



# VIRGINIA

## REGISTER OF REGULATIONS

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Virginia Code Commission

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

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

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

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

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

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

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

## FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

## EMERGENCY REGULATIONS

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

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## STATEMENT

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

## CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

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

**Members of the Virginia Code Commission:** John S. Edwards, Chair; James A. Leftwich, Jr., Vice-Chair; Ward L. Armstrong; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Christopher R. Nolen; Steven Popp; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade; Wren M. Williams.

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

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# PUBLICATION SCHEDULE AND DEADLINES

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

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## October 2023 through October 2024

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
40:4	September 20, 2023	October 9, 2023
40:5	October 4, 2023	October 23, 2023
40:6	October 18, 2023	November 6, 2023
40:7	November 1, 2023	November 20, 2023
40:8	November 14, 2023 ( <b>Tuesday</b> )	December 4, 2023
40:9	November 29, 2023	December 18, 2023
40:10	December 13, 2023	January 1, 2024
40:11	December 27, 2023	January 15, 2024
40:12	January 10, 2024	January 29, 2024
40:13	January 24, 2024	February 12, 2024
40:14	February 7, 2024	February 26, 2024
40:15	February 21, 2024	March 11, 2024
40:16	March 6, 2024	March 25, 2024
40:17	March 20, 2024	April 8, 2024
40:18	April 3, 2024	April 22, 2024
40:19	April 17, 2024	May 6, 2024
40:20	May 1, 2024	May 20, 2024
40:21	May 15, 2024	June 3, 2024
40:22	May 29, 2024	June 17, 2024
40:23	June 12, 2024	July 1, 2024
40:24	June 26, 2024	July 15, 2024
40:25	July 10, 2024	July 29, 2024
40:26	July 24, 2024	August 12, 2024
41:1	August 7, 2024	August 26, 2024
41:2	August 21, 2024	September 9, 2024
41:3	September 4, 2024	September 23, 2024
41:4	September 18, 2024	October 7, 2024
41:5	October 2, 2024	October 21, 2024

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Agency Decision

Title of Regulation: **9VAC25-260. Water Quality Standards.**

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

Name of Petitioner: Clintwood JOD, LLC.

Nature of Petitioner's Request: On April 25, 2023, Clintwood JOD, LLC (CJOD) petitioned the State Water Control Board to promulgate a site-specific aquatic life ambient criterion for selenium. Specifically, CJOD formally requests that the board amend the existing surface water quality criteria for selenium to allow a special standard (9VAC25-260-310) incorporating Environmental Protection Agency (EPA) Recommended Aquatic Life Ambient Water Quality Criterion for Selenium in Freshwater, as published in 81 FR 45285-45287 (July 13, 2016) and revised in August 2021. CJOD requests that the special standard be applicable to the following tributaries to Knox Creek: Race Fork, Pounding Mill Creek, Right Fork of Lester Fork, and Abner Fork. The reaches included in this petition fall within Knox Creek, a sub-watershed of the Tug Fork watershed that encompasses approximately 97.8 square miles of Buchanan County (19% of the county). The Virginia portion of the Knox Creek watershed makes up 6.2% of the Tug Fork watershed, with the remainder downstream in Kentucky and West Virginia.

CJOD currently holds and operates 15 surface and deep-mining permits in the Commonwealth of Virginia under the Virginia Coal Surface Mining Reclamation Regulations (4VAC25-130). Each of these operations is also authorized under a National Pollutant Discharge Elimination System permit issued by Virginia Department of Energy's Mined Land Repurposing Division with oversight by EPA. Six of CJOD's operations are currently permitted to discharge into the reaches defined in this petition, one of which is currently under a schedule of compliance for selenium. As these mining operations are permitted activities that generate its primary source of revenue, CJOD has an interest in the requested action.

CJOD's need for the proposed amendment is directly related to the continuation of its mining operations. Virginia's current water quality criteria for selenium are over 30 years old. EPA's recommended criteria reflect the latest scientific knowledge and provide a more updated method of evaluating selenium impacts to surface waters.

Additional considerations when evaluating the requested amendment are standards associated with downstream waters. The most downstream reach requested for consideration is Race Fork. The confluence of Race Fork and Knox Creek is approximately 3.9 stream miles from Kentucky and 11.8 stream miles from West Virginia. Both Kentucky and West

Virginia have established aquatic life ambient water quality criteria that were modeled after EPA's recommended criterion. If the petition is found to be reasonable, CJOD asks that the Department of Environmental Quality support utilizing EPA's criterion with any implementation guidance modeled after the approved West Virginia guidance to provide consistency with the remainder of the watershed as that guidance has been reviewed and approved by EPA Region 3.

Agency Decision: Request granted.

Statement of Reason for Decision: Comments were received on the petition, and the State Water Control Board considered those comments. At its meeting on August 23, 2023, the board authorized Department of Environmental Quality staff to proceed with initiating a rulemaking to incorporate site specific selenium criteria as a special standard in Virginia's Water Quality Standards regulation (9VAC25-260) consistent with the petition request for the Knox Creek drainage in Buchanan County.

Agency Contact: David Whitehurst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 774-9180, or email [david.whitehurst@deq.virginia.gov](mailto:david.whitehurst@deq.virginia.gov).

VA.R. Doc. No. PFR23-29; Filed August 24, 2023, 11:26 a.m.

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# PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF CONSERVATION AND RECREATION

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Conservation and Recreation conducted a periodic review and a small business impact review of **4VAC5-20, Standards for Classification of Real Estate as Devoted to Open Space Use under the Virginia Land Use Assessment Law**, and determined that this regulation should be amended. The department is publishing its report of findings dated August 18, 2023, to support this decision.

The purpose of this chapter is to (i) encourage the proper use of real estate in order to ensure a readily available source of agricultural, horticultural, and forest products and of open space within reach of concentrations of population; (ii) conserve natural resources in forms that will prevent erosion; (iii) protect adequate and safe water supplies; (iv) preserve scenic natural beauties and open spaces; (v) promote proper land use planning and the orderly development of real estate for the accommodation of an expanding population; and (vi) promote a balanced economy and ease pressures that force the conversion of real estate to more intensive uses. The regulation is necessary to define and direct standards that shall be applied uniformly throughout the state to determine if real estate is devoted to open-space use.

It is the agency's decision to amend the regulation to bring the chapter in conformance with current statutory language, amend incorrect references, and correct outdated information.

The regulation is required by § 58.1-3230 of the Code of Virginia. The agency has not received complaints concerning this regulation. The regulation is not complex. The regulation currently conflicts with changes that occurred to the Code of Virginia. The department will promulgate amendments to conform to current statutory language. Consideration was given to current conditions of technology, economic conditions, and other factors.

Contact Information: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, or email [lisa.mcgee@dcr.virginia.gov](mailto:lisa.mcgee@dcr.virginia.gov).

### VIRGINIA SOIL AND WATER CONSERVATION BOARD

#### Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is

undergoing a periodic review and a small business impact review: **4VAC50-70, Resource Management Plans**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins September 25, 2023, and ends October 16, 2023.

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

Contact Information: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, or email [lisa.mcgee@dcr.virginia.gov](mailto:lisa.mcgee@dcr.virginia.gov).



## TITLE 9. ENVIRONMENT

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality conducted a periodic review and a small business impact review of **9VAC15-70, Small Renewable Energy Projects (Combustion) Permit by Rule**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated August 14, 2023, to support this decision.

This regulation enhances the department's ability to ensure compliance with all specific requirements under statute through the approval of a combustion permit by rule for combustion energy projects with rated capacity not exceeding 20 megawatts.

The regulation is necessary for the protection of public health and welfare, as the regulation is needed to meet the following goals: (i) protect public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth; (ii) provide a streamlined administrative mechanism for a "permit by rule," which means

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# Periodic Reviews and Small Business Impact Reviews

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the permit requirements are set forth "up front" within the regulation, rather than being developed on a case-by-case basis, thus reducing burdensome and costly permit application, review, and issuance procedures; and (iii) meet specific requirements of the Code of Virginia to develop requirements for permits by rule for combustion energy projects with rated capacity not exceeding 20 megawatts.

This regulation is clearly written and easily understandable. The regulation provides a permitting process for small renewable energy combustion projects with a rated capacity greater than five megawatts and less than 20 megawatts that is protective of human health and the environment. Section 10.1-1197.6 B 12 of the Code of Virginia requires other necessary environmental permits to be obtained in addition to this permit by rule (PBR). The department has determined that the regulation is easily understandable by the individuals and entities affected. It is written so as to permit only one reasonable interpretation, to adequately identify the affected entity, and in nontechnical language. This regulation satisfies the provisions of the law and legally binding state requirements and is effective in meeting its goals; therefore, the regulation is being retained without amendment.

This regulation continues to be needed as it provides applicants with the most cost-effective means of fulfilling ongoing state requirements that protect natural and historic resources. The regulation details the permitting process, and a small renewable energy combustion project is deemed to operate under the PBR provision if it meets the requirements of the regulation. Other necessary environmental permits will need to be obtained in addition to the PBR.

No comments were received during the public comment period. The regulation's level of complexity is appropriate to ensure that the regulated entity is able to meet its legal mandate as efficiently and cost-effectively as possible. This regulation does not overlap, duplicate, or conflict with any state law or other state regulation.

This regulation was last reviewed in 2019. Prior to the 2009 legislation, small renewable energy projects were to be permitted on a case-by-case basis by the State Corporation Commission. For those considering small combustion energy projects, there was large uncertainty concerning the requirements and potential costs of completing a project, as well as how long the permitting process would take. The permit by rule framework eliminates much of that uncertainty. Applicants need to meet the 14 criteria set forth by § 10.1-1197.6 B of the Code of Virginia to obtain permit by rule. Further, the proposed regulations specify that the department must render a decision concerning the permit application within 90 days. This significant reduction in uncertainty is in itself beneficial and will increase the likelihood that net beneficial projects will go forward.

The department, through examination of the regulation and conversations with developers and others in the renewable

energy sector, has determined that the regulatory requirements currently minimize the economic impact of permitting small combustion energy project. The statutes and regulation will increase the likelihood that small combustion energy projects will go forward. Consequently, the proposed regulation may have a small positive impact on employment. The statutes and proposed regulation will reduce risk, time costs, and administrative costs for small firms wishing to develop a small combustion energy project.

Contact Information: Susan Tripp, Renewable Energy Permit By Rule Coordinator, Department of Environmental Quality, 1111 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 664-3470, or email [susan.tripp@deq.virginia.gov](mailto:susan.tripp@deq.virginia.gov).

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## TITLE 16. LABOR AND EMPLOYMENT

### SAFETY AND HEALTH CODES BOARD

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Safety and Health Codes Board conducted a periodic review and 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 as is. The board is publishing its report of findings dated August 24, 2023, to support this decision.

This regulation has three goals: (i) reduce the incidence of material impairment of the health of Virginians due to exposure to asbestos in the workplace or as an environmental pollutant; (ii) require asbestos contractors to notify the government of asbestos projects and pay fees to cover the costs of administering the program; and (iii) protect public health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth. The regulation protects the safety, health, and welfare of the public by monitoring the potential hazards associated with asbestos removal projects and controlling public exposure to environmental hazards with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth. The regulation is clearly written and not overly complex.

As a result of this periodic review, the board has determined that the regulation has no negative economic impact on small business. The Safety and Health Codes Board voted to retain the regulation without change.

There is a continued need for this regulation as the requirements are mandated by state law. The regulation does not duplicate, overlap, or conflict with state or federal laws or

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# Periodic Reviews and Small Business Impact Reviews

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regulations, and there is no apparent negative impact on the regulated community.

Contact Information: Cristin Bernhardt, Regulatory Coordinator, Department of Labor and Industry, 600 East Main Street, Main Street Centre, Richmond, VA 23219, telephone (804) 786-2392, or email [cristin.bernhardt@doli.virginia.gov](mailto:cristin.bernhardt@doli.virginia.gov).

## Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Safety and Health Codes Board conducted a periodic review and 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 as is. The board is publishing its report of findings dated August 24, 2023, to support this decision.

This regulation has two goals: (i) reduce the incidence of material impairment of the health of Virginians due to exposure to asbestos in the workplace or as an environmental pollutant; and (ii) protect health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth. Standards related to asbestos emission and disposal of asbestos-containing construction waste are necessary to protect the safety, health, and welfare of the workers from the health hazards associated with airborne pollutants. The regulation does so by adopting the federal requirements set forth in 40 CFR 61.140 through 61.156. The regulation is clearly written and not overly complex.

The Safety and Health Codes Board voted to retain the regulation without change. There is a continued need for this regulation as the requirements are mandated by federal law. The regulation does not duplicate, overlap, or conflict with state or federal laws or regulations, and there is no apparent negative impact on the regulated community.

As a result of this periodic review, the board has determined that the regulation has no negative economic impact on small business.

Contact Information: Cristin Bernhardt, Regulatory Coordinator, Department of Labor and Industry, 600 East Main Street, Main Street Centre, Richmond, VA 23219, telephone (804) 786-2392, or email [cristin.bernhardt@doli.virginia.gov](mailto:cristin.bernhardt@doli.virginia.gov).

## Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Safety and Health Codes Board conducted a periodic review and a small business impact review of **16VAC25-40, Standard for Boiler and Pressure Vessel Operator Certification**, and determined that this regulation

should be retained as is. The board is publishing its report of findings dated August 24, 2023, to support this decision.

This regulation has two goals: (i) ensuring statewide uniformity in the determination of the ability, proficiency, and qualifications of boiler and pressure operators certified under a local government ordinance and (ii) ensuring the protection of public health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth. The regulation achieves these goals by providing uniform statewide criteria to be used by all counties, cities, or towns that choose to regulate the certification of boiler and pressure vessel operators. The regulation protects the citizens of the Commonwealth from the dangers of boiler or pressure vessels being operated in an unsafe manner or by unqualified operators. The regulation is clearly written and not overly complex. To the board's knowledge, no locality has chosen to adopt an ordinance. The regulation is mandated by § 15.2-910 of the Code of Virginia.

The Safety and Health Codes Board voted to retain the regulation without change at this time, but the board also voted to give authority for the Department of Labor and Industry to seek to repeal § 15.2-910 of the Code of Virginia during the next General Assembly session.

As a result of this periodic review, the board has determined that the regulation has no negative economic impact on small business.

There is a continued need for this regulation as the requirements are mandated by state law. No comments were received during this periodic review. The regulation 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 department will seek to repeal § 15.2-910 during the next General Assembly session, which will enable the department to repeal the regulation, since it is not being used by localities.

Contact Information: Cristin Bernhardt, Regulatory Coordinator, Department of Labor and Industry, 600 East Main Street, Main Street Centre, Richmond, VA 23219, telephone (804) 786-2392, or email [cristin.bernhardt@doli.virginia.gov](mailto:cristin.bernhardt@doli.virginia.gov).

## Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Safety and Health Codes Board conducted a periodic review and 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 as is. The board is publishing its report of findings dated August 24, 2023, to support this decision.

This regulation has two goals (i) reduce the incidence of injuries and fatalities of Virginia workers and the public due to

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## Periodic Reviews and Small Business Impact Reviews

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the operation of vehicles, machinery, and equipment in reverse; and (ii) protect the public health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth. The regulation protects the safety, health, and welfare of the public by establishing minimum safety standards for reverse signal procedures. These safety standards help to protect human life and property from the dangers of vehicles moving in reverse with an obstructed view. Since the promulgation of this regulation, there has been an approximate 50% decrease in annual fatalities related to reversing work vehicles. The regulation is clearly written and not overly complex.

The Safety and Health Codes Board voted to retain the regulation without change. The regulation provides a comprehensive safety, health, and welfare approach to employees exposed to the same back-up hazard across construction and general industries. A review of Virginia Occupational Safety and Health (VOSH) fatal accident investigations from 1992 to September 30, 2007, found 19 fatal vehicle or equipment accidents in construction work zones where employees were struck. While in some cases reverse signal alarms were not operational, many accidents occurred even with operational reverse signal alarms. Fatal accidents also occurred to employees engaged in their own work unrelated to such vehicles or equipment where employees apparently became desensitized to the familiar and repeated sounds of reverse signal alarms and other construction noise in the work zone.

A review of VOSH fatal accident investigations from 1992 to September 2007, found nine fatal accidents in general industry work zones where employees were struck. At the time of the regulation's adoption, Virginia was averaging two back-up fatal accidents per year. In the years following adoption of the regulation in 2009, Virginia experienced a 50% reduction in fatal back-up accidents.

There is a continued need for this regulation 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. 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.

As a result of this periodic review, the board has determined that the regulation has no negative economic impact on small business.

At the time of adoption, the Department of Labor and Industry (DOLI) made available to employers a free training program that could be used to meet the training requirements contained in the final regulation. Small businesses also had the opportunity to take advantage of VOSH program's free, confidential consultation and training resources. Based on information received during the comment periods for the proposed standard, commenters for the construction industry indicated that current rate of pay was \$20 per hour for operators, plus fringes (DOLI assumed a 25% rate for fringes, the total compensation rate is \$25 per hour); and \$15 per hour,

plus fringes, for laborers (DOLI assumed a 25% rate for fringes, the total compensation rate is \$18.75 per hour). DOLI estimated at that time that training on the final standard would take between 30 to 60 minutes. Costs for operators would range from \$17.50 to \$25.00 per operator and from \$9.38 to \$18.75 per laborer. Applying an inflation escalator of 29.3% for the years 2009 to 2022, costs per operator would range from \$22.63 to \$33.33 and from \$12.13 to \$24.24.

Contact Information: Cristin Bernhardt, Regulatory Coordinator, Department of Labor and Industry, 600 East Main Street, Main Street Centre, Richmond, VA 23219, telephone (804) 786-2392, or email [cristin.bernhardt@doli.virginia.gov](mailto:cristin.bernhardt@doli.virginia.gov).

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### TITLE 22. SOCIAL SERVICES

#### STATE BOARD OF SOCIAL SERVICES

##### Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **22VAC40-670, Degree Requirements for Family Services Occupational Group**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins September 25, 2023, and ends October 16, 2023.

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

Contact Information: Leighann Smigielski, Senior Policy Analyst, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7059, or email [leighann.smigielski@dss.virginia.gov](mailto:leighann.smigielski@dss.virginia.gov).



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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### COMMON INTEREST COMMUNITY BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Common Interest Community Board intends to consider amending **18VAC48-70, Common Interest Community Ombudsman Regulations**. The purpose of the proposed action is to undertake a general regulatory review of the regulation to implement the requirements of § 54.1-2354.4 of the Code of Virginia and meet the regulatory reduction goal of Executive Order Number One (2022). The regulation establishes the (i) requirements for an association complaint procedure; (ii) requirements for development, adoption, and distribution of the complaint procedure; (iii) requirements for retention of records of association complaints; (iv) procedure for the filing of a notice of final adverse decision (NFAD) with the Office of the Common Interest Community Ombudsman (CICO) and review of an NFAD by the CICO; and (v) provisions for a final determination made by the CICO regarding a NFAD. The goals of this action include reviewing discretionary requirements imposed on regulated parties to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare; ensuring the regulation complements current Virginia law, is organized, clear, and understandable, and provides minimal burdens on regulants while still protecting the public; and conforming the regulation to current Department of Professional and Occupational Regulation procedures and policies.

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

Statutory Authority: §§ 54.1-2349 and 54.1-2354.4 of the Code of Virginia.

Public Comment Deadline: October 25, 2023.

Agency Contact: Tanya Pettus, Administrator, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8510, FAX (866) 490-2723, or email [cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov).

VA.R. Doc. No. R24-7579; Filed August 23, 2023, 1:13 p.m.

## BOARD OF PHYSICAL THERAPY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Physical Therapy intends to consider amending **18VAC112-20, Regulations Governing the Practice of Physical Therapy**. The purpose of the proposed action is to review the regulation pursuant to Executive Order Number 19 (2022) to remove outdated fee reductions, remove the specific lists of continuing education providers, move the list of board-approved providers to a guidance document, and review the advertising requirements with the intent of making that regulation less burdensome.

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

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

Public Comment Deadline: October 25, 2023.

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) 367-4413, or email [ptboard@dhp.virginia.gov](mailto:ptboard@dhp.virginia.gov).

VA.R. Doc. No. R24-7423; Filed September 4, 2023, 9:04 p.m.

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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 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:** **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-20, 4VAC20-720-40, 4VAC20-720-60, 4VAC20-720-70, 4VAC20-720-75; repealing 4VAC20-720-80).**

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

**Effective Date:** October 1, 2023.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email [jennifer.farmer@mrc.virginia.gov](mailto:jennifer.farmer@mrc.virginia.gov).

#### Summary:

*The amendments establish the 2023-2024 areas of public harvest, public oyster harvest seasons, and oyster resource conservation measures.*

#### 4VAC20-720-20. Definitions.

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

"Aid to navigation" means any public or private day beacon, lighted channel marker, channel buoy, lighted channel buoy, or lighthouse that may be at, or adjacent to, any latitude and longitude used in area descriptions.

"Beasley Bay Area" means that portion of Pocomoke and Tangier Sound Rotation Area 2 in the Pocomoke Sound east of a line that begins at a point located off the north end of Russell Island at Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence northerly to an end at Long Point at Latitude 37° 53.8568300' N., Longitude 75° 45.3632100' W.

"California Rock Area" means that portion of Pocomoke and Tangier Sound Rotation Area 2 in the Tangier Sound south of a line that begins at a point located approximately 1.6 miles east of East Point Marsh at Latitude 37° 50.4093779' N., Longitude 75° 56.5165564' W.; thence due east to an end at a

point at Latitude 37° 50.4093779' N., Longitude 75° 53.6926361' W.

"Clean culled oyster" means any oyster taken from natural public beds, rocks, or shoals that is three inches or greater in shell length.

"Coan River Area" means the Public Grounds within the Coan River consisting of Public Grounds 77 and 78 of Northumberland County described as:

Public Ground 77 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 2,300 feet northeast of Honest Point and 1,300 feet southwest of Travis Point, said point being Corner 1, located at Latitude 37° 59.5257207' N., Longitude 76° 27.8810639' W.; thence southwesterly to Corner 2, Latitude 37° 59.3710259' N., Longitude 76° 27.9962148' W.; thence southwesterly to Corner 3, Latitude 37° 59.2953830' N., Longitude 76° 28.0468953' W.; thence northwesterly to Corner 4, Latitude 37° 59.3350863' N., Longitude 76° 28.0968837' W.; thence northeasterly to Corner 5, Latitude 37° 59.3965161' N., Longitude 76° 28.0287342' W.; thence northwesterly to Corner 6, Latitude 37° 59.4758507' N., Longitude 76° 28.1112280' W.; thence north-northwesterly to Corner 7, Latitude 37° 59.5079401' N., Longitude 76° 28.1230058' W.; thence northeasterly to Corner 8, Latitude 37° 59.5579153' N., Longitude 76° 27.9889429' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

Public Ground 78 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 3,420 feet southeast of Travis Point and 3,260 feet northwest of Great Point, said point being Corner 1, located at Latitude 37° 59.4822275' N., Longitude 76° 27.1878637' W.; thence southeasterly to Corner 2, Latitude 37° 59.3824046' N., Longitude 76° 27.1088650' W.; thence southwesterly to Corner 3, Latitude 37° 59.2283287' N., Longitude 76° 27.8632901' W.; thence northeasterly to Corner 4, Latitude 37° 59.4368502' N., Longitude 76° 27.6868001' W.; thence continuing northeasterly to Corner 5, Latitude 37° 59.5949216' N., Longitude 76° 27.5399436' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

"Corrotoman Hand Tong Area" means all public grounds; in that area of the Corrotoman River ~~between~~ and its tributaries north of a line beginning at Ball Point, Latitude 37° 40.65133000' N., Longitude 76° 28.4440000' W.; thence easterly to a point at the western side of the mouth of Taylor

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Creek, at Latitude 37° 40.97331000' N., Longitude 76° 27.59471000' W.; upstream to a line from Bar Point, at Latitude 37° 41.65256000' N., Longitude 76° 28.66195000' W.; thence easterly to Black Stump Point, at Latitude 37° 41.7360900' N., Longitude 76° 28.1212200' W.

"Deep Rock Area" means all public grounds and unassigned grounds, in that area of the Chesapeake Bay near Gwynn Island, beginning at Cherry Point at the western-most point of the eastern headland of Kibble Pond located at Latitude 37° 30.9802148' N., Longitude 76° 17.6764393' W.; thence northeasterly to the Piankatank River, Flashing Green Channel Light "3", Latitude 37° 32.3671325' N., Longitude 76° 16.7038334' W.; thence east-southeasterly to the Rappahannock River Entrance Lighted Buoy G"1R", Latitude 37° 32.2712833' N., Longitude 76° 11.4813666' W.; thence southwesterly to the southern-most point of Sandy Point, the northern headland of "The Hole in the Wall", Latitude 37° 28.1475258' N., Longitude 76° 15.8185670' W.; thence northwesterly along the Chesapeake Bay mean low water line of the barrier islands of Milford Haven, connecting headland to headland at their eastern-most points, and of Gwynn Island to the western-most point of the eastern headland of Kibble Pond on Cherry Point, said point being the point of beginning.

"Deep Water Shoal State Replenishment Seed Area" or "DWS" means that area in the James River near Mulberry Island, beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1, located at Latitude 37° 08.9433287' N., Longitude 76° 38.3213007' W.; thence southeasterly to Corner 2, Latitude 37° 09.5734380' N., Longitude 76° 37.8300582' W.; thence southwesterly to Corner 3, Latitude 37° 08.9265524' N., Longitude 76° 37.0574269' W.; thence westerly to Corner 4, Latitude 37° 08.4466039' N., Longitude 76° 37.4523346' W.; thence northwesterly to Corner 5, Latitude 37° 08.4491489' N., Longitude 76° 38.0215553' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

"Great Wicomico River Rotation Area 1" means all public grounds and unassigned grounds, in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay, beginning at a point on Sandy Point, Latitude 37° 49.3269652' N., Longitude 76° 18.3821766' W.; thence easterly to the southern-most point of Cockrell Point, Latitude 37° 49.2664838' N., Longitude 76° 17.3454434' W.; thence easterly following the mean low water line of Cockrell Point to a point on the boundary of Public Ground 115 at Cash Point, Latitude 37° 49.2695619' N., Longitude 76° 17.2804046' W.; thence southeasterly to the gazebo on the pier head at Fleeton Point, Latitude 37° 48.7855824' N., Longitude 76° 16.9609311' W.; thence southeasterly to the Great Wicomico River Light; Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W.; thence westerly to a point on the offshore end of the southern jetty at the entrance to Towles Creek, Latitude 37° 48.3743771' N., Longitude 76° 17.9600320' W.; thence northerly crossing the entrance to Towles Creek at the offshore

ends of the jetties and continuing along the mean low water line to Bussel Point, Latitude 37° 48.6879208' N., Longitude 76° 18.4670860' W.; thence northwesterly to the northern headland of Cranes Creek, Latitude 37° 48.8329168' N., Longitude 76° 18.7308073' W.; thence following the mean low water line northerly to a point on Sandy Point, Latitude 37° 49.3269652' N., Longitude 76° 18.3821766' W., said point being the point of beginning.

