. Notice of termination.

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

- (1) Operations have ceased at the facility and there are no longer cooling water discharges from the facility;
- (2) A new owner has assumed responsibility for the facility (NOTE: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement form has been submitted);
- (3) All cooling water discharges associated with this facility have been covered by ~~an~~ a VPDES individual VPDES permit or an alternative VPDES permit; or
- (4) Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.

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

- (1) Owner's name, mailing address, telephone number, and email address (if available);
- (2) Facility name and location;
- (3) VPDES noncontact cooling water discharges general permit number; and
- (4) The basis for submitting the notice of termination, including:
  - (a) A statement indicating that a new owner has assumed responsibility for the facility;
  - (b) A statement indicating that operations have ceased at the facility and there are no longer noncontact cooling water discharges from the facility;
  - (c) A statement indicating that all noncontact cooling water discharges have been covered by ~~an~~ a VPDES individual VPDES permit; or
  - (d) A statement indicating that termination of coverage is being requested for another reason (state the reason).



---

# Regulations

---

c. The following certification: "I certify under penalty of law that all noncontact cooling water discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination that I am no longer authorized to discharge noncontact cooling water in accordance with the general permit, and that discharging pollutants in noncontact cooling water to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

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

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

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

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

## Part II

### Conditions Applicable to All VPDES Permits

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

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

#### B. Records.

1. Records of monitoring information shall include:

a. The date, and exact place and time of sampling or measurements;

b. The ~~individual(s)~~ individuals who performed the sampling or measurements;

c. The ~~date(s)~~ dates and ~~time(s)~~ times analyses were performed;

d. The ~~individual(s)~~ individuals who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

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

#### C. Reporting monitoring results.

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

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

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

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

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for ~~modifying, revoking and reissuing, or terminating coverage under~~ this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish

the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request copies of records required to be kept by this permit.

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

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

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

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

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

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

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

incident, including any adverse ~~affects~~ 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 ~~but are not limited to~~ any discharge resulting from:

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

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

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

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

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

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

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

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

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

---

# Regulations

---

## J. Notice of planned changes.

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

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

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

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

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

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit ~~application~~ registration process or not reported pursuant to an approved land application plan.

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

## K. Signatory requirements.

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

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can

ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit ~~application~~ 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 shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

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

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

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

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

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

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

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

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain coverage under a new permit. All permittees with a currently effective permit coverage shall submit a new registration statement at least 30 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

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

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

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

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve

compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

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

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

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

U. Bypass.

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

2. Notice.

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

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

3. Prohibition of bypass.

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

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

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

---

# Regulations

---

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

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

## V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

- a. An upset occurred and that the permittee can identify the ~~cause(s)~~ causes of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The permittee submitted notice of the upset as required in Part II I; and
- d. The permittee complied with any remedial measures required under Part II S.

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

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

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

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

X. Permit actions. Permits coverage 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~~ coverage termination; or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

## Y. Transfer of ~~permits~~ permit coverage.

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

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

- a. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to ~~modify or revoke and reissue the permit~~ deny permit coverage. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability. The provisions of this permit are severable. 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. R16-4714; Filed August 1, 2017, 8:53 a.m.

## Final Regulation

<p><b>REGISTRAR'S NOTICE:</b> The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 14 of the Code of Virginia, which exempts adoption, amendment, or repeal of wasteload allocations by the State Water Control Board pursuant to State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) if the board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting.</p>
--

**Title of Regulation:** **9VAC25-720. Water Quality Management Planning Regulation (amending 9VAC25-720-60).**

Richmond, VA 23218, telephone (804) 698-4022, FAX (804) 698-4019, or email [william.norris@deq.virginia.gov](mailto:william.norris@deq.virginia.gov).

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; 33 USC § 1313(e) of the Clean Water Act.

**Summary:**

*The amendments reflect the transfer of nitrogen wasteload allocation from the Virginia Electric Power Company (Dominion) to Tranlin, Inc. (Vastly) as identified in a memorandum of understanding dated April 5, 2017.*

**Effective Date:** September 20, 2017.

**Agency Contact:** William K. Norris, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105,

**9VAC25-720-60. James River Basin.**

**EDITOR'S NOTE:** Subsections A and B of 9VAC25-720-60 are not amended; therefore, the text of those subsections is not set out.

C. Nitrogen and phosphorus wasteload allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus wasteload allocations for the identified significant dischargers and the total nitrogen and total phosphorus wasteload allocations for the listed facilities.

Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Wasteload Allocation (lbs/yr)	Total Phosphorus (TP) Wasteload Allocation (lbs/yr)
I37R	Buena Vista STP	VA0020991	41,115	3,426
I09R	Covington STP	VA0025542	54,820	4,568
H02R	Georgia Pacific	VA0003026	122,489	49,658
I37R	Lees Carpets	VA0004677	30,456	12,182
I35R	Lexington-Rockbridge WQCF	VA0088161	54,820	4,568
I09R	Low Moor STP	VA0027979	9,137	761
I09R	Lower Jackson River STP	VA0090671	63,957	5,330
I04R	MeadWestvaco	VA0003646	394,400	159,892
H12R	Amherst STP	VA0031321	10,964	914
H05R	BWX Technologies Inc.	VA0003697	187,000	1,523
H05R	Greif Inc.	VA0006408	73,246	29,694
H31R	Lake Monticello STP	VA0024945	18,182	1,515
H05R	Lynchburg STP <sup>1</sup>	VA0024970	536,019	33,501
H28R	Moore's Creek Regional STP	VA0025518	274,100	22,842
H38R	Powhatan CC STP	VA0020699	8,588	716
J11R	Crewe WWTP	VA0020303	9,137	761
J01R	Farmville WWTP	VA0083135	43,856	3,655
G02E	The Sustainability Park, LLC	VA0002780	25,583	1,919
G01E	E I du Pont - Spruance	VA0004669	201,080	7,816

# Regulations

G01E	Falling Creek WWTP	VA0024996	153,801	15,380
G01E	Henrico County WWTP	VA0063690	1,142,085	114,209
G03E	Honeywell – Hopewell	VA0005291	1,090,798	51,592
G03R	Hopewell WWTP	VA0066630	1,827,336	76,139
G15E	HRSD – Boat Harbor STP	VA0081256	740,000	76,139
G11E	HRSD – James River STP	VA0081272	1,250,000	60,911
G10E	HRSD – Williamsburg STP	VA0081302	800,000	68,525
G02E	Philip Morris – Park 500	VA0026557	139,724	2,650
G01E	Proctors Creek WWTP	VA0060194	411,151	41,115
G01E	Richmond WWTP <sup>1</sup>	VA0063177	1,096,402	68,525
G02E	Dominion-Chesterfield <sup>2</sup>	VA0004146	<del>352,036</del> 272,036	210
J15R	South Central WW Authority	VA0025437	350,239	35,024
G07R	Chickahominy WWTP	VA0088480	6,167	123
G05R	Tyson Foods – Glen Allen	VA0004031	19,552	409
G11E	HRSD – Nansemond STP	VA0081299	750,000	91,367
G15E	HRSD – Army Base STP	VA0081230	610,000	54,820
G15E	HRSD – VIP WWTP	VA0081281	750,000	121,822
G15E	JH Miles & Company	VA0003263	153,500	21,500
C07E	HRSD – Ches.-Elizabeth STP	VA0081264	1,100,000	108,674
<u>G01E</u>	<u>Tranlin/Vastly</u>		<u>80,000</u>	
	TOTALS		14,901,739	1,354,375

Notes:

<sup>1</sup>Wasteload allocations for localities served by combined sewers are based on dry weather design flow capacity. During wet weather flow events the discharge shall achieve a TN concentration of 8.0 mg/l and a TP concentration of 1.0 mg/l.

<sup>2</sup>Wasteload allocations are "net" loads, based on the portion of the nutrient discharge introduced by the facility's process waste streams, and not originating in raw water intake.

VA.R. Doc. No. R17-5124; Filed July 31, 2017, 10:49 a.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 14 of the Code of Virginia, which exempts adoption, amendment, or repeal of wasteload allocations by the State Water Control Board pursuant to State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) if the board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting.

**Title of Regulation:** **9VAC25-720. Water Quality Management Planning Regulation (amending 9VAC25-720-60, 9VAC25-720-100, 9VAC25-720-110).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; 33 USC § 1313(e) of the Clean Water Act.

**Effective Date:** September 20, 2017.

**Agency Contact:** Mark Richards, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4392, FAX (804) 698-4032, or email mark.richards@deq.virginia.gov.

**Summary:**

*The amendments revise seven existing total maximum daily load (TMDL) wasteload allocations and add 12 new TMDL wasteload allocations in the James River Basin (9VAC25-720-60 A), add two new TMDL wasteload allocations in the Chowan River -- Dismal Swamp River Basin (9VAC25-720-100 A), and revise two existing TMDL wasteload allocations and remove four TMDL wasteload allocations in the Chesapeake Bay -- Small Coastal -- Eastern Shore River Basin (9VAC25-720-110 A).*

**9VAC25-720-60. James River Basin.**

A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA <sup>1</sup>	Units
1.	Pheasanty Run	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Bath	I14R	Organic solids	1,231.00	LB/YR
2.	Wallace Mill Stream	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Augusta	I32R	Organic solids	2,814.00	LB/YR
3.	Montebello Sp. Branch	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Nelson	H09R	Organic solids	37.00	LB/YR
4.	Unnamed tributary to Deep Creek	General Standard Total Maximum Daily Load for Unnamed Tributary to Deep Creek	Nottoway	J11R	Raw sewage	0	GAL/YR



# Regulations

5.	Unnamed tributary to Chickahominy River	Total Maximum Daily Load (TMDL) Development for the Unnamed Tributary to the Chickahominy River	Hanover	G05R	Total phosphorus	409.35	LB/YR
6.	Rivanna River	Benthic TMDL Development for the Rivanna River Watershed	Albemarle, Greene, Nelson, Orange	H27R, H28R	Sediment	10,229	Lbs/Day
7.	Jackson River	Benthic TMDL Development for the Jackson River, Virginia	Alleghany, Bath, Highland	I04R, I09R	Total phosphorus	72,955	LB/GS <sup>2</sup>
8.	Jackson River	Benthic TMDL Development for the Jackson River, Virginia	Alleghany, Bath, Highland	I04R, I09R	Total nitrogen	220,134	LB/GS
9.	Little Calfpasture	Total Maximum Daily Load Development to Address a Benthic Impairment in the Little Calfpasture River, Rockbridge County, Virginia	Rockbridge	132R	Sediment	30.4	T/YR
10.	Phelps Branch	Phelps Branch Sediment TMDL Development Report for a Benthic Impairment in Appomattox County, Virginia	Appomattox	H06R	Sediment	115.7	T/YR
11.	Long Branch	Sediment TMDL Development Report for Benthic Impairments in Long Branch and Buffalo River in Amherst County, Virginia	Amherst	H11R	Sediment	16.2	T/YR
12.	Buffalo River	Sediment TMDL Development Report for Benthic Impairments in Long Branch and Buffalo River in Amherst County, Virginia	Amherst	H11R	Sediment	306.4	T/YR
13.	Chickahominy River	Benthic TMDL Development for Chickahominy River, Virginia	Hanover, Henrico	G05R	Sediment	294.03	T/YR

## Regulations

14.	Colliers Creek	Bacteria TMDL Development for Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River, and Cedar Creek and a Sediment TMDL Development for Colliers Creek	Rockbridge	138R	Sediment	103.4	T/YR
15.	Angola Creek (1) - VAC-J06R_ANG01A00	Total Maximum Daily Load Development for the Appomattox River Basin	Cumberland	J06	E. coli	0	cfu/year
16.	Angola Creek (2) - VAC-J06R_ANG02A00	Total Maximum Daily Load Development for the Appomattox River Basin	Cumberland	J06	E. coli	0	cfu/year
17.	Horsepen Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Cumberland	J06	E. coli	0	cfu/year
18.	Little Sandy Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Prince Edward	J03	E. coli	0	cfu/year
19.	Saylers Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Prince Edward	J06	E. coli	0	cfu/year
20.	Spring Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Prince Edward	J02	E. coli	0	cfu/year
21.	West Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Amelia	J11	E. coli	0	cfu/year
22.	Briery Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Prince Edward	J05	E. coli	3.50E+09	cfu/year

# Regulations

23.	Bush River (1) - VAC- J04R_BSR02A02	Total Maximum Daily Load Development for the Appomattox River Basin	Prince Edward	J04, J05	E. coli	3.50E+09	cfu/year
24.	Bush River (2) - VAC- J03R_BSR03A02	Total Maximum Daily Load Development for the Appomattox River Basin	Prince Edward	J03, J04, J05	E. coli	3.50E+09	cfu/year
25.	Swift Creek (1) - VAP- J16R_SFT01A00	Total Maximum Daily Load Development for the Appomattox River Basin	Chesterfield	J16	E. coli	8.37E+09	cfu/year
26.	Swift Creek (2) - VAP- J17R_SFT01B98	Total Maximum Daily Load Development for the Appomattox River Basin	Chesterfield	J16, J17	E. coli	3.24E+11	cfu/year
27.	Swift Creek (3) - VAP- J17R_SFT01C98	Total Maximum Daily Load Development for the Appomattox River Basin	Chesterfield	J16, J17	E. coli	4.76E+11	cfu/year
28.	Flat Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Nottoway, Amelia	J08, J09	E. coli	5.24E+11	cfu/year
29.	Nibbs Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Amelia	J09	E. coli	5.24E+11	cfu/year
30.	Deep Creek	Total Maximum Daily Load Development for the Appomattox River Basin	Nottoway	J11	E. coli	8.71E+11	cfu/year
31.	Appomattox River (1) - VAC- J01R_APP03A02, VAC- J01R_APP04A02, VAC- J01R_APP05A04, VAC- J06R_APP05A02, VAP- J07R_APP01A98, VAP- J10R_APP01A98	Total Maximum Daily Load Development for the Appomattox River Basin	Cumberland, Powhatan, Amelia, Prince Edward, Appomattox	J01, J02, J03, J04, J05, J06, J07	E. coli	1.07E+13	cfu/year

## Regulations

32.	Appomattox River (2), lower - VAP-J15R_APP01A98	Total Maximum Daily Load Development for the Appomattox River Basin	Chesterfield, Cumberland, Powhatan, Nottoway, Amelia, Dinwiddie, Prince Edward, Appomattox	J01, J02, J03, J04, J05, J06, J07, J08, J09, J10, J11, J12, J13, J14, J15	E. coli	1.66E+13	cfu/year
33.	Appomattox River and tributaries, lower tidal (3) - VAP-J15E_APP01A98, VAP-J15E_APP02A98, VAP-J15E_APP02B12	Total Maximum Daily Load Development for the Appomattox River Basin	Chesterfield, Cumberland, Nottoway, Petersburg, Amelia, Colonial Heights, Prince Edward, Appomattox	J01, J02, J03, J04, J05, J06, J07, J08, J09, J10, J11, J12, J13, J14, J15, J16, J17	E. coli	7.47E+13	cfu/year
34.	Bear Garden Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Bear Garden Creek Watershed	Buckingham	H20	E. coli	3.15E+08	cfu/day
35.	Stonewall Creek	Bacteria Total Maximum Daily Load Development for Bent Creek, North Creek, Stonewall Creek, Walkers Ford Creek, and Wreck Island Creek	Appomattox	H05	E. coli	9.28E+10	cfu/year
36.	Bent Creek	Bacteria Total Maximum Daily Load Development for Bent Creek, North Creek, Stonewall Creek, Walkers Ford Creek, and Wreck Island Creek	Appomattox	H07	E. coli	2.26E+11	cfu/year

# Regulations

37.	North Creek	Bacteria Total Maximum Daily Load Development for Bent Creek, North Creek, Stonewall Creek, Walkers Ford Creek, and Wreck Island Creek	Appomattox	H06	E. coli	2.96E+11	cfu/year
38.	Wreck Island Creek	Bacteria Total Maximum Daily Load Development for Bent Creek, North Creek, Stonewall Creek, Walkers Ford Creek, and Wreck Island Creek	Appomattox	H06	E. coli	8.76E+11	cfu/year
39.	Walkers Ford Creek	Bacteria Total Maximum Daily Load Development for Bent Creek, North Creek, Stonewall Creek, Walkers Ford Creek, and Wreck Island Creek	Amherst	H05	E. coli	8.90E+11	cfu/year
40.	Bleakhorn Creek	TMDL Report for Chesapeake Bay Shellfish Waters: Bleakhorn Creek, Bennett Creek, and Knotts Creek Bacterial Impairments	Suffolk	G13	Fecal coliform	2.66E+09	MPN/day
41.	Knotts Creek	TMDL Report for Chesapeake Bay Shellfish Waters: Bleakhorn Creek, Bennett Creek, and Knotts Creek Bacterial Impairments	Suffolk	G13	Fecal coliform	1.07E+10	MPN/day
42.	Bennett Creek	TMDL Report for Chesapeake Bay Shellfish Waters: Bleakhorn Creek, Bennett Creek, and Knotts Creek Bacterial Impairments	Suffolk	G13	Fecal coliform	6.37E+10	MPN/day

## Regulations

43.	Chickahominy River and tributaries	E. coli TMDL Development for Chickahominy River and Tributaries	New Kent, Henrico, Charles City, Hanover	G05, G06, G07	E. coli	2.41E+12	cfu/year
44.	Chuckatuck Creek and Brewers Creek	Shellfish Bacteria Total Maximum Daily Load (TMDL) Development Chuckatuck Creek and Brewers Creek Watershed	Isle of Wight	G11	Fecal coliform	4.79E+11	MPN/day
45.	Paradise Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Elizabeth River Watershed	Portsmouth	G15	Enterococci	5.04E+11	cfu/day
46.	Lafayette River, upper	Bacteria Total Maximum Daily Load (TMDL) Development for the Elizabeth River Watershed	Norfolk	G15	Enterococci	1.05E+13	cfu/day
47.	Lower and Upper Western Branch, Elizabeth River	Bacteria Total Maximum Daily Load (TMDL) Development for the Elizabeth River Watershed	Chesapeake, Portsmouth	G15	Enterococci	2.00E+13	cfu/day
48.	Upper Mainstem, Lower Southern Branch, Lower Eastern Branch Elizabeth River, Broad Creek, Indian River	Bacteria Total Maximum Daily Load (TMDL) Development for the Elizabeth River Watershed	Chesapeake, Portsmouth, Norfolk	G15, K39	Enterococci	5.78E+13	cfu/day
49.	Fourmile Creek	Bacteria TMDL for Fourmile Creek	Henrico	G02	E. coli	3.99E+10	cfu/year
50.	Hardware River, North Fork	Bacteria Total Maximum Daily Load Development for North Fork Hardware River and Hardware River	Albemarle	H18	E. coli	0.06E+12	cfu/year

# Regulations

51.	Hardware River	Bacteria Total Maximum Daily Load Development for North Fork Hardware River and Hardware River	Fluvanna, Albemarle	H18, H19	E. coli	0.02E+13	cfu/year
52.	Walker Creek	Bacteria Total Maximum Daily Load Development for Hays Creek, Moffatts Creek, Walker Creek, and Otts Creek	Rockbridge	I34	E. coli	6.00E+10	cfu/year
53.	Otts Creek	Bacteria Total Maximum Daily Load Development for Hays Creek, Moffatts Creek, Walker Creek, and Otts Creek	Augusta	I34	E. coli	9.00E+10	cfu/year
54.	Hays Creek	Bacteria Total Maximum Daily Load Development for Hays Creek, Moffatts Creek, Walker Creek, and Otts Creek	Rockbridge	I34	E. coli	2.00E+11	cfu/year
55.	Hoffler Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Hoffler Creek Watershed	Portsmouth	G15	Enterococci	5.39E+11	cfu/day
56.	Powell Creek	Bacteria Total Maximum Daily Load Development for the James River - Hopewell to Westover	Prince George	G03	E. coli	6.12E+10	cfu/year
57.	Bailey Creek	Bacteria Total Maximum Daily Load Development for the James River - Hopewell to Westover	Prince George	G03	E. coli	1.62E+11	cfu/year

## Regulations

58.	Bailey Bay, Bailey Creek, Cattail Creek	Bacteria Total Maximum Daily Load Development for the James River - Hopewell to Westover	Prince George, Hopewell	G03	E. coli	8.47E+12	cfu/year
59.	James River	Bacteria Total Maximum Daily Load Development for the James River - Hopewell to Westover	Prince George, Charles City, Hopewell	G03	E. coli	8.67E+14	cfu/year
60.	Austin Creek	Total Maximum Daily Load Development for the James River Basin	Buckingham	H21	E. coli	1.62E+10	cfu/year
61.	Fisby Branch	Total Maximum Daily Load Development for the James River Basin	Buckingham	H21	E. coli	2.15E+10	cfu/year
62.	Rock Island Creek	Total Maximum Daily Load Development for the James River Basin	Buckingham	H17	E. coli	3.38E+10	cfu/year
63.	Slate River, upper	Total Maximum Daily Load Development for the James River Basin	Buckingham	H21	E. coli	4.22E+10	cfu/year
64.	Troublesome Creek	Total Maximum Daily Load Development for the James River Basin	Buckingham	H21	E. coli	5.23E+10	cfu/year
65.	North River	Total Maximum Daily Load Development for the James River Basin	Buckingham	H21	E. coli	5.52E+10	cfu/year
66.	Ballinger Creek	Total Maximum Daily Load Development for the James River Basin	Albemarle	H17	E. coli	5.75E+10	cfu/year
67.	Totier Creek	Total Maximum Daily Load Development for the James River Basin	Albemarle	H17	E. coli	1.62E+11	cfu/year



# Regulations

68.	Slate River, lower	Total Maximum Daily Load Development for the James River Basin	Buckingham	H21, H22	E. coli	3.19E+12	cfu/year
69.	Fine Creek	Total Maximum Daily Load Development for the James River and Tributaries - Lower Piedmont Region	Powhatan	H38	E. coli	3.66E+10	cfu/year
70.	Big Lickinghole Creek, Little Lickinghole Creek	Total Maximum Daily Load Development for the James River and Tributaries - Lower Piedmont Region	Goochland	H37	E. coli	7.94E+10	cfu/year
71.	Byrd Creek	Total Maximum Daily Load Development for the James River and Tributaries - Lower Piedmont Region	Goochland, Fluvanna	H34	E. coli	1.08E+11	cfu/year
72.	Upper James River	Total Maximum Daily Load Development for the James River and Tributaries - Lower Piedmont Region	Cumberland, Fluvanna, Powhatan, Goochland	H33, H34, H37	E. coli	3.50E+11	cfu/year
73.	Beaverdam Creek	Total Maximum Daily Load Development for the James River and Tributaries - Lower Piedmont Region	Goochland	H38	E. coli	1.60E+12	cfu/year
74.	<del>Lower</del> James River, <u>lower</u>	Total Maximum Daily Load Development for the James River and Tributaries - Lower Piedmont Region	Cumberland, Fluvanna, Powhatan, Goochland	H33, H34, H37, H38	E. coli	8.20E+12	cfu/year
75.	No Name Creek	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Chesterfield	G01	E. coli	4.66E+11	cfu/year

## Regulations

76.	Bernards Creek	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Powhatan	H39	E. coli	1.67E+12	cfu/year
77.	Goode Creek	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Richmond City	G01	E. coli	2.52E+12	cfu/year
78.	Gillies Creek	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Henrico, Richmond City	G01	E. coli	2.93E+12	cfu/year
79.	Powwhite Creek	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Chesterfield	H39	E. coli	3.34E+12	cfu/year
80.	Almond Creek	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Henrico	G01	E. coli	4.39E+12	cfu/year
81.	Falling Creek	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Chesterfield, Richmond City	G01	E. coli	1.64E+13	cfu/year
82.	Reedy Creek	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Richmond City	H39	E. coli	8.23E+13	cfu/year
83.	<del>Tidal</del> James River, <u>tidal</u>	Bacterial Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Henrico, Richmond City, Goochland, Powhatan, Chesterfield	G01, G02, H39	E. coli	3.76E+14	cfu/year

# Regulations

84.	<del>Lower</del> James River, <u>lower</u>	Bacteria Total Maximum Daily Load Development for the James River and Tributaries - City of Richmond	Henrico, Richmond City, Goochland, Powhatan, Chesterfield	H39	E. coli	3.06E+15	cfu/year
85.	Ivy Creek	<del>Bacteria Total Maximum Daily Load Development for the James River Basin</del> <u>E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</u>	Lynchburg, Bedford	H03	E. coli	<del>6.25E+11</del> <u>4.07E+12</u>	cfu/year
86.	Burton Creek	<del>Bacteria Total Maximum Daily Load Development for the James River Basin</del> <u>E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</u>	Lynchburg, <u>Campbell</u>	H03	E. coli	<del>7.37E+11</del> <u>3.47E+12</u>	cfu/year
87.	Judith Creek	<del>Bacteria Total Maximum Daily Load Development for the James River Basin</del> <u>E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</u>	Lynchburg, Bedford	H03	E. coli	<del>8.31E+11</del> <u>3.26E+11</u>	cfu/year

# Regulations

88.	Tomahawk Creek	<del>Bacteria Total Maximum Daily Load Development for the James River Basin E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</del>	<u>Bedford, Campbell, Lynchburg</u>	H03	E. coli	<del>8.34E+11</del> <u>1.01E+12</u>	cfu/year
89.	Fishing Creek	<del>Bacteria Total Maximum Daily Load Development for the James River Basin E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</del>	Lynchburg	H03	E. coli	<del>1.03E+12</del> <u>3.76E+13</u>	cfu/year
90.	Blackwater Creek	<del>Bacteria Total Maximum Daily Load Development for the James River Basin E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</del>	Lynchburg	H03	E. coli	<del>3.06E+12</del> <u>3.61E+14</u>	cfu/year
91.	James River, <u>lower</u>	<del>Bacteria Total Maximum Daily Load Development for the James River Basin E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</del>	Amherst, Bedford, <u>Campbell</u> , Lynchburg	<del>H01, H02, H03, H04, H05</del>	E. coli	<del>2.75E+14</del> <u>1.33E+15</u>	cfu/year
92.	Baptist Run	Fecal Bacteria Total Maximum Daily Load Development for Warwick River	York	G11	E. coli	3.89E+09	cfu/year
93.	Deep Creek	Fecal Bacteria Total Maximum Daily Load Development for Warwick River	Newport News	G11, C07	Enterococci	5.59E+12	cfu/year