"Great Wicomico River Rotation Area 2" means all public grounds and unassigned grounds, in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay, beginning at a point on Great Wicomico River Light, Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W.; thence due south to a point due east of the southern-most point of Dameron Marsh, Latitude 37° 46.6610003' N., Longitude 76° 16.0570007' W.; thence due west to the southern-most point of Dameron Marsh, Latitude 37° 46.6609070' N., Longitude 76° 17.2670707' W.; thence along the mean low water line of Dameron Marsh, north and west to Garden Point, Latitude 37° 47.2519872' N., Longitude 76° 18.4028142' W.; thence northwesterly to Windmill Point, Latitude 37° 47.5194547' N., Longitude 76° 18.7132194' W.; thence northerly along the mean low water line to the western headland of Harveys Creek, Latitude 37° 47.7923573' N., Longitude 76° 18.6881450' W.; thence east-southeasterly to the eastern headland of Harveys Creek, Latitude 37° 47.7826936' N., Longitude 76° 18.5469879' W.; thence northerly along the mean low water line to a point on the offshore end of the southern jetty at the entrance to Towles Creek, Latitude 37° 48.3743771' N., Longitude 76° 17.9600320' W.; thence easterly to Great Wicomico River Light, Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W., said point being the point of beginning.

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water.

"Hand tong" or "ordinary tong" means any pincers, nippers, tongs, or similar device used in catching oysters, which consists of two shafts or handles attached to opposable and complementary pincers, baskets, or containers operated entirely by hand, from the surface of the water and has no external or internal power source.

"Indian Creek Area" means all public grounds and unassigned grounds in that area of Indian Creek and its tributaries in Northumberland and Lancaster Counties between a line beginning at a point on the shore on the south side of the creek located at Latitude 37° 041.4021100' N., Longitude 76° 20.7493600' W.; thence in a straight line to a point on shore on the north side of the creek located at Latitude 37° 041.4999200' N., Longitude 76° 20.5974400' W.; thence southeasterly to a line beginning on the south shore of the mouth of the creek

located at Latitude 37° 041.2975900' N., Longitude 76° 19.5082500' W.; thence in a straight line to a point on shore on the north side of the mouth of the creek located at Latitude 37° 041.0934000' N., Longitude 76° 18.7589400' W.

"James River Area 1" means all public grounds and unassigned grounds, in that area of the James River, beginning at the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence southeasterly to the Flashing Green Channel Light #3, located at Latitude 37° 01.7124500' N., Longitude 76° 31.8210667' W.; thence southeasterly to the Flashing Green Channel Light #1, located at Latitude 37° 00.7666667' N., Longitude 76° 29.9083333' W.; thence southeasterly to the northeast corner of the western draw span pier of the James River Bridge (U.S. Route 17), Latitude 37° 00.1524824' N., Longitude 76° 28.1581984' W.; thence southwesterly along the upstream side of the James River Bridge to the mean low water line; thence northwesterly along the mean low water line, crossing Kings Creek at the headlands and continuing along the mean low water line to a point on the shore at Rainbow Farm Point in line with VMRC Markers "STH" and "SMT," located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker "STH," Latitude 37° 00.9815328' N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker "SMT," at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W., said point being the point of beginning.

"James River Area 2" means all public grounds and unassigned grounds, in that area of the James River, beginning at the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence northeasterly to a VMRC Marker "NMT," Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker "NTH" located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, said point being in line with VMRC Markers "NMT" and "NTH" and located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.; thence southeasterly along the mean low water line to the upstream side of the James River Bridge (U.S. Route 17); thence westerly along the James River Bridge to the northeast corner of the western draw span pier, Latitude 37° 00.1524824' N., Longitude 76° 28.1581984' W.; thence northwesterly to the Flashing Green Channel Light #1, located at Latitude 37° 00.7666667' N., Longitude 76° 29.9083333' W.; thence northwesterly to the Flashing Green Channel Light #3, located at Latitude 37° 01.7124500' N., Longitude 76° 31.8210667' W.; thence northwesterly to the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W., said point being the point of beginning.

"James River Area 3" means those public grounds of Isle of Wight County and Nansemond County (City of Suffolk) located in the James River and Nansemond River west of the

Monitor Merrimac Memorial Bridge Tunnel (Route I-664), northeast of the Mills E. Godwin, Jr. Bridge (U.S. Route 17) on the Nansemond River, and south of the James River Bridge (U.S. Route 17).

"James River Seed Area" means all public grounds and unassigned grounds in that area of the James River and its tributaries with a southeastern boundary beginning at a point on the shore on the south side of the river at Rainbow Farm Point in Isle of Wight County located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker "STH," Latitude 37° 00.9815328' N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker "SMT," at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence northeasterly to a VMRC Marker "NMT," Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker "NTH" located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, in the City of Newport News, located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.; the northern boundary, being a straight line, beginning at a point on the shore on the east side of the river in the City of Newport News, at Latitude 37° 08.4458787' N., Longitude 76° 37.2855533' W.; thence westerly to the southeast corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4466039' N., Longitude 76° 37.4523346' W.; thence westerly to the southwest corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4490472' N., Longitude 76° 38.0215554' W.; thence westerly to a point on the shore on the west side of the river at the mouth of Lawnes Creek in Isle of Wight County, Latitude 37° 08.4582990' N., Longitude 76° 40.2816023' W.

"Larsons Bay Area" means all public grounds in that area of Larsons Bay in the Rappahannock River, beginning at Cherry Point at Latitude 37° 37.6554400' N., Longitude 76° 24.1203200' W.; thence south east to the southern-most corner of the house on Mosquito Point at Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence following the ordinary mean low water line in a northwesterly direction to Cherry Point, said point being the point of beginning.

"Latitude and longitude" means values that are based upon a geodetic reference system of the North American Datum of 1983 (NAD83). When latitude and longitude are used in any area description, in conjunction with any physical landmark, to include aids to navigation, the latitude and longitude value is the legal point defining the boundary.

"Little Wicomico River" means that area of the Little Wicomico River inside of Public Ground 43 of Northumberland County, located in the Little Wicomico River near Bridge Creek, beginning at a point approximately 150 feet north of Peachtree Point, said point being Corner 1, located at

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Latitude 37° 53.2910650' N., Longitude 76° 16.7312926' W.; thence southwesterly to Corner 2, Latitude 37° 53.2601877' N., Longitude 76° 16.8662408' W.; thence northwesterly to Corner 3, Latitude 37° 53.2678470' N., Longitude 76° 16.8902408' W.; thence northeasterly to Corner 4, Latitude 37° 53.3113148' N., Longitude 76° 16.8211543' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

"Middle Ground" means all public grounds in the area of the Corrotoman River between a line beginning at Ball Point at Latitude 37° 40.65133000' N., Longitude 76° 28.4440000' W.; thence easterly to a point at the western side of the mouth of Taylor Creek at Latitude 37° 40.97331000' N, Longitude 76° 27.59471000' W.; upstream to a line from Bar Point at Latitude 37° 41.65256000' N., Longitude 76° 28.66195000' W.; thence easterly to Black Stump Point at Latitude 37° 41.7360900' N., Longitude 76° 28.1212200' W.

"Milford Haven" means all public grounds and unassigned grounds in that area of Milford Haven and its tributaries bound on the west by a line from a point on the southernmost point of land of the north shore of Milford Haven being near the end of State Route 634, Latitude 37° 29.5971' N., Longitude 76° 18.1822' W.; thence south-southeasterly to a point on the northeast corner of the pier head of the long pier being on the south shore of Milford Haven immediately west of the Sea Farms Inc. facility, Latitude 37° 29.3546' N., Longitude 76° 18.1323' W.; thence following the east side of the pier to the shore and bound on the east by a line from a point on the shore at the western headland of the wash formerly Hills Creek, Latitude 37° 29.0278' N., Longitude 76° 16.3834' W.; thence easterly to a point on the north shore of Sandy Point near Latitude 37° 29.0017' N., Longitude 76° 16.1640' W.; thence following the shore of the east side of Sandy Point to a point on the shoreline at Latitude 37° 28.6233' N., Longitude 76° 15.8605' W.; thence in a line south-southeasterly to a point on the breakwater at Haven Beach, Latitude 37° 26.2006' N., Longitude 76° 15.1257' W.

"Mobjack Bay Area" means that area of Mobjack Bay consisting of Public Ground 2 of Mathews County (Pultz Bar) and Public Ground 25 of Gloucester County (Tow Stake) described as:

Public Ground 2 of Mathews County, known as Pultz Bar, is located in Mobjack Bay, beginning at a point approximately 5,420 feet south of Minter Point, said point being Corner 1, located at Latitude 37° 21.2500000' N., Longitude 76° 21.3700000' W.; thence easterly to Corner 2, Latitude 37° 21.2700000' N., Longitude 76° 20.9600000' W.; thence southerly to Corner 3, Latitude 37° 21.0200000' N., Longitude 76° 20.9400000' W.; thence westerly to Corner 4, Latitude 37° 21.0500000' N., Longitude 76° 21.3300000' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 25 of Gloucester County, known as Tow Stake, is located in Mobjack Bay, near the mouth of the

Severn River, beginning at a point approximately 2,880 feet east-northeast of Tow Stake Point, said point being Corner 1, located at Latitude 37° 20.3883888' N., Longitude 76° 23.5883836' W.; thence northeasterly to Corner 2, Latitude 37° 30.5910482' N., Longitude 76° 23.2372184' W.; thence southeasterly to Corner 3, Latitude 37° 20.3786971' N., Longitude 76° 22.7241180' W.; thence southwesterly to Corner 4, Latitude 37° 19.8616759' N., Longitude 76° 23.5914937' W.; thence northwesterly to Corner 5, Latitude 37° 20.0284019' N., Longitude 76° 23.7717423' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

"Nomini Creek Area" means that area of Nomini Creek inside of Public Grounds 26 and 28 of Westmoreland County.

Public Ground 26 of Westmoreland County is located in Nomini Creek, north of Beales Wharf and east of Barnes Point, beginning at a point approximately 1,400 feet north of Barnes Point, said point being Corner 1, located at Latitude 38° 07.2690219' N., Longitude 76° 42.6784210' W.; thence southeasterly to Corner 2, Latitude 38° 07.0924060' N., Longitude 76° 42.4745767' W.; thence southwesterly to Corner 3, Latitude 38° 06.8394053' N., Longitude 76° 42.6704025' W.; thence northwesterly to Corner 4, Latitude 38° 06.8743004' N., Longitude 76° 42.7552151' W.; thence northeasterly to Corner 5, Latitude 38° 07.0569717' N., Longitude 76° 42.5603535' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 28 of Westmoreland County is located at the mouth of Nomini Creek, beginning at a point approximately 50 feet west of White Oak Point, said point being Corner 1, located at Latitude 38° 07.6429987' N., Longitude 76° 43.0337082' W.; thence south-southeasterly to Corner 2, Latitude 38° 07.2987193' N., Longitude 76° 43.1101420' W.; thence northwesterly to Corner 3, Latitude 38° 07.7029267' N., Longitude 76° 43.3337762' W.; thence west to the mean low water line, Latitude 38° 07.7031535' N., Longitude 76° 43.3378345' W.; thence northerly and westerly along the mean low water line of Nomini Creek to a point southwest of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence northeasterly to a point on the mean low water line at the southern-most point of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence following the mean low water line of the southern and eastern sides of Cedar Island to a point, Latitude 38° 08.0164430' N., Longitude 76° 43.4773169' W.; thence northeasterly to Corner 4, Latitude 38° 08.0712849' N., Longitude 76° 43.4416606' W.; thence northeasterly to a point on the northern headland of Nomini Creek at the mean low water line, said point being Corner 5, Latitude 38° 08.2729626' N., Longitude 76° 43.3105315' W.; thence following the mean low water line of White Point to a point northwest of Snake Island, Corner 6, Latitude 38° 08.4066960' N., Longitude 76° 42.9105565' W.; thence southeast, crossing the mouth of Buckner Creek, to a point

on the mean low water line of Snake Island, Corner 7, Latitude 38° 08.3698254' N., Longitude 76° 42.8939656' W.; thence southeasterly following the mean low water line of Snake Island to Corner 8, Latitude 38° 08.2333798' N., Longitude 76° 42.7778877' W.; thence south-southwesterly, crossing the mouth of Buckner Creek, to Corner 9, Latitude 38° 08.2134371' N., Longitude 76° 42.7886409' W.; thence southeasterly to a point on the mean low water line of the southern headland of Buckner Creek, Corner 10, Latitude 38° 08.1956281' N., Longitude 76° 42.7679625' W.; thence southwesterly following the mean low water line of Nomini Creek, crossing the mouth of an unnamed cove at the narrowest point between the headlands and continuing to follow the mean low water line to a point on White Oak Point, Latitude 38° 07.6428228' N., Longitude 76° 43.0233530' W.; thence west to Corner 1, said point being the point of beginning.

"Oyster" means any shellfish of the species *Crassostrea virginica*.

"Oyster dredge" means any device having a maximum weight of 150 pounds with attachments, maximum width of 50 inches, and maximum tooth length of four inches.

"Oyster patent tong" means any patent tong not exceeding 100 pounds in gross weight, including any attachment other than rope and with the teeth not to exceed four inches in length.

"Oyster resource user fee" means a fee that must be paid each calendar year by anyone who grows, harvests, shucks, packs, or ships oysters for commercial purposes.

"Pocomoke Sound Area" means that area of Pocomoke Sound inside of Public Ground 9 and Public Ground 10 of Accomack County.

Public Ground 9 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 1.06 nautical miles north-northeast of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 57.2711566' N., Longitude 75° 42.2870790' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 57.2896577' N., Longitude 75° 41.9790727' W.; thence southerly to Corner 3, Latitude 37° 57.2574850' N., Longitude 75° 41.9790730' W.; thence southwesterly to Corner 4, Latitude 37° 57.2288700' N., Longitude 75° 42.0077287' W.; thence west-southwesterly to Corner 5, Latitude 37° 57.2034533' N., Longitude 75° 42.1511250' W.; thence south-southwesterly to Corner 6, Latitude 37° 57.0940590' N., Longitude 75° 42.1935214' W.; thence south-southeasterly to Corner 7, Latitude 37° 57.0551726' N., Longitude 75° 42.1814457' W.; thence southwesterly to Corner 8, Latitude 37° 56.9408327' N., Longitude 75° 42.2957912' W.; thence south-southwesterly to Corner 9, Latitude 37° 56.6574947' N., Longitude 75° 42.3790819'

W.; thence southwesterly to Corner 10, Latitude 37° 56.5790952' N., Longitude 75° 42.5228752' W.; thence west-southwesterly to Corner 11, Latitude 37° 56.5712564' N., Longitude 75° 42.5915437' W.; thence south-southeasterly to Corner 12, Latitude 37° 56.5441067' N., Longitude 75° 42.5869894' W.; thence southwesterly to Corner 13, Latitude 37° 56.4575045' N., Longitude 75° 42.7458050' W.; thence west-southwesterly to Corner 14, Latitude 37° 56.2575123' N., Longitude 75° 43.3791097' W.; thence southwesterly to Corner 15, Latitude 37° 55.7408688' N., Longitude 75° 43.7957804' W.; thence westerly to Corner 16, Latitude 37° 55.7575327' N., Longitude 75° 43.9458298' W.; thence northwesterly to Corner 17, Latitude 37° 55.8908661' N., Longitude 75° 44.1291309' W.; thence north-northeasterly to Corner 18, Latitude 37° 55.9908639' N., Longitude 75° 44.0791266' W.; thence northeasterly to Corner 19, Latitude 37° 56.1241858' N., Longitude 75° 43.8791328' W.; thence north-northeasterly to Corner 20, Latitude 37° 56.4075136' N., Longitude 75° 43.7291361' W.; thence northeasterly to Corner 21, Latitude 37° 56.8241664' N., Longitude 75° 43.2624601' W.; thence north-northeasterly to Corner 22, Latitude 37° 57.0706006' N., Longitude 75° 43.1480402' W.; thence east-northeasterly along the Maryland-Virginia state line to Corner 1, said corner being the point of beginning.

Public Ground 10 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 2.3 nautical miles westerly of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 56.4741881' N., Longitude 75° 45.7051676' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 56.9261140' N., Longitude 75° 43.7679786' W.; thence south-southwesterly to Corner 3, Latitude 37° 56.1241948' N., Longitude 75° 44.3624962' W.; thence west-southwesterly to Corner 4, Latitude 37° 56.0820561' N., Longitude 75° 44.5826292' W.; thence northerly to Corner 5, Latitude 37° 56.1377309' N., Longitude 75° 44.5817745' W.; thence west-southwesterly to Corner 6, Latitude 37° 56.1259751' N., Longitude 75° 44.6226859' W.; thence southwesterly to Corner 7, Latitude 37° 56.1039335' N., Longitude 75° 44.6692334' W.; thence southerly to Corner 8, Latitude 37° 56.0643616' N., Longitude 75° 44.6750106' W.; thence west-southwesterly to Corner 9, Latitude 37° 55.9742005' N., Longitude 75° 45.1458109' W.; thence west-northwesterly to Corner 10, Latitude 37° 56.0741973' N., Longitude 75° 45.8958329' W.; thence north-northwesterly to Corner 11, Latitude 37° 56.2565760' N., Longitude 75° 46.0000557' W.; thence northeasterly along the Maryland-Virginia state line to Corner 1, said corner being the point of beginning.

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# Regulations

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"Pocomoke and Tangier Sounds Management Area" or "PTSMA" means the area as defined in § 28.2-524 of the Code of Virginia.

"Pocomoke and Tangier Sounds Rotation Area 1" means all public grounds and unassigned grounds, within an area of the PTSMA, in Pocomoke and Tangier Sounds, bounded by a line beginning at a point on the Maryland-Virginia state line, located at Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence south to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence westerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence south to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence easterly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence northerly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southeasterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence southeasterly to Messongo Creek Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence southeast to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence southerly to a point on a line from Guilford Flats Junction Light to the northern-most point of Russell Island, where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence clockwise following the PTSMA boundary to a point on the Maryland-Virginia state line, said point being the point of beginning.

"Pocomoke and Tangier Sounds Rotation Area 2" means all public grounds and unassigned grounds, within an area of the PTSMA, in Pocomoke and Tangier Sounds, bounded by a line beginning at the house on Great Fox Island, located at Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southerly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence westerly to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence northerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence easterly to the house on Great Fox Island, said house being the point of beginning. Also, Pocomoke and Tangier Sounds Rotation Area 2 shall include all public grounds and unassigned grounds in the PTSMA in Pocomoke Sound bounded by a line beginning at a point on the Maryland-Virginia state line, Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence following the PTSMA boundary clockwise to a point on the line from the northern-most point of Russell Island to Guilford Flats Junction Light Flashing 2+1 Red "GF", where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence northerly to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence northwesterly to Messongo Creek

Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence northwesterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence northwesterly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence northerly to a point on the Maryland-Virginia state line, said point being the point of beginning.

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia or by any other acts of the General Assembly pertaining to those grounds, all those grounds set aside by court order, and all those grounds set aside by order of the Marine Resources Commission, and may be redefined by any of these legal authorities.

"Rappahannock River Area 7" means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Rogue Point, located at Latitude 37° 40.0400000' N., Longitude 76° 32.2530000' W.; thence west-northwesterly to Flashing Red Buoy "8", Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwest to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.; and bounded upstream by a line from Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; thence southeasterly to Monaskon Point, Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.

"Rappahannock River Area 8" means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Monaskon Point, located at Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.; thence northwesterly to Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; and bounded upstream by a line from Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; thence north-northwesterly to Sharps Point, Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.

"Rappahannock River Area 9" means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Sharps Point, located at Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.; thence south-southeasterly to Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; and bounded upstream by the Thomas J. Downing Bridge (U.S. Route 360).

"Rappahannock River Rotation Area 1" means all public grounds, in that area of the Rappahannock River and Chesapeake Bay, bounded by a line offshore and across the mouth of the Rappahannock River from a point on the mean low water line of Windmill Point, located at Latitude 37° 36.8200000' N., Longitude 76° 16.9460000' W.; thence southeast to Windmill Point Light, Latitude 37° 35.7930000' N., Longitude 76° 14.1800000' W.; thence southwest to Stingray Point Light, Latitude 37° 33.6730000' N., Longitude 76° 16.3620000' W.; thence westerly to a point on the mean low water line of Stingray Point, Latitude 37° 33.6920000' N.,

Longitude 76° 17.9860000' W.; and bounded upstream by a line from the mean low water line west of Broad Creek, Latitude 37° 33.9520000' N., Longitude 76° 19.3090000' W.; thence northeasterly to a VMRC Buoy on the Baylor line, Latitude 37° 34.5310000' N., Longitude 76° 19.1430000' W.; thence northeasterly to a VMRC Buoy, Latitude 37° 34.6830000' N., Longitude 76° 19.1000000' W.; thence northwesterly to a VMRC Buoy, Latitude 37° 35.0170000' N., Longitude 76° 19.4500000' W.; thence northwesterly to Sturgeon Bar Light "7R", Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence continuing northwesterly to Mosquito Point Light "8R", Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence northwesterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

"Rappahannock River Rotation Area 2" means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from the southern-most corner of the house on Mosquito Point, located at Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southeast to Mosquito Point Light "8R", Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence continuing southeasterly to Sturgeon Bar Beacon "7R", Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence west-southwesterly to a VMRC Buoy, Latitude 37° 34.9330000' N., Longitude 76° 21.0500000' W.; thence southwesterly to a VMRC Buoy, Latitude 37° 34.8830000' N., Longitude 76° 21.1000000' W.; thence southwesterly to a pier west of Hunting Creek at Grinels, Latitude 37° 34.4360000' N., Longitude 76° 26.2880000' W.; and bounded on the upstream by a line from Mill Creek Channel Marker "4", Latitude 37° 35.0830000' N., Longitude 76° 26.9500000' W.; thence northeasterly to Mill Creek Channel Marker "2", Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence northeasterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

"Rappahannock River Rotation Area 3" means all public grounds, in that area of the Rappahannock River, beginning from the north channel fender at the Robert O. Norris, Jr. Bridge, located at Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence southeast to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southwest to Mill Creek Channel Marker "2", Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence southwesterly to Mill Creek Channel Marker "4", Latitude 37° 35.0830000' N., Longitude 76° 24.9500000' W.; thence northeasterly to Parrotts Creek Channel Marker "1", Latitude 37° 36.0330000' N., Longitude 76° 25.4170000' W.; thence northerly to VMRC Buoy, Latitude 37° 36.3330000' N., Longitude 76° 25.2000000' W.; thence northerly to the north channel fender of the Robert O. Norris, Jr. Bridge, said point being the point of beginning.

"Rappahannock River Rotation Area 4" means all public grounds, in that area of the Rappahannock River, Corrotoman River and Carter Creek, beginning at the White Stone end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 38.1290000' N., Longitude 76° 24.7220000' W.; thence along said bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence westerly to the VMRC Buoy "5-4", Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence northerly to Old House Point, Latitude 37° 39.1390000' N., Longitude 76° 29.6850000' W.; thence northeasterly to Ball Point, Latitude 37° 41.6600000' N., Longitude 76° 28.6320000' W.; thence southeasterly to VMRC reef marker "Ferry Bar – North", Latitude 37° 40.3000000' N., Longitude 76° 28.5000000' W.; thence southwesterly to VMRC reef marker "Ferry Bar – South", Latitude 37° 40.1670000' N., Longitude 76° 28.5830000' W.; thence southeasterly to a duck blind west of Corrotoman Point, Latitude 37° 39.8760000' N., Longitude 76° 28.4200000' W.; thence southerly to VMRC Buoy "543", Latitude 37° 39.2670000' N., Longitude 76° 27.8500000' W.; thence southerly to VMRC Buoy "Drumming-West", Latitude 37° 38.8830000' N., Longitude 76° 27.6830000' W.; thence southerly to VMRC Buoy "Drumming-East", Latitude 37° 38.8330000' N., Longitude 76° 27.5670000' W.; thence northeasterly to Orchard Point, Latitude 37° 38.9240000' N., Longitude 76° 27.1260000' W.

"Rappahannock River Rotation Area 5" means all public grounds, in that area of the Rappahannock River, beginning at the Greys Point end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 36.8330000' N., Longitude 76° 25.9990000' W.; thence northeasterly along the bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence west-northwesterly to VMRC Buoy "5-4", Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence westerly to Buoy "R6", Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence south to the eastern headland of Whiting Creek, Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.

"Rappahannock River Rotation Area 6" means all public grounds, in that area of the Rappahannock River, beginning on the eastern headland of Whiting Creek, located at Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.; thence north to Buoy "R6", Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence northwesterly to VMRC White House Sanctuary Buoy, Latitude 37° 38.1500000' N., Longitude 76° 30.5330000' W.; thence northwesterly to VMRC Towles Point Area Buoy, Latitude 37° 38.8330000' N., Longitude 76° 31.5360000' W.; thence northwesterly to Flashing Red Buoy "8" off Rogue Point, Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwesterly to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.

"Seed oyster" means any oyster taken by any person from natural beds, rocks, or shoals that is more than 30 days from harvest for human consumption.



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# Regulations

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"Unassigned ground" means all grounds not assigned pursuant to §§ 28.2-600 through 28.2-633 of the Code of Virginia, established pursuant to § 28.2-551 of the Code of Virginia, or set aside by court order, or those grounds set aside by declarations or regulation by the Marine Resources Commission, and may be redefined by any of these legal authorities.