# Regulations

94.	Skiffes Creek	Fecal Bacteria Total Maximum Daily Load Development for Warwick River	James City	G11	Fecal coliform	2.46E+12	cfu/year
95.	James River, Warwick River	Fecal Bacteria Total Maximum Daily Load Development for Warwick River	Newport News, York	G11	Fecal coliform	3.04E+12	cfu/year
96.	Kings Creek and Bay	Shellfish Bacteria Total Maximum Daily Load (TMDL) Development Kings Creek and Bay and Ballard Creek and Bay Watersheds	Isle of Wight	G11	Fecal coliform	1.23E+09	counts/day
97.	Ballard Creek and Bay	Shellfish Bacteria Total Maximum Daily Load (TMDL) Development Kings Creek and Bay and Ballard Creek and Bay Watersheds	Isle of Wight	G11	Fecal coliform	1.64E+09	counts/day
98.	Lawnes Creek	TMDL Report for Chesapeake Bay Shellfish Waters: Lawnes Creek Bacterial Impairment	Surry	G11	Fecal coliform	5.94E+08	MPN/day
99.	Looney Creek	Bacteria TMDL for Looney Creek	Botetourt	I26	E. coli	1.84E+10	cfu/year
100.	Buffalo Creek, South Fork	Bacteria Total Maximum Daily Load Development for Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River and Cedar Creek and a Sediment Total Maximum Daily Load Development for Colliers Creek	Botetourt, Rockbridge	I38	E. coli	2.01E+11	cfu/year

## Regulations

101.	Colliers Creek	Bacteria Total Maximum Daily Load Development for Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River and Cedar Creek and a Sediment Total Maximum Daily Load Development for Colliers Creek	Rockbridge	I38	E. coli	4.75E+11	cfu/year
102.	Cedar Creek	Bacteria Total Maximum Daily Load Development for Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River and Cedar Creek and a Sediment Total Maximum Daily Load Development for Colliers Creek	Rockbridge	I28	E. coli	5.01E+11	cfu/year
103.	Buffalo Creek, North Fork	Bacteria Total Maximum Daily Load Development for Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River and Cedar Creek and a Sediment Total Maximum Daily Load Development for Colliers Creek	Rockbridge	I38	E. coli	6.52E+11	cfu/year
104.	Buffalo Creek	Bacteria Total Maximum Daily Load Development for Colliers Creek, North Fork Buffalo Creek, South Fork	Rockbridge	I38	E. coli	1.91E+12	cfu/year

# Regulations

		Buffalo Creek, Buffalo Creek, Maury River and Cedar Creek and a Sediment Total Maximum Daily Load Development for Colliers Creek					
105.	Maury River	Bacteria Total Maximum Daily Load Development for Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River and Cedar Creek and a Sediment Total Maximum Daily Load Development for Colliers Creek	Buena Vista, Rockbridge	I37, I38	E. coli	2.98E+13	cfu/year
106.	Powhatan Creek	Bacteria Total Maximum Daily Load Development for Mill Creek and Powhatan Creek	James City	G10	E. coli	1.78E+13	cfu/year
107.	Mill Creek	Bacteria Total Maximum Daily Load Development for Mill Creek and Powhatan Creek	James City	G10	Enterococci	3.63E+12	cfu/year
108.	Powhatan Creek	Bacteria Total Maximum Daily Load Development for Mill Creek and Powhatan Creek	James City	G10	Enterococci	7.24E+12	cfu/year
109.	Moore's Creek	Development of the Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria in Moore's Creek, Albemarle County, Virginia	Charlottesville, Albemarle	H28	Fecal coliform	3.30E+13	cfu/year

## Regulations

110.	Morris Creek	Morris Creek (tidal), Charles City County Total Maximum Daily Load for Bacteria Contamination Impaired for Recreational Use	Charles City	G08	Enterococci	2.92E+10	cfu/day
111.	Shingle Creek	Fecal Bacteria Total Maximum Daily Load for the Nansemond River	Suffolk	G13, K39	Fecal coliform	2.78E+09	cfu/year
112.	Nansemond River, upper and middle	Fecal Bacteria Total Maximum Daily Load for the Nansemond River	Isle of Wight, Suffolk	G12, G13, G14	Fecal coliform	3.89E+10	cfu/year
113.	Shingle Creek	Fecal Bacteria Total Maximum Daily Load for the Nansemond River	Suffolk	G13, K39	Enterococci	2.19E+10	cfu/year
114.	Nansemond River, upper	Fecal Bacteria Total Maximum Daily Load for the Nansemond River	Isle of Wight, Suffolk	G12, G13, G14	Enterococci	9.99E+10	cfu/year
115.	Nansemond River (Lake Meade)	Fecal Bacteria Total Maximum Daily Load for the Nansemond River	Suffolk	G12, G13	Enterococci	9.99E+10	cfu/year
116.	Pagan River, middle and upper	Fecal Bacteria Total Maximum Daily Load Development for Pagan River	Isle of Wight	G11	Enterococci	3.01E+12	cfu/year
117.	Pagan River and Jones Creek	Fecal Bacteria Total Maximum Daily Load Development for Pagan River	Isle of Wight	G11	Fecal coliform	2.15E+12	cfu/year
118.	<del>Lower</del> Reed Creek, <u>lower</u>	Bacteria TMDL for Reed Creek	Bedford	H01	E. coli	0	cfu/year
119.	Beaver Creek	Bacteria TMDL Development for the Rivanna River Mainstem, North Fork Rivanna River, Preddy Creek and Tributaries, Meadow Creek, Mechums River, and Beaver Creek Watersheds	Albemarle	H23	E. coli	3.29E+10	cfu/year



# Regulations

120.	Mechums River	Bacteria TMDL Development for the Rivanna River Mainstem, North Fork Rivanna River, Preddy Creek and Tributaries, Meadow Creek, Mechums River, and Beaver Creek Watersheds	Albemarle	H23	E. coli	3.31E+10	cfu/year
121.	Preddy Creek	Bacteria TMDL Development for the Rivanna River Mainstem, North Fork Rivanna River, Preddy Creek and Tributaries, Meadow Creek, Mechums River, and Beaver Creek Watersheds	Greene, Albemarle	H27	E. coli	2.43E+11	cfu/year
122.	Rivanna River, North Fork	Bacteria TMDL Development for the Rivanna River Mainstem, North Fork Rivanna River, Preddy Creek and Tributaries, Meadow Creek, Mechums River, and Beaver Creek Watersheds	Greene, Albemarle	H27	E. coli	2.15E+12	cfu/year
123.	Meadow Creek	Bacteria TMDL Development for the Rivanna River Mainstem, North Fork Rivanna River, Preddy Creek and Tributaries, Meadow Creek, Mechums River, and Beaver Creek Watersheds	Charlottesville	H28	E. coli	3.89E+12	cfu/year
124.	Rivanna River	Bacteria TMDL Development for the Rivanna River Mainstem, North Fork Rivanna River, Preddy Creek and Tributaries, Meadow Creek, Mechums River, and Beaver Creek Watersheds	Charlottesville, Albemarle, Greene	H23, H24, H25, H26, H27, H28	E. coli	4.93E+12	cfu/year

## Regulations

125.	Rockfish River, North Fork	Bacteria Total Maximum Daily Load Development for Rockfish River, North Fork Rockfish River, and South Fork Rockfish River	Nelson	H15	E. coli	8.44E+11	cfu/year
126.	Rockfish River, South Fork	Bacteria Total Maximum Daily Load Development for Rockfish River, North Fork Rockfish River, and South Fork Rockfish River	Nelson	H15	E. coli	4.40E+12	cfu/year
127.	Rockfish River	Bacteria Total Maximum Daily Load Development for Rockfish River, North Fork Rockfish River, and South Fork Rockfish River	Nelson	H15, H16	E. coli	5.76E+12	cfu/year
128.	Tuckahoe Creek and tributaries	Bacteria TMDL for Tuckahoe Creek, Little Tuckahoe Creek, Anderson, Broad, Georges and Readers Branches, and Deep Run	Henrico, Goochland	H39	E. coli	1.05E+13	cfu/year
129.	Turner Creek	Bacteria Total Maximum Daily Load Development for Hat Creek, Piney River, Rucker Run, Mill Creek, Rutledge Creek, Turner Creek, Buffalo River and Tye River	Amherst	H12	E. coli	1.57E+11	cfu/year
130.	Mill Creek	Bacteria Total Maximum Daily Load Development for Hat Creek, Piney River, Rucker Run, Mill Creek, Rutledge Creek, Turner Creek, Buffalo River and Tye River	Amherst	H11	E. coli	2.08E+11	cfu/year

# Regulations

131.	Hat Creek	Bacteria Total Maximum Daily Load Development for Hat Creek, Piney River, Rucker Run, Mill Creek, Rutledge Creek, Turner Creek, Buffalo River and Tye River	Nelson	H09	E. coli	6.02E+11	cfu/year
132.	Rutledge Creek	Bacteria Total Maximum Daily Load Development for Hat Creek, Piney River, Rucker Run, Mill Creek, Rutledge Creek, Turner Creek, Buffalo River and Tye River	Amherst	H12	E. coli	1.15E+12	cfu/year
133.	Rucker Run	Bacteria Total Maximum Daily Load Development for Hat Creek, Piney River, Rucker Run, Mill Creek, Rutledge Creek, Turner Creek, Buffalo River and Tye River	Nelson	H13	E. coli	1.32E+12	cfu/year
134.	Piney River	Bacteria Total Maximum Daily Load Development for Hat Creek, Piney River, Rucker Run, Mill Creek, Rutledge Creek, Turner Creek, Buffalo River and Tye River	Amherst, Nelson	H10	E. coli	2.44E+12	cfu/year

## Regulations

135.	Buffalo River	Bacteria Total Maximum Daily Load Development for Hat Creek, Piney River, Rucker Run, Mill Creek, Rutledge Creek, Turner Creek, Buffalo River and Tye River	Amherst	H11, H12	E. coli	2.54E+12	cfu/year
136.	Tye River	Bacteria Total Maximum Daily Load Development for Hat Creek, Piney River, Rucker Run, Mill Creek, Rutledge Creek, Turner Creek, Buffalo River and Tye River	Amherst, Nelson	H09, H10, H11, H12, H13	E. coli	1.33E+13	cfu/year
137.	Upham Brook and tributaries	Total Maximum Daily Load Development for the Upham Brook Watershed	Henrico, Richmond City	G05	E. coli	8.04E+10	cfu/year
138.	White Oak Swamp	Bacteria TMDL for White Oak Swamp	Henrico	G06	E. coli	1.58E+12	cfu/year
139.	Willis River and tributaries	Fecal coliform TMDL Development for Willis River	Cumberland, Buckingham	H35, H36	Fecal coliform	3.15E+11	cfu/year
140.	North Creek	Benthic Total Maximum Daily Load (TMDL) Development for the North Creek Watershed	Fluvanna	H20R	Sediment	7.29	tons/yr
141.	North Creek	Benthic Total Maximum Daily Load (TMDL) Development for the North Creek Watershed	Fluvanna	H20R	Total phosphorus	187.3	lbs/yr
142.	Turkey Island Creek	Bacteria TMDL Development for the Turkey Island Creek and James River Westover to Claremont Watershed	Henrico, Charles City	G02R	E. coli	4.31E+11	cfu/year

# Regulations

143.	James River from Westover to Chippokes Point	Bacteria TMDL Development for the Turkey Island Creek and James River Westover to Claremont Watershed	Charles City, Prince George	G02R, G04R	E. coli	4.25E+13	cfu/year
144.	James River from Chippokes Point to Claremont	Bacteria TMDL Development for the Turkey Island Creek and James River Westover to Claremont Watershed	Prince George, Surry	G04E, G04R	E. coli	4.99E+13	cfu/year
145.	Moores Creek	Sediment TMDLs for Moores Creek, Lodge Creek, Meadow Creek, and Schenks Branch	Albemarle, City of Charlottesville	H28	Sediment	809.48	tons/yr
146.	Lodge Creek	Sediment TMDLs for Moores Creek, Lodge Creek, Meadow Creek, and Schenks Branch	Albemarle, City of Charlottesville	H28	Sediment	46.25	tons/yr
147.	Meadow Creek	Sediment TMDLs for Moores Creek, Lodge Creek, Meadow Creek, and Schenks Branch	Albemarle, City of Charlottesville	H28	Sediment	452.33	tons/yr
148.	Schenks Branch	Sediment TMDLs for Moores Creek, Lodge Creek, Meadow Creek, and Schenks Branch	City of Charlottesville	H28	Sediment	134.52	tons/yr
<u>149.</u>	<u>James River, upper</u>	<u>E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</u>	<u>Amherst, Bedford</u>	<u>H01R, I28R</u>	<u>E. coli</u>	<u>2.27E+11</u>	<u>cfu/year</u>
<u>150.</u>	<u>Beaver Creek</u>	<u>E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</u>	<u>Campbell</u>	<u>H05R</u>	<u>E. coli</u>	<u>3.26E+11</u>	<u>cfu/year</u>
<u>151.</u>	<u>Pedlar River</u>	<u>E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</u>	<u>Amherst</u>	<u>H02R</u>	<u>E. coli</u>	<u>7.86E+11</u>	<u>cfu/year</u>

## Regulations

<u>152.</u>	<u>Harris Creek</u>	<u>E. coli TMDL Development for the James River and Tributaries near Lynchburg, VA</u>	<u>Amherst</u>	<u>H04R</u>	<u>E. coli</u>	<u>1.02E+13</u>	<u>cfu/year</u>
<u>153.</u>	<u>Diascund Creek, nontidal</u>	<u>Bacteria TMDL Development for Lower Chickahominy River Watershed Located in Charles City, James City, and New Kent Counties, VA</u>	<u>New Kent</u>	<u>G09R</u>	<u>E. coli</u>	<u>2.51E+11</u>	<u>cfu/year</u>
<u>154.</u>	<u>Beaverdam Creek</u>	<u>Bacteria TMDL Development for Lower Chickahominy River Watershed Located in Charles City, James City, and New Kent Counties, VA</u>	<u>New Kent</u>	<u>G09R</u>	<u>E. coli</u>	<u>1.27E+11</u>	<u>cfu/year</u>
<u>155.</u>	<u>Unnamed tributary to Beaverdam Creek (SAH)</u>	<u>Bacteria TMDL Development for Lower Chickahominy River Watershed Located in Charles City, James City, and New Kent Counties, VA</u>	<u>New Kent</u>	<u>G09R</u>	<u>E. coli</u>	<u>4.52E+10</u>	<u>cfu/year</u>
<u>156.</u>	<u>Barrows Creek</u>	<u>Bacteria TMDL Development for Lower Chickahominy River Watershed Located in Charles City, James City, and New Kent Counties, VA</u>	<u>Charles City</u>	<u>G08R</u>	<u>E. coli</u>	<u>6.90E+10</u>	<u>cfu/year</u>
<u>157.</u>	<u>Mill Creek</u>	<u>Bacteria TMDL Development for Lower Chickahominy River Watershed Located in Charles City, James City, and New Kent Counties, VA</u>	<u>James City</u>	<u>G08R</u>	<u>E. coli</u>	<u>9.90E+11</u>	<u>cfu/year</u>

# Regulations

<u>158.</u>	<u>Diascund Creek, tidal</u>	<u>Bacteria TMDL Development for Lower Chickahominy River Watershed Located in Charles City, James City, and New Kent Counties, VA</u>	<u>New Kent, James City</u>	<u>G08E</u>	<u>Enterococci</u>	<u>7.12E+12</u>	<u>cfu/year</u>
<u>159.</u>	<u>Chickahominy River</u>	<u>Bacteria TMDL Development for Lower Chickahominy River Watershed Located in Charles City, James City, and New Kent Counties, VA</u>	<u>New Kent, James City, Charles City</u>	<u>G08E</u>	<u>Enterococci</u>	<u>9.57E+13</u>	<u>cfu/year</u>
<u>160.</u>	<u>Gordon Creek</u>	<u>Bacteria TMDL Development for Lower Chickahominy River Watershed Located in Charles City, James City, and New Kent Counties, VA</u>	<u>James City</u>	<u>G08E</u>	<u>Enterococci</u>	<u>6.15E+12</u>	<u>cfu/year</u>

**Notes:**

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

<sup>2</sup>GS means growing season.

**EDITOR'S NOTE:** Subsections B and C of 9VAC25-720-60 are not amended; therefore, the text of those subsections is not set out.

**9VAC25-720-100. Chowan River -- Dismal Swamp River Basin.**

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA <sup>1</sup>	Units
1.	Unnamed tributary to Hurricane Branch	Benthic TMDL for Hurricane Branch Unnamed Tributary, Virginia	Nottoway	K16R	Sediment	60.9	T/YR
2.	Spring Branch	Total Maximum Daily Load Development for Spring Branch	Sussex	K32R	Phosphorus	145.82	KG/YR
3.	Albemarle Canal/North Landing River	Total Maximum Daily Load Development for Albemarle Canal/North Landing River, A Total Phosphorus TMDL Due to Low Dissolved Oxygen Impairment	Chesapeake, Virginia Beach	K41R	Phosphorus	989.96	KG/YR

## Regulations

4.	Northwest River Watershed	Total Maximum Daily Load Development for the Northwest River Watershed, A Total Phosphorus TMDL Due to Low Dissolved Oxygen Impairment	Chesapeake, Virginia Beach	K40R	Phosphorus	3,262.86	KG/YR
5.	Assamoosick Swamp and tributaries	E. coli Total Maximum Daily Load Development for Assamoosick Swamp & Tributaries	Sussex	K29	E. coli	6.27E+12	cfu/year
6.	Coppahaunk Swamp, UT	E. coli Total Maximum Daily Load Development for Blackwater River & Tributaries	Sussex	K32	E. coli	1.87E+09	cfu/year
7.	Otterdam Swamp	E. coli Total Maximum Daily Load Development for Blackwater River & Tributaries	Surry	K32	E. coli	1.96E+10	cfu/year
8.	Blackwater Swamp, Warwick Swamp, Second Swamp	E. coli Total Maximum Daily Load Development for Blackwater River & Tributaries	Prince George, Petersburg	K31	E. coli	1.27E+12	cfu/year
9.	Blackwater River	E. coli Total Maximum Daily Load Development for Blackwater River & Tributaries	Sussex, Prince George, Surry	K31, K32	E. coli	1.67E+13	cfu/year
10.	Milldam Creek	Development of Bacterial TMDLs for the Virginia Beach Coastal Area	Virginia Beach	K41	E. coli	0	cfu/year
11.	West Neck Creek, middle	Development of Bacterial TMDLs for the Virginia Beach Coastal Area	Virginia Beach	K41	E. coli	0	cfu/year
12.	Nawney Creek	Development of Bacterial TMDLs for the Virginia Beach Coastal Area	Virginia Beach	K42	Enterococci	0	cfu/year
13.	West Neck Creek, upper	Development of Bacterial TMDLs for the Virginia Beach Coastal Area	Virginia Beach	K41	Enterococci	1.88E+13	cfu/year
14.	London Bridge Creek and Canal #2	Development of Bacterial TMDLs for the Virginia Beach Coastal Area	Virginia Beach	K41, C08	Enterococci	2.17E+13	cfu/year
15.	Beaver Pond Creek	Development of Bacterial TMDLs for the Chowan Study Area	Dinwiddie	K16	E. coli	0	cfu/year
16.	Mill Swamp	Development of Bacterial TMDLs for the Chowan Study Area	Surry	K34	E. coli	0	cfu/year
17.	Nottoway River	Development of Bacterial TMDLs for the Chowan Study Area	Lunenburg	K14	E. coli	0	cfu/year



# Regulations

18.	Raccoon Creek	Development of Bacterial TMDLs for the Chowan Study Area	Sussex	K25	E. coli	0	cfu/year
19.	Rattlesnake Swamp	Development of Bacterial TMDLs for the Chowan Study Area	Isle of Wight, Surry	K34	E. coli	0	cfu/year
20.	Cypress Swamp	Development of Bacterial TMDLs for the Chowan Study Area	Surry	K32	E. coli	2.26E+11	cfu/year
21.	Little Nottoway River	Development of Bacterial TMDLs for the Chowan Study Area	Nottoway	K15	E. coli	6.54E+11	cfu/year
22.	Big Hounds Creek	Development of Bacterial TMDLs for the Chowan Study Area	Lunenburg	K14	E. coli	6.96E+11	cfu/year
23.	Broad Branch	Bacteria TMDL for the Flat Rock Creek Watershed and Broad Branch	Lunenburg	K03	E. coli	5.14E+08	cfu/day
24.	Flat Rock Creek	Bacteria TMDL for the Flat Rock Creek Watershed and Broad Branch	Lunenburg	K03	E. coli	2.64E+09	cfu/day
25.	Flat Rock Creek, upper	Bacteria TMDL for the Flat Rock Creek Watershed and Broad Branch	Lunenburg	K03	E. coli	1.32E+10	cfu/day
26.	Fontaine Creek	E. coli Total Maximum Daily Load Development for Fontaine Creek	Brunswick, Greenville	K10, K11, K12	E. coli	3.77E+12	cfu/year
27.	Unnamed tributary to Nebletts Mill Run	E. coli Total Maximum Daily Load Development for Unnamed Tributary to Nebletts Mill Run and Hatcher Run	Sussex	K23	E. coli	1.22E+10	cfu/year
28.	Hatcher Run	E. coli Total Maximum Daily Load Development for Unnamed Tributary to Nebletts Mill Run and Hatcher Run	Dinwiddie	K23	E. coli	1.31E+11	cfu/year
29.	North Meherrin River	Fecal Bacteria Total Maximum Daily Load Development for Meherrin River and Tributaries	Lunenburg	K02	E. coli	3.25E+12	cfu/year
30.	Meherrin River including Briery Branch, Genito Creek, and Great Creek	Fecal Bacteria Total Maximum Daily Load Development for Meherrin River and Tributaries	Mecklenburg, Brunswick, Lunenburg	K01, K02, K03, K04, K05, K06, K07, K08	E. coli	9.90E+12	cfu/year
31.	Roses Creek	Bacteria TMDL for Roses Creek Watershed	Brunswick	K07	E. coli	4.35E+12	cfu/year

## Regulations

32.	Flat Swamp	Bacteria Total Maximum Daily Load Development for Three Creek, Flat Swamp, Tarrara Creek, Mill Swamp, and Darden Mill Run	Southampton	K13	E. coli	0	cfu/year
33.	Tarrara Creek	Bacteria Total Maximum Daily Load Development for Three Creek, Flat Swamp, Tarrara Creek, Mill Swamp, and Darden Mill Run	Southampton	K13	E. coli	0	cfu/year
34.	Three Creek (K26R-03)	Bacteria Total Maximum Daily Load Development for Three Creek, Flat Swamp, Tarrara Creek, Mill Swamp, and Darden Mill Run	Greensville	K26	E. coli	5.00E+09	cfu/year
35.	Mill Swamp	Bacteria Total Maximum Daily Load Development for Three Creek, Flat Swamp, Tarrara Creek, Mill Swamp, and Darden Mill Run	Southampton	K28	E. coli	1.93E+11	cfu/year
36.	Darden Mill Swamp	Bacteria Total Maximum Daily Load Development for Three Creek, Flat Swamp, Tarrara Creek, Mill Swamp, and Darden Mill Run	Southampton	K30	E. coli	4.10E+11	cfu/year
37.	Three Creek (K26R-02)	Bacteria Total Maximum Daily Load Development for Three Creek, Flat Swamp, Tarrara Creek, Mill Swamp, and Darden Mill Run	Greensville	K26	E. coli	9.53E+12	cfu/year
38.	Three Creek (K27R-02)	Bacteria Total Maximum Daily Load Development for Three Creek, Flat Swamp, Tarrara Creek, Mill Swamp, and Darden Mill Run	Sussex, Southampton, Greensville	K26, K27	E. coli	1.43E+13	cfu/year
39.	Pocaty River	Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocaty River Watersheds	Chesapeake, Virginia Beach	K41R	Total phosphorus	129.39	kg/yr
40.	Ashville Bridge Creek	Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocaty River Watersheds	Chesapeake, Virginia Beach	K42E	Total phosphorus	34.46	kg/yr

# Regulations

41.	North Landing River	Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocaty River Watersheds	Chesapeake, Virginia Beach	K41R	E. coli	6.25E+12	cfu/yr
42.	Pocaty River	Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocaty River Watersheds	Chesapeake, Virginia Beach	K41R	E. coli	2.58E+12	cfu/yr
43.	Beggars Bridge Creek	Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocaty River Watersheds	Chesapeake, Virginia Beach	K42E	Enterococci	6.79E+11	cfu/yr
44.	Ashville Bridge Creek and Muddy Creek	Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocaty River Watersheds	Chesapeake, Virginia Beach	K42E	Enterococci	7.95E+11	cfu/yr
45.	Hell Point Creek, upper and Hell Point Creek, lower	Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocaty River Watersheds	Chesapeake, Virginia Beach	K42E	Enterococci	2.04E+12	cfu/yr
46.	<u>Kits Creek</u>	<u>Benthic Total Maximum Daily Load (TMDL) Development for the Kits Creek Watershed</u>	<u>Lunenburg</u>	<u>K02R</u>	<u>Sediment</u>	<u>2.96</u>	<u>ton/year</u>
47.	<u>Kits Creek</u>	<u>Benthic Total Maximum Daily Load (TMDL) Development for the Kits Creek Watershed</u>	<u>Lunenburg</u>	<u>K02R</u>	<u>Total phosphorus</u>	<u>13.1</u>	<u>lbs/year</u>

Notes:

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

## 9VAC25-720-110. Chesapeake Bay -- Small Coastal -- Eastern Shore River Basin.

### A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA1	Units
1.	Parker Creek	Benthic Total Maximum Daily Load (TMDL) Development for Parker Creek, Virginia	Accomack	D03E	Total phosphorus	664.2	LB/YR
2.	Pettit Branch	Benthic Total Maximum Daily Load (TMDL) Development for the Pettit Branch Watershed	Accomack	D02R	Total phosphorus	0.01	LB/D
3.	Mill Creek	Total Maximum Daily Load for Dissolved Oxygen in Mill Creek, Northampton County, Virginia	Northampton	D06R	Organic carbon as TC	0.31	LB/D