"Upper Chesapeake Bay - Blackberry Hangs Area" means all public grounds and unassigned grounds, in that area of the Chesapeake Bay, bounded by a line, beginning at a point approximately 300 feet east of the mean low water line of the Chesapeake Bay and approximately 1,230 feet southwest of the end of the southern-most stone jetty at the mouth of the Little Wicomico River, said point being Corner 1, Latitude 37° 53.1811193' N., Longitude 76° 14.1740146' W.; thence east-southeasterly to Corner 2, Latitude 37° 52.9050025' N., Longitude 76° 11.9357257' W.; thence easterly to Corner 3, Latitude 37° 52.9076552' N., Longitude 76° 11.6098145' W.; thence southwesterly to Corner 4, Latitude 37° 52.8684955' N., Longitude 76° 11.6402444' W.; thence east-southeasterly to Corner 5, Latitude 37° 52.7924853' N., Longitude 76° 11.0253352' W.; thence southwesterly to Corner 6, Latitude 37° 49.4327736' N., Longitude 76° 13.2409959' W.; thence northwesterly to Corner 7, Latitude 37° 50.0560555' N., Longitude 76° 15.0023234' W.; thence north-northeasterly to Corner 8, Latitude 37° 50.5581183' N., Longitude 76° 14.8772805' W.; thence north-northeasterly to Corner 9, Latitude 37° 52.0260950' N., Longitude 76° 14.5768550' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

"Yeocomico River Area" means that area of the North West Yeocomico River, inside Public Ground 8 of Westmoreland County and those areas of the South Yeocomico River inside Public Grounds 100, 102, 104, 107, and 112 of Northumberland County described as:

Public Ground 8 of Westmoreland County is located in the North West Yeocomico River, beginning at a point approximately 1,455 feet northeast of Crow Bar and 1,850 feet northwest of White Point, said point being Corner 1, located at Latitude 38° 02.7468214' N., Longitude 76° 33.0775726' W.; thence southeasterly to Corner 2, Latitude 38° 02.7397202' N., Longitude 76° 33.0186286' W.; thence southerly to Corner 3, Latitude 38° 02.6021644' N., Longitude 76° 33.0234175' W.; thence westerly to Corner 4, Latitude 38° 02.6006669' N., Longitude 76° 33.0824799' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 100 of Northumberland County is located in the South Yeocomico River, beginning at said point being Corner 1, located at Latitude 38° 00.2292779' N., Longitude 76° 32.2244222' W.; thence southwesterly to Corner 2, Latitude 38° 00.2183904' N., Longitude 76° 32.2488009' W.; thence westerly to Corner 3, Latitude 38° 00.2156893'

N., Longitude 76° 32.3156220' W.; thence northwesterly to Corner 4, Latitude 38° 00.4024997' N., Longitude 76° 32.3338888' W.; thence continuing northeasterly to Corner 5, Latitude 38° 00.5806170' N., Longitude 76° 32.1957546' W.; thence continuing easterly to Corner 6, Latitude 38° 00.5798424' N., Longitude 76° 31.9506788' W., thence continuing southeasterly to Corner 7, Latitude 38° 00.5076459' N., Longitude 76° 31.9387425' W.; thence heading along the mean low water southwesterly to Corner 1, said corner being the point of beginning.

Public Ground 102 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 630 feet south of Mundy Point and 1,745 feet southwest of Tom Jones Point, said point being Corner 1, located at Latitude 38° 01.2138059' N., Longitude 76° 32.5577201' W.; thence east-northeasterly to Corner 2, Latitude 38° 01.2268644' N., Longitude 76° 32.4497849' W.; thence southwesterly to Corner 3, Latitude 38° 01.1091209' N., Longitude 76° 32.5591101' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 104 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 670 feet north of Walker Point and 1,900 feet northwest of Palmer Point, said point being Corner 1, located at Latitude 38° 00.8841841' N., Longitude 76° 32.6106215' W.; thence southeasterly to Corner 2, Latitude 38° 00.8609163' N., Longitude 76° 32.5296302' W.; thence southeasterly to Corner 3, Latitude 38° 00.6693092' N., Longitude 76° 32.4161866' W.; thence southwesterly to Corner 4, Latitude 38° 00.6418466' N., Longitude 76° 32.5394849' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 107 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 1,000 feet southwest of Barn Point and 1,300 feet northwest of Tom Jones Point, said point being Corner 1, located at Longitude 38° 01.1389367' N., Latitude 76° 32.3425617' W.; thence east-southeasterly to Corner 2, Latitude 38° 01.4106421' N., Longitude 76° 32.1077962' W.; thence southwesterly to Corner 3, Latitude 38° 01.2717197' N., Longitude 76° 32.2917989' W.; thence north-northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 112 of Northumberland County is located in the Yeocomico River, beginning at said point being Corner 1, located at Latitude 38° 01.8449428' N., Longitude 76° 32.2191877' W.; thence northeasterly to Corner 2, Latitude 38° 01.8783929' N., Longitude 76° 31.9970988' W.; thence southeasterly to Corner 3, Latitude 38° 01.7997003' N., Longitude 76° 31.9569302' W.; thence continuing southeasterly to Corner 4, Latitude 38° 01.6848729' N., Longitude 76° 31.5931801' W.; thence southerly to Corner 5, Latitude 38° 01.5760153'

N., 76° 31.5931801' W.; thence westerly to Corner 6, Latitude 38° 01.6860521' N., Longitude 76° 32.2820100' W.; thence northerly to Corner 1, said corner being the point of beginning.

"York River Hand Tong Area" means that area of the York River consisting of a portion of Public Ground 31 of Gloucester County (Aberdeen Rock), Public Ground 901 of Gloucester and King and Queen Counties and that portion of Public Ground 4 of King and Queen County that is in waters approved by the Virginia Department of Health for the harvest of Shellfish (Bell Rock) described as:

Public Ground 31 of Gloucester County, known as Aberdeen Rock, is that portion of Public Ground between a line from Upper York River Green Channel Marker 9, Latitude 37° 19.35986' N., Longitude 76° 35.99789' W.; thence northeasterly to Gum Point, Latitude 37° 19.74276' N., Longitude 76° 35.49063' W.; upstream to a line from the Flashing Yellow VIMS Data Buoy "CB," Latitude 37° 20.4670000' N., Longitude 76° 37.4830000' W.; thence northeasterly to the inshore end of the wharf at Clay Bank.

Public Ground 901 of Gloucester and King and Queen Counties is located in the York River at the mouth of the Propotank River, beginning at said point being Corner 1, located at Latitude 37° 26.0291178' N., Longitude 76° 42.4769473' W.; thence northwesterly to Corner 2, Latitude 37° 26.1502199' N., Longitude 76° 42.5504403' W.; thence continuing northwesterly to Corner 3, Latitude 37° 26.2593188' N., Longitude 76° 42.5639668' W.; thence southeasterly to Corner 4, Latitude 37° 26.0537949' N., Longitude 76° 42.3217587' W.; thence southwesterly to Corner 5, Latitude 37° 26.0023548' N., Longitude 76° 42.4076221' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 4 of King and Queen County, known as Bell Rock, is located in the York River, beginning at said point being Corner 1, located at Latitude 37° 29.1377467' N., Longitude 76° 45.0390139' W.; thence southerly to Corner 2, Latitude 37° 29.0456979' N., Longitude 76° 45.0642131' W.; thence northwesterly to Corner 3, Latitude 37° 29.5582048' N., Longitude 76° 45.8484481' W.; thence continuing northwesterly to Corner 4, Latitude 37° 29.8480848' N., Longitude 76° 46.5362330' W.; thence northeasterly to Corner 5, Latitude 37° 30.0087805' N., Longitude 76° 46.3513889' W.; thence continue southeasterly to Corner 6, Latitude 37° 29.6554103' N., Longitude 76° 45.5620462' W., thence continuing southeasterly to Corner 7, Latitude 37° 29.1838193' N., Longitude 76° 44.8908342' W., thence continue southeasterly to Corner 8, Latitude 37° 29.1094227' N., Longitude 76° 44.7985114' W., thence continue southeasterly to Corner 9, Latitude 37° 28.9796379' N., Longitude 76° 44.6726329' W., thence continue southeasterly to Corner 10, Latitude 37° 28.7771294' N.,

Longitude 76° 44.5058580' W., thence continue southeasterly to Corner 11, Latitude 37° 28.6286905' N., Longitude 76° 44.4140389' W., thence continue southeasterly to Corner 12, Latitude 37° 28.4745509' N., Longitude 76° 44.3267558' W., thence continue southeasterly to Corner 13, Latitude 37° 28.4379124' N., Longitude 76° 44.2964890' W., thence continue southeasterly to Corner 14, Latitude 37° 28.3255929' N., Longitude 76° 44.2037875' W., thence continue southeasterly to Corner 15, Latitude 37° 28.2389865' N., Longitude 76° 44.1706101' W., thence continue southeasterly to Corner 16, Latitude 37° 28.2157560' N., Longitude 76° 44.1552324' W., thence westerly to Corner 17, Latitude 37° 28.1396622' N., Longitude 76° 44.3698473' W., thence northerly to Corner 18, Latitude 37° 28.7398061' N., Longitude 76° 44.7807027' W., thence continue northerly to Corner 19, Latitude 37° 28.8838652' N., Longitude 76° 44.8818391' W., thence easterly to Corner 20, Latitude 37° 28.9140411' N., Longitude 76° 44.8163514' W. thence northwesterly to Corner 1, said corner being the point of beginning.

"York River Rotation Area 1" means all public grounds in the York River, within Gloucester County, between a line from Upper York River Flashing Red Channel Marker "8", Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker "2" at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.; upstream to a line from the Upper York River Green Channel Marker 9, Latitude 37° 19.35986' N., Longitude 76° 35.99789' W.; thence northeasterly to Gum Point, Latitude 37° 19.7427600' N., Longitude 76° 35.4906300' W.

"York River Rotation Area 2" means all public grounds in the York River, within Gloucester County, from the George P. Coleman Memorial Bridge (U.S. Route 17), upstream to a line from Upper York River Flashing Red Channel Marker "8", Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker "2" at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.

**4VAC20-720-40. Open oyster harvest season and harvest areas, and harvest limits.**

A. It shall be unlawful for any person to harvest oysters from public and unassigned grounds ~~outside of the seasons~~ except within the dates and areas and with the harvest gears set forth in this section.

B. It shall be unlawful to harvest clean cull oysters from the public oyster grounds and unassigned grounds ~~except during~~ within the lawful seasons and ~~from the lawful~~ and with the harvest gears as described in Table 1 in this subsection.

# Regulations

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area: October 1, 2022, through April 30, 2023 (hand tong only).
2. Milford Haven: November 1, 2022, through April 14, 2023 (hand tong only).
3. Rappahannock River Area 9: October 1, 2022, through April 14, 2023 (hand tong only).
4. Corrotoman Hand Tong Area: October 1, 2022, through April 14, 2023.
5. Little Wicomico River: October 1, 2022, through December 31, 2022 (hand tong only).
6. Nomini Creek Area: October 1, 2022, through January 31, 2023 (hand tong only).
7. Yeocomico River Area: October 1, 2022, through December 31, 2022 (hand tong only).
8. Coan River Area: October 1, 2022, through December 31, 2022 (hand tong only).
9. Indian Creek Area: March 1, 2023, through April 14, 2023 (hand tong only).
10. York River Hand Tong Area: October 1, 2022, through April 14, 2023 (hand tong only).
11. York River Rotation Area 1: November 1, 2022, through April 14, 2023 (hand tong only).
12. Pocomoke Sound Area Public Ground 10: November 1, 2022, through November 15, 2022 (hand tong only).
13. Pocomoke Sound Area Public Ground 9: November 1, 2022, through January 31, 2023 (hand tong only).
14. Rappahannock River Rotation Area 2: December 1, 2022, through January 31, 2023 (hand scrape only).
15. Rappahannock River Rotation Area 4: October 17, 2022, through November 30, 2022, and February 1, 2023, through February 28, 2023 (hand scrape only).
16. Rappahannock River Area 7: December 1, 2022, through December 31, 2022 (hand scrape only).
17. Rappahannock River Area 8: January 1, 2023, through January 31, 2023 (hand scrape only).
18. Great Wicomico River Rotation Area 2: December 1, 2022, through March 14, 2023 (hand scrape only).
19. James River Areas 1, 2, and 3: October 17, 2022, through February 14, 2023 (hand scrape only).
20. Upper Chesapeake Bay Blackberry Hangs Area: February 1, 2023, through March 14, 2023 (hand scrape only).
21. York River Area 2: January 1, 2023, through March 14, 2023 (hand scrape only).

22. Pocomoke Sound Area Public Ground 9: February 1, 2023, through February 28, 2023 (hand scrape only).
23. Pocomoke Sound Area Public Ground 10: November 15, 2022 through November 30, 2022 and February 1, 2023 through February 28, 2023 (hand scrape only).
24. Tangier Sound Rotation Area 2: December 1, 2022, through March 14, 2023 (dredge only).
25. Deep Rock Area: November 1, 2022, through March 29, 2023 (patent tong only).
26. Rappahannock River Rotation Area 1: October 17, 2022, through March 14, 2023 (patent tong only).
27. Seaside of the Eastern Shore (for clean cull oysters only): November 1, 2022, through April 14, 2023 (by hand and hand tong only).