## Regulations

4.	Mill Creek	Total Maximum Daily Load for Dissolved Oxygen in Mill Creek, Northampton County, Virginia	Northampton	D06R	Nutrients as TN	0.10	LB/D
5.	Folly Creek	Total Maximum Daily Loads of Pathogens for Folly Creek in Accomack County, Virginia	Accomack	D03E	Total nitrogen	2.6	LBS/D
6.	Gargathy Creek	Total Maximum Daily Loads of Dissolved Oxygen and Pathogens for Gargathy Creek (Upper, Lower, and Riverine Portions) in Accomack County, Virginia	Accomack	D03E	Total nitrogen	1.9	LBS/D
7.	Assawoman Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Assawoman Creek Watershed	Accomack	D02	Fecal coliform	1.12E+09	MPN/day
8.	Back River	Total Maximum Daily Loads of Bacteria for Back River	Hampton, Poquoson, York	C07	Fecal coliform	3.87E+14	counts/year
9.	Barlow Creek (#191)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Barlow and Jacobus Creeks	Northampton	C14	Fecal coliform	N/A <sup>2</sup>	MPN/day
10.	Jacobus Creek (#9D)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Barlow and Jacobus Creeks	Northampton	C14	Fecal coliform	N/A <sup>2</sup>	MPN/day
11.	Jackson Creek (84A)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Broad and Jackson Creeks	Middlesex	C03	Fecal coliform	N/A <sup>2</sup>	MPN/day
12.	Jackson Creek (84B)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Broad and Jackson Creeks	Middlesex	C03	Fecal coliform	N/A <sup>2</sup>	MPN/day

# Regulations

13.	Browns Bay	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Browns Bay and Monday Creek	Gloucester	C06	Fecal coliform	N/A <sup>2</sup>	MPN/day
14.	Monday Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Browns Bay and Monday Creek	Gloucester	C06	Fecal coliform	N/A <sup>2</sup>	MPN/day
15.	Cherrystone Inlet, Kings Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Cherrystone Inlet	Northampton	C15, C16	Fecal coliform	N/A <sup>2</sup>	MPN/day
16.	Chesconessex Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chesconessex Creek	Accomack	C11	Fecal coliform	N/A <sup>2</sup>	MPN/day
17.	Cockrell Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Cockrell Creek	Northumberland	C01	Fecal coliform	5.98E+10	MPN/day
18.	Craddock Creek (A)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination	Accomack	C13	Fecal coliform	N/A <sup>2</sup>	MPN/day
19.	Bagwell Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Deep, Hunting and Bagwell Creeks	Accomack	C10	Fecal coliform	N/A <sup>2</sup>	MPN/day
20.	Deep Creek (#138A)	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Deep, Hunting and Bagwell Creeks	Accomack	C10	Fecal coliform	N/A <sup>2</sup>	MPN/day

## Regulations

21.	Hunting Creek (#138C)	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Deep, Hunting and Bagwell Creeks	Accomack	C10	Fecal coliform	N/A <sup>2</sup>	MPN/day
22.	Dividing Creek (22A)	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Dividing Creek	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
23.	Prentice Creek (22C)	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Dividing Creek	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
24.	Prentice Creek (22D)	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Dividing Creek	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
25.	Unnamed cove of Dividing Creek (22B)	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Dividing Creek	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
26.	East River	Total Maximum Daily Load (TMDL) Report For Shellfish Waters Impaired by Bacteria - East River and Put in Creek	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
27.	Put In Creek	Total Maximum Daily Load (TMDL) Report For Shellfish Waters Impaired by Bacteria - East River and Put in Creek	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
28.	Finney Creek, upper	Total Maximum Daily Loads of Pathogens for Finney Creek	Accomack	D03	Enterococci	7.97E+07	cfu/day
29.	Rattrap Creek	Total Maximum Daily Loads of Pathogens for Finney Creek	Accomack	D03	Enterococci	2.08E+08	cfu/day

# Regulations

30.	Folly Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Folly Creek	Accomack	D03	Fecal coliform	N/A <sup>2</sup>	MPN/day
31.	Gargathy Creek, riverine	Total Maximum Daily Loads of DO and Pathogens for Gargathy Creek (-Upper, -Lower, and Riverine Portions)	Accomack	D03	E. coli	1.80E+08	cfu/day
32.	Balls Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Great Wicomico River	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
33.	Great Wicomico River	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Great Wicomico River	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
34.	Tipers Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Great Wicomico River	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
35.	Warehouse Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Great Wicomico River	Northumberland	C01, A34	Fecal coliform	N/A <sup>2</sup>	MPN/day
36.	Whays Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Great Wicomico River	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
37.	Guilford Creek (#176B)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Messongo and Guilford Creeks	Accomack	C10	Fecal coliform	None <sup>2</sup>	MPN/day
38.	Young Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Messongo and Guilford Creeks	Accomack	C10	Fecal coliform	None <sup>2</sup>	MPN/day

## Regulations

39.	Holdens Creek, upper and lower	Fecal Coliform Total Maximum Daily Load Development for Holdens Creek, Sandy Bottom Branch, and Unnamed Tributary to Sandy Bottom Branch	Accomack	C10	Fecal coliform	N/A <sup>2</sup>	counts/day
40.	Sandy Bottom Branch and UT to Sandy Bottom Branch	Fecal Coliform Total Maximum Daily Load Development for Holdens Creek, Sandy Bottom Branch, and Unnamed Tributary to Sandy Bottom Branch	Accomack	C10	E. coli	4.80E+09	cfu/day
41.	Davis Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chesapeake Bay: Horn Harbor, Doctors and Davis Creek Watersheds	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
42.	Doctors Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chesapeake Bay: Horn Harbor, Doctors and Davis Creek Watersheds	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
43.	Horn Harbor	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chesapeake Bay: Horn Harbor, Doctors and Davis Creek Watersheds	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
44.	Hungars Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Hungars Creek Watershed	Northampton	C14	Fecal coliform	5.44E+08	MPN/day
45.	Indian Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Northumberland	C01	Enterococci	6.76E+08	cfu/day



# Regulations

46.	Davenport Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	1.38E+08	MPN/day
47.	Long Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	3.17E+08	MPN/day
48.	Lees Cove	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	2.51E+08	MPN/day
49.	Georges Cove	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	7.01E+08	MPN/day
50.	Hunts Cove	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	1.05E+09	MPN/day
51.	Ashley Cove	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	1.17E+09	MPN/day
52.	Bells Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Northumberland	C01	Fecal coliform	1.25E+09	MPN/day

## Regulations

53.	Henrys Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Northumberland	C01	Fecal coliform	2.13E+09	MPN/day
54.	Barnes Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Northumberland	C01	Fecal coliform	3.65E+09	MPN/day
55.	Tabbs Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	5.36E+09	MPN/day
56.	Dymer Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	8.25E+09	MPN/day
57.	Antipoison Creek	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Lancaster	C01	Fecal coliform	8.60E+09	MPN/day
58.	Indian Creek (including Arthur and Pitmans Creeks)	Indian, Tabbs, Dyer, and Antipoison Creeks Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Pollution	Northumberland	C01	Fecal coliform	3.82E+09	MPN/day
59.	Little Mosquito Creek	Bacteria TMDL Development for the Little Mosquito Creek Watershed	Accomack	D01	Fecal coliform	5.15E+08	MPN/day

# Regulations

60.	Broad Bay, Long Creek, and Linkhorn Bay	Lynnhaven Bay, Broad Bay and Linkhorn Bay Watersheds Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination	Virginia Beach	C08	Fecal coliform	9.35E+10	cfu/year
61	Lynnhaven River	Lynnhaven Bay, Broad Bay and Linkhorn Bay Watersheds Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination	Virginia Beach	C08	Fecal coliform	9.01E+11	cfu/year
62.	Mattawoman Creek	TMDL Report for Chesapeake Bay Shellfish Waters: Mattawoman Creek Bacterial Impairment	Northampton	C14	Fecal coliform	1.15E+09	MPN/day
63.	Messongo Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Messongo and Guilford Creeks	Accomack	C10	Fecal coliform	None <sup>2</sup>	MPN/day
64.	Messongo Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Messongo Creek Watershed	Accomack	C10	Fecal coliform	1.00E+08	MPN/day
65.	Billups Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Gwynn's Island and Milford Haven Watersheds	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
66.	Edwards Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Gwynn's Island and Milford Haven Watersheds	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
67.	Morris Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Gwynn's Island and Milford Haven Watersheds	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day

## Regulations

68.	Queens Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Gwynn's Island and Milford Haven Watersheds	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
69.	Stutts Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Gwynn's Island and Milford Haven Watersheds	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
70.	Ball Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chesapeake Bay: Mill Creek to Dividing Creek	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
71.	Cloverdale Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chesapeake Bay: Mill Creek to Dividing Creek	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
72.	Mill Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chesapeake Bay: Mill Creek to Dividing Creek	Northumberland	C01	Fecal coliform	N/A <sup>2</sup>	MPN/day
73.	McLean Gut	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Nandua and Curratuck Creeks	Accomack	C13	Fecal coliform	N/A <sup>2</sup>	MPN/day
74.	Nandua Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Nandua and Curratuck Creeks	Accomack	C13	Fecal coliform	N/A <sup>2</sup>	MPN/day
75.	<del>Church Creek</del> (Reserved)	<del>Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Nassawadox Creek Watershed</del>	<del>Northampton</del>	<del>C13</del>	<del>Fecal coliform</del>	<del>N/A<sup>2</sup></del>	<del>MPN/day</del>

# Regulations

76.	Holly Grove Cove (Reserved)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination—Nassawadox Creek Watershed	Northampton	C13	Fecal coliform	N/A <sup>2</sup>	MPN/day
77.	Nassawadox Creek, upper	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination—Nassawadox Creek Watershed <u>Bacteria Total Maximum Daily Loads for Nassawadox Creek and Tributaries and Westerhouse Creek in Northampton County, Virginia</u>	Northampton	C13	Fecal coliform	N/A <sup>2</sup> 6.04E+12	MPN/day counts/year
78.	Warehouse Creek, upper (Reserved)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination—Nassawadox Creek Watershed	Northampton	C13	Fecal coliform	N/A <sup>2</sup>	MPN/day
79.	Westerhouse Creek—Part A	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination—Nassawadox Creek Watershed <u>Bacteria Total Maximum Daily Loads for Nassawadox Creek and Tributaries and Westerhouse Creek in Northampton County, Virginia</u>	Northampton	C13, C14	Fecal coliform	N/A <sup>2</sup> 2.29E+11	MPN/day counts/year
80.	Westerhouse Creek—Part B (Reserved)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination—Nassawadox Creek Watershed	Northampton	C13, C14	Fecal coliform	N/A <sup>2</sup>	MPN/day
81.	Back Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - North River	Gloucester	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day

## Regulations

82.	Blackwater Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - North River	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
83.	Elmington Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - North River	Gloucester	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
84.	Greenmansion Cove	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - North River	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
85.	North River	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - North River	Mathews	C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
86.	Occohannock Creek, upper	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Occohannock Creek	Accomack	C13	Fecal coliform	N/A <sup>2</sup>	MPN/day
87.	Old Plantation Creek, upper VDH-DSS condemnation	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Old Plantation and Elliots Creeks	Northampton	C16	Fecal coliform	N/A <sup>2</sup>	MPN/day
88.	Onancock Creek, south branch	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Onancock Creek	Accomack	C11	Enterococci	N/A <sup>2</sup>	cfu/day
89.	Onancock Creek, upper	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Onancock Creek	Accomack	C11	Enterococci	N/A <sup>2</sup>	cfu/day
90.	Onancock Creek, north branch	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Onancock Creek	Accomack	C11	Enterococci	9.94E+08	cfu/day

# Regulations

91.	Cedar Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Onancock Creek	Accomack	C11	Fecal coliform	N/A <sup>2</sup>	MPN/day
92.	Finneys Creek, upper	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Onancock Creek	Accomack	C11	Enterococci	N/A <sup>2</sup>	cfu/day
93.	Onancock Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Onancock Creek	Accomack	C11	Fecal coliform	N/A <sup>2</sup>	MPN/day
94.	Onancock Creek, central branch	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Onancock Creek	Accomack	C11	Enterococci	N/A <sup>2</sup>	cfu/day
95.	Chesapeake Bay, unnamed tributary (Big Fleets Pond)	Owens Pond, Little Taskmakers Creek, and Un-named Tributary to Chesapeake Bay (Big Fleets Pond) Total Maximum Daily Load Report for Shellfish Condemnation Impaired Due to Bacteria Contamination	Northumberland	C01	Fecal coliform	1.37E+08	MPN/day
96.	Little Taskmakers Creeks	Owens Pond, Little Taskmakers Creek, and Un-named Tributary to Chesapeake Bay (Big Fleets Pond) Total Maximum Daily Load Report for Shellfish Condemnation Impaired Due to Bacteria Contamination	Northumberland	C01	Fecal coliform	3.67E+08	MPN/day
97.	Owens Pond	Owens Pond, Little Taskmakers Creek, and Un-named Tributary to Chesapeake Bay (Big Fleets Pond) Total Maximum Daily Load Report for Shellfish Condemnation Impaired Due to Bacteria Contamination	Northumberland	C01	Fecal coliform	1.56E+09	MPN/day

## Regulations

98.	Oyster Harbor	TMDL Report for Chesapeake Bay Shellfish Waters: Oyster Harbor Bacterial Impairment	Northampton	D05, D06	Fecal coliform	4.28E+08	MPN/day
99.	Parker Creek	Bacteria Total Maximum Daily Load Development for the Parker Creek Watershed	Accomack	D03	Fecal coliform	1.59E+10	MPN/day
100.	Pettit Branch	Total Maximum Daily Load of Bacteria for Pettit Branch	Accomack	D02	E. coli	0	cfu/day
101.	Piankatank River, Cobbs Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Piankatank River, Lower	Mathews	C03, C04	Fecal coliform	N/A <sup>2</sup>	MPN/day
102.	Piankatank River, Healy Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Piankatank River, Lower	Middlesex	C03	Fecal coliform	N/A <sup>2</sup>	MPN/day
103.	Piankatank River, Wilton Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Piankatank River, Lower	Middlesex	C03	Fecal coliform	N/A <sup>2</sup>	MPN/day
104.	Harper Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Piankatank River, Upper	Gloucester	C03	Fecal coliform	N/A <sup>2</sup>	MPN/day
105.	Piankatank River	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Piankatank River, Upper	King and Queen, Gloucester, Middlesex, Essex	C02, C03	Fecal coliform	N/A <sup>2</sup>	MPN/day
106.	Pitts Creek, unnamed tributary	Total Maximum Daily Load of Pathogens for the Unnamed Tributary to Pitts Creek	Accomack	C09	E. coli	6.40E+07	cfu/day
107.	Pitts Creek, unnamed tributary	Total Maximum Daily Load on Dissolved Oxygen In Unnamed Tributary to Pitts Creek	Accomack	C09	Total nitrogen	0	lbs/day
108.	Pitts Creek, unnamed tributary	Total Maximum Daily Load on Dissolved Oxygen In Unnamed Tributary to Pitts Creek	Accomack	C09	Total phosphorus	0	lbs/day



# Regulations

109.	Pocomoke Sound and Pocomoke River including Holden Creek, Bulbeggan Creek, and Pitts Creek <sup>3</sup>	Total Maximum Daily Loads of Fecal Coliform for the Restricted Shellfish Harvesting/Growing Areas of the Pocomoke River in the Lower Pocomoke River Basin and Pocomoke Sound Basin	Accomack	C09, C10	Fecal coliform	1.37E+09	MPN/day
110.	Back Creek	Total Maximum Daily Loads of Bacteria for Poquoson River and Back Creek	York	C07	Fecal coliform	1.41E+13	counts/year
111.	Poquoson River	Total Maximum Daily Loads of Bacteria for Poquoson River and Back Creek	Poquoson, York	C07	Fecal coliform	1.12E+14	counts/year
112.	Free School Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Severn River	Gloucester	C06	Fecal coliform	N/A <sup>2</sup>	MPN/day
113.	Heywood Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Severn River	Gloucester	C06	Fecal coliform	N/A <sup>2</sup>	MPN/day
114.	Northwest Branch Severn River	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Severn River	Gloucester	C06	Fecal coliform	N/A <sup>2</sup>	MPN/day
115.	Thorntons Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Severn River	Gloucester	C06	Fecal coliform	N/A <sup>2</sup>	MPN/day
116.	Vaughans Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Severn River	Gloucester	C06	Fecal coliform	N/A <sup>2</sup>	MPN/day
117.	Greenbackville Harbor	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chincoteague Bay	Accomack	D01	Fecal coliform	N/A <sup>2</sup>	MPN/day

## Regulations

118.	Swan Gut Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Chincoteague Bay	Accomack	D01	Fecal coliform	N/A <sup>2</sup>	MPN/day
119.	The Gulf, upper	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - The Gulf	Northampton	C14	Fecal coliform	N/A <sup>2</sup>	MPN/day
120.	Pungoteague Creek (Warehouse Prong and Bull Run Creek)	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Pungoteague Creek	Accomack	C12	Fecal coliform	N/A <sup>2</sup>	MPN/day
121.	Taylor Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Pungoteague Creek	Accomack	C12, C13	Fecal coliform	N/A <sup>2</sup>	MPN/day
122.	Fox Mill Run	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Ware River	Gloucester	C05	Fecal coliform	N/A <sup>2</sup>	MPN/day
123.	Ware River	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Ware River	Gloucester	C05	Fecal coliform	N/A <sup>2</sup>	MPN/day
124.	Wilson Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination - Ware River	Gloucester	C05, C06	Fecal coliform	N/A <sup>2</sup>	MPN/day
125.	Cockrell Creek	Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination - Cockrell Creek	Northumberland	C01	Fecal coliform	1.49E+11	cfu/day
126.	Red Bank Creek, riverine	Bacteria TMDL Development in Red Bank Creek and Machipongo River, Virginia	Accomack, Northampton	D04R	E. coli	1.08E+8	cfu/yr

# Regulations

127.	Red Bank Creek, estuarine	Bacteria TMDL Development in Red Bank Creek and Machipongo River, Virginia	Accomack, Northampton	D04E	Enterococci	3.93E+6	cfu/yr
128.	Machipongo River, estuarine	Bacteria TMDL Development in Red Bank Creek and Machipongo River, Virginia	Accomack, Northampton	D04E	Enterococci	9.03E+6	cfu/yr
129.	Red Bank Creek, shellfish	Bacteria TMDL Development in Red Bank Creek and Machipongo River, Virginia	Accomack, Northampton	D04E	Fecal coliform	5.10E+11	counts/yr
130.	Machipongo River, shellfish	Bacteria TMDL Development in Red Bank Creek and Machipongo River, Virginia	Accomack, Northampton	D04E	Fecal coliform	2.04E+12	counts/yr

**Notes:**

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

<sup>2</sup>There were no point source dischargers in the modeled TMDL area.

<sup>3</sup>This WLA represents only the Virginia portion of the watershed.

**EDITOR'S NOTE:** Subsections B and C of 9VAC25-720-110 are not amended; therefore, the text of those subsections is not set out.

VA.R. Doc. No. R17-5223; Filed July 31, 2017, 11:04 a.m.

## Proposed Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** 9VAC25-860. **General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Potable Water Treatment Plants (amending 9VAC25-860-10, 9VAC25-860-15, 9VAC25-860-20, 9VAC25-860-40 through 9VAC25-860-70).**

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

**Public Hearing Information:**

September 28, 2017 - 3 p.m. - Department of Environmental Quality, 629 East Main Street, 2nd Floor Conference Room, Richmond, VA 23219

**Public Comment Deadline:** October 20, 2017.

**Small Business Impact Review Report of Findings:** This proposed regulatory action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

**Agency Contact:** Elleanore Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4067, FAX (804) 698-4032, or email [elleanore.daub@deq.virginia.gov](mailto:elleanore.daub@deq.virginia.gov).

**Summary:**

*The proposed regulatory action reissues the existing Virginia Pollutant Discharge Elimination System general permit that expires on June 30, 2018. The general permit contains limitations and monitoring requirements for point source discharge of process wastewaters resulting from the production of potable water. This general permit*

regulation is being reissued so that these facilities may continue to discharge.

Proposed substantive changes to the existing regulation include (i) removing the requirement to submit a groundwater monitoring plan with the registration if the plan has been previously submitted and approved, (ii) allowing for electronic submittals of registration statements, (iii) defining how to estimate discharge flow as "a technical evaluation of the sources contributing to the discharge," (iv) removing the allowance for reduced monitoring for reverse osmosis plants, (v) requiring a corrective action plan when groundwater is contaminated, and (vi) changing the requirement to conduct whole effluent toxicity testing from facilities with a one-time daily maximum flow of greater than or equal to 50,000 gallons per day to facilities with a daily maximum flow rate greater than or equal to 50,000 gallons per day over three consecutive monitoring periods.

CHAPTER 860

~~GENERAL~~ VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) ~~VPDES~~ GENERAL PERMIT FOR POTABLE WATER TREATMENT PLANTS

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

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

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

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

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

~~"Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man made channels, or storm drains) (i) owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of~~

~~the Clean Water Act (CWA) that discharges to surface waters of the state; (ii) designed or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of a publicly owned treatment works (POTW).~~

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

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

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

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

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

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

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated herein, that regulation shall be as it exists and has been published as of July 1, ~~2012~~ 2017.

**9VAC25-860-20. Purpose.**

This general permit regulation governs the discharge of ~~process~~ wastewater from potable water treatment plants to surface waters.

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

This general VPDES permit will become effective on ~~December 24, 2013~~ July 1, 2018, and will expire on June 30, ~~2018~~ 2023. This general permit is effective for any covered

---

# Regulations

---

owner upon compliance with all the provisions of 9VAC25-860-50.

## **9VAC25-860-50. Authorization to discharge.**

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

1. The owner submits a registration statement in accordance with 9VAC25-860-60 and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-860-70; and
4. The board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

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

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

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

D. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the potable water treatment plant general permit issued in ~~2008~~ 2013 and that submits a complete registration statement on or before ~~December 24, 2013~~ June 30, 2018, is authorized

to continue to discharge under the terms of the ~~2008~~ 2013 general permit until such time as the board either:

- a. Issues coverage to the owner under this general permit; or
  - b. Notifies the owner that the discharge is not eligible for coverage under this general permit.
2. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:
    - a. Initiate enforcement action based upon the ~~2008~~ 2013 general permit;
    - 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 administratively continued coverage under the terms of the ~~2008~~ 2013 general permit or be subject to enforcement action for discharging without a permit;
    - c. Issue an individual permit with appropriate conditions; or
    - d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

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

A. Deadlines for submitting registration statement. The owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for potable water treatment plants.

1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least 60 days prior to the date planned for commencement of the new discharge.
2. Existing facilities.
  - a. Any owner covered by an individual VPDES permit who is proposing to be covered by this general permit shall submit a complete registration statement at least 270 days prior to the expiration date of the individual VPDES permit.
  - b. Any owner that was authorized to discharge under the general VPDES permit that became effective on December 24, ~~2008~~ 2013, and who intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before ~~October 24, 2013~~ May 1, 2018.
  - c. Any owner of a potable water treatment plant not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement.

B. Late registration statements. Registration statements for existing owners covered under subdivision A 2 b of this section will be accepted after ~~December 24, 2013~~ June 30, 2018, but authorization to discharge will not be retroactive. Owners described in subdivision A 2 b of this section that submit registration statements after ~~October 24, 2013~~ May 1, 2018, are authorized to discharge under the provisions of 9VAC25-860-50 D if a complete registration statement is submitted on or before ~~December 24, 2013~~ June 30, 2018.

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

1. Facility name and street address, owner name, mailing address, telephone number, and email address (if available);
2. Operator or other contact name, mailing address, telephone number, and email address (if available);
3. The nature of the business;
4. A USGS 7.5 minute topographic map or equivalent computer generated map showing the facility location extending to at least one mile beyond the property boundary and the location of the discharge ~~point(s)~~ points;
5. The receiving waters of the discharge;
6. The outfall number, latitude and longitude, the daily maximum actual or projected wastewater flow rate (millions of gallons per day or gallons per day), typical volume, duration of discharges, and frequency of discharge;
7. The type of water treatment (e.g., conventional, microfiltration, ultrafiltration, nanofiltration, reverse osmosis, or a combination of these) and, if applicable, a description of any treatment type changes since the previous registration statement was submitted;
8. The number of any existing VPDES permit that authorizes discharges from the potable water treatment plant;
9. If the existing VPDES permit contains a groundwater monitoring plan requirement, a copy of the board-approved plan ~~should~~ shall be submitted unless the plan has been previously submitted and approved and remains unchanged. If a plan has been previously approved, cite the plan and date of approval;
10. Information regarding the lining of any settling basins or lagoons, whether such units are earthen lined, and if so, whether the linings have a permeability of no greater than  $10^{-6}$  cm/sec;
11. The results of any whole effluent toxicity evaluation required by the ~~2008~~ 2013 potable water treatment plant general permit regulation, 9VAC25-860-50 A 3, or the current individual permit, if not previously submitted to the department;

12. A schematic drawing showing the ~~source(s)~~ sources of water used on the property and the conceptual design of the methods of treatment and disposal of process wastewater;

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

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

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

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

17. The following certification:

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

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

E. The registration statement shall be delivered to the department's regional office where the industrial facility is located by either postal or electronic mail.

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

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

# Regulations

General Permit No.: VAG64

Effective Date: ~~December 24, 2013~~ July 1, 2018

Expiration Date: June 30, ~~2018~~ 2023

GENERAL PERMIT FOR POTABLE WATER  
TREATMENT PLANTS

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

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

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

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. Facilities other than reverse osmosis or nanofiltration plants.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater from ~~outfall(s)~~ outfalls: \_\_\_\_\_

Such discharges shall be limited and monitored as specified below:

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

NL - No Limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</sup> Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

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

<sup>(2)(3)</sup> Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the minimum and maximum effluent limitations.

<sup>(3)(4)</sup> Composite - For continuous discharges, five grab samples collected at hourly intervals. For batch discharges, five grab samples taken at evenly placed intervals until the discharge ceases, or until a minimum of five grab samples have been collected. For continuous or batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge.

<sup>(4)(5)</sup> Total residual chlorine limit shall only be applicable to facilities that use chlorine in the treatment process.

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

2. Reverse osmosis and nanofiltration plants.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater originating from ~~outfall(s)~~ outfalls: \_\_\_\_\_

Such discharges shall be limited and monitored as specified below:

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

NL - No limitation, monitoring requirement only

NA - Not applicable

<sup>(4)</sup> ~~Monitoring frequencies shall be reduced to 1/quarter upon written notification from the DEQ regional office. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.~~

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

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

<sup>(3)</sup> Composite - For continuous discharges, five grab samples collected at hourly intervals. For batch discharges, five grab samples taken at evenly placed intervals until the discharge ceases or until a minimum of five grab samples have been collected. For continuous or batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge.

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

## B. Special conditions.

1. Inspection of the effluent, and maintenance of the process wastewater treatment facility, shall be performed daily when discharging. Documentation of the inspection and maintenance shall be recorded in an operational log. This operational log shall be made available for review by the department personnel upon request.
2. No domestic sewage discharges are permitted under this general permit.
3. No chemicals used for water and process wastewater treatment, other than those listed on the owner's accepted registration statement, are allowed. Prior approval shall be obtained from the board before any changes are made to the ~~chemical(s)~~ chemicals, in order to assure protection of water quality and beneficial uses of the waters receiving the discharge. The owner shall indicate whether the chemical is likely to enter state waters through the process wastewater discharge.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts.
5. Owners of facilities that are a source of the specified pollutant of concern to waters where an approved total maximum daily load (TMDL) has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.