It shall be unlawful to exceed the daily individual bushel harvest limit or the daily vessel bushel limit of clean cull oysters in Table 1 in this subsection.

Harvest Area	Harvest Dates	Harvest Gear	Daily Individual Bushel Limit	Daily Vessel Bushel Limit
Great Wicomico River Rotation Area 1	December 1, 2023, through January 31, 2024	Hand Scrape	8	16
James River Area 1 and 2	October 15, 2023, through February 29, 2024	Hand Scrape	8	16
James River Area 3	November 1, 2023, through March 15, 2024	Hand Scrape	8	16
Middle Ground	November 1, 2023, through November 15, 2023	Hand Scrape	8	16
Rappahannock River Area 8	January 1, 2024, through January 31, 2024	Hand Scrape	8	16
Rappahannock River Area 7	December 1, 2023, through December 31, 2023	Hand Scrape	8	16
Rappahannock River Rotation Area 4	October 15, 2023, through October 31, 2023	Hand Scrape	8	16

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<u>Rappahannock River Rotation Area 6</u>	<u>November 1, 2023, through November 30, 2023, and February 1, 2024, through February 29, 2024</u>	<u>Hand Scrape</u>	<u>8</u>	<u>16</u>
<u>Upper Chesapeake Bay - Blackberry Hangs Area</u>	<u>February 1, 2024, through February 29, 2024</u>	<u>Hand Scrape</u>	<u>8</u>	<u>16</u>
<u>York River Rotation Area 1</u>	<u>November 1, 2023, through November 30, 2023</u>	<u>Hand Scrape</u>	<u>8</u>	<u>16</u>
<u>Coan River Area</u>	<u>October 1, 2023, through December 31, 2023</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>Corrotoman Hand Tong Area</u>	<u>October 1, 2023, through March 31, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>Indian Creek</u>	<u>March 1, 2024, through March 31, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>James River Area 1 and 2</u>	<u>March 1, 2024, through April 30, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>James River Area 3</u>	<u>March 16, 2024, through April 30, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>James River Seed Area, including the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area</u>	<u>October 1, 2023, through May 31, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>Little Wicomico River</u>	<u>October 1, 2023, through December 31, 2023</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>Milford Haven</u>	<u>November 1, 2023, through March 31, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>Nomini Creek Area</u>	<u>October 1, 2023, through December 31, 2023</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>

<u>Pocomoke Sound Area Public Ground 9 and 10</u>	<u>November 1, 2023, through March 31, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>Rappahannock River Area 9</u>	<u>October 1, 2023, through March 31, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>Yeocomico River Area</u>	<u>October 1, 2023, through December 31, 2023</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>York River Hand Tong Area</u>	<u>November 1, 2023, through March 31, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>York River Rotation Area 1</u>	<u>October 1, 2023, through October 31, 2023, and December 1, 2023, through March 31, 2024</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
<u>Beasley Bay Area</u>	<u>March 1, 2024, through March 15, 2024</u>	<u>Oyster Dredge</u>	<u>8</u>	<u>16</u>
<u>California Rock Area</u>	<u>November 15, 2023, through November 30, 2023</u>	<u>Oyster Dredge</u>	<u>8</u>	<u>16</u>
<u>Pocomoke Sound Rotation Area 1</u>	<u>December 1, 2023, through February 29, 2024</u>	<u>Oyster Dredge</u>	<u>8</u>	<u>16</u>
<u>Tangier Sound Rotation Area 1</u>	<u>December 1, 2023, through February 29, 2024</u>	<u>Oyster Dredge</u>	<u>8</u>	<u>16</u>
<u>Larsons Bay Area</u>	<u>December 1, 2023, through February 29, 2024</u>	<u>Patent Tong</u>	<u>8</u>	<u>16</u>
<u>Deep Rock Area</u>	<u>November 1, 2023, through February 29, 2024</u>	<u>Patent Tong</u>	<u>8</u>	<u>16</u>
<u>Rappahannock River Rotation Area 1</u>	<u>October 15, 2023, through January 31, 2024</u>	<u>Patent Tong</u>	<u>8</u>	<u>16</u>
<u>Seaside Eastern Shore</u>	<u>November 1, 2023, through March 31, 2024</u>	<u>By Hand or Hand Tong</u>	<u>14</u>	<u>28</u>

C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds, except ~~during the lawful seasons. The harvest of seed oysters from the lawful~~

# Regulations

within the dates and areas ~~is~~ and with the harvest gears described in Table 2 in this subsection.

~~1. James River Seed Area: October 1, 2022, through May 31, 2023 (hand tong only).~~

~~2. Deep Water Shoal State Replenishment Seed Area: October 1, 2022, through May 31, 2023 (hand tong only).~~

<u>Harvest Area</u>	<u>Harvest Dates</u>	<u>Harvest Gear</u>
<u>James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area</u>	<u>October 1, 2023, through May 31, 2024</u>	<u>Hand Tong</u>

D. In the Pocomoke and Tangier Sounds Rotation Areas, it shall be unlawful to possess on board any vessel more than 250 hard clams.

E. It shall be unlawful to possess any blue crabs on board any vessel with an oyster scrape or oyster dredge.

F. It shall be unlawful for any person or vessel to harvest oysters with more than one gear type in any single day from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia.

## **4VAC20-720-60. Day and time limit.**

A. It shall be unlawful to take, catch, or possess oysters on Saturday and Sunday from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia for commercial purposes, except that this provision shall not apply to any person harvesting no more than one bushel per day by hand or ordinary tong for household use only during the season when the public oyster grounds or unassigned grounds are legally open for harvest.

~~B. From October 1, 2022, through October 31, 2022, it shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after 11 a.m. from the areas described in 4VAC20-720-40 B. Beginning on November 1, 2022, it shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after 2 p.m. to do any of the following from the harvest areas described in Table 1 or Table 2 of 4VAC20-720-40 B-1 through B-13 and 4VAC20-720-40 C. Beginning on November 1, 2022, it shall be unlawful for any person to harvest:~~

~~1. Harvest or attempt to harvest oysters prior to sunrise or after noon from the areas described in 4VAC20-720-40 B-14 through B-26. In addition, it shall be unlawful for any boat with sunset.~~

~~2. For any vessel to leave the dock until one hour before sunrise or return to the dock after sunset if the vessel has an oyster dredge or hand scrape aboard.~~

3. From October 1, 2023, through October 31, 2023, for any person to harvest or attempt to harvest clean cull oysters after 11 a.m.

4. Beginning November 1, 2023, for any person to harvest or attempt to harvest clean cull oysters after noon with patent tongs, hand scrapes, or oyster dredges.

5. Beginning November 1, 2023, for any person to harvest or attempt to harvest oysters after 2 p.m. with hand tongs.

In addition, it shall be unlawful for any vessel to leave the dock until one hour before sunrise or return to the dock after sunset if the vessel has an oyster dredge or hand scrape aboard.

~~C. On the seaside of the Eastern Shore, it shall be unlawful for any person to harvest by hand or attempt to harvest oysters by hand prior to sunrise or after sunset. It shall be unlawful for any person to harvest oysters by hand tong or attempt to harvest oysters by hand tong prior to sunrise or after 2 p.m.~~

## **4VAC20-720-70. Gear restrictions.**

A. It shall be unlawful for any person to harvest oysters in the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area ~~and the areas described in 4VAC20-720-40 B-1 through B-13,~~ except by hand tong. It shall be unlawful for any person to have a hand scrape or oyster dredge on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong.

B. It shall be unlawful to harvest oysters by any gear from the seaside of the Eastern Shore except by hand or hand tong. It shall be unlawful to harvest oysters that are not submerged at mean low water by any gear other than by hand.

~~C. It shall be unlawful to harvest oysters from the areas described in 4VAC20-720-40 B-14 through B-23 by any gear except hand scrape.~~

~~D. C.~~ It shall be unlawful for any person to have more than one hand scrape on board his vessel while he is harvesting oysters or attempting to harvest oysters from public grounds. It shall be unlawful for any person to have a hand tong on board his vessel while he is harvesting or attempting to harvest oysters from public grounds by hand scrape.

~~E. It shall be unlawful to harvest oysters from the Pocomoke and Tangier Sounds Rotation Area 2, except by an oyster dredge.~~

~~F. It shall be unlawful to harvest oysters from the areas described in 4VAC20-720-40 B-25 and B-26 except by patent tong.~~

## **4VAC20-720-75. Gear license.**

~~A.~~ It shall be unlawful for any person vessel or individual to harvest shellfish ~~with a hand scrape~~ for commercial purposes from the public oyster grounds as described in 4VAC20-720-70 ~~C~~ 4VAC20-720-40 unless ~~that person~~ the individual or an individual on board the harvesting vessel has ~~first obtained~~

been issued a valid hand-scrape commercial fisherman's registration license, a valid gear license required for the harvest area, and has paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes.

B. It shall be unlawful for any person to harvest shellfish with an oyster dredge from the public oyster grounds, as described in 4VAC20-720-70 E, unless that person has first obtained a valid oyster dredge license.

C. It shall be unlawful for any person to harvest shellfish with a patent tong from the public oyster grounds, as described in 4VAC20-720-70 F, unless that person has first obtained a valid oyster patent tong license.

D. It shall be unlawful for any person to harvest shellfish with a hand tong from the public oyster grounds, as described in 4VAC20-720-70 A, unless that person has first obtained a valid hand tong license.

E. It shall be unlawful for any person to harvest shellfish by hand from the public oyster grounds on the seaside of the Eastern Shore as described in 4VAC20-720-70 B, unless that person has first obtained a valid oyster by hand license. It shall be unlawful for any person to harvest shellfish from the public oyster grounds on the seaside of the Eastern Shore by hand tong, as described in 4VAC20-720-70 B, unless that person has first obtained a valid oyster hand tong license.

**4VAC20-720-80. Quotas and harvest limits. (Repealed.)**

A. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and a valid gear license required for any harvest area, as described in 4VAC20-720-75 A and B, and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid hand-scrape or dredge license and has paid the oyster resource user fee as described in this subsection shall be limited to a maximum harvest of eight bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 16 bushels clean cull oysters when the vessel is using the hand-scrape or oyster dredge.

B. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and a valid gear license required for any harvest area, as described in 4VAC20-720-75, and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid hand or hand tong license and has paid the oyster resource user fee as described in this subsection shall be limited to a maximum harvest of 14 bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 28 bushels clean cull oysters when the vessel is using hand tongs or harvesting by hand.

C. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and a valid

gear license required for any harvest area as described in 4VAC20-720-75 and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid patent tong license and has paid the oyster resource user fee as described in this subsection shall be limited to a maximum harvest of eight bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 16 bushels of clean cull oysters harvested from the areas described in 4VAC20-720-40 B when the vessel is using patent tongs.

D. In the Pocomoke and Tangier Sounds Rotation Area 2, it shall be unlawful to possess on board any vessel more than 250 hard clams.

E. It shall be unlawful to possess any blue crabs on board any vessel with an oyster scrape or oyster dredge.

VA.R. Doc. No. R24-7644; Filed September 1, 2023, 9:38 a.m.



**TITLE 9. ENVIRONMENT**

**STATE WATER CONTROL BOARD**

**Final Regulation**

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

**Title of Regulation:** 9VAC25-890. General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (amending 9VAC25-890-1 through 9VAC25-890-40).

**Statutory Authority:** § 62.1-44.15:28 of the Code of Virginia.

**Effective Date:** November 1, 2023.

**Agency Contact:** Rebecca Rochet, Deputy Director, Water Permitting Division, Department of Environmental Quality,

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# Regulations

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1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23219, telephone (804) 801-2950, or email [rebecca.rochet@deq.virginia.gov](mailto:rebecca.rochet@deq.virginia.gov).

**Background:** The amendments are necessary to reissue the existing general permit, which expires on October 31, 2023. The general permit governs local governments and state and federal agencies that discharge stormwater from municipally owned separate storm sewer systems (MS4s) located within the Census Urbanized Area as determined by the U.S. Census Bureau.