6. The permittee shall notify the department as soon as ~~he~~ the permittee knows or has reason to believe:

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

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

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

- (1) Five hundred micrograms per liter;
- (2) One milligram per liter for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the general permit registration statement; or



---

# Regulations

---

(4) The level established by the board.

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

8. Compliance reporting under Part I A.

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

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

b. Reporting.

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

(2) Daily maximum. Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in subdivision 8 a ~~above~~ of this subsection shall be determined as follows: all concentration data below the QL listed in subdivision 8 a ~~above~~ shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the ~~Daily Maximum~~ daily maximum. If all

data are below the QL, then the average shall be reported as "<QL." If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.

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

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

9. Operation and ~~Maintenance Manual Requirement~~ maintenance manual requirement.

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

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

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

(1) Techniques to be employed in the collection, preservation, and analysis of effluent samples;

(2) Discussion of best management practices, if applicable;

(3) ~~Treatment Process~~ wastewater treatment system design, treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory and ~~record-keeping~~ recordkeeping;

(4) A plan for the management and/or disposal of waste solids and residues, which includes a requirement to clean settling basins and lagoons (if present at the facility) in order to achieve effective treatment and a requirement that all solids shall be handled, stored, and

disposed of so as to prevent a discharge to state waters; and

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

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

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

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

Freshwater organisms are used where the salinity of the receiving water is less than 1.0‰ (parts per thousand). Where the salinity of the receiving water is greater than or equal to 1.0‰ but less than 5.0‰ either freshwater or saltwater organisms may be used. Saltwater organisms are used where the salinity is greater than or equal to 5.0‰. There shall be a minimum of 30 days between sets of tests, and test procedures shall follow ~~Title 40 of the Code of Federal Regulations, Part 136 (40 CFR Part 136)~~ 40 CFR Part 136, which references the EPA guidance manuals for WET testing.

b. This testing shall be completed, at a minimum, during the first year of coverage under the general permit or within one year of commencing discharge.

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

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

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

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

12. Notice of termination.

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

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

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

---

# Regulations

---

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

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

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

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

(2) Facility name and location;

(3) VPDES general permit registration number for the facility; and

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

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

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

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

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

c. The following certification: "I certify under penalty of law that all process wastewater discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or a VPDES general permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge process wastewater in accordance with the general permit, and that discharging pollutants to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

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

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

## PART II

### CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

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

#### B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The ~~individual(s)~~ individuals who performed the sampling or measurements;

c. The ~~date(s)~~ dates and ~~time(s)~~ times analyses were performed;

d. The ~~individual(s)~~ 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~~ The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

#### C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit.

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

2. Monitoring results shall be reported on a ~~discharge monitoring report (DMR)~~ DMR or on forms provided, approved or specified by the department.

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

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

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

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

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

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

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately 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 ~~but are not limited to~~ any discharge resulting from:

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

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

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

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to surface waters.

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

---

# Regulations

---

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

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

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

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

## J. Notice of planned changes.

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

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

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

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

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

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

application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

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

## K. Signatory requirements.

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

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

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

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

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

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

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

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

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts II K 1 or 2 shall make the following certification:

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

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

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

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

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

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

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

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

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

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

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

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation.

---

# Regulations

---

These bypasses are not subject to the provisions of Parts II U 2 and U 3.

## 2. Notice.

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

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

## 3. Prohibition of bypass.

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

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

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

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

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

## V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

a. An upset occurred and that the permittee can identify the ~~cause(s)~~ causes of the upset;

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

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

d. The permittee complied with any remedial measures required under Part II S.

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

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

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

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

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

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

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

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

Y. Transfer of permits. Permits are 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 ~~at least~~ within 30 days ~~in advance~~ of the proposed transfer of the title to the facility or property unless permission for a later date has been granted by the board;

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

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid,

the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

VA.R. Doc. No. R17-5011; Filed August 1, 2017, 8:48 a.m.

**Final Regulation**

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The 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:** **9VAC25-870. Virginia Stormwater Management Program (VSMP) Regulation (amending 9VAC25-870-150).**

**Statutory Authority:** §§ 62.1-44.15:25 and 62.1-44.15:28 of the Code of Virginia.

**Effective Date:** September 20, 2017.

**Agency Contact:** Frederick Cunningham, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4285, or email frederick.cunningham@deq.virginia.gov.

**Summary:**

*Chapter 349 of the 2017 Acts of Assembly authorizes the hiring of certified third-party professionals to administer a program for the management of stormwater and erosion, including plan review and inspection but not including enforcement, on behalf of (i) an erosion and stormwater management program authority or (ii) a stormwater management program authority. The amendment conforms the authorization procedures for stormwater management programs to the act.*

**9VAC25-870-150. Authorization procedures for Virginia stormwater management programs.**

A. A locality adopting a VSMP in accordance with § 62.1-44.15:27 of the Code of Virginia must submit to the board an application package that, at a minimum, contains the following:

1. The draft VSMP ordinance(s) as required in 9VAC25-870-148;
2. A funding and staffing plan;
3. The policies and procedures including, but not limited to, ~~agreements~~;
  - a. ~~Agreements with Soil and Water Conservation Districts~~ soil and water conservation districts, adjacent localities, or other public or private entities for the administration, plan review, inspection, and enforcement components of the program; and
  - b. Contracts with third-party professionals who hold certificates of competence in the appropriate subject

areas, as provided in subsection A of § 62.1-44.15:30 of the Code of Virginia, to carry out any or all of the responsibilities that Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia requires of a VSMP authority, including plan review and inspection but not including enforcement; and

4. Such ordinances, plans, policies, and procedures must account for any town lying within the county as part of the locality's VSMP program unless such towns choose to adopt their own program.

B. Upon receipt of an application package, the board or its designee shall have 30 calendar days to determine the completeness of the application package. If an application package is deemed to be incomplete based on the criteria set out in subsection A of this section, the board or its designee must identify to the VSMP authority applicant in writing the reasons the application package is deemed deficient.

C. Upon receipt of a complete application package, the board or its designee shall have 120 calendar days for the review of the application package, unless an extension of time, not to exceed 12 months unless otherwise specified by the board in accordance with § 62.1-44.15:27 of the Code of Virginia, is requested by the department, provided the VSMP authority applicant has made substantive progress. During the 120-day review period, the board or its designee shall either approve or disapprove the application, or notify the locality of a time extension for the review, and communicate its decision to the VSMP authority applicant in writing. If the application is not approved, the reasons for not approving the application shall be provided to the VSMP authority applicant in writing. Approval or denial shall be based on the application's compliance with the Virginia Stormwater Management Act and this chapter.

D. A VSMP authority applicant in accordance with § 62.1-44.15:27 of the Code of Virginia shall submit a complete application package for the board's review pursuant to a schedule set by the board in accordance with § 62.1-44.15:27 and shall adopt a VSMP consistent with the Act and this chapter within the timeframe established pursuant to § 62.1-44.15:27 or otherwise established by the board.

E. A locality or other authorized entity not required to adopt a VSMP in accordance with § 62.1-44.15:27 of the Code of Virginia but electing to adopt a VSMP shall notify the department. Such notification shall include a proposed adoption date for a local stormwater management program on or after July 1, 2014, in accordance with a schedule developed by the department.

VA.R. Doc. No. R17-5127; Filed July 31, 2017, 10:35 a.m.





## TITLE 12. HEALTH

### DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

#### Fast-Track Regulation

**Title of Regulation:** 12VAC35-105. Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (amending 12VAC35-105-925).

**Statutory Authority:** § 37.2-203 of the Code of Virginia.

**Public Hearing Information:** No public hearings are scheduled.

**Public Comment Deadline:** September 21, 2017.

**Effective Date:** October 6, 2017.

**Agency Contact:** Cleopatra L. Booker, Psy.D., Director, Office of Licensing, Department of Behavioral Health and Developmental Services, 1220 Bank Street, P.O. Box 1797, Richmond, VA 23218, telephone (804) 663-7271, FAX (804) 692-0066, or email cleopatra.booker@dbhds.virginia.gov.

**Basis:** Section 37.2-203 of the Code of Virginia authorizes the State Board of Behavioral Health and Developmental Services to adopt regulations that may be necessary to carry out the provisions of Title 37.2 and other laws of the Commonwealth administered by the Commissioner and the Department of Behavioral Health and Developmental Services (DBHDS).

**Purpose:** The purpose of this fast-track regulatory action is to align 12VAC35-105-925 of the licensing regulations with changes in § 37.2-406 of the Code of Virginia. Specifically, the Code of Virginia contains three exceptions to the geographic restriction on DBHDS-licensed providers of treatment for persons with opiate addiction through the use of opioid replacements that are within one-half mile of a K-12 school or licensed day care center for the treatment of opioid addiction. The history of the exemptions is:

- Chapter 845 of the 2004 Acts of Assembly, which added Planning District 8.
- Chapter 415 of the 2014 Acts of Assembly, which added Planning District 23.
- Chapter 480 of the 2016 Acts of Assembly, which added using nonmethadone opioid replacements if the opioid replacement has been approved by the U.S. Food and Drug Administration for the treatment of opioid addiction.

**Rationale for Using Fast-Track Rulemaking Process:** The language already exists in the Code of Virginia, thus providers must already comply with the language. No new language is proposed.

**Substance:** This fast-track rulemaking action updates the existing regulation to reflect these, and any future, changes to state law. The amendment deletes all language in 12VAC35-105-925 B, except the language cross-referencing § 37.2-406.

**Issues:** This action makes it clearer to providers what is required regarding where to locate services for DBHDS-licensed providers of treatment for persons with opiate addiction. Rather than attempting to replicate language in the Code of Virginia, which was and could become updated faster than the regulatory language, this amendment will direct providers directly to the appropriate source in the Code of Virginia.

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

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 480 of the 2016 Acts of Assembly,<sup>1</sup> the State Board of Behavioral Health and Developmental Services (Board) proposes to permit treatment programs using non-methadone opioid replacements to be within a half-mile of a K-12 school or licensed day care center if the opioid replacement has been approved by the U.S. Food and Drug Administration (FDA) for the treatment of opioid addiction.

**Result of Analysis.** The benefits likely exceed the costs for the proposed change.

**Estimated Economic Impact.** The current regulation prohibits providers of services to individuals with opioid addiction from locating within one-half mile of a public or private licensed day care center or a public or private K-12 school.<sup>2</sup> Consistent with the above-mentioned 2016 legislation, the Board proposes to allow treatment programs using non-methadone opioid replacements to be within a half-mile of a K-12 school or licensed day care center if the opioid replacement has been approved by FDA for the treatment of opioid addiction. Providing greater location flexibility may reduce costs for providers of programs that provide services to individuals who are addicted to opioids. This may enable greater resources to be directly applied toward opioid treatment services and may enable additional clinics to open.

The prohibition has existed in the first place since there has been concern that the presence of drug treatment facilities might increase crime near schools. Research has shown though that the presence of drug treatment facilities is no more associated with crime than the presence of other commercial businesses, and is less associated with crime than are convenience stores and corner stores.<sup>3</sup> Thus the benefits of the proposed amendment likely exceed the cost.

**Businesses and Entities Affected.** There are 36 programs licensed by the Department of Behavioral Health and Developmental Services (DBHDS) that provide services to individuals who are addicted to opioids. Community Service Boards run 3 of the programs. The remaining 33 licensed programs are private.<sup>4</sup> The proposed amendment potentially affects these programs and future programs.

**Localities Particularly Affected.** All localities in Planning District 8 (Northern Virginia)<sup>5</sup> and cities in Planning District 23 (Hampton Roads)<sup>6</sup> are already exempted from the location prohibition. Thus the proposed elimination of the location prohibition would potentially affect all Virginia localities

outside of Northern Virginia that are not cities in Hampton Roads.

**Projected Impact on Employment.** The proposed amendment is not likely to significantly directly affect employment.

**Effects on the Use and Value of Private Property.** The proposed amendment would newly allow private property located within a half-mile of a K-12 school or licensed day care center to be used by programs using non-methadone opioid replacements if the opioid replacement has been approved by the FDA for the treatment of opioid addiction. Given that such programs would make up a very small portion of potential renters or purchasers of property located within a half-mile of a K-12 school or licensed day care center, the proposed amendment would in most cases not significantly affect the market value of private property.

**Real Estate Development Costs.** The proposed amendment does not significantly affect real estate development costs.

**Small Businesses:**

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

**Costs and Other Effects.** The proposed amendment increases the potential locations that may be used by small private programs that provide services to individuals who are addicted to opioids. This may reduce their facility/office rental costs.

**Alternative Method that Minimizes Adverse Impact.** The proposed amendment does not adversely affect small businesses.

**Adverse Impacts:**

**Businesses.** The proposed amendment does not adversely affect businesses.

**Localities.** The proposed amendment does not adversely affect localities.

**Other Entities.** The proposed amendment does not adversely affect other entities.

<sup>1</sup> See <http://leg1.state.va.us/cgi-bin/legp504.exe?161+sum+SB556>

<sup>2</sup> There are exceptions to the prohibition for programs within Planning District 8 and within cities in Planning District 23. Planning District 8 includes: a) the Counties of Arlington, Fairfax, Loudoun, and Prince William, b) the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, and c) the Towns of Dumfries, Herndon, Leesburg, Purcellville, and Vienna. The cities within Planning District 23 are: Chesapeake, Franklin, Hampton, Poquoson, Williamsburg, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

<sup>3</sup> See C. Debra M. Furr-Holden, Adam J. Milam, Elizabeth D. Nesoff, Renee M. Johnson, David O. Fakunle, Jacky M. Jennings, and Roland J. Thorpe, Jr. "Not in My Back Yard: A Comparative Analysis of Crime Around Publicly Funded Drug Treatment Centers, Liquor Stores, Convenience Stores, and Corner Stores in One Mid-Atlantic City," *Journal of Studies on Alcohol and Drugs* 2016 77:1, 17-24.

<sup>4</sup> Data source: Department of Behavioral Health and Developmental Services

<sup>5</sup> Planning District 8 includes: a) the Counties of Arlington, Fairfax, Loudoun, and Prince William, b) the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, and c) the Towns of Dumfries, Herndon, Leesburg, Purcellville, and Vienna.

<sup>6</sup> Cities within Planning District 23 are: Chesapeake, Franklin, Hampton, Poquoson, Williamsburg, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

**Agency's Response to Economic Impact Analysis:** The agency concurs with the Department of Planning and Budget's economic impact analysis.

**Summary:**

*Chapter 480 of the 2016 Acts of Assembly authorizes the Department of Behavioral Health and Developmental Services to license programs using nonmethadone opioid replacements that are within one-half mile of a K-12 school or licensed day care center if the opioid replacement has been approved by the U.S. Food and Drug Administration for the treatment of opioid addiction. The amendments implement the changes to § 37.2-406 of the Code of Virginia enacted by Chapter 480.*

Part VI

Additional Requirements for Selected Services

Article 1

Medication Assisted Treatment (Opioid Treatment Services)

**12VAC35-105-925. Standards for the evaluation of new licenses for providers of services to individuals with opioid addiction.**

A. Applicants requesting an initial license to provide a service for the treatment of opioid addiction through the use of methadone or any other opioid treatment medication or controlled substance shall supply information to the department that demonstrates the appropriateness of the proposed service in accordance with this section.

B. The proposed site of the service shall comply with § 37.2-406 of the Code of Virginia ~~and, with the exception of services that are proposed to be located in Planning District 8, shall not be located within one-half mile of a public or private licensed day care center or a public or private K-12 school.~~

C. In jurisdictions without zoning ordinances, the department shall request that the local governing body advise it as to whether the proposed site is suitable for and compatible with use as an office and the delivery of health care services. The department shall make this request when it notifies the local governing body of a pending application.

D. Applicants shall demonstrate that the building or space to be used to provide the proposed service is suitable for the treatment of opioid addiction by submitting documentation of the following:

1. The proposed site complies with the requirements of the local building regulatory entity;
2. The proposed site complies with local zoning laws or ordinances, including any required business licenses;

---

# Regulations

---

3. In the absence of local zoning ordinances, the proposed site is suitable for and compatible with use as offices and the delivery of health care services;

4. In jurisdictions where there are no parking ordinances, the proposed site has sufficient off-street parking to accommodate the needs of the individuals being served and prevent the disruption of traffic flow;

5. The proposed site can accommodate individuals during periods of inclement weather;

6. The proposed site complies with the Virginia Statewide Fire Prevention Code; and

7. The applicant has a written plan to ensure security for storage of methadone at the site, which complies with regulations of the Drug Enforcement Agency (DEA), and the Virginia Board of Pharmacy.

E. Applicants shall submit information to demonstrate that there are sufficient personnel available to meet the following staffing requirements and qualifications:

1. The program director shall be licensed or certified by the applicable Virginia health regulatory board or by a nationally recognized certification board or eligible for this license or certification with relevant training, experience, or both, in the treatment of individuals with opioid addiction;

2. The medical director shall be a board-certified addictionologist or have successfully completed or will complete within one year a course of study in opiate addiction that is approved by the department;

3. A minimum of one pharmacist;

4. Nurses;

5. Counselors shall be licensed or certified by the applicable Virginia health regulatory board or by a nationally recognized certification board or eligible for this license or certification; and

6. Personnel to provide support services.

F. Applicants shall submit a description for the proposed service that includes:

1. Proposed mission, philosophy, and goals of the provider;

2. Care, treatment, and services to be provided, including a comprehensive discussion of levels of care provided and alternative treatment strategies offered;

3. Proposed hours and days of operation;

4. Plans for on-site security; and

5. A diversion control plan for dispensed medications, including policies for use of drug screens.

G. Applicants shall, in addition to the requirements of 12VAC35-105-580 C 2, provide documentation of their capability to provide the following services and support directly or by arrangement with other specified providers when such services and supports are (i) requested by an individual being served or (ii) identified as an individual

need, based on the assessment conducted in accordance with 12VAC35-105-60 B and included in the individualized services plan:

1. Psychological services;

2. Social services;

3. Vocational services;

4. Educational services; and

5. Employment services.

H. Applicants shall submit documentation of contact with community services boards or behavioral health authorities in their service areas to discuss their plans for operating in the area and to develop joint agreements, as appropriate.

I. Applicants shall provide policies and procedures that each individual served to be assessed every six months by the treatment team to determine if that individual is appropriate for safe and voluntary medically supervised withdrawal, alternative therapies including other medication assisted treatments, or continued federally approved pharmacotherapy treatment for opioid addiction.

J. Applicants shall submit policies and procedures describing services they will provide to individuals who wish to discontinue opioid treatment services.

K. Applicants shall provide assurances that the service will have a community liaison responsible for developing and maintaining cooperative relationships with community organizations, other service providers, local law enforcement, local government officials, and the community at large.

L. The department shall conduct announced and unannounced reviews and complaint investigations in collaboration with the Virginia Board of Pharmacy and DEA to determine compliance with the regulations.

VA.R. Doc. No. R17-5052; Filed July 28, 2017, 10:47 a.m.

---

◆ ————— ◆

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

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

#### Final Regulation

**REGISTRAR'S NOTICE:** The Virginia Board for Asbestos, Lead, and Home Inspectors is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Virginia Board for Asbestos, Lead, and Home Inspectors will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 18VAC15-40. Home Inspector Licensing Regulations (amending 18VAC15-40-10, 18VAC15-40-130).

**Statutory Authority:** §§ 54.1-201 and 54.1-501 of the Code of Virginia.

**Effective Date:** September 20, 2017.

**Agency Contact:** Trisha L. Henshaw, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

**Summary:**

*The amendments conform to Chapter 805 of the 2017 Acts of Assembly by (i) requiring that a home inspector observing the presence of any yellow corrugated stainless steel tubing while inspecting a home built prior to the adoption of the construction code effective May 1, 2008, must disclose this observation in the home inspection report, along with a specific advisory statement to the consumer; and (ii) incorporating relevant definitions for the home inspection report section.*

Part I  
General

**18VAC15-40-10. Definitions.**

A. Section 54.1-500 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Board"

"Home inspection"

"Home inspector"

"Person"

"Residential building"

B. Section 54.1-517.2:1 of the Code of Virginia provides definitions of the following terms and phrases as used in 18VAC15-40-130:

"Bonding"

"Corrugated stainless steel tubing"

"Grounding"

C. The following words and terms when used in this chapter shall have the following meanings unless a different meaning is provided or is plainly required by the context:

"Address of record" means the mailing address designated by the licensee to receive notices and correspondence from the board.

"Adjacent" means adjoining or within three feet of the residential building and that may affect the residential building.

"Applicant" means an individual who has submitted an application for licensure.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation.

"Client" means a person who engages the services of a home inspector for a home inspection.

"Compensation" means the receipt of monetary payment or other valuable consideration for services rendered.

"Component" means a part of a system.

"Contact hour" means 50 minutes of participation in a structured training activity.

"CPE" means continuing professional education.

"Department" means the Department of Professional and Occupational Regulation.

"Financial interest" means financial benefit accruing to an individual or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership exceeds 3.0% of the total equity of the business; (ii) annual gross income that exceeds or may be reasonably anticipated to exceed \$1,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, forgiveness of debt, or benefits from the use of property, or any combination of it, paid or provided by a business that exceeds or may be reasonably expected to exceed \$1,000 annually; (iv) ownership of real or personal property if the interest exceeds \$1,000 in value and excluding ownership in business, income, salary, other compensation, fringe benefits, or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds 3.0% of the asset value of the business; or (vi) an option for ownership of a business, real property, or personal property if the ownership interest will consist of clause (i) or (iv) of this definition.

"Fireplace" means an interior fire-resistant masonry permanent or prefabricated fixture that can be used to burn fuel and is either vented or unvented.

"Foundation" means the element of a structure that connects to the ground and transfers loads from the structure to the ground. Foundations may be shallow or deep.

"Licensee" means a home inspector as defined in Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia.

"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.

"New residential structure" or "NRS" means a residential structure for which the first conveyance of record title to a purchaser has not occurred or the purchaser has not taken possession, whichever occurs later.

"NRS specialty" means a designation granted by the board to a home inspector that authorizes such individual to conduct home inspections on any new residential structure.

---

# Regulations

---

"Outbuilding" means any structure on the property that is more than three feet from the residential building and that may affect the residential building.

"Prelicense education course" means an instruction program approved by the board and is one of the requirements for licensure effective July 1, 2017.

"Readily accessible" means available for access without requiring moving or removing of any obstacles.

"Reinstatement" means the process and requirements through which an expired license can be made valid without the licensee having to apply as a new applicant.

"Renewal" means the process and requirements for periodically approving the continuance of a license.

"Residential structure" means a structure consisting of no more than two dwelling units or a townhouse.

"Solid fuel burning appliances" means a hearth and fire chamber or similarly prepared place in which a fire may be built and that is built in conjunction with a chimney, or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

"Virginia Residential Code" means the provisions of the Virginia Construction Code (Part I (13VAC5-63-10 et seq.) of 13VAC5-63) applicable to R-5 residential structures and that includes provisions of the International Residential Code as amended by the Board of Housing and Community Development.

## **18VAC15-40-130. Home inspection report.**

### **A. Home inspection reports shall contain:**

#### **1. Information pertaining to the licensee, including:**

- a. Licensee's name;
- b. Business address;
- c. Telephone number; and
- d. License number and expiration date, to be followed by "NRS" if so designated and performing a home inspection on a new residential structure;

2. The name, address, and telephone number of the client or the client's authorized representative, if available at the time of the inspection;

3. The physical address of the residential property inspected; and

4. The date, time (to include both start and finish times of the home inspection), and weather conditions at the time of the home inspection.

B. In conducting a home inspection and reporting its findings, the home inspector, at a minimum, shall inspect the condition of and shall describe in writing the composition or characteristics of the following readily accessible components

and readily observable defects, except as may be limited in the home inspection contract agreement:

#### **1. Structural system.**

- a. Foundation.
- b. Framing.
- c. Stairs.
- d. Crawl space, the method of inspecting the crawl space shall be noted and explained in the home inspection report. If the crawl space cannot be inspected, the licensee shall explain in the home inspection report why this component was not inspected.
- e. Crawl space ventilation and vapor barriers.
- f. Slab floor, when present.
- g. Floors, ceilings, and walls.

#### **2. Roof structure, attic, and insulation.**

- a. Roof covering. The method of inspecting the roof covering shall be noted and explained in the home inspection report. If the roof covering cannot be inspected, the licensee shall explain in the home inspection report why this component was not inspected.
- b. Roof ventilation.
- c. Roof drainage system, to include gutters and downspouts.
- d. Roof flashings, if readily visible.
- e. Skylights, chimneys, and roof penetrations, but not antennae or other roof attachments.
- f. Roof framing and sheathing.
- g. Attic, unless area is not readily accessible.
- h. Attic insulation.

#### **3. Exterior of residential building or NRS.**

- a. Wall covering, flashing, and trim.
- b. Readily accessible doors and windows, but not the operation of associated security locks, devices, or systems.
- c. Decks, balconies, stoops, steps, porches, attached garages, carports, and any associated railings that are adjacent to the residential building or NRS and on the same property but not associated screening, shutters, awnings, storm windows, detached garages, or storm doors.
- d. Eaves, soffits, and fascias where readily accessible from ground level.
- e. Walkways, grade steps, patios, and driveways, but not fences or privacy walls.
- f. Vegetation, trees, grading, drainage, and any retaining walls adjacent to the residential building or NRS.
- g. Visible exterior portions of chimneys.

4. Interior of residential building or NRS.
  - a. Interior walls, ceilings, and floors of residential building or NRS and any adjacent garage.
  - b. Steps, stairways, railings, and balconies and associated railings.
  - c. Countertops and installed cabinets, including hardware.
  - d. Doors and windows, but not the operation of associated security locks, devices, or systems.
  - e. Garage doors and permanently mounted and installed garage door operators. The automatic safety reverse function of garage door openers shall be tested, either by physical obstruction as specified by the manufacturer, or by breaking the beam of the electronic photo eye but only when the test can be safely performed and will not risk damage to the door, the opener, any nearby structure, or any stored items.
  - f. Fireplaces, venting systems, hearths, dampers, and fireboxes, but not mantles, fire screens and doors, seals and gaskets.
  - g. Solid fuel burning appliances, if applicable.
5. Plumbing system.
  - a. Interior water supply and distribution systems, including water supply lines and all fixtures and faucets, but not water conditioning systems or fire sprinkler systems.
  - b. Water drainage, waste, and vent systems, including all fixtures.
  - c. Drainage sumps, sump pumps, and related piping.
  - d. Water heating equipment, including energy source and related vent systems, flues, and chimneys, but not solar water heating systems.
  - e. Fuel storage and distribution systems for visible leaks.
6. Electrical system.
  - a. Service drop.
  - b. Service entrance conductors, cables, and raceways.
  - c. Service equipment and main disconnects.
  - d. Service grounding.
  - e. Interior components of service panels and sub panels, including feeders.
  - f. Conductors.
  - g. Overcurrent protection devices.
  - h. Readily accessible installed lighting fixtures, switches, and receptacles.
  - i. Ground fault circuit interrupters.
  - j. Presence or absence of smoke detectors.
  - k. Presence of solid conductor aluminum branch circuit wiring.

1. Arc fault interrupters shall be noted if installed but not tested if equipment is attached to them.

7. Heating system.

- a. Heating equipment, including operating controls, but not heat exchangers, gas logs, built-in gas burning appliances, grills, stoves, space heaters, solar heating devices, or heating system accessories such as humidifiers, air purifiers, motorized dampers, and heat reclaimers.

- b. Energy source.

- c. Heating distribution system.

- d. Vent systems, flues, and chimneys, including dampers.

8. Air conditioning system.

- a. Central and installed wall air conditioning equipment.

- b. Operating controls, access panels, and covers.

- c. Energy source.

- d. Cooling distribution system.

C. Systems in the home that are turned off, winterized, or otherwise secured so that they do not respond to normal activation using standard operating controls need not be put into operating condition. The home inspector shall state, in writing, the reason these systems or components were not inspected.

D. In accordance with § 54.1-517.2:1 of the Code of Virginia, if a home inspector observes the presence of any shade of yellow corrugated stainless steel tubing during a home inspection in a home that was built prior to the adoption of the 2006 Virginia Construction Code, effective May 1, 2008, the home inspector shall include that observation in the report along with the following statement: "Manufacturers believe that this product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product should be determined by a contractor licensed to perform the work in the Commonwealth of Virginia."

VA.R. Doc. No. R17-5101; Filed July 24, 2017, 4:16 p.m.

## BOARD OF LONG-TERM CARE ADMINISTRATORS

### Proposed Regulation

**Titles of Regulations: 18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (amending 18VAC95-20-10, 18VAC95-20-80, 18VAC95-20-175, 18VAC95-20-180, 18VAC95-20-200, 18VAC95-20-220, 18VAC95-20-221, 18VAC95-20-225, 18VAC95-20-230, 18VAC95-20-300, 18VAC95-20-340, 18VAC95-20-380, 18VAC95-20-390, 18VAC95-20-430, 18VAC95-20-470; repealing 18VAC95-20-471).**

**18VAC95-30. Regulations Governing the Practice of Assisted Living Facility Administrators (amending 18VAC95-30-10, 18VAC95-30-40, 18VAC95-30-70, 18VAC95-30-90, 18VAC95-30-100, 18VAC95-30-120,**

---

# Regulations

---

**18VAC95-30-130, 18VAC95-30-140, 18VAC95-30-150, 18VAC95-30-170, 18VAC95-30-180, 18VAC95-30-200, 18VAC95-30-210).**

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

Public Hearing Information:

September 12, 2017 - 9:35 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Suite 201, Board Room 1, Henrico, VA

Public Comment Deadline: October 22, 2017.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Henrico, VA 23233-1463, telephone (804) 367-4595, FAX (804) 527-4413, or email corie.wolf@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the general authority for the regulatory boards to promulgate regulations that are reasonable and necessary to administer effectively the regulatory system.

The specific mandate for the Board of Long-Term Care Administrators to license nursing home and assisted living facility administrators is found in § 54.1-3102 of the Code of Virginia.

Purpose: In addition to updating and clarifying the regulations, the Board of Long-Term Care Administrators proposes to include the Health Services Executive (HSE) credential as a qualification for licensure. The HSE is a new credential approved by the National Association of Long-Term Care Administrator Boards (NAB). Since the HSE incorporates and broadens the current qualifications for licensure as a nursing home administrator, it will provide adequate assurance of competency for practice and protection of the health and safety of the public served in long-term care facilities.

Additionally, the board proposes to expand the grounds for disciplinary actions or denial of licensure to include causes that would be considered unprofessional conduct but are not explicitly listed in the current regulation. Causes or grounds for action currently listed in regulations of other boards, such as the Board of Nursing, will be adopted in amendments for these professions. With more specificity on unprofessional conduct, the board will have a greater ability to fulfill its mission of public protection.

Substance: Most of the amendments that the board has identified in its periodic review and has proposed are editorial or intended to clarify existing language. Specifically, the board has proposed changes in the following sections:

Regulations Governing the Practice of Nursing Home Administrators.

18VAC95-20-10. Definitions. Add a definition for "active practice" as a minimum of 1,000 hours within the preceding 24 months.

18VAC95-20-175. Continuing education requirements. Include additional requirements for extension requests.

18VAC95-20-220. Educational and training requirements for initial licensure. Add designation as Health Services Executive by NAB as a category that meets qualifications for initial licensure as a nursing home administrator (NHA).

18VAC95-20-221. Required content for coursework.

- Require official transcript from accredited college or university.

- Rename content area categories to align with those in NAB Domains of Practice.

18VAC95-20-230. Application package. Include employer verifications as documents that are not required to be part of the application package to be submitted at the same time.

18VAC95-20-300. Administrator-in-training qualifications.

- Require that registered preceptors provide training.
- Require submission of Domains of Practice form with application.

18VAC95-20-340. Supervision of trainees. Modify the requirement for the supervisor to be routinely in the training facility to include "as appropriate to the experience and training of the AIT and the needs of the residents."

18VAC95-20-180. Qualifications of preceptors. Specify a requirement for the registration as a preceptor that an administrator must complete the online preceptor training course offered by NAB.

18VAC95-20-430. Termination of program. Modify timing of written explanations to be provided to the board upon termination of a NHA administrator-in-training (AIT) program.

18VAC95-20-470. Unprofessional conduct.

- Include registrations as subject to board discipline.
- Add enumerated causes that would permit the board to refuse, deny, suspend, or revoke a license, or otherwise impose discipline.

Regulations Governing the Practice Assisted Living Facility Administrators.

18VAC95-30-10. Definitions.

- Include additional definitions to clarify references in regulations.
- Add a definition for "active practice" as a minimum of 1,000 hours within the preceding 24 months.

18VAC95-30-70. Continuing education requirements. Include additional requirements for extension requests.

18VAC95-30-100. Educational and training requirements for initial licensure.

- Modify the AIT hours for persons with 30 hours of course credit to be consistent with persons who hold licensure as a registered nurse; AIT hours change from 320 to 480 hours.

- Require an official transcript of accredited college or university coursework.
- Make coursework references consistent with terminology in NAB Domains of Practice.

18VAC95-30-130. Application package. Include employer verifications as documents that are not required to be part of the application package to be submitted at the same time.

18VAC95-30-140. Training qualifications.

- Require that registered preceptors provide training.
- Require submission of Domains of Practice form with application.

18VAC95-30-170. Training facilities. Include requirement that training not occur at provisional or provisionally licensed facilities as defined by the Department of Social Services.

18VAC95-30-180. Preceptors.

- Increase required years of full-time employment for registration as a preceptor from one to two years.
- Clarify that "routinely present" with the trainee in the facility must be appropriate to the experience and training of the assisted living facility AIT and the needs of the residents.
- Increase in weekly face-to-face instruction and review time with a trainee who is an acting administrator trainee.
- Require training for preceptors using preceptor training modules now available through NAB.
- Specify requirements for renewal of registration.

18VAC95-30-200. Interruption or termination of program. Modify timing of written explanations to be provided to the board upon termination of an assisted living facility AIT program.

18VAC95-30-210. Unprofessional conduct.

- Include registrations as subject to board discipline.
- Add enumerated causes that would permit the board to refuse, deny, suspend, or revoke a license, or otherwise impose discipline.

**Issues:** The primary advantages of the amendments to the public are more clarity in the requirements for active practice and for oversight of AITs, additional training for preceptors of AITs, and additional grounds for a finding of unprofessional conduct. All changes will benefit residents of long-term care facilities, who are often the elderly and most vulnerable members of the public. There are no disadvantages to the public.

There are no advantages or disadvantages to the Commonwealth.

The proposed amendments are a foreseeable result of the statute requiring the board to protect the health and safety of citizens of the Commonwealth. The additional qualification for licensure as a nursing home administrator is an option that may be chosen by applicants. There are no additional

requirements that would constitute a competitive disadvantage or have an impact on competition.

**Small Business Impact Review Report of Findings:** This proposed regulatory action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

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

Summary of the Proposed Amendments to Regulation. As a result of periodic reviews,<sup>1</sup> the Board of Long-Term Care Administrators (Board) proposes to generally update the regulatory language. There are numerous proposed changes, but the most notable changes are accepting the Health Services Executive (HSE) credential as a qualification for licensure and adding grounds for disciplinary action that would be considered unprofessional conduct but are not explicitly listed in the regulation.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. According to the Board, the HSE credential is a new credential approved by the National Association of Long-Term Care Administrator Boards. The Board proposes to accept the HSE credential as a new pathway for licensure as a nursing home administrator. Currently, there are three pathways: degree and practical experience, certificate program, and administrator-in-training program. Under the proposed regulation, individuals who prefer the HSE option would be allowed to pursue it. This would be beneficial for potential administrators who would prefer this path over the three existing paths to licensure. The Board staff believes that possessing the new credential indicates that the applicant would be at least as well qualified to safely perform the duties of a nursing home administrator as an applicant who completed one of the three existing pathways. Thus, the benefits of the proposed acceptance of the new credential for licensure should exceed the cost.

The Board also proposes to explicitly state additional grounds for disciplinary action that would be considered unprofessional conduct even without the proposed language. Since this change is simply a clarification, no significant economic impact is expected. However, clarification of what is considered unprofessional conduct would improve the clarity of regulation and may improve its enforcement.

Businesses and Entities Affected. The proposed amendments potentially affect the 891 nursing home administrators and 615 assisted living administrators in Virginia.

Localities Particularly Affected. The proposed regulation will not affect any particular locality more than others.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant impact on employment.

Effects on the Use and Value of Private Property. No effect on the use and value of private property is expected.



---

# Regulations

---

Real Estate Development Costs. No impact on real estate development costs is expected.

Small Businesses:

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

Costs and Other Effects. The proposed regulation does not directly apply to small businesses. However, if a nursing home or an assisted living administrator works for a small business it may be beneficial to that small business as the proposed regulation allows a new pathway to administrator licensure.

Alternative Method that Minimizes Adverse Impact. The proposed regulation does not introduce an adverse impact on small businesses.

Adverse Impacts:

Businesses. The proposed regulation does not have an adverse impact on businesses.

Localities. The proposed regulation will not adversely affect localities.

Other Entities. The proposed regulation will not adversely affect other entities.

---

<sup>1</sup> <http://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1506>  
<http://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1507>

Agency's Response to Economic Impact Analysis: The Board of Long-Term Care Administrators concurs with the analysis of the Department of Planning and Budget.

## Summary:

*As a result of periodic reviews of the nursing home administrator and assisted living facility administrator regulations, the proposed amendments make numerous changes. The most notable changes (i) add the Health Services Executive credential as a qualification for licensure and (ii) expand the grounds for disciplinary actions or denial of licensure to include causes that would be considered unprofessional conduct but are not explicitly listed in the current regulation.*

### Part I General Provisions

#### **18VAC95-20-10. Definitions.**

A. The following words and terms when used in this chapter shall have the definitions ascribed to them in § 54.1-3100 of the Code of Virginia:

"Board"

"Nursing home"

"Nursing home administrator"

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

"Accredited institution" means any degree-granting college or university accredited by an accrediting body approved by the ~~United States~~ U.S. Department of Education.

"Active practice" means a minimum of 1,000 hours of practice as a licensed nursing home administrator within the preceding 24 months.

"AIT" means a person enrolled in the administrator-in-training program in nursing home administration in a licensed nursing home.

"Administrator-of-record" means the licensed nursing home administrator designated in charge of the general administration of the facility and identified as such to the facility's licensing agency.

"Approved sponsor" means an individual, business, or organization approved by ~~the National Association of Long Term Care Administrator Boards~~ NAB or by an accredited institution to offer continuing education programs in accordance with this chapter.

"Continuing education" means the educational activities ~~which~~ that serve to maintain, develop, or increase the knowledge, skills, performance, and competence recognized as relevant to the nursing home administrator's professional responsibilities.

"Full time" means employment of at least 35 hours per week.

"Hour" means 50 minutes of participation in a program for obtaining continuing education.

"Internship" means a practicum or course of study as part of a degree or post-degree program designed especially for the preparation of candidates for licensure as nursing home administrators that involves supervision by an accredited college or university of the practical application of previously studied theory.

"NAB" means the National Association of Long Term Care Administrator Boards.

"National examination" means a test used by the board to determine the competence of candidates for licensure as administered by ~~the National Association of Long Term Care Administrator Boards~~ NAB or any other examination approved by the board.

"Preceptor" means a nursing home administrator currently licensed and registered or recognized by a nursing home administrator licensing board to conduct an administrator-in-training (AIT) program.

**18VAC95-20-80. Required fees.**

A. The applicant or licensee shall submit all fees below that apply:

1. AIT program application	\$215
2. Preceptor application	\$65
3. Licensure application	\$315
4. Verification of licensure requests from other states	\$35
5. Nursing home administrator license renewal	\$315
6. Preceptor renewal	\$65
7. Penalty for nursing home administrator late renewal	\$110
8. Penalty for preceptor late renewal	\$25
9. Nursing home administrator reinstatement	\$435
10. Preceptor reinstatement	\$105
11. Duplicate license	\$25
12. Duplicate wall certificates	\$40
13. Reinstatement after disciplinary action	\$1,000

~~B. For the first renewal after the effective date of this regulation, the following one-time shortfall assessment shall apply:~~

<del>1. Nursing home license renewal</del>	<del>\$100</del>
<del>2. Preceptor renewal</del>	<del>\$20</del>

**18VAC95-20-175. Continuing education requirements.**

A. In order to renew a nursing home administrator license, an applicant shall attest on his renewal application to completion of 20 hours of approved continuing education for each renewal year.

1. Up to 10 of the 20 hours may be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required may be transferred or credited to the next renewal year.
2. Up to two hours of the 20 hours required for annual renewal may be satisfied through delivery of services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for one hour of providing such volunteer services, as documented by the health department or free clinic.

3. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following initial licensure.

B. In order for continuing education to be approved by the board, it shall (i) be related to health care administration and shall be approved or offered by ~~the National Association of Long Term Care Administrator Boards (NAB)~~ NAB, an accredited institution, or a government agency; or (ii) as provided in subdivision A 2 of this section.

C. Documentation of continuing education.

1. The licensee shall retain in his personal files for a period of three renewal years complete documentation of continuing education including evidence of attendance or participation as provided by the approved sponsor for each course taken.

2. Evidence of attendance shall be an original document provided by the approved sponsor and shall include:

- a. Date or dates the course was taken;
- b. Hours of attendance or participation;
- c. Participant's name; and
- d. Signature of an authorized representative of the approved sponsor.

3. If contacted for an audit, the licensee shall forward to the board by the date requested a signed affidavit of completion on forms provided by the board and evidence of attendance or participation as provided by the approved sponsor.

D. The board may grant an extension of up to one year or an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the administrator, such as a certified illness, a temporary disability, mandatory military service, or officially declared disasters. The request for an extension shall be received in writing and granted by the board prior to the renewal date.

**18VAC95-20-180. Late renewal.**

A. A person who fails to renew his license or preceptor registration by the expiration date shall, within one year of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board; and
2. Submit the applicable renewal fee and ~~penalty~~ late fee.

B. The documents required in subsection A of this section shall be received in the board office within one year of the initial expiration date. Postmarks shall not be considered.

**18VAC95-20-200. Reinstatement for nursing home administrator license or preceptor registration.**

A. The board may reinstate a nursing home administrator license or preceptor registration that was not renewed within one year of the initial expiration date.

B. An applicant for nursing home administrator license reinstatement shall apply on a reinstatement form provided by

---

# Regulations

---

the board, submit the reinstatement fee, and provide one of the following:

1. Evidence of the equivalent of 20 hours of continuing education for each year since the last renewal, not to exceed a total of 60 hours.
2. Evidence of active practice in another state or U.S. United States jurisdiction or in the U.S. United States armed services during the period licensure in Virginia was lapsed.
3. Evidence of requalifying for licensure by meeting the requirements prescribed in 18VAC95-20-220 or 18VAC95-20-225.

C. An applicant for preceptor reinstatement shall apply on a reinstatement form provided by the board, submit the reinstatement fee, and meet the current requirements for a preceptor in effect at the time of application for reinstatement.

D. Any person whose license or registration has been suspended, revoked, or denied renewal by the board under the provisions of 18VAC95-20-470 shall, in order to be eligible for reinstatement, (i) submit a reinstatement application to the board for a license, (ii) pay the appropriate reinstatement fee, and (iii) submit any other credentials as prescribed by the board. After a hearing, the board may, at its discretion, grant the reinstatement.

## Part III

### Requirements for Licensure

#### **18VAC95-20-220. Qualifications for initial licensure.**

One of the following sets of qualifications is required for licensure as a nursing home administrator:

1. Degree and practical experience. The applicant shall (i) hold a baccalaureate or higher degree in a health care-related field that meets the requirements of 18VAC95-20-221 from an accredited institution; (ii) have completed not less than a 320-hour internship that addresses the Domains of Practice as specified in 18VAC95-20-390 in a licensed nursing home as part of the degree program under the supervision of a preceptor; and (iii) have received a passing grade on the national examination;
2. Certificate program. The applicant shall (i) hold a baccalaureate or higher degree from an accredited college or university; (ii) successfully complete a program with a minimum of 21 semester hours study in a health care-related field that meets the requirements of 18VAC95-20-221 from an accredited institution; (iii) successfully complete not less than a 400-hour internship that addresses the Domains of Practice as specified in 18VAC95-20-390 in a licensed nursing home as part of the certificate program under the supervision of a preceptor; and (iv) have received a passing grade on the national examination;
3. Administrator-in-training program. The applicant shall have (i) successfully completed an AIT program ~~which that~~ meets the requirements of Part IV (18VAC95-20-300 et

seq.) of this chapter ~~and~~, (ii) received a passing grade on the national examination, and (iii) completed the Domains of Practice form required by the board; or

4. Health Services Executive (HSE) credential. The applicant shall provide evidence that he has met the minimum education, experience, and examination standards established by NAB for qualification as a Health Services Executive.

#### **18VAC95-20-221. Required content for coursework.**

To meet the educational requirements for a degree in a health care-related field, an applicant must provide a an official transcript from an accredited college or university that documents successful completion of a minimum of 21 semester hours of coursework concentrated on the administration and management of health care services to include a minimum of three semester hours in each of the content areas in subdivisions 1 through 4 of this section, six semester hours in the content area set out in subdivision 5 of this section, and three semester hours for an internship.

1. ~~Resident care and quality of life~~ Customer care, supports, services: Course content shall address program and service planning, supervision, and evaluation to meet the needs of patients, such as (i) nursing, medical and pharmaceutical care; (ii) rehabilitative, social, psychosocial, and recreational services; (iii) nutritional services; (iv) safety and rights protections; (v) quality assurance; and (vi) infection control.

2. Human resources: Course content shall focus on personnel leadership in a health care management role and must address organizational behavior and personnel management skills such as (i) staff organization, supervision, communication, and evaluation; (ii) staff recruitment, retention, and training; (iii) personnel policy development and implementation; and (iv) employee health and safety.

3. Finance: Course content shall address financial management of health care programs and facilities such as (i) an overview of financial practices and problems in the delivery of health care services; (ii) financial planning, accounting, analysis, and auditing; (iii) budgeting; (iv) health care cost issues; and (v) reimbursement systems and structures.

4. ~~Physical environment and atmosphere~~ Environment: Course content shall address facility and equipment management such as (i) maintenance; (ii) housekeeping; (iii) safety; (iv) inspections and compliance with laws and regulations; and (v) emergency preparedness.

5. Leadership and management: Course content shall address the leadership roles in health delivery systems such as (i) government oversight and interaction; (ii) organizational policies and procedures; (iii) principles of ethics and law; (iv) community coordination and

cooperation; (v) risk management; and (vi) governance and decision making.

**18VAC95-20-225. Qualifications for licensure by endorsement.**

The board may issue a license to any person who:

1. Holds a current, unrestricted license from any state or the District of Columbia; and
2. Meets one of the following conditions:
  - a. Has ~~practiced nursing home administration for one year~~ been engaged in active practice as a licensed nursing home administrator; or
  - b. Has education and experience equivalent to qualifications required by this chapter and has provided written evidence of those qualifications at the time of application for licensure.

**18VAC95-20-230. Application package.**

A. An application for licensure shall be submitted after the applicant completes the qualifications for licensure.

B. An individual seeking licensure as a nursing home administrator or registration as a preceptor shall submit:

1. A completed application as provided by the board;
2. Additional documentation as may be required by the board to determine eligibility of the applicant;
3. The applicable fee;
4. An attestation that he has read and understands and will remain current with the applicable Virginia laws and regulations relating to the administration of nursing homes; and
5. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

C. With the exception of school transcripts, examination scores, the NPDB report, employer verifications, and verifications from other state boards, all parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year, after which time the application shall be destroyed and a new application and fee shall be required.

Part IV

Administrator-In-Training Program

**18VAC95-20-300. Administrator-in-training qualifications.**

A. To be approved as an administrator-in-training, a person shall:

1. Have received a passing grade on a total of 60 semester hours of education from an accredited institution;
2. Obtain a registered preceptor to provide training;
3. Submit the fee prescribed in 18VAC95-20-80;
4. Submit the application and Domains of Practice form provided by the board; and

5. Submit additional documentation as may be necessary to determine eligibility of the applicant and the number of hours required for the AIT program.

B. With the exception of school transcripts, all required parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year after which time the application shall be destroyed and a new application and fee shall be required.

**18VAC95-20-340. Supervision of trainees.**

A. Training shall be under the supervision of a preceptor who is registered or recognized by a licensing board.

B. A preceptor may supervise no more than two AIT's at any one time.

C. A preceptor shall:

1. Provide direct instruction, planning, and evaluation in the training facility;
2. Shall be routinely present with the trainee in the training facility as appropriate to the experience and training of the AIT and the needs of the residents in the facility; and
3. Shall continually evaluate the development and experience of the AIT to determine specific areas in the Domains of Practice that need to be addressed.

**18VAC95-20-380. Qualifications of preceptors.**

A. To be registered by the board as a preceptor, a person shall:

1. Hold a current, unrestricted Virginia nursing home administrator license and be employed full time as an administrator of record in a training facility for a minimum of two of the past three years immediately prior to registration; ~~and~~
2. Provide evidence that he has completed the online preceptor training course offered by NAB; and
3. Meet the application requirements in 18VAC95-20-230.

B. To renew registration as a preceptor, a person shall:

1. Hold a current, unrestricted Virginia nursing home license and be employed by or have an agreement with a training facility for a preceptorship; and
2. Meet the renewal requirements of 18VAC95-20-170.

**18VAC95-20-390. Training plan.**

Prior to the beginning of the AIT program, the preceptor shall develop and submit for board approval a training plan that shall include and be designed around the specific training needs of the administrator-in-training. The training plan shall address the Domains of Practice approved by ~~the National Association of Long Term Care Administrator Boards~~ NAB that is in effect at the time the training program is submitted for approval. An AIT program shall include training in each of the learning areas in the Domains of Practice.

---

# Regulations

---

## 18VAC95-20-430. Termination of program.

A. If the AIT program is terminated prior to completion, the trainee and the preceptor shall each submit a written explanation of the causes of program termination to the board within ~~five working~~ 10 business days.

B. The preceptor shall also submit all required monthly progress reports completed prior to termination.

### Part V

Refusal, Suspension, Revocation, and Disciplinary Action

## 18VAC95-20-470. Unprofessional conduct.

The board may refuse to admit a candidate to an examination, refuse to issue or renew a license or registration or approval to any applicant, suspend a license for a stated period of time or indefinitely, reprimand a licensee or registrant, place his license or registration on probation with such terms and conditions and for such time as it may designate, impose a monetary penalty, or revoke a license or registration for any of the following causes:

1. Conducting the practice of nursing home administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;
2. Failure to comply with federal, state, or local laws and regulations governing the operation of a nursing home;
3. Conviction of a felony or any misdemeanor involving abuse, neglect, or moral turpitude;
4. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.), and ~~this chapter 31~~ (§ 54.1-3100 et seq.) of the Code of Virginia or regulations of the board; ~~or~~
5. Inability to practice with reasonable skill or safety by reason of illness or substance abuse or as a result of any mental or physical condition;
6. Abuse, negligent practice, or misappropriation of a resident's property;
7. Entering into a relationship with a resident that constitutes a professional boundary violation in which the administrator uses his professional position to take advantage of the vulnerability of a resident or his family, to include actions that result in personal gain at the expense of the resident, an inappropriate personal involvement or sexual conduct with a resident;
8. The denial, revocation, suspension, or restriction of a license to practice in another state, the District of Columbia, or a United States possession or territory;
9. Assuming duties and responsibilities within the practice of nursing home administration without adequate training or when competency has not been maintained;
10. Obtaining supplies, equipment, or drugs for personal or other unauthorized use;

11. Falsifying or otherwise altering resident or employer records, including falsely representing facts on a job application or other employment-related documents;

12. Fraud or deceit in procuring or attempting to procure a license or registration or seeking reinstatement of a license or registration; or

13. Employing or assigning unqualified persons to perform functions that require a license, certificate, or registration.

## 18VAC95-20-471. Criteria for delegation of informal fact-finding proceedings to an agency subordinate. (Repealed.)

~~A. Decision to delegate. In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.~~

~~B. Criteria for delegation. Cases that may not be delegated to an agency subordinate include violations of standards of practice as set forth in subdivisions 1, 3 and 5 of 18VAC95-20-470, except as may otherwise be determined by a special conference committee of the board.~~

### ~~C. Criteria for an agency subordinate.~~

~~1. An agency subordinate authorized by the board to conduct an informal fact finding proceeding may include current or past board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.~~

~~2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.~~

~~3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.~~

### Part I

General Provisions

## 18VAC95-30-10. Definitions.

A. The following words and terms when used in this chapter shall have the definitions ascribed to them in § 54.1-3100 of the Code of Virginia:

"Assisted living facility"

"Assisted living facility administrator"

"Board"

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

"Accredited institution" means any degree-granting college or university accredited by an accrediting body approved by the U.S. Department of Education.