**Summary:**

*Amendments include (i) adding definitions for common MS4 terminology and modifying the high-priority facility definition; (ii) requiring electronic submission of annual reports after a three-month notice is provided by the Department of Environmental Quality in accordance with 9VAC25-31-1020; (iii) adding permit conditions specific to traditional and nontraditional MS4 permittees to address existing permit conditions that are inherently not applicable to nontraditional permittees or not practicable for nontraditional permittee implementation; (iv) requiring third phase Chesapeake Bay total maximum daily load (TMDL) action plan submittal and completion of 100% of required nitrogen, phosphorus, and sediment reductions no later than October 31, 2028; (v) requiring Chesapeake Bay TMDL implementation annual status reports be maintained as separate documents from annual reports and posted to a permittee's publicly accessible stormwater webpage; (vi) requiring permittees to provide MS4 maps in a geographic information system (GIS) shapefile format and establishing data standards for GIS shapefile submission; (vii) adding provisions allowing permittees to adopt a risk-based approach to dry weather screening identifying observation points based upon illicit discharge risks upstream of an outfall. Each observation point screened may be counted as one outfall screening activity equivalent; however, at least 50% of the minimum annual screening events must include outfalls. These provisions are voluntary and permittees may choose to adopt this approach at their discretion; (viii) removing electronic best management practices (BMP) database requirements as these requirements are duplicative of BMP Warehouse reporting requirements; (ix) moving BMP Warehouse reporting conditions to a new permit section (Part III) and adding reporting requirements for ecosystem restoration projects; (x) reformatting and integrating good housekeeping requirements for written procedures, differentiating between the objectives each procedure shall meet and activities that require procedures, incorporating existing good housekeeping permit conditions into written procedure requirements, and improving linkage to contract language and training requirements; (xi) removing subjectivity from stormwater pollution prevention plan (SWPPP) applicability, clarifying SWPPP requirements, and integrating use of*

*applicable written good housekeeping procedures; (xii) requiring good housekeeping written procedures for applying anti-icing and deicing agents, including implementation of best management practices for anti-icing and deicing agent application, transport, and storage; (xiii) requiring permittees to develop written procedures for renovation and significant exterior maintenance activities; (xiv) clarifying written good housekeeping procedures for temporary storage of landscaping materials, recognizing that long-term bulk storage meets the definition of a high-priority facility; (xv) requiring Department of Conservation and Recreation approval and renewal of nutrient management plans; (xvi) requiring chloride TMDL action plans where applicable; (xvii) requiring inspection and maintenance procedures for ecosystem restoration projects; and (xviii) removing sediment reduction requirements from the Chesapeake Bay TMDL special condition.*

*Changes since the proposed stage include (i) requiring permittees to include any expanded area due to the 2020 census, so permittees must evaluate their MS4 service area in comparison to the 2020 urban area maps to develop SWPPPs for high-priority facilities within expanded areas, identify where nutrients are applied within expanded areas and maintain management plans for such nutrients, and determine if any additional pollutant reductions are required for expanded areas; (ii) requiring the use of Nforms for electronic submittal of registration statements per 9VAC25-31-1020; (iii) changing the submittal date for a geodatabase or two shapefiles to 24 months; and (iv) adding the deadline of 60 months after receiving permit coverage to implementation of a post-construction stormwater runoff control program and a maintenance and inspection program and within six months of the permit effective date for written inspection and maintenance procedures.*

## Chapter 890

**General Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s)**

### **9VAC25-890-1. Definitions.**

The words and terms used in this chapter shall have the meanings defined in the Virginia Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Annual practice" means a nonstructural best management practice such as street or storm drain cleaning that reduces pollution for one compliance year upon implementation.

"Board" means the State Water Control Board. When used outside the context of the promulgation of regulations,

including regulations to establish general permits, "board" means the Department of Environmental Quality.

"Date brought online" means the date when the permittee determines that a new stormwater management facility is properly functioning.

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

"Ecosystem restoration projects" means practices implemented to reestablish and maintain natural systems that prevent, reduce, or remediate pollutant loadings. Examples of ecosystem restoration projects include stream restoration, shoreline restoration, land-use conversion, and reforestation.

"High-priority facilities" means facilities owned or operated by the permittee with drainage to any permitted MS4 that actively engage in one or more of the following activities: (i) composting; (ii) equipment storage, cleaning, and maintenance; (iii) long-term bulk materials storage; (iv) pesticide, herbicide, and fertilizer storage; (v) storage for public works; (vi) recycling; (vii) salt storage; (viii) anti-icing and deicing agent storage, handling, and transfer; (vii) solid waste handling and transfer, and vehicle storage and maintenance (viii) permittee owned or operated vehicle washing, maintenance, and salvage.

"MS4 regulated service area" or "service area" means for Phase II permittees, the drainage area served by the permittee's MS4 that is located within [ ~~an~~ the 2020 census urban areas with a population of at least 50,000 or the 2000 and 2010 decennial censuses ] urbanized area as determined [ ~~by the 2010 decennial census performed~~ ] by the Bureau of the Census. MS4 regulated service area may also be referred to as "served by the MS4" as it pertains to the tables in Part II A of this permit.

"Nontraditional MS4 permittee" or "nontraditional permittee" means a government entity that operates a regulated MS4 that is not under the authority of a county board of supervisors, a city council, or a town council.

"Physically interconnected" means that one MS4 is connected to a second MS4 in such a manner that it allows for direct discharges to the second system.

"Pollutants of concern" or "POC" means pollutants specifically identified in a U.S. Environmental Protection Agency approved total maximum daily load (TMDL) report as causing a water quality impairment.

"Traditional MS4 permittee" or "traditional permittee" means a local government that operates a regulated MS4 under the authority of a county board of supervisors, a city council, or a town council.

**9VAC25-890-10. Purpose; effective date of the state permit.**

A. This general permit regulation governs point source stormwater discharges from regulated small municipal separate storm sewer systems (~~small~~ MS4s) to surface waters of the Commonwealth of Virginia. Nonmunicipal stormwater or wastewater discharges are not authorized by this permit except in accordance with 9VAC25-890-20 D.

B. This general permit will become effective on November 1, ~~2018~~ 2023, and will expire October 31, ~~2023~~ 2028.

**9VAC25-890-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated in this chapter, that regulation shall be as it exists and has been published in the July 1, ~~2017~~ 2022, update. ~~The final rule published in the Federal Register on August 28, 2017 (82 FR 40836), which amends 40 CFR Part 136, is also incorporated by reference in this chapter.~~

**9VAC25-890-20. Authorization to discharge.**

A. Any operator covered by this general permit is authorized to discharge stormwater from the ~~small municipal separate storm sewer system (MS4)~~ to surface waters of the Commonwealth of Virginia provided that:

1. The operator submits a complete and accurate registration statement in accordance with 9VAC25-890-30 and that registration statement is accepted by the ~~board~~ department;
2. The operator submits any permit fees required by Part XIII (9VAC25-870-700 et seq. ~~(Part XIII)~~);
3. The operator complies with the requirements of 9VAC25-890-40; and
4. The ~~board~~ department has not notified the operator that the discharge is ineligible for coverage in accordance with subsection C of this section.

B. The operator is not authorized by this general permit to discharge to surface waters specifically named in other board regulations that prohibit such discharges.

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

1. The operator is required to obtain an individual permit in accordance with 9VAC25-870-410 B;
2. The operator is proposing discharges to surface waters specifically named in other board regulations that prohibit such discharges; or
3. The operator fails to implement BMPs to reduce pollutants to the maximum extent practicable (MEP)



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standard [ ~~in order~~ ] to demonstrate progress toward meeting the water quality requirements as listed in 9VAC25-31-220 D 1 a in accordance with 9VAC25-31-220 K 2.

D. Nonstormwater discharges or flows into the ~~small~~ MS4 are authorized by this state permit and do not need to be addressed in the MS4 program required under 9VAC25-890-40 Part I E 3 if:

1. The nonstormwater discharges or flows are covered by a separate individual or general VPDES or state permit for nonstormwater discharges;
2. The individual nonstormwater discharges or flows have been identified by the department as de minimis discharges that are not significant sources of pollutants to surface waters and do not require a separate VPDES permit;
3. The nonstormwater discharges or flows are identified in this subdivision ~~D-3~~ and have not been identified by the operator or by the ~~board~~ department as significant contributors of pollutants to the ~~small~~ MS4:
  - a. Water line flushing, managed in a manner to avoid an instream impact;
  - b. Landscape irrigation;
  - c. Diverted stream flows;
  - d. Rising groundwaters;
  - e. Uncontaminated groundwater infiltration, as defined at 40 CFR 35.2005(20);
  - f. Uncontaminated pumped groundwater;
  - g. Discharges from potable water sources managed in a manner to avoid instream impact;
  - h. Foundation drains;
  - i. Air conditioning condensation;
  - j. Irrigation water;
  - k. Springs;
  - l. Water from crawl space pumps;
  - m. Footing drains;
  - n. Lawn watering;
  - o. Individual residential car washing;
  - p. Flows from riparian habitats and wetlands;
  - q. Dechlorinated freshwater swimming pool discharges managed in a manner to avoid instream impact;
  - r. Street and pavement wash ~~water~~ waters that do not contain cleaning additives or are otherwise managed in a manner to avoid instream impact;
  - s. [ Routine external building washdown provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge;

t. ] Discharges or flows from emergency firefighting activities;

[ ~~t. u.~~ ] Discharges or flows of water for fire prevention or firefighting training activities managed in a manner to avoid instream impact in accordance with § 9.1-207.1 of the Code of Virginia;

[ ~~u. v.~~ ] Discharges from noncommercial fundraising car washes if the washing uses only biodegradable, phosphate-free, water-based cleaners in accordance with § 15.2-2114.1 of the Code of Virginia; or

~~u.~~ [ ~~v. w.~~ ] Other activities generating discharges identified by the department as not requiring VPDES authorization; or

4. The immediate discharge of materials is necessary to protect life or property as determined by fire department personnel or emergency management officials or any discharge in accordance with 9VAC25-31-40. The operator shall take, or ensure that the responsible party takes, all reasonable steps to minimize or prevent any adverse effect on human health or the environment. This state permit does not transfer liability for a spill itself from the party responsible for the spill to the operator nor relieve the party responsible for a spill from the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302.

E. In the event the operator is unable to meet certain conditions of this permit due to circumstances beyond the operator's control, the operator shall submit a written explanation of the circumstances that prevented state permit compliance to the department in the annual report. Circumstances beyond the control of the operator include abnormal climatic conditions; weather conditions that make certain requirements unsafe or impracticable; or unavoidable equipment failures caused by weather conditions or other conditions beyond the reasonable control of the operator (operator error is not a condition beyond the control of the operator). The failure to provide adequate program funding, staffing, or equipment maintenance shall not be an acceptable explanation for failure to meet state permit conditions. The ~~board~~ department will determine, at its sole discretion, whether the reported information will result in an enforcement action.

F. Discharges that are excluded from permitting requirements pursuant to 9VAC25-870-300 are exempted from the regulatory requirements of this state permit.

G. For those portions of the ~~small~~ MS4 engaging in activities that are covered under a separate VPDES permit for discharges associated with industrial activities, the permittee shall follow the conditions established by the separate VPDES permit.

H. Upon termination of permit coverage for those activities addressed in subsection G of this section, the discharges from the outfalls previously authorized under the VPDES permit for stormwater discharges associated with industrial activities shall meet the conditions of this state permit provided it has

been determined by the board department that an individual MS4 permit is not required.

I. Stormwater discharges from specific MS4 permittee activities that have been granted conditional exclusion for "no exposure" of industrial activities and materials to stormwater under the separate VPDES permitting program shall comply with this state permit unless a separate VPDES permit is obtained. The department is responsible for determining compliance with the conditional exclusion under the State Water Control Law (Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia) and attendant regulations.

J. Receipt of this general permit does not relieve any permittee of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

K. Continuation of permit coverage.

1. Any permittee that was authorized to discharge under the state permit effective ~~July 1, 2013~~ November 1, 2018, and that submits a complete registration statement on or before ~~June 1, 2018~~ October 1, 2023, is authorized to continue to discharge under the terms of the ~~July 1, 2013~~ November 1, 2018, state permit until such time as the board department either:

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

2. When the permittee is not in compliance with the conditions of the expiring or expired general permit, the board department may choose to do any or all of the following:

- a. Initiate enforcement action based upon the ~~2013~~ 2018 general permit;
- b. Issue a notice of intent to deny coverage under the new general permit. If coverage under the general permit is denied, the permittee would then be required to cease the activities authorized by the continued general permit or be subject to enforcement action for operating without a state permit;
- c. Issue a new state permit with appropriate conditions; or
- d. Take other actions authorized by the State Water Control Law, VPDES (9VAC25-31), and VSMP (9VAC25-870) regulations.

**9VAC25-890-30. Registration statement.**

A. Deadline for submitting a registration statement.

1. Operators of small MS4s described under 9VAC25-870-400 B that are applying for initial coverage under this general permit must submit a complete registration statement to the department within 180 days of notice of designation, unless the board department grants a later date.

2. In order to continue uninterrupted coverage under the general permit, operators of small MS4s shall submit a new registration statement no later than ~~June 1, 2018~~ October 1, 2023, unless permission for a later date has been granted by the board department. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing state permit.

B. The registration statement shall include the following information:

- 1. The name and location of the small MS4;
- 2. The name of the owner or operator of the small MS4;
- 3. The mailing address of the owner or operator of the small MS4;
- 4. The type of small MS4 (e.g., city, county, incorporated town, unincorporated town, college or university, local school board, military installation, transportation system, federal or state facility, or other);
- 5. If the MS4 is operated under the authority of a city council or a county board of supervisors, indicate if public school facilities are included in the application.