"Active practice" means a minimum of 1,000 hours of practice as an assisted living facility administrator within the preceding 24 months.

"Administrator-of-record" means the licensed assisted living facility administrator designated in charge of the general administration and management of an assisted living facility, including compliance with applicable regulations, and identified as such to the facility's licensing agency.

"ALF AIT" means ~~an~~ a person enrolled in an administrator-in-training program in a licensed assisted living facility administrator in training.

"Approved sponsor" means an individual, business, or organization approved by NAB or by an accredited institution to offer continuing education programs in accordance with this chapter.

"Continuing education" means the educational activities that serve to maintain, develop, or increase the knowledge, skills, performance, and competence recognized as relevant to the assisted living facility administrator's professional responsibilities.

"Domains of practice" means the content areas of tasks, knowledge and skills necessary for administration of a residential ~~care/assisted care~~ or assisted living facility as approved by the ~~National Association of Long Term Care Administrator Boards~~ NAB.

"Full time" means employment of at least 35 hours per week.

"Hour" means 50 minutes of participation in a program for obtaining continuing education.

"Internship" means a practicum or course of study as part of a degree or post-degree program designed especially for the preparation of candidates for licensure as assisted living facility administrators that involves supervision by an accredited college or university of the practical application of previously studied theory.

"NAB" means the National Association of Long Term Care Administrator Boards.

"National examination" means a test used by the board to determine the competence of candidates for licensure as administered by NAB or any other examination approved by the board.

"Preceptor" means an assisted living facility administrator or nursing home administrator currently licensed and registered to conduct an ALF AIT program.

**18VAC95-30-40. Required fees.**

A. The applicant or licensee shall submit all fees ~~below~~ in this subsection that apply:

- 1. ALF AIT program application \$215
- 2. Preceptor application \$65
- 3. Licensure application \$315

- 4. Verification of licensure requests from other states \$35
- 5. Assisted living facility administrator license renewal \$315
- 6. Preceptor renewal \$65
- 7. Penalty for assisted living facility administrator late renewal \$110
- 8. Penalty for preceptor late renewal \$25
- 9. Assisted living facility administrator reinstatement \$435
- 10. Preceptor reinstatement \$105
- 11. Duplicate license \$25
- 12. Duplicate wall certificates \$40
- 13. Returned check \$35
- 14. Reinstatement after disciplinary action \$1,000

B. Fees shall not be refunded once submitted.

C. Examination fees are to be paid directly to the service contracted by the board to administer the examination.

~~D. For the first renewal after the effective date of this regulation, the following one-time shortfall assessment shall apply:~~

- ~~1. Assisted living facility administrator license renewal \$100~~
- ~~2. Preceptor renewal \$20~~

**18VAC95-30-70. Continuing education requirements.**

A. In order to renew an assisted living administrator license, an applicant shall attest on his renewal application to completion of 20 hours of approved continuing education for each renewal year.

- 1. Up to 10 of the 20 hours may be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required may be transferred or credited to the next renewal year.
- 2. Up to two hours of the 20 hours required for annual renewal may be satisfied through delivery of services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for one hour of providing such volunteer services, as documented by the health department or free clinic.
- 3. A licensee is exempt from completing continuing education requirements for the first renewal following initial licensure in Virginia.

---

# Regulations

---

B. In order for continuing education to be approved by the board, it shall (i) be related to the domains of practice for residential care/assisted living and approved or offered by NAB, an accredited educational institution, or a governmental agency; or (ii) be as provided in subdivision A 2 of this section.

C. Documentation of continuing education.

1. The licensee shall retain in his personal files for a period of three renewal years complete documentation of continuing education including evidence of attendance or participation as provided by the approved sponsor for each course taken.

2. Evidence of attendance shall be an original document provided by the approved sponsor and shall include:

- a. Date or dates the course was taken;
- b. Hours of attendance or participation;
- c. Participant's name; and
- d. Signature of an authorized representative of the approved sponsor.

3. If contacted for an audit, the licensee shall forward to the board by the date requested a signed affidavit of completion on forms provided by the board and evidence of attendance or participation as provided by the approved sponsor.

D. The board may grant an extension of up to one year or an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the administrator, such as a certified illness, a temporary disability, mandatory military service, or officially declared disasters. The request for an extension shall be submitted in writing and granted by the board prior to the renewal date.

**18VAC95-30-90. Reinstatement for an assisted living facility administrator license or preceptor registration.**

A. The board may reinstate an assisted living facility administrator license or preceptor registration that was not renewed within one year of the initial expiration date.

B. An applicant for assisted living facility administrator license reinstatement shall apply on a reinstatement form provided by the board, submit the reinstatement fee, and provide one of the following:

1. Evidence of the equivalent of 20 hours of continuing education for each year since the last renewal, not to exceed a total of 60 hours.
2. Evidence of active practice in another state or U.S. United States jurisdiction or in the U.S. United States armed services during the period licensure in Virginia was lapsed.
3. Evidence of requalifying for licensure by meeting the requirements prescribed in 18VAC95-30-100 and 18VAC95-30-110.

C. An applicant for preceptor reinstatement shall apply on a reinstatement form provided by the board, submit the reinstatement fee, and meet the current requirements for a preceptor in effect at the time of application for reinstatement.

D. Any person whose license or registration has been suspended, revoked, or denied renewal by the board under the provisions of 18VAC95-30-210 shall, in order to be eligible for reinstatement, (i) submit a reinstatement application to the board for a license, (ii) pay the appropriate reinstatement fee, and (iii) submit any other credentials as prescribed by the board. After a hearing, the board may, at its discretion, grant the reinstatement.

**18VAC95-30-100. Educational and training requirements for initial licensure.**

A. To be qualified for initial licensure as an assisted living facility administrator, an applicant shall hold a high school diploma or general education diploma (GED) and hold one of the following qualifications:

1. Administrator-in-training program.

a. Complete at least 30 semester hours in an accredited college or university in any subject and 640 hours in an ALF AIT program as specified in 18VAC95-30-150;

b. Complete an educational program as a licensed practical nurse and hold a current, unrestricted license or multistate licensure privilege and 640 hours in an ALF AIT program;

c. Complete an educational program as a registered nurse and hold a current, unrestricted license or multistate licensure privilege and 480 hours in an ALF AIT program;

d. Complete at least 30 semester hours in an accredited college or university with courses in the content areas of (i) client/resident care; (ii) human resources management; (iii) financial management; (iv) physical environment; and (v) leadership and governance; and ~~320~~ 480 hours in an ALF AIT program;

e. Hold a master's or a baccalaureate degree in health care-related field or a comparable field that meets the requirements of subsection B of this section with no internship or practicum and 320 hours in an ALF AIT program; or

f. Hold a master's or baccalaureate degree in an unrelated field and 480 hours in an ALF AIT program; ~~or~~

2. Certificate program.

Hold a baccalaureate or higher degree in a field unrelated to health care from an accredited college or university and successfully complete a certificate program with a minimum of 21 semester hours study in a health care-related field that meets course content requirements of subsection B of this section from an accredited college or university and successfully complete not less than a 320-hour internship or practicum that addresses the domains

of practice as specified in 18VAC95-30-160 in a licensed assisted living facility as part of the certificate program under the supervision of a preceptor; or

3. Degree and practical experience.

Hold a baccalaureate or higher degree in a health care-related field that meets the course content requirements of subsection B of this section from an accredited college or university and have completed not less than a 320-hour internship or practicum that addresses the Domains of Practice as specified in 18VAC95-30-160 in a licensed assisted living facility as part of the degree program under the supervision of a preceptor.

B. To meet the educational requirements for a degree in a health care-related field, an applicant must provide ~~a~~ an official transcript from an accredited college or university that documents successful completion of a minimum of 21 semester hours of coursework concentrated on the administration and management of health care services to include a minimum of six semester hours in the content area set out in subdivision 1 of this subsection, three semester hours in each of the content areas in subdivisions 2 through 5 of this subsection, and three semester hours for an internship or practicum.

1. ~~Resident/client services management~~ Customer care, supports, and services;
2. Human ~~resource management~~ resources;
3. ~~Financial management~~ Finance;
4. ~~Physical environment management~~ Environment;
5. Leadership and ~~governance~~ management.

**18VAC95-30-120. Qualifications for licensure by endorsement or credentials.**

A. If applying from any state or the District of Columbia in which a license, certificate, or registration is required to be the administrator of an assisted living facility, an applicant for licensure by endorsement shall hold a current, unrestricted license, certificate, or registration from that state or the District of Columbia. If applying from a jurisdiction that does not have such a requirement, an applicant may apply for licensure by credentials, and no evidence of licensure, certification, or registration is required.

B. The board may issue a license to any person who:

1. Meets the provisions of subsection A of this section;
2. Has not been the subject of a disciplinary action taken by any jurisdiction in which he was found to be in violation of law or regulation governing practice and which, in the judgment of the board, has not remediated;
3. Meets one of the following conditions:
  - a. Has ~~practiced as the administrator of record~~ been engaged in active practice as an assisted living facility administrator in an assisted living facility that provides assisted living care as defined in § 63.2-100 of the Code

of Virginia ~~for at least two of the four years immediately preceding application to the board;~~ or

b. Has education and experience substantially equivalent to qualifications required by this chapter and has provided written evidence of those qualifications at the time of application for licensure; and

4. Has successfully passed a national credentialing examination for administrators of assisted living facilities approved by the board.

**18VAC95-30-130. Application package.**

A. An application for licensure shall be submitted after the applicant completes the qualifications for licensure.

B. An individual seeking licensure as an assisted living facility administrator or registration as a preceptor shall submit:

1. A completed application as provided by the board;
2. Additional documentation as may be required by the board to determine eligibility of the applicant, to include the most recent survey report if the applicant has been serving as an acting administrator of a facility;
3. The applicable fee;
4. An attestation that he has read and understands and will remain current with the applicable Virginia laws and the regulations relating to assisted living facilities; and
5. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

C. With the exception of school transcripts, examination scores, the NPDB report, employer verifications, and verifications from other state boards, all parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year, after which time the application shall be destroyed and a new application and fee shall be required.

Part IV

Administrator-in-Training Program

**18VAC95-30-140. Training qualifications.**

A. To be approved as an ALF administrator-in-training, a person shall:

1. Meet the requirements of 18VAC95-30-100 A 1;
2. Obtain a registered preceptor to provide training;
3. Submit the application and Domains of Practice form provided by the board and the fee prescribed in 18VAC95-30-40; and
4. Submit additional documentation as may be necessary to determine eligibility of the applicant and the number of hours required for the ALF AIT program.

B. With the exception of school transcripts, all required parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year after which time the application shall be destroyed and a new application and fee shall be required.



---

# Regulations

---

## **18VAC95-30-150. Required hours of training.**

A. The ALF AIT program shall consist of hours of continuous training as specified in 18VAC95-30-100 A 1 in a facility as prescribed in 18VAC95-30-170 to be completed within 24 months, except a person in an ALF AIT program who has been approved by the board and is serving as an acting administrator shall complete the program within 150 days. An extension may be granted by the board on an individual case basis. The board may reduce the required hours for applicants with certain qualifications as prescribed in subsection B of this section.

B. An ALF AIT program applicant with prior health care work experience may request approval to receive hours of credit toward the total hours as follows:

1. An applicant who has been employed full time for one of the past four years immediately prior to application as an assistant administrator in a licensed assisted living facility or nursing home or as a hospital administrator shall complete 320 hours in an ALF AIT program;
2. An applicant who holds a license or a multistate licensure privilege as a registered nurse and who has held an administrative level supervisory position in nursing for at least one of the past four consecutive years in a licensed assisted living facility or nursing home shall complete 320 hours in an ALF AIT program; or
3. An applicant who holds a license or a multistate licensure privilege as a licensed practical nurse and who has held an administrative level supervisory position in nursing for at least one of the past four consecutive years in a licensed assisted living facility or nursing home shall complete 480 hours in an ALF AIT program.

## **18VAC95-30-170. Training facilities.**

A. Training in an ALF AIT program or for an internship or practicum shall be conducted only in:

1. An assisted living facility or unit licensed by the Virginia Board of Social Services or by a similar licensing body in another jurisdiction;
2. An assisted living facility owned or operated by an agency of any city, county, or the Commonwealth or of the United States government; or
3. An assisted living unit located in and operated by a licensed hospital as defined in § 32.1-123 of the Code of Virginia, a state-operated hospital, or a hospital licensed in another jurisdiction.

B. Training shall not be conducted in a facility with a provisional license as determined by the Department of Social Services.

## **18VAC95-30-180. Preceptors.**

A. Training in an ALF AIT program shall be under the supervision of a preceptor who is registered or recognized by Virginia or a similar licensing board in another jurisdiction.

B. To be registered by the board as a preceptor, a person shall:

1. Hold a current, unrestricted Virginia assisted living facility administrator or nursing home administrator license;
2. Be employed full time as an administrator in a training facility or facilities for a minimum of ~~one~~ two of the past four years immediately prior to registration or be a regional administrator with on-site supervisory responsibilities for a training facility or facilities; ~~and~~
3. Provide evidence that he has completed the online preceptor training course offered by NAB; and
4. Submit an application and fee as prescribed in 18VAC95-30-40. The board may waive such application and fee for a person who is already approved as a preceptor for nursing home licensure.

C. A preceptor shall:

1. Provide direct instruction, planning, and evaluation;
2. Be routinely present with the trainee in the training facility as appropriate to the experience and training of the ALF AIT and the needs of the residents in the facility; and
3. Continually evaluate the development and experience of the trainee to determine specific areas needed for concentration.

D. A preceptor may supervise no more than two trainees at any one time.

E. A preceptor for a person who is serving as an acting administrator while in an ALF AIT program shall be present in the training facility for face-to-face instruction and review of the trainee's performance for a minimum of ~~two~~ four hours per week.

F. To renew registration as a preceptor, a person shall:

1. Hold a current, unrestricted Virginia assisted living facility or nursing home license and be employed by or have an agreement with a training facility for a preceptorship; and
2. Meet the renewal requirements of 18VAC95-30-60.

## **18VAC95-30-200. Interruption or termination of program.**

A. If the program is interrupted because the registered preceptor is unable to serve, the trainee shall notify the board within 10 working days and shall obtain a new preceptor who is registered with the board within 60 days.

1. Credit for training shall resume when a new preceptor is obtained and approved by the board.
2. If an alternate training plan is developed, it shall be submitted to the board for approval before the trainee resumes training.

B. If the training program is terminated prior to completion, the trainee and the preceptor shall each submit a written explanation of the causes of program termination to the board

within ~~five working~~ 10 business days. The preceptor shall also submit all required monthly progress reports completed prior to termination within 10 business days.

Part V

Refusal, Suspension, Revocation and Disciplinary Action

**18VAC95-30-210. Unprofessional conduct.**

The board may refuse to admit a candidate to an examination, refuse to issue or renew a license or registration or grant approval to any applicant, suspend a license or registration for a stated period of time or indefinitely, reprimand a licensee or registrant, place his license or registration on probation with such terms and conditions and for such time as it may designate, impose a monetary penalty, or revoke a license or registration for any of the following causes:

1. Conducting the practice of assisted living administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;
2. Failure to comply with federal, state, or local laws and regulations governing the operation of an assisted living facility;
3. Conviction of a felony or any misdemeanor involving abuse, neglect, or moral turpitude;
4. ~~Failure to comply with any regulations of the board; or~~ Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.), and 31 (§ 54.1-3100 et seq.) of the Code of Virginia or regulations of the board;
5. Inability to practice with reasonable skill or safety by reason of illness or substance abuse or as a result of any mental or physical condition;
6. Abuse, negligent practice, or misappropriation of a resident's property;
7. Entering into a relationship with a resident that constitutes a professional boundary violation in which the administrator uses his professional position to take advantage of the vulnerability of a resident or his family, to include actions that result in personal gain at the expense of the resident, an inappropriate personal involvement or sexual conduct with a resident;
8. The denial, revocation, suspension, or restriction of a license to practice in another state, the District of Columbia or a United States possession or territory;
9. Assuming duties and responsibilities within the practice of assisted living facility administration without adequate training or when competency has not been maintained;
10. Obtaining supplies, equipment, or drugs for personal or other unauthorized use;
11. Falsifying or otherwise altering resident or employer records, including falsely representing facts on a job application or other employment-related documents;

12. Fraud or deceit in procuring or attempting to procure a license or registration or seeking reinstatement of a license or registration; or

13. Employing or assigning unqualified persons to perform functions that require a license, certificate, or registration.

VA.R. Doc. No. R17-4984; Filed July 20, 2017, 11:54 a.m.

**BOARD OF PHYSICAL THERAPY**

**Proposed Regulation**

Title of Regulation: **18VAC112-20. Regulations Governing the Practice of Physical Therapy (amending 18VAC112-20-10, 18VAC112-20-65, 18VAC112-20-131, 18VAC112-20-135, 18VAC112-20-136).**

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

Public Hearing Information:

August 22, 2017 - 9:35 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor Conference Center, Board Room 4, Henrico, VA 23233

Public Comment Deadline: October 22, 2017.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Physical Therapy, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4674, FAX (804) 527-4413, or email ptboard@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the Board of Physical Therapy the authority to promulgate regulations to administer the regulatory system. Section 54.1-3479 of the Code of Virginia provides the board with specific authority to require professional activity or to serve in a traineeship as evidence of competency to practice. Additionally, the board has a statutory mandate to require continuing education for renewal pursuant to § 54.1-3480.1 of the Code of Virginia.

Purpose: The board currently recognizes the Practice Review Tool (PRT) for competency assessment developed and administered by the Federation of State Boards of Physical Therapy (FSBPT). Physical therapists who take the assessment and those who meet the standard, as set by FSBPT, can receive continuing education credits. Meeting the standard on the PRT also allows an applicant for licensure by endorsement or for reinstatement who has not been actively practicing to reduce the required number of hours in a traineeship.

FSBPT has informed member boards that, as of November 30, 2016, it no longer offers the PRT and has replaced it with a different assessment tool called oPTion. oPTion uses scenarios and multiple-choice questions that emphasize clinical application of knowledge necessary for safe, effective practice. Each scenario is followed by three to five multiple-choice questions for a total of 100 questions. With the shift to oPTion, the FSBPT has also eliminated the PRT "standard"

---

# Regulations

---

and replaced it with an assessment report that categorizes the therapist's performance into Levels 1 through 4.

The purpose of the proposed action is to utilize a self-assessment tool that allows physical therapists to compare their knowledge, skills, and abilities to entry-level general physical therapy practice. A physical therapist cannot fail oPTion, and the results are not an assurance of minimal competence. Therefore, the board must balance its responsibility to adopt regulations that protect the public health and safety with an opportunity for applicants to reduce the number of traineeship hours or receive continuing education credits by taking the assessment tool oPTion.

Substance: Since meeting the "standard" on the PRT has been replaced with four levels of competency, the board proposes to replace the Practice Review Tool, an assessment tool previously offered by the Federation of State Boards of Physical Therapy, with oPTion, the tool currently available. Attainment of at least Level 2 on oPTion may be used for continuing education credits or to replace hours in a supervised traineeship for applicants for licensure by endorsement, reinstatement of license, or reactivation of license if the physical therapist has not been engaged in active practice for the two years immediately preceding application for an active license.

According to FSBPT, the levels are described as follows: (i) Level 1 indicates the ability to apply entry-level knowledge, concepts, and principles across a limited range of patient conditions; (ii) Level 2 indicates the ability to apply entry-level knowledge, concepts, and principles across a moderate range of patient conditions; (iii) Level 3 demonstrates ability in a broad range of patient conditions; and (iv) Level 4 demonstrates ability across an extensive range of patient conditions.

Issues: The primary advantage of the amendments is more flexibility in meeting requirements for evidence of continued competency--both for current licensees to meet the hours of Type 1 CE required for renewal and for applicants who have not been engaged in active practice in the past two years. There are no disadvantages to the public because attaining a minimum of Level 2 on oPTion would not be the only requirement necessary for continuing competency. Such assessment tools are advantageous in that they indicate to the licensee their areas of strength and weakness to encourage them to seek additional education and training if needed.

There are no advantages or disadvantages to the Commonwealth.

The proposed amendments are a foreseeable result of the statute requiring the board to protect the health and safety of patients in the Commonwealth. They are optional and offer licensees more flexibility; and therefore, they do not constitute any restraint on competition.

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

Summary of the Proposed Amendments to Regulation. The Board of Physical Therapy (Board) proposes to replace the Practice Review Tool (PRT), which was recently retired by the Federation of State Boards of Physical Therapy (FSBPT), with the FSBPT's new assessment tool called "oPTion." The Board also proposes to decrease the number of continuing education hours that may be earned by completing the assessment tool.

Result of Analysis. For one proposed regulatory change, benefits likely outweigh costs. There is insufficient information to ascertain whether the benefits for other proposed changes will outweigh their costs.

Estimated Economic Impact. Current regulation allows physical therapists to use the PRT to meet continuing education (CE) requirements as well as to decrease the number of traineeship hours needed for licensure by endorsement for applicants who do not meet the Board required active practice requirement. Physical therapists can currently use completion of the PRT for 10 of the 30 biennially required CE hours if they do not successfully meet the standards of this tool and can get credit for 20 hours if they meet the standard of the PRT.<sup>1</sup> However, the FSBPT discontinued use of the PRT in November 2016 and replaced it with a new self-assessment tool called oPTion. While the PRT was essentially an assessment with a knowledge level that could be satisfied (or not), the oPTion assessment tool has leveled grading with Levels 1 through 4. As reported by Board staff, Level 1 indicates the ability to apply entry-level knowledge, concepts and principles across a limited range of patient conditions, Level 2 indicates the ability to apply entry-level knowledge, concepts and principles across a moderate range of patient conditions, Level 3 demonstrates ability in a broad range of patient conditions and Level 4 demonstrates ability across an extensive range of patient conditions.

The Board now proposes to allow physical therapists who take the oPTion assessment and attain a Level 2 score to satisfy five of their 30 biennially required CE hours (as compared to the 10 CE hours currently allowed for completion of the PRT). Under the Board's proposal, physical therapists who take the oPTion assessment and attain a Level 3 or 4 score will be able to satisfy 10 CE hours (as compared to the 20 CE hours currently satisfied by successful completion of the PRT). The Board also proposes to limit physical therapists to getting CE credit for completion of the FSBPT assessment tool only once every four years. Board staff reports that the Board proposes to reduce the hours of credit allowed for completion of the FSBPT and limit that credit to being allowed only once every two licensure cycles so that physical therapists complete a wide range of allowable CE activities. To the extent that requiring more diverse CE increases the safety or efficacy of physical therapy practice, these changes may benefit the public. These changes will,

however, require physical therapists who currently take the FSBPT assessment to meet CE requirements to participate in a greater number of activities eligible for CE credit which will increase time costs for physical therapists. To the extent that these additional activities have fees, physical therapists will also incur those costs on account of these proposed changes. There is insufficient information to measure whether any benefit gained would outweigh these costs.

Current regulation also allows applicants for licensure by endorsement who do not meet the active practice requirement for licensure to satisfy 160 of the 320 traineeship hours that would otherwise be required by the Board. Since the PRT is no longer available, the Board now proposes to specify that attaining at least a Level 2 score on the oPTion assessment will satisfy the same 160 hours of traineeship that successful completion of the PRT would. Since this change only substitutes reference to the old assessment tool (PRT) with reference to the new assessment tool (oPTion), no affected entities are likely to incur any costs. Interested parties are likely to gain the benefit of additional regulatory clarity because obsolete language is being replaced with reference to the current assessment tool.

**Businesses and Entities Affected.** These proposed regulatory changes will affect all physical therapists licensed in the Commonwealth as well as future applicants for licensure by endorsement. Board staff reports that there are 8,277 licensed physical therapists in Virginia and also reports that the Board has no estimates of how many of those physical therapists might qualify as small businesses.

**Localities Particularly Affected.** No locality is likely to be particularly affected by these proposed regulatory changes.

**Projected Impact on Employment.** These proposed regulatory changes are unlikely to affect employment in the Commonwealth.

**Effects on the Use and Value of Private Property.** These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

**Real Estate Development Costs.** These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

**Small Businesses:**

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

**Costs and Other Effects.** To the extent that affected physical therapists qualify as small businesses, and currently take the FSBPT assessment for CE credit, their businesses will likely incur costs for additional CE activities that they will have to complete. These costs will likely include time spent on additional activities and may also include fees incurred.

**Alternative Method that Minimizes Adverse Impact.** Absent evidence that the public might benefit from limiting credit hours for the FSBPT assessment, the Board could allow physical therapists to avoid time and other costs by allowing credit for the oPTion assessment at the same rate as current regulation allows credit for the PRT assessment.

**Adverse Impacts:**

**Businesses.** To the extent that affected physical therapists work independently in their own businesses, and currently take the FSBPT assessment for CE credit, their businesses will likely incur costs for additional CE activities that they will have to complete. These costs will likely include time spent on additional activities and may also include fees incurred.

**Localities.** No locality is likely to be adversely affected by these proposed regulatory changes.

**Other Entities.** No other entities are likely to be adversely affected by these proposed regulatory changes.

<sup>1</sup> Meeting the standard means passing the assessment.

**Agency's Response to Economic Impact Analysis:** The Board of Physical Therapy concurs with the analysis of the Department of Planning and Budget.

**Summary:**

*The proposed amendments replace references to an obsolete assessment tool provided by the Federation of State Boards of Physical Therapy (FSBPT) with references to the current assessment tool offered by FSBPT titled "oPTion." The proposed amendments require achievement of Level 2 or higher on the oPTion assessment tool to (i) use participation in the assessment tool for continuing education credit or (ii) replace hours in a supervised traineeship for applicants for licensure by endorsement, reinstatement of license, or reactivation of license if the physical therapist has not been engaged in active practice for the two years immediately preceding application for an active license.*

**Part I  
General Provisions**

**18VAC112-20-10. Definitions.**

In addition to the words and terms defined in § 54.1-3473 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Active practice" means a minimum of 160 hours of professional practice as a physical therapist or physical therapist assistant within the 24-month period immediately preceding renewal. Active practice may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.

"Approved program" means an educational program accredited by the Commission on Accreditation in Physical

---

# Regulations

---

Therapy Education of the American Physical Therapy Association.

"Assessment tool" means oPTION or any other self-directed assessment tool approved by FSBPT.

"CLEP" means the College Level Examination Program.

"Contact hour" means 60 minutes of time spent in continuing learning activity exclusive of breaks, meals or vendor exhibits.

"Direct supervision" means a physical therapist or a physical therapist assistant is physically present and immediately available and is fully responsible for the physical therapy tasks or activities being performed.

"Discharge" means the discontinuation of interventions in an episode of care that have been provided in an unbroken sequence in a single practice setting and related to the physical therapy interventions for a given condition or problem.

"Evaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to plan and implement a treatment intervention, provide preventive care, reduce risks of injury and impairment, or provide for consultation.

"FCCPT" means the Foreign Credentialing Commission on Physical Therapy.

"FSBPT" means the Federation of State Boards of Physical Therapy.

"General supervision" means a physical therapist shall be available for consultation.

"National examination" means the examinations developed and administered by the Federation of State Boards of Physical Therapy and approved by the board for licensure as a physical therapist or physical therapist assistant.

~~"PRT" means the Practice Review Tool for competency assessment developed and administered by FSBPT.~~

"Reevaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to determine a patient's response to the treatment plan and care provided.

"Support personnel" means a person who is performing designated routine tasks related to physical therapy under the direction and supervision of a physical therapist or physical therapist assistant within the scope of this chapter.

"TOEFL" means the Test of English as a Foreign Language.

"Trainee" means a person seeking licensure as a physical therapist or physical therapist assistant who is undergoing a traineeship.

"Traineeship" means a period of active clinical practice during which an applicant for licensure as a physical therapist or physical therapist assistant works under the direct supervision of a physical therapist approved by the board.

"TSE" means the Test of Spoken English.

"Type 1" means continuing learning activities offered by an approved organization as specified in 18VAC112-20-131.

"Type 2" means continuing learning activities which may or may not be offered by an approved organization but shall be activities considered by the learner to be beneficial to practice or to continuing learning.

## **18VAC112-20-65. Requirements for licensure by endorsement.**

A. A physical therapist or physical therapist assistant who holds a current, unrestricted license in the United States, its territories, the District of Columbia, or Canada may be licensed in Virginia by endorsement.

B. An applicant for licensure by endorsement shall submit:

1. Documentation of having met the educational requirements prescribed in 18VAC112-20-40 or 18VAC112-20-50. In lieu of meeting such requirements, an applicant may provide evidence of clinical practice consisting of at least 2,500 hours of patient care during the five years immediately preceding application for licensure in Virginia with a current, unrestricted license issued by another U.S. jurisdiction;
2. The required application, fees, and credentials to the board;
3. A current report from the Healthcare Integrity and Protection Data Bank (HIPDB);
4. Evidence of completion of 15 hours of continuing education for each year in which the applicant held a license in another U.S. jurisdiction, or 60 hours obtained within the past four years;
5. Documentation of passage of an examination equivalent to the Virginia examination at the time of initial licensure or documentation of passage of an examination required by another state at the time of initial licensure in that state; and
6. Documentation of active practice in physical therapy in another U.S. jurisdiction for at least 320 hours within the four years immediately preceding his application for licensure. A physical therapist who does not meet the active practice requirement shall:
  - a. Successfully complete 320 hours in a traineeship in accordance with requirements in 18VAC112-20-140; or
  - b. Document that he ~~meets the standard of the PRT~~ attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for licensure in Virginia and successfully complete 160 hours in a traineeship in accordance with the requirements in 18VAC112-20-140.

C. A physical therapist assistant seeking licensure by endorsement who has not actively practiced physical therapy for at least 320 hours within the four years immediately preceding his application for licensure shall successfully

complete 320 hours in a traineeship in accordance with the requirements in 18VAC112-20-140.

**18VAC112-20-131. Continued competency requirements for renewal of an active license.**

A. In order to renew an active license biennially, a physical therapist or a physical therapist assistant shall complete at least 30 contact hours of continuing learning activities within the two years immediately preceding renewal. In choosing continuing learning activities or courses, the licensee shall consider the following: (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

B. To document the required hours, the licensee shall maintain the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of the following:

1. A minimum of 20 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants shall be in Type 1 courses. For the purpose of this section, "course" means an organized program of study, classroom experience or similar educational experience that is directly related to the clinical practice of physical therapy and approved or provided by one of the following organizations or any of its components:

- a. The Virginia Physical Therapy Association;
- b. The American Physical Therapy Association;
- c. Local, state or federal government agencies;
- d. Regionally accredited colleges and universities;
- e. Health care organizations accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation;
- f. The American Medical Association - Category I Continuing Medical Education course; and
- g. The National Athletic Trainers' Association.

2. No more than 10 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants may be Type 2 activities or courses, which may or may not be offered by an approved organization but which shall be related to the clinical practice of physical therapy. Type 2 activities may include but not be limited to consultation with colleagues, independent study, and research or writing on subjects related to practice. Up to two of the Type 2 continuing education hours may be satisfied through delivery of physical therapy services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services.

3. Documentation of specialty certification by the American Physical Therapy Association may be provided as evidence of completion of continuing competency requirements for the biennium in which initial certification or recertification occurs.

4. Documentation of graduation from a transitional doctor of physical therapy program may be provided as evidence of completion of continuing competency requirements for the biennium in which the physical therapist was awarded the degree.

5. A physical therapist who can document that he ~~has taken the PRT~~ attained at least Level 2 on the FSBPT assessment tool may receive ~~40~~ five hours of Type 1 credit for the biennium in which the assessment tool was taken. A physical therapist who can document that he ~~has met the standard of the PRT~~ attained at least Level 3 or 4 on the FSBPT assessment tool may receive ~~20~~ 10 hours of Type 1 credit for the biennium in which the assessment tool was taken. Continuing competency credit shall only be granted for the FSBPT assessment tool once every four years.

C. A licensee shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure by examination in Virginia.

D. The licensee shall retain his records on the completed form with all supporting documentation for a period of four years following the renewal of an active license.

E. The licensees selected in a random audit conducted by the board shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.

F. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

G. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

H. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

**18VAC112-20-135. Inactive license.**

A. A physical therapist or physical therapist assistant who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required renewal fee, be issued an inactive license.

1. The holder of an inactive license shall not be required to meet active practice requirements.

2. An inactive licensee shall not be entitled to perform any act requiring a license to practice physical therapy in Virginia.

---

# Regulations

---

B. A physical therapist or physical therapist assistant who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the biennium in which the license is being reactivated;
2. Providing proof of 320 active practice hours in another jurisdiction within the four years immediately preceding application for reactivation.

a. If the inactive physical therapist licensee does not meet the requirement for active practice, the license may be reactivated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140 or documenting that he has ~~met the standard of the PRT~~ attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for reactivation of licensure in Virginia and successfully completing 160 hours in a traineeship in accordance with requirements in 18VAC112-20-140.

b. If the inactive physical therapist assistant licensee does not meet the requirement for active practice, the license may be reactivated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140; and

3. Completing the number of continuing competency hours required for the period in which the license has been inactive, not to exceed four years.

### 18VAC112-20-136. Reinstatement requirements.

A. A physical therapist or physical therapist assistant whose Virginia license is lapsed for two years or less may reinstate his license by payment of the renewal and late fees as set forth in 18VAC112-20-27 and completion of continued competency requirements as set forth in 18VAC112-20-131.

B. A physical therapist or physical therapist assistant whose Virginia license is lapsed for more than two years and who is seeking reinstatement shall:

1. Apply for reinstatement and pay the fee specified in 18VAC112-20-27;
2. Complete the number of continuing competency hours required for the period in which the license has been lapsed, not to exceed four years; and
3. Have actively practiced physical therapy in another jurisdiction for at least 320 hours within the four years immediately preceding applying for reinstatement.
  - a. If a physical therapist licensee does not meet the requirement for active practice, the license may be reinstated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140 or documenting that he has ~~met the standard of the PRT~~ attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for licensure in Virginia and successfully completing 160 hours in a

traineeship in accordance with requirements in 18VAC112-20-140.

- b. If a physical therapist assistant licensee does not meet the requirement for active practice, the license may be reinstated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140.

VA.R. Doc. No. R17-4983; Filed July 20, 2017, 11:56 a.m.

---

## TITLE 22. SOCIAL SERVICES

### DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

#### Final Regulation

**REGISTRAR'S NOTICE:** The Department for Aging and Rehabilitative Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department for Aging and Rehabilitative Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 22VAC30-120. **Adult Services Approved Providers (amending 22VAC30-120-10, 22VAC30-120-30).**

**Statutory Authority:** § 51.5-131 of the Code of Virginia.

**Effective Date:** September 21, 2017.

**Agency Contact:** Paige L. McCleary, Adult Services Program Consultant, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7605, or email paige.mccleary@dars.virginia.gov.

**Summary:**

*Amendments to the definitions of "adult abuse," "adult neglect," and "adult exploitation" in 22VAC30-120-10 comport regulatory language with Chapter 195 of the 2017 Acts of Assembly. These definitions include the phrase "as defined in § 63.2-1603," and the definition of "adult exploitation" is amended to mirror the broader and more descriptive definition in Chapter 195.*

*Amendments to 22VAC30-120-30 comport regulatory language to Chapter 809 of the 2017 Acts of Assembly. The amendments update references in subsection B to crimes that constitute a barrier for providers of adult services seeking approval by the Department of Social Services. Specifically, the language that refers to crimes "listed in § 63.2-1719 of the Code of Virginia" is amended. Obsolete language in subdivisions B 2 and B 3 is stricken and replaced with language stating "any offense set forth in*

*clause (i) of the definition of barrier crime in § 19.2-392.02." In subdivision B 4, the reference "§ 63.2-1719" is stricken and replaced with "clause (i) of the definition of barrier crime in § 19.2-392.02."*

**22VAC30-120-10. Definitions.**

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

"Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. A person's degree of independence in performing these activities is part of determining the appropriate level of care and services.

"Adult" means any individual 18 years of age or over.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day services provider" means a provider who gives personal supervision for up to three adults for part of a day. The provider promotes social, physical and emotional well-being through companionship, self-education, and satisfying leisure activities. Adult day services that are provided for more than three adults require licensure by the Virginia Department of Social Services.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an ~~incapacitated~~ adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such fund, property, benefits resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in the neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition or an emotional or behavioral problem. Adult foster care may be provided by a single provider for up to three adults.

"Adult foster care provider" means a provider who gives room and board, supervision and special services in his own home for up to three adults who are unable to remain in their own homes because of a physical or mental condition or an emotional or behavioral problem. Care provided for more

than three adults requires licensure by the Virginia Department of Social Services.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being.

"Adult services" means services that are provided to adults 60 years of age and older and to adults 18 years of age and older who are impaired.

"Assistant" means any individual who is responsible to assist an adult services approved provider in caring for adult clients. Assistants must meet the same requirements as the provider.

"Chore provider" means a provider who performs nonroutine, heavy home maintenance tasks for adult clients unable to perform such tasks for themselves. Chore services include minor repair work on furniture and appliances in the adult's home; carrying coal, wood and water; chopping wood; removing snow; yard maintenance; and painting.

"Client" means any adult who needs supervision and/or services and seeks assistance in meeting those needs from a local department of social services.

"Companion provider" means a provider who assists adult clients unable to care for themselves without assistance and where there is no one available to provide the needed services without cost in activities such as light housekeeping, companionship, shopping, meal preparation, transportation, household management and activities of daily living (ADLs).

"Department" means the Virginia Department for Aging and Rehabilitative Services.

"Home-based services" means companion, chore, and homemaker services that allow individuals to attain or maintain self-care and are likely to prevent or reduce dependency.

"Homemaker services" means a provider who gives instruction in or, where appropriate, performs activities such as personal care, home management, household maintenance, nutrition, consumer or hygiene education.

"In-home provider" means an individual who provides care in the home of the adult client needing supervision and/or services. In-home providers include companion, chore, and homemaker providers.

"Instrumental activities of daily living" means meal preparation, housekeeping/light housework, shopping for personal items, laundry, or using the telephone. An adult client's degree of independence in performing these activities is part of determining the appropriate level of care and services.

"Local board" means the local board of social services representing one or more counties or cities.



---

# Regulations

---

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local department-approved provider" means a provider that is not subject to licensure and is approved by a local department of social services to provide services to clients.

"Out-of-home provider" means an individual who provides care in the individual's own home to adult clients who enter the home for purposes of receiving needed supervision and/or services.

"Personal care services" means the provision of nonskilled services including assistance in the activities of daily living, and may include instrumental activities of daily living related to the needs of the adult client, to maintain the adult client's health and safety in their home.

"Responsible person" means an individual designated by or for an adult client who is authorized to make decisions concerning the adult client and/or to receive information about the adult client.

## **22VAC30-120-30. Standards for providers and other persons.**

### A. Age requirements include:

1. All local department-approved adult services homemaker providers shall be at least 18 years of age.
2. All local department-approved adult services chore and companion providers shall be at least 16 years of age. If the local department chooses to approve a chore or companion provider who is at least 16 years of age but less than 18 years of age, the local department must determine that the provider is competent and able to provide the service.
3. Any assistant to a local department-approved in-home provider for adult services shall be at least 16 years of age.

### B. Criminal record background checks and additional requirements include:

1. The provider and any assistant, the spouse of the provider, or other adult household members who come in contact with adults in care shall identify any criminal convictions and consent to a criminal record search. A new criminal record background check shall be required at the time of renewal.
2. Convictions of ~~crimes listed in § 63.2-1719~~ any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia shall prohibit a provider, the assistant, spouse of the provider, or other adult household members who come in contact with adults in care to receive approval as a provider. In addition, if the provider or, for adult foster care and adult day services, the assistant, spouse of the provider, or other adult household members who come in contact with adults in care, has been convicted of any other felony or misdemeanor that, in the judgment of the local department jeopardizes the safety or proper care of adults, the provider shall be prohibited from being approved as a provider of services to adults.

3. Conviction of a ~~crime listed in § 63.2-1719~~ any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia will result in the revocation of the provider's approval unless an allowable variance is granted by the local department.

4. When the provider and any assistant, and for adult foster care, spouse of the provider, or other adult household members who come in contact with adults in care, has been convicted of a felony or misdemeanor not listed in ~~§ 63.2-1719~~ clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia, the local department may approve the provider if the local department determines that the conviction does not jeopardize the safety or proper care of the adult.

### C. Interview, references, and employment history requirements include:

1. The provider shall participate in interviews with the local department.
2. The provider shall provide at least two references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related to the provider.
3. The provider shall provide information on the provider's employment history.
4. The local department shall use the interviews, references, and employment history to assess that the provider is:
  - a. Knowledgeable of and physically and mentally capable of providing the necessary care for adults;
  - b. Able to sustain positive and constructive relationships with adults in care, and to relate to adults with respect, courtesy, and understanding;
  - c. Capable of handling emergencies with dependability and good judgment; and
  - d. Able to communicate and follow instructions sufficiently to ensure adequate care, safety and protection for adults.
5. For adult foster care and adult day services, at least one interview shall occur in the home where the care is to be provided. All adult household members shall be interviewed to ensure that they understand the demands and expectations of the care to be provided.
6. For homemaker providers, the local department shall further use the interview, references, and employment history to assess that the provider has knowledge, skills, and ability, as appropriate, in:
  - a. Home management and household maintenance;
  - b. The types of personal care of the elderly or adults with a disability permitted by regulation;
  - c. Nutrition education and meal planning and preparation, including special diets; and

- d. Personal hygiene and consumer education.
- 7. For adult foster care providers, the local department shall further use the interview, references, and employment history to assess that the provider has sufficient financial income or resources to meet the basic needs of his own family and has the knowledge, skills, and abilities to care for adults, including, but not limited to:
  - a. Provision of a furnished room in the home that meets applicable zoning, building, and fire safety codes.
  - b. Housekeeping services based on the needs of the adult in care.
  - c. Nutritionally balanced meals and snacks, including extra portions and special diets as necessary.
  - d. Provision of clean bed linens and towels at least once a week and as needed by the adult.
  - e. Assistance with personal hygiene including bathing, dressing, oral hygiene, hair grooming and shampooing, care of clothing, shaving, care of toenails and fingernails, arranging for haircuts as needed, care of needs associated with menstruation or occasional bladder or bowel incontinence.
  - f. Provision of generic personal toiletries including soap and toilet paper.
  - g. Assistance with the following: care of personal possessions, care of personal funds if requested by the adult and adult foster care home's policy permits it, use of telephone, arranging transportation, obtaining necessary personal items and clothing, making and keeping appointments, and correspondence.
  - h. Securing health care and transportation when needed for medical treatment.
  - i. Providing social and recreational activities as required by the local department and consistent with licensing regulations.
  - j. General supervision for safety.
- D. Training requirements include:
  - 1. The local department shall provide basic orientation to any approved provider.
  - 2. The provider shall attend any orientation and training required by the local department. The provider shall bear the cost of any required training unless the local department subsidizes the cost for all local department-approved providers.
- E. Medical requirements include:
  - 1. The provider; for out-of-home care, the assistant; the provider's spouse; and all other adult household members who come in contact with adults in care shall submit a statement from the local health department or licensed physician that he is believed to be free of tuberculosis in a communicable form.

2. The provider and assistant shall submit the results of a physical and mental health examination when requested by the local department.

F. All local department-approved providers shall keep the local department informed of changes in the household that may affect approval of the provider.

G. The provider shall have the capability to fully perform the requirements of the position, have the moral and business integrity and reliability to ensure good faith performance and be determined by the local department to meet the requirements of the position.

H. Any provider who causes the local department to make an improper payment by withholding information or providing false information may be required to repay the amount of the improper payment. Failure to repay any improper payment shall result in a referral for criminal or civil prosecution.

VA.R. Doc. No. R17-5079; Filed July 25, 2017, 11:05 a.m.

**STATE BOARD OF SOCIAL SERVICES**

**Proposed Regulation**

**Title of Regulation:** 22VAC40-601. Supplemental Nutrition Assistance Program (adding 22VAC40-601-70).

**Statutory Authority:** § 63.2-217 of the Code of Virginia; 7 CFR 271.4.

**Public Hearing Information:** No public hearings are scheduled.

**Public Comment Deadline:** October 22, 2017.

**Agency Contact:** Celestine Jackson, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356, TTY (800) 828-1120, or email celestine.jackson@dss.virginia.gov.

**Basis:** Section 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. Federal regulations at 7 CFR 271.4 delegate responsibility to administer the Supplemental Nutrition Assistance Program (SNAP) within a state to the agency assigned responsibility for other federally funded public assistance programs. Federal regulations at 7 CFR 273.9(d)(5) permit states the option to either count legally obligated child support payments to nonhousehold members as an income deduction or an income exclusion; Virginia currently uses the income deduction option.

**Purpose:** In an effort to encourage noncustodial parents to meet their obligations to pay child support, the agency proposes to change how legally obligated child support payments are evaluated when determining SNAP eligibility and in determining the amount of SNAP benefits these households may receive. States may evaluate child support payments for SNAP households as an income deduction or income exclusion. States must select only one method to

---

# Regulations

---

assess child support payments. The amount of SNAP benefits eligible households would receive would be the same regardless of the method used to assess child support payments but, by excluding the amount paid for child support as income, more households may meet the maximum income amount.

The agency is hopeful that, as more households meet the maximum income amounts, fewer households may be denied for being over the income limit. Having fewer households being denied for exceeding the maximum income limits may be an incentive for noncustodial parents to make their legally obligated child support payments regularly. Having parents meet their child support obligations regularly promotes the health, safety, or welfare of citizens by reducing reliance on public assistance programs and increases financial resources for affected families.

Substance: 22VAC40-601-70 allows SNAP households to have mandatory child support paid to or for individuals outside the SNAP household to be excluded from their gross income when determining eligibility for SNAP benefits. Applicant households for SNAP benefits must meet a gross income test if the household does not contain at least one household member who is 60 years of age or older or one member who is permanently disabled. If the gross income exceeds the allowable limit for the size of the household, the application for SNAP benefits must be denied without any consideration of household expenses. Excluding child support payment amounts as income reduces the gross income amount for a household, which conceivably may allow more households to meet the gross income eligibility test.

Issues: Changing how child support payments are evaluated for SNAP applicants and recipients offers the potential advantage to affected households of reducing countable gross income. If households pass the gross income eligibility screening test, allowable household expenses are evaluated and deducted. After household expenses are deducted, the calculated net income for all applicant households must fall below the allowable new income limit based on household size in order to receive a SNAP benefit. Calculated SNAP benefit amounts are not affected by the adoption of income exclusion for child support payments over the income deduction method so program integrity is maintained. The advantage of this regulation is to incentivize the payment of child support from noncustodial parents by recognizing their commitment to their children and potentially offsetting some of the child support paid with SNAP benefits. If households are eligible for SNAP benefits, the likelihood of food insecurity is reduced.

A programming change to the eligibility computer system will be needed to allow for the exclusion as income for child support payments instead of a deduction from the income. Neither local departments of social services nor local eligibility workers should be adversely affected by a change in the evaluation of child support payments, as there is no

change in the benefit amount or in the likely number of applicants for benefits.

There are no disadvantages to the public or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. The State Board of Social Services (Board) proposes to allow legally obligated child support payments paid by a Supplemental Nutrition Assistance Program (SNAP) household member to or for a non-household member as an exclusion from countable income for SNAP-eligibility purposes.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. Title 7 of the Code of Federal Regulations (CFR) section 271.4<sup>1</sup> delegates responsibility to administer SNAP within a state to the agency assigned responsibility for other federally funded public assistance programs. Federal regulation at 7 CFR 273.9(d) (5)<sup>2</sup> permits states the option to either count legally obligated child support payments to non-household members as an income deduction or an income exclusion when determining eligibility for SNAP benefits; Virginia currently uses the income deduction option. The Board proposes to amend the SNAP regulation to indicate that the income exclusion option will be used.

Households that do not include at least one individual who is either at least 60 years old or permanently disabled must not have gross income over a specified amount, nor net income over a different specified amount,<sup>3</sup> in order to qualify for SNAP benefits. The income deduction reduces only net income. The income exclusion reduces both gross income and net income. Thus the proposal to count legally obligated child support payments to non-household members as an income exclusion rather than an income deduction would likely increase the number of households that qualify for SNAP benefits, and may encourage more noncustodial parents to make their legally obligated child support payments regularly since doing so could make their household SNAP qualified. As SNAP is fully funded by the federal government, the proposal clearly produces a net benefit for the Commonwealth.

Businesses and Entities Affected. The proposed amendment potentially affects low-income households where a member of the household is legally obligated to make child support payments, and the households that receive those child support payments.

Localities Particularly Affected. Localities with a high proportion of low-income households would likely be particularly affected by the proposed amendment.

Projected Impact on Employment. The proposal to allow legally obligated child support payments paid by a SNAP

household member to or for a non-household member as an exclusion from countable income for SNAP-eligibility purposes will effectively allow such a household to earn more income and still qualify for SNAP. This may encourage a household member to perhaps get a part-time job who otherwise would not have, or encourage any already employed household member to seek a better paying job.

Effects on the Use and Value of Private Property. The proposed amendment would not significantly affect the use and value of private property.

Real Estate Development Costs. The proposed amendment would not affect real estate development costs.

Small Businesses:

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

Costs and Other Effects. The proposed amendment would not affect costs for small business.

Alternative Method that Minimizes Adverse Impact. The proposed amendment would not adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendment would not adversely affect businesses.

Localities. The proposed amendment would not adversely affect localities.

Other Entities. The proposed amendment would not adversely affect other entities.

<sup>1</sup> See <https://www.gpo.gov/fdsys/pkg/CFR-2011-title7-vol4/pdf/CFR-2011-title7-vol4-sec271-4.pdf>

<sup>2</sup> See <https://www.gpo.gov/fdsys/pkg/CFR-2011-title7-vol4/pdf/CFR-2011-title7-vol4-sec273-9.pdf>

<sup>3</sup> The specified amounts are dependent on household size.

Agency's Response to Economic Impact Analysis: The Department of Social Services reviewed the economic impact analysis prepared by the Department of Planning and Budget and concurs.

Summary:

*The proposed section allows amounts paid by a Supplemental Nutrition Assistance Program (SNAP) household member for child support pursuant to a court or administrative order to be excluded as countable income for SNAP-eligibility purposes.*

**22VAC40-601-70. Income exclusion for legally obligated child support payments.**

Legally obligated child support payments paid by a SNAP household member to or for a nonhousehold member will be allowed as an exclusion from countable income for SNAP purposes.

V.A.R. Doc. No. R17-4595; Filed July 20, 2017, 1:58 p.m.

**Fast-Track Regulation**

Title of Regulation: **22VAC40-880. Child Support Enforcement Program (amending 22VAC40-880-405).**

Statutory Authority: § 63.2-217 of the Code of Virginia; 42 USC § 651 et seq.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: September 20, 2017.

Effective Date: October 6, 2017.

Agency Contact: Alice Burlinson, Senior Assistant Attorney General, Department of Social Services, 4504 Starkey Road, SW, Roanoke, VA 24018, telephone (540) 776-2779, FAX (804) 776-2797, or email [alice.burlinson@dss.virginia.gov](mailto:alice.burlinson@dss.virginia.gov).

Basis: Section 63.2-217 of the Code of Virginia states that the State Board of Social Services shall adopt regulations, not in conflict with Title 63.2 of the Code of Virginia, as may be necessary or desirable to carry out the purpose of Title 63.2.

Purpose: This amendment is needed to provide the Division of Child Support Enforcement with the ability to increase collection of child support for families. Currently, noncustodial parents in the Passport Denial Program must pay their child support arrears in full to obtain or renew a passport. The only exception is for cases where a noncustodial parent's immediate family member lives abroad and faces a life-or-death situation. In those instances, the Director of the Division of Child Support Enforcement may grant the release of a passport upon the noncustodial parent's written request, which must include documentation of compelling evidence of the situation.

Many child support payers need to travel internationally for work. Under the current regulation, these noncustodial parents have no way to obtain or renew their passports unless they have the ability to pay their arrears in full. The division would like to encourage payment of support and does not want the passport regulation to be a barrier when a noncustodial parent has employment that would provide him with the means to pay child support but for the denial of a passport.

Rationale for Using Fast-Track Rulemaking Process: The Department of Social Services does not believe that the proposed regulation will be controversial. The amended regulation will provide for an additional exception for release of a passport from the Passport Denial Program.

Substance: The amendment provides an additional exception for release of a noncustodial parent's passport. This change would enable the division to work with noncustodial parents who are unable to pay their child support arrearages in full but whose employment is contingent upon international travel to allow them to obtain or renew their passports. These parents would be required to make lump sum payments towards their arrearages, agree to income withholding orders, and enter into payment agreements with the division with a regular monthly payment amount and a schedule for paying

---

# Regulations

---

off the arrearage in full. They would also be required to provide written proof of current employment or proof of an offer and acceptance of employment from their employer.

Issues: There are numerous advantages to this regulatory action. The amended regulatory section will (i) provide an additional exception for a noncustodial parent's release from the Passport Denial Program in Virginia; (ii) increase child support collection through lump sum payments and payment agreements; and (iii) potentially provide for regular payment of support from noncustodial parents who are required to travel internationally as part of their employment.

The department is aware of no disadvantages to this regulatory action.

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

Summary of the Proposed Amendments to Regulation. The State Board of Social Services (Board) proposes to add an exception for release from the Passport Denial Program if a noncustodial parent provides documentation from their employer to verify that their employment requires international travel.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. The U.S. Department of Health & Human Services' Passport Denial Program is designed to help states enforce delinquent child support obligations. Under the program, noncustodial parents certified by a state as having arrearages exceeding \$2,500 are submitted by the federal Office of Child Support Enforcement to the Department of State, which denies them U.S. passports upon application or the use of a passport service.<sup>1</sup> The program was first implemented in Virginia in 1997.

Under the current Virginia regulation, noncustodial parents in the Passport Denial Program must pay their child support arrears in full to obtain or renew a passport. The only exception is for cases where a noncustodial parent's immediate family member lives abroad and faces a life-or-death situation. The Board proposes an additional exception for release from the Passport Denial Program if the noncustodial parent provides documentation from their employer to verify that their employment requires international travel.

The proposed amendment would likely be beneficial in that it potentially helps enable noncustodial parents with jobs that may require international travel to satisfy the requirements of their employment, and be able to earn the income needed to pay their child support obligations. Additionally, noncustodial parents may be able to obtain better-paying positions, helping provide income to pay child support obligations, if they are permitted to travel abroad for work.

Businesses and Entities Affected. The proposed amendment would affect noncustodial parents who owe \$2,500 or more in child support arrearages. Indirectly, the amendment would

potentially affect firms that may employ these individuals, as well as recipients of their child support payments.

Localities Particularly Affected. The proposed amendment would not disproportionately affect specific localities.

Projected Impact on Employment. The proposed amendment would not significantly affect total employment, but may help a small number of individuals to maintain or obtain employment.

Effects on the Use and Value of Private Property. The proposed amendment would not significantly affect the use and value of private property.

Real Estate Development Costs. The proposed amendment would not affect real estate development costs.

Small Businesses:

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

Costs and Other Effects. The proposed amendment may reduce costs for a few small businesses by permitting employees or firm principals who are noncustodial parents with delinquent child support obligations to travel internationally for business.

Alternative Method that Minimizes Adverse Impact. The proposed amendment would not adversely affect small businesses.

Adverse Impacts.

Businesses. The proposed amendment would not adversely affect businesses.

Localities. The proposed amendment would not adversely affect localities.

Other Entities. The proposed amendment would not adversely affect other entities.

---

<sup>1</sup> Source: U.S. Office of Child Support Enforcement accessed on May 30, 2017: <https://www.acf.hhs.gov/css/resource/overview-of-the-passport-denial-program>

Agency's Response to Economic Impact Analysis: The Department of Social Services reviewed the economic impact analysis prepared by the Department of Planning and Budget and concurs.

## Summary:

*The amendment adds an exception for release from the Passport Denial Program if a noncustodial parent provides documentation from the noncustodial parent's employer to verify that his employment requires international travel.*

**22VAC40-880-405. Passport ~~denial~~ program Denial Program.**

A. The department shall participate in the Passport Denial Program for the denial, revocation, or limitation of noncustodial parents' passports where child support arrearages exceed the federally mandated threshold.

B. The department shall certify the arrearages to the federal Office of Child Support Enforcement, which will then (i) send notice of the certification on behalf of the department to the individual and (ii) certify the arrearage to the Department of State pursuant to the Passport Denial Program.

C. An individual has the right to appeal per the notice to a Department of Social Services' hearing officer. The only issues reviewable on appeal are (i) whether the arrears met the threshold at the time of certification, or (ii) mistaken identity. An appeal from the hearing officer shall be to circuit court pursuant to the procedures under the Setoff Debt Collection Act (§ 58.1-520 et seq. of the Code of Virginia). The issues in subsections D and E of this section are not reviewable by the hearing officer.

D. An individual's child support arrearages shall be paid in full before the department notifies the federal Office of Child Support Enforcement that the individual is eligible to receive a passport.

E. Exceptions to paying all arrearages prior to release of a passport may be granted by the IV-D agency director upon written request documenting (i) compelling evidence of a life-or-death situation of an immediate family member or (ii) employment that is contingent upon international travel with written proof from the employer of current employment or an offer and acceptance of employment and an agreement with the department that includes an income withholding order, a lump sum payment, and a plan to make regular payments to satisfy the arrearage within a finite period of time. Such decision whether to grant an exception shall be in the sole discretion of the IV-D agency director or designee.

VA.R. Doc. No. R17-5000; Filed July 24, 2017, 9:22 a.m.

---

# GENERAL NOTICES/ERRATA

---

## DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

### Proposed Variances to the Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115)

Notice of action: The Department of Behavioral Health and Developmental Services (DBHDS), in accordance with Part VI, Variances (12VAC35-115-220), of the Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115), hereafter referred to as the "Human Rights Regulations," is announcing an opportunity for public comment on applications for proposed variances to the Human Rights Regulations. The purpose of the 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 these regulations to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for a variance. Such application also describes time limits and other conditions for duration and the circumstances that will end the applicability of the variance. After considering all available information including comments, DBHDS intends to submit a written decision deferring, disapproving, modifying, or approving each variance renewal application. All variances shall be approved for a specific time period. The decision and reasons for variance will be published in a later issue of the Virginia Register of Regulations.

A. DBHDS is seeking comment on the application for new proposed variances to the Human Rights Regulations for DBHDS' Western State Hospital (WSH).

1. Variance to procedures for behavioral treatment plans, 12VAC35-115-105 H: Providers shall not use seclusion in a behavioral treatment plan.

2. Variance to procedures for behavioral treatment plans and use of seclusion, restraint, and time out, 12VAC35-115-110 C 3: Only residential facilities for children that are licensed under the Regulations for Children's Residential Facilities (12VAC35-46) and inpatient hospitals may use seclusion and only in an emergency.

Explanation: The requested variances will allow WSH to place an individual in an environment of seclusion, at the individual's request, and not as related to an emergency, in order to prevent self-injurious harm to the individual and to the staff members responsible for the individual's care.

B. DBHDS is seeking comment on this existing variance to the Human Rights Regulations (approved March 4, 2016) at DBHDS' Central State Hospital (CSH). The proposed revisions consist of updated regulatory references due to permanent revisions to the Human Rights Regulations (effective February 9, 2017), and administrative updates to the composition of the Maximum Security Appeals Committee.

1. Update regulatory references. The application clarifies that the following sections have been repealed from the Human Rights Regulations and replaced by new 12VAC35-115-175:

- 12VAC35-115-50 D 3 e (5): Abuse, Neglect, and Exploitation
- 12VAC35-115-60 B 1 d
- 12VAC35-115-140 A 2, A 4
- 12VAC35-115-170: Formal Complaint Process.

Change of membership of the appeals committee. 12VAC35-115-150: General Provisions: The two proposed changes to the membership of the committee are the addition of the Vice Chair of the State Human Rights Committee (SHRC), and the removal of the DBHDS Assistant Commissioner for Forensic Services.

Explanation: This existing variance bypasses the formal fact-finding process before the local human rights committee and instead, funnels the formal complaint resolution process for patients in the maximum security forensic units only, to review by a Maximum Security Appeals Committee. Specifically, due to an administrative decision to increase the objectivity of the committee, the proposed amendments are:

- A resident who has followed the procedures of CSH RTS-01d Patient and Family Complaint Resolution, and is not satisfied with the CSH Director's response may appeal the decision to the CSH Maximum Security Appeals Committee.
- The CSH Maximum Security Appeals Committee consists of the Chairperson and Vice Chair of the State Human Rights Committee, and the Department of Behavioral Health and Developmental Services (DBHDS) Director of Human Rights, ~~and the DBHDS Assistant Commissioner for Forensic Services.~~
- The CSH Maximum Security Appeals Committee shall review the appeal and provide a written response within 21 days. If the complaint is determined by the Appeals Committee to be a founded complaint, the response, which includes recommendations outlining how the complaint should be resolved, shall be forwarded to the director for resolution. A copy shall be sent to the human rights advocate. This is the final level of appeal.

Variances to these regulations by the state facilities listed above are reviewed by the SHRC at least annually, with reports to the SHRC regarding the variances as requested.

Public comment period: August 21, 2017, through September 21, 2017.

Description of proposal: The proposed variance applications for renewal must comply with the general requirements of Part VI, Variances (12VAC35-115-220), of the Human Rights Regulations.

How to comment: DBHDS accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DBHDS by the last day of the comment period. All information received is part of the public record.

To review a proposal: Variance applications and any supporting documentation may be obtained by contacting the DBHDS representative named below.

Contact Information: Deborah Lochart, 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) 786-0032, FAX (804) 804-371-2308, or email [deb.lochart@dbhds.virginia.gov](mailto:deb.lochart@dbhds.virginia.gov).

### DEPARTMENT OF ENVIRONMENTAL QUALITY Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality is conducting a periodic review and small business impact review of **9VAC15-90, Uniform Environmental Covenants Act Regulation**. The review of this regulation will be guided by the principles in Executive Order 17 (2014).

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.

The comment period begins August 21, 2017, and ends September 11, 2017.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments

may also be sent to Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email [melissa.porterfield@deq.virginia.gov](mailto:melissa.porterfield@deq.virginia.gov).

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 Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

### **Buckingham II Solar, LLC Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - Buckingham County**

Buckingham II Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Buckingham County pursuant to 9VAC15-60. The project will be located on 295 acres across multiple parcels, on the north east and southwest corners of the intersection of James Anderson Highway and High Rock Road. The solar project conceptually consists of approximately 85,000 335-watt panels plus eight 2.7-megawatt inverters, which will provide a maximum 20 megawatts of nameplate capacity.

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

### **Colonial Trail W Solar, LLC Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - Surry County**

Colonial Trail W Solar, LLC, has provided to the Department of Environmental Quality a revised notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Surry County pursuant to 9VAC15-60. The proposed project will be located to the northwest of the intersection of Colonial Trail (Route 10) and Hollybush Road (Route 618) in Surry County. This project will have a maximum generating capacity of 150 megawatts alternating current (AC) across roughly 1250 acres on multiple parcels, an increase from the previously submitted notice for a maximum capacity of 100 megawatts AC on January 4, 2017. There is an existing transmission line bisecting the property, and a new substation is proposed to be built to connect to the grid. A notice of intent was previously submitted for a project with a maximum generating capacity of 100 megawatts AC. The previous notice was posted to the Virginia Regulatory Town Hall on January 5, 2017, and published in the Virginia Register of Regulations on February 6, 2017.



---

## General Notices/Errata

---

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

### **Dominion Energy Puller Solar Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - Middlesex County**

Dominion Energy Puller Solar Notice of Intent provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable solar energy project in Middlesex County. The project will be located on approximately 125 acres at 8611 General Puller Highway, Topping, Virginia. The solar facility will be comprised of ground-mounted single-axis tracking photovoltaic arrays and auxiliary equipment to provide approximately 15 megawatts alternating current of nameplate capacity. The project conceptually consists of 58,800 panels plus five inverters.

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

### **Greenwood Solar I, LLC Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - Culpeper County**

Greenwood Solar I, LLC, an affiliate of Open Road Renewables, LLC, has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Culpeper County pursuant to 9VAC15-60. The project is located approximately one mile south of Stevensburg on the south side of State Route 3 in Culpeper County. The project will be constructed on multiple parcels of land totaling approximately 1,000 acres and will use conventional solar panels to deliver up to 100 megawatts of electricity (alternating current) to an existing transmission line. The preliminary design of the project calls for the project to use approximately 380,000 solar panels

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

### **Maplewood Solar I, LLC Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - Pittsylvania County**

Maplewood Solar I, LLC, an affiliate of Open Road Renewables, LLC, has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Pittsylvania County pursuant to 9VAC15-60. The project is located in the vicinity

of the community of Climax on the east and west sides of Climax Road in Pittsylvania County. The project will be constructed on multiple parcels of land totaling approximately 1,200 acres and will use conventional solar panels to deliver up to 120 megawatts of electricity (alternating current) to an existing transmission line. The preliminary design of the project calls for the project to use approximately 456,000 solar panels.

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

### **Nokesville Solar, LLC Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - Prince William County**

Nokesville Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Prince William County pursuant to 9VAC15-60. The project will be located on 300 acres across a single parcel on land west of Carriage Ford Road, north of Warrenton Road, and south and east of Route 28. The solar project conceptually consists of approximately 85,000 335-watt panels plus eight 2.7-megawatt inverters, which will provide a maximum 20 megawatts of nameplate capacity.

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

### **Reservoir Solar, LLC Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - Louisa County**

Reservoir Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Louisa County pursuant to 9VAC15-60. The project will be located on 1400 acres across multiple parcels on land west of Mineral Avenue and Kennon Road, north of Jefferson Highway, south of Davis Highway and east of School Bus Road. The solar project conceptually consists of approximately 421,000 335-watt panels plus 40 2.7-megawatt inverters, which will provide a maximum 99.9 megawatts of nameplate capacity.

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

**Sycamore Solar I, LLC Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule – Pittsylvania County**

Sycamore Solar I, LLC, an affiliate of Open Road Renewables, LLC, has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Pittsylvania County pursuant to 9VAC15-60. The project is located on the north and south sides of State Route 40 between Hodnetts Road and Renan Road approximately 10 miles east of Gretna in Pittsylvania County. The project will be constructed on multiple parcels of land totaling approximately 420 acres and will use conventional solar panels to deliver up to 42 megawatts of electricity (alternating current) to an existing transmission line. The preliminary design of the project calls for the project to use approximately 159,600 solar panels.

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

**Walnut Solar I, LLC Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - King and Queen County**

Walnut Solar I, LLC, an affiliate of Open Road Renewables, LLC, has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in King and Queen County pursuant to 9VAC15-60. The project is located approximately two miles southeast of the community of Shackelfords on the south side of State Route 14 in King and Queen County. The project will be constructed on multiple parcels of land totaling approximately 700 acres and will use conventional solar panels to deliver up to 70 megawatts of electricity (alternating current) to an existing transmission line. The preliminary design of the project calls for the project to use approximately 266,000 solar panels.

Contact Information: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

**VIRGINIA LOTTERY  
Director's Orders**

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on August 2, 2017. The orders may be viewed at the Virginia Lottery, 600 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia.

Director's Order Number One Hundred Five (17)

Virginia Lottery's "Food Lion MVP Kiosk Coupon Promotion" Final Rules for Operation (This Director's Order becomes effective on August 2, 2017, and shall remain in full force and effect through the end promotion date unless amended or rescinded by further Director's Order)

Director's Order Number One Hundred Seventeen (17)

Certain Virginia Promotion; Promotion Drawing Date Correction and Content Correction

Q1/Q2 FY18 eXTRA Chances Scratcher Promotion (104 2017)

(This Director's Order is effective nunc pro tunc to July 1, 2017, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

Director's Order Number One Hundred Nineteen (17)

Certain Virginia Promotion; Promotion Requirement Correction

Summer Corvette® Giveaway Promotion (90 2017)

(This Director's Order is effective nunc pro tunc to June 9, 2017, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

Director's Order Number One Hundred Twenty (17)

Virginia Lottery's Scratch Game 1807 "2X The Money" Final Rules for Game Operation (effective July 14, 2017)

Director's Order Number One Hundred Twenty-One (17)

Certain Virginia Instant Game Lotteries; End of Games.

In accordance with the authority granted by §§ 2.2-4002 B 15 and 58.1-4006 A of the Code of Virginia, I hereby give notice that the following Virginia Lottery instant games will officially end at midnight on July 21, 2017:

Game 1772	2X The Money (TOP)
Game 1764	777 (TOP)
Game 1763	Luck (TOP)
Game 1758	Loteria
Game 1753	Ch Ch Ch Chia Cash
Game 1733	2 For \$1
Game 1689	20X The Money (TOP)
Game 1675	Lucky Dog Doubler (TOP)
Game 1668	Super Triple 777 (TOP)
Game 1642	\$1,000,000 Bankroll
Game 1620	Golden Spades (TOP)

---

## General Notices/Errata

---

Game 1580	Cash Club
Game 1544	Platinum Payout
Game 1538	Winner Take All

The last day for lottery retailers to return for credit unsold tickets from any of these games will be September 1, 2017. The last day to redeem winning tickets for any of these games will be January 17, 2018, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims that are mailed and received in an envelope bearing a postmark of the United States Postal Service or another sovereign nation of January 17, 2018, or earlier, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of lottery games.

This Director's Order becomes effective on July 18, 2017, and shall remain in full force and effect unless amended or rescinded by further Director's Order.

### Director's Order Number One Hundred Twenty-Six (17)

Virginia's Computer-Generated Lottery Game Powerball® Final Rules for Game Operation (This Director's Order is effective nunc pro tunc to May 24, 2017, fully replaces any and all prior Virginia Lottery "Powerball" game rules, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

## SAFETY AND HEALTH CODES BOARD

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Safety and Health Codes Board conducted a small business impact review of **16VAC25-20, Regulation Concerning Licensed Asbestos Contractor Notification, Asbestos Project Permits, and Permit Fees**, and determined that this regulation should be retained in its current form. The Safety and Health Codes Board is publishing its report of findings dated July 28, 2017, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

A continued need for this regulation exists as the requirements are mandated by state law. The regulation, as written, continues to protect the safety, health, and welfare of the public by monitoring and controlling the potential hazards associated with asbestos removal projects, with the least cost to citizens and businesses of the Commonwealth. No comments were received during this periodic review. The regulation is not overly complex and is clearly written. It does not duplicate, overlap, or conflict with state or federal laws or regulations, and there is no apparent negative impact on the regulated community. The regulation was last reviewed in 2013. Little or no change has occurred in technology,

and other factors that would affect the regulation.

Contact Information: Holly Raney, Regulatory Coordinator, Virginia Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, email [holly.raney@doli.virginia.gov](mailto:holly.raney@doli.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Safety and Health Codes Board conducted a small business impact review of **16VAC25-30, Regulations for Asbestos Emissions Standards for Demolition and Renovation Construction Activities and the Disposal of Asbestos-Containing Construction Wastes--Incorporation By Reference, 40 CFR 61.140 through 61.156**, and determined that this regulation should be retained in its current form. The Safety and Health Codes Board is publishing its report of findings dated July 28, 2017, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

A continued need for this regulation exists as the requirements are mandated by federal law. The regulation, as written, continues to protect the safety, health, and welfare of the public by regulating the hazards associated with asbestos emission and disposal of asbestos-containing construction waste, with the least cost to citizens and businesses of the Commonwealth. No comments were received during this periodic review. The regulation is not overly complex and is clearly written. It does not duplicate, overlap, or conflict with state or federal laws or regulations, and there is no apparent negative impact on the regulated community. The regulation was last reviewed in 2013. Little or no change has occurred in technology, economic conditions, and other factors that would affect the regulation.

Contact Information: Holly Raney, Regulatory Coordinator, Virginia Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, email [holly.raney@doli.virginia.gov](mailto:holly.raney@doli.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Safety and Health Codes Board conducted a small business impact review of **16VAC25-40, Standard for Boiler and Pressure Vessel Operator Certification**, and determined that this regulation should be retained in its current form. The Safety and Health Codes Board is publishing its report of findings dated July 28, 2017, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

A continued need for this regulation exists as the requirements are mandated by state law. The regulation, as written, continues to protect the safety, health, and welfare of the public from the dangers of boiler or pressure vessels being operated in an unsafe manner or by unqualified operators with the least possible cost and intrusiveness to the citizens and

businesses of the Commonwealth. No comments were received during this periodic review. The regulation is not overly complex and is clearly written. It does not duplicate, overlap, or conflict with state or federal laws or regulations, and there is no apparent negative impact on the regulated community. The regulation was last amended in 2013. Little or no change has occurred in technology, economic conditions, and other factors that would affect the regulation.

Contact Information: Holly Raney, Regulatory Coordinator, Virginia Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, email [holly.raney@doli.virginia.gov](mailto:holly.raney@doli.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Safety and Health Codes Board conducted a small business impact review of **16VAC25-70, Virginia Confined Space Standard for the Telecommunications Industry**, and determined that this regulation should be retained in its current form. The Safety and Health Codes Board is publishing its report of findings dated July 28, 2017, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

A continued need for this regulation exists because it more adequately protects the safety, health, and welfare of telecommunication workers than the federal standard. The regulation establishes minimum protections against exposure to hazardous chemicals and hazardous atmospheres when working in confined spaces, with the least cost to citizens and businesses of the Commonwealth. No comments were received during this periodic review. The regulation is not overly complex and is clearly written. It does not duplicate, overlap, or conflict with state or federal laws or regulations, and there is no apparent negative impact on the regulated community. The regulation was last reviewed in 2013. Little or no change has occurred in technology, economic conditions, and other factors that would affect the regulation.

Contact Information: Holly Raney, Regulatory Coordinator, Virginia Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, email [holly.raney@doli.virginia.gov](mailto:holly.raney@doli.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Safety and Health Codes Board conducted a small business impact review of **16VAC25-97, Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery, and Equipment in General Industry and the Construction Industry**, and determined that this regulation should be retained in its current form. The Safety and Health Codes Board is publishing its report of findings dated July 28, 2017, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

A continued need for this regulation exists because it more adequately protects employees in work zones in which vehicles and machinery are operating with an obstructed rear view than the equivalent federal standards. The regulation, as written, continues to protect the safety, health, and welfare of the public by establishing minimum safety standards for reverse signal procedures, with the least cost to citizens and businesses of the Commonwealth. No comments were received during this periodic review. The regulation is not overly complex and is clearly written. It does not duplicate, overlap, or conflict with state or federal laws or regulations, and there is no apparent negative impact on the regulated community. The regulation was last reviewed in 2013. Little or no change has occurred in technology, economic conditions, and other factors that would affect the regulation.

Contact Information: Holly Raney, Regulatory Coordinator, Virginia Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, email [holly.raney@doli.virginia.gov](mailto:holly.raney@doli.virginia.gov).

## STATE WATER CONTROL BOARD

### Total Maximum Daily Load for Birch Creek and Dan River Watersheds

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the draft total maximum daily load (TMDL) implementation plan (IP) for the Birch Creek and Dan River watersheds in Halifax and Pittsylvania Counties and the City of Danville. These streams were listed as impaired on the Virginia's § 303(d) TMDL Priority List and Report due to violations of the state's water quality standard for bacteria. The following are the names of the bacteria impaired streams and the length of the impaired segments: Cascade Creek, 11.79 miles; Tanyard Creek, 2.85 miles; Sugartree Creek, 6.96 miles; Stewart Creek, 7.34 miles; Pumpkin Creek, 4.28 miles; Cane Creek, 12.25 miles; Lawless Creek, 4.71 miles; Big Toby Creek, 7.56 miles; Powells Creek, 4.63 miles; Sandy Creek, 9.41 miles; upper tributary-Birch Creek, 5.35 miles; Gerny Creek, 5.36 miles; Lawsons Creek, 8.26 and 7.27 miles; Miry Creek, 1.11 miles; Stokes Creek, 6.35 miles; Sandy River, 7.22 miles; Sandy Creek, 9.48 miles; Dan River, 35.06 miles; Fall Creek, 11.97 miles; Double Creek, 8.88 miles; Byrds Branch, 3.76 miles.

The Birch Creek TMDL study was approved by the Environmental Protection Agency in 2004 and by the State Water Control Board in 2005, and can be found in the Bacteria TMDL for Birch Creek Watershed, Virginia report (available at <http://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/roankrvr/birchfc.pdf>.) The Dan River TMDL was approved by EPA in 2008 and approved by the State Water Control Board in 2009, and can be found in the Bacteria TMDL Development for the Dan River, Blackberry Creek,

---

## General Notices/Errata

---

Byrds Branch, Double Creek, Fall Creek, Leatherwood Creek, Marrowbone Creek, North Fork Mayo River, South Fork Mayo River, Smith River, Sandy Creek, and Sandy River Watersheds report (available at <http://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/roankrvr/danec.pdf>.) The Henry County and Patrick County portions of the Dan River TMDL Watershed were included in the South Mayo River, North Mayo River, Blackberry Creek, Marrowbone Creek, Leatherwood Creek and Smith River Watershed Implementation Plan (2013) (available at [http://www.deq.virginia.gov/Portals/0/DEQ/Water/TMDL/ImplementationPlans/SmithMayo\\_Technical\\_Report\\_FINAL.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/Water/TMDL/ImplementationPlans/SmithMayo_Technical_Report_FINAL.pdf).)

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts. The draft TMDL Implementation Plan and meeting documents are available at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLImplementation/TMDLImplementationProgress.aspx>.

A public meeting will be held to discuss the draft implementation plan for the Birch Creek and Dan River watersheds. At this meeting, the process by which the implementation plan was developed to restore water quality in the watersheds will be discussed, and citizens will learn how they can be part of the water quality improvement process.

The public meeting will be held from 6 p.m. until 8 p.m. on August 29, 2017, at the Danville Regional Airport, East Conference Room, 424 Airport Drive, Danville, VA 24540. In the event of severe weather, the public meeting will occur on August 31, 2017, at the same time and location.

DEQ accepts written comments by email, fax, or postal mail. The 30-day public comment period on the information presented at the meeting begins August 29, 2017, and ends September 28, 2017. Questions or information requests should be addressed to James Moneymaker with the Virginia Department of Environmental Quality. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to James Moneymaker, Virginia Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6738, FAX (540) 562-6725, or email [james.moneymaker@deq.virginia.gov](mailto:james.moneymaker@deq.virginia.gov).

### Proposed Consent Order for Sussex Service Authority

An enforcement action has been proposed for the Sussex Service Authority for violations at the Spring Branch Wastewater Treatment Plant (WWTP), located at 601 Jasper Lane in Waverly, Virginia. The State Water Control Board proposes to issue a consent order to address noncompliance with its Virginia Pollutant Discharge Elimination Permit at the WWTP. A description of the proposed action is available at the Department of Environmental Quality office named below, or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Kyle Ivar Winter, P.E., will accept comments by email at [kyle.winter@deq.virginia.gov](mailto:kyle.winter@deq.virginia.gov), FAX at (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from August 23, 2017, to September 22, 2017.

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

**Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed:** A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

**Filing Material for Publication in the Virginia Register of Regulations:** Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.