~~6.~~ 7. The name, title, mailing address, telephone number, and email address for the following individuals:

- a. The responsible official who meets the criteria established in ~~9VAC 25-870-370~~ 9VAC25-870-370 A 3;
- b. The MS4 permit contact; and
- c. The annual permit maintenance fee contact;

~~6-7.~~ 8. The following receiving waters information:

- a. The names of the receiving surface waters to which the MS4 system discharges; and
- b. Whether or not the receiving waters are listed as impaired in the Virginia [ ~~2016~~ 2022 ] 305(b)/303(d) Water Quality Assessment Integrated Report;

~~7-8.~~ 9. The names of any physically interconnected MS4s to which the small MS4 discharges;

~~8-9.~~ 10. A list of all existing signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order to implement minimum control measures or portions of minimum control measures;

~~9-10.~~ 11. For ~~those~~ permittees previously covered under the General VPDES Permit for Discharges of Stormwater from MS4 effective November 1, 2018, whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, a draft ~~second~~ third phase Chesapeake Bay TMDL action plan; and

~~10-11.~~ 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

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

C. The registration statement shall be signed in accordance with 9VAC25-890-40 Part ~~III~~ IV K 4.

D. An operator may file its own registration statement, or the operator and other operators of ~~small~~ MS4s may jointly submit a registration statement. If responsibilities for meeting the stormwater minimum control measures will be shared with other municipalities or governmental entities, the registration statement must describe which stormwater minimum control measures the operator will implement and identify the entities that will implement the other stormwater minimum control measures within the area served by the ~~small~~ MS4.

E. The registration statement may be delivered to the DEQ Central Office, Office of VPDES Permits or by electronic mail to an electronic mailbox specified by the department. [ Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements) as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months of notice provided between the notification from the department and the date after which such forms must be submitted electronically. ]

## **9VAC25-890-40. General permit.**

Any MS4 operator whose registration statement is accepted by the ~~board~~ department will receive coverage under the following general permit and shall comply with the requirements in this general permit and be subject to all applicable requirements of the Virginia Stormwater Management Program (VSMP) Regulations (9VAC25-870) and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations (9VAC25-31).

General Permit No.: VAR04

Effective Date: November 1, ~~2018~~ 2023

Expiration Date: October 31, ~~2023~~ 2028

GENERAL VPDES PERMIT FOR DISCHARGES OF  
STORMWATER FROM SMALL MUNICIPAL SEPARATE  
STORM SEWER SYSTEMS

AUTHORIZATION TO DISCHARGE UNDER THE  
VIRGINIA STORMWATER MANAGEMENT PROGRAM  
REGULATIONS, VIRGINIA POLLUTANT DISCHARGE

## **ELIMINATION SYSTEM REGULATIONS, 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, permittees of small municipal separate storm sewer systems are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in State Water Control Board regulations ~~which~~ that prohibit such discharges.

The authorized discharge shall be in accordance with the registration statement filed with the department, this cover page, Part I - Discharge Authorization and Special Conditions, Part II - TMDL Special Conditions, ~~and~~ Part III - DEQ BMP Warehouse Reporting, and Part IV - Conditions Applicable to All State and VPDES Permits, as set forth in this general permit.

### Part I

#### Discharge Authorization and Special Conditions

A. Coverage under this state permit. During the period beginning with the date of coverage under this general permit and lasting until the expiration and reissuance of this state permit, the permittee is authorized to discharge stormwater and those authorized nonstormwater discharges described in 9VAC25-890-20 D in accordance with this state permit from the small municipal separate storm sewer system identified in the registration statement into surface waters within the boundaries of the Commonwealth of Virginia and consistent with 9VAC25-890-30.

B. The permittee shall develop, implement, and enforce ~~a~~ an MS4 program designed to reduce the discharge of pollutants from the ~~small~~ MS4 to the ~~maximum extent practicable~~ (MEP) in accordance with this permit, to protect water quality, and to satisfy the appropriate water quality requirements of the State Water Control Law and its attendant regulations. The permittee shall utilize the legal authority provided by the laws and regulations of the Commonwealth of Virginia to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, policy, specific contract language, order, or interjurisdictional agreements. The MS4 program shall include the minimum control measures (MCM) described in Part I E. For the purposes of this permit term, implementation of MCMs in Part I E and the Chesapeake Bay and local TMDL requirements in Part II (as applicable) consistent with the provisions of an iterative MS4 program required pursuant to this general permit constitutes compliance with the standard of reducing pollutants to the ~~"maximum extent practicable,"~~ MEP, provides adequate progress in meeting water quality standards, and satisfies the appropriate water quality requirements of the State Water Control Law and its attendant regulations.

C. The MS4 program plan.

1. The MS4 program plan shall include, at a minimum, the following written items:

- a. The roles and responsibilities of each of the permittee's divisions and departments in the implementation of the requirements of the permit tasked with ensuring that the permit requirements are met;
- b. If the permittee utilizes another entity to implement portions of the MS4 program, a copy of the written agreement. The description of each party's roles and responsibilities, including any written agreements with third parties, shall be updated as necessary;
- c. For each MCM in Part I E, the following information shall be included:
  - (1) Each specific requirement as listed in Part I E for each MCM;
  - (2) A description of the BMPs or strategies that the permittee anticipates will be implemented to demonstrate compliance with the permit conditions in Part I E;
  - (3) All standard operating procedures or policies necessary to implement the BMPs;
  - (4) The measurable goal by which each BMP or strategy will be evaluated; and
  - (5) The persons, positions, or departments responsible for implementing each BMP or strategy; and
- d. A list of documents incorporated by reference, including the version and date of the document being incorporated.

2. If the permittee is receiving initial coverage under this general VPDES permit for the discharge of stormwater, the permittee shall:

- a. No later than six months following the date of permit coverage, submit to the department a schedule for the development of each component of the MS4 program plan in accordance with Part I C 1 that does not exceed ~~the expiration date of this permit~~ October 31, 2028, unless the department grants a later date; and
- b. Provide to the department a copy of the MS4 program plan upon completion of development.

3. If the permittee was previously covered under the General VPDES Permit for ~~the Discharge~~ Discharges of Stormwater from MS4 effective ~~July 1, 2013~~ November 1, 2018, the permittee shall update the MS4 program plan to meet the requirements of this permit no later than six months after the effective date of this permit unless otherwise specified in another permit condition and shall post the most up-to-date version of MS4 program plan on the permittee's website or location where the MS4 program plan can be obtained as required by Part I E 2 within 30 days of updating the MS4 program plan. Until such time that the MS4 program plan is updated in accordance with Part I E, the permittee shall continue to implement the MS4 program plan in effect at the time that coverage is issued under this general permit.

4. Revisions to the MS4 program plan are expected throughout the life of this permit as part of the iterative process to reduce pollutant loading and protect water quality to the MEP. As such, revisions made in accordance with this permit as a result of the iterative process do not require modification of this permit. The permittee shall summarize revisions to the MS4 program plan as part of the annual report as described in Part I D ~~2~~ 3.

5. The permittee may demonstrate compliance with one or more MCM in Part I E through implementation of separate statutory or regulatory programs provided that the permittee's MS4 program plan identifies and fully describes any program that will be used to satisfy one or more of the minimum control measures of Part I E. If the program that the permittee is using requires the approval of a third party, the program shall be fully approved by the third party, or the permittee shall be working toward getting full approval. Documentation of the program's approval status, or the progress toward achieving full approval, shall be included in the annual report required by Part I D. The permittee shall remain responsible for compliance with the permit requirements if the other entity fails to implement one or more components of the control measures.

6. The permittee may rely on another entity to satisfy the permit requirements to implement a minimum control measure if:

- a. The other entity, in fact, implements the control measure;
- b. The particular control measure, or component thereof, is at least as stringent as the corresponding permit requirement;
- c. The other entity agrees to implement the control measure on behalf of the permittee; and
- d. The agreement between the parties is documented in writing and retained by the permittee with the MS4 program plan for as long as the agreement is active.

The permittee shall remain responsible for compliance with requirements of the permit and shall document in the annual reports required in accordance with Part I D that another entity is being relied on to satisfy all or part of the state permit requirements. The permittee shall provide the information required in Part I D.

7. If the permittee relies on another governmental entity regulated under 9VAC25-870-380 to satisfy all of the state permit obligations, including the obligation to file periodic reports required by Part I D, the permittee must note that fact in the registration statement, but is not required to file the periodic reports. The permittee remains responsible for compliance with the state permit requirements if the other entity fails to implement the control measures or components thereof.

D. Annual reporting requirements.

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1. The permittee shall submit an annual report to the department no later than October 1 of each year in a method, (i.e., how the permittee must submit) and format (i.e., how the report shall be laid out) as specified by the department; the required content of the annual report is specified in Part I E and Part II B. The report shall cover the previous year from July 1 to June 30.

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

3. The annual report shall include the following general information:

- a. The permittee, system name, and permit number;
- b. The reporting period for which the annual report is being submitted;
- c. A signed certification as per Part ~~III~~ IV K;
- d. Each annual reporting item as specified in an MCM in Part I E; and
- e. An evaluation of the MS4 program implementation, including a review of each MCM, to determine the MS4 program's effectiveness and whether or not changes to the MS4 program plan are necessary.

~~3- 4.~~ 4. For permittees receiving initial coverage under this general VPDES permit for the discharge of stormwater, the annual report shall include a status update on each component of the MS4 program plan being developed. Once the MS4 program plan has been updated to include implementation of a specific MCM in Part I E, the permittee shall follow the reporting requirements established in Part I D ~~2~~ 3.

~~4. For those permittees with requirements established under Part II A, the annual report shall include a status report on the implementation of the Chesapeake Bay TMDL action plan in accordance with Part II A of this permit including any revisions to the plan.~~

5. For those permittees with requirements established under Part II B, the annual report shall include a status report on the implementation of the local TMDL action plans in accordance with Part II B including any revisions to the plan.

6. For the purposes of this permit, the MS4 program plan ~~and~~ annual report reports, the Chesapeake Bay TMDL action plan, and Chesapeake Bay TMDL implementation annual status reports shall be maintained separately as separate documents and submitted to the department as required by this permit as ~~two~~ separate documents.

E. Minimum control measures.

1. Public education and outreach.

a. The permittee shall implement a public education and outreach program designed to:

- (1) Increase the public's knowledge of how to reduce stormwater pollution, placing priority on reducing impacts to impaired waters and other local water pollution concerns;
- (2) Increase the public's knowledge of hazards associated with illegal discharges and improper disposal of waste, including pertinent legal implications; and
- (3) Implement a diverse program with strategies that are targeted toward individuals or groups most likely to have significant stormwater impacts.

b. The permittee shall identify no ~~less~~ fewer than three high-priority stormwater issues to meet the goal of educating the public in accordance with Part I E 1 a. High-priority issues may include the following examples: Chesapeake Bay nutrients, pet wastes, local receiving water impairments, TMDLs, high-quality receiving waters, litter control, BMP maintenance, anti-icing and deicing agent application, planned green infrastructure redevelopment, planned ecosystem restoration projects, and illicit discharges from commercial sites.

c. The high-priority public education and outreach program, as a whole, shall:

- (1) Clearly identify the high-priority stormwater issues;
- (2) Explain the importance of the high-priority stormwater issues;
- (3) Include measures or actions the public can take to minimize the impact of the high-priority stormwater issues; and
- (4) Provide a contact and telephone number, website, or location where the public can find out more information.

d. The permittee shall use two or more of the strategies listed in Table 1 ~~below~~ per year to communicate to the public target audience the high-priority stormwater issues identified in accordance with Part I E 1 b<sub>2</sub> including how to reduce stormwater pollution.

Strategies	Examples (provided as examples and are not meant to be all inclusive or limiting)
Traditional written materials	Informational brochures, newsletters, fact sheets, utility bill inserts, or recreational guides for targeted groups of citizens
Alternative materials	Bumper stickers, refrigerator magnets, t-shirts, or drink koozies

Signage	Temporary or permanent signage in public places or facilities, vehicle signage, bill boards, or storm drain stenciling
Media materials	Information disseminated through electronic media, radio, televisions, movie theater, <del>or</del> newspaper, or GIS story maps
Speaking engagements	Presentations to school, church, industry, trade, special interest, or community groups
Curriculum materials	Materials developed for school-aged children, students at local colleges or universities, or extension classes offered to local citizens
Training materials	Materials developed to disseminate during workshops offered to local citizens, trade organization, or industrial officials
Public education activities	<u>Booth at community fair, demonstration of stormwater control projects, presentation of stormwater materials to schools to meet applicable education Standards of Learning or curriculum requirements, or watershed walks</u>
Public meetings	<u>Public meetings on proposed community stormwater management retrofits, green infrastructure redevelopment, ecosystem restoration projects, TMDL development, [ climate change's effects on stormwater management, ] voluntary residential low impact development, or other stormwater issues</u>

e. The permittee may coordinate its public education and outreach efforts with other MS4 permittees; however, each permittee shall be individually responsible for meeting all of its state permit requirements.

f. The MS4 program plan shall include:

- (1) A list of the high-priority stormwater issues the permittee will communicate to the public as part of the public education and outreach program;
- (2) The rationale for selection of each high-priority stormwater issue and an explanation of how each education or outreach strategy is intended to have a positive impact on stormwater discharges;
- (3) Identification of the public target audience to receive each high-priority stormwater message;
- (4) Nontraditional permittees may identify staff, students, [ members of the general public, ] and other users of facilities operated by the permittee as the target audience for education and outreach strategies;
- (5) Traditional permittees may identify staff and students as part of the target audience for education and outreach strategies; however, staff shall not be the majority of the target audience;

(6) Staff training required in accordance with Part I E 6 d does not qualify as a strategy for public education and outreach;

(7) The strategies from Table 1 of Part I E 1 d to be used to communicate each high-priority stormwater message; and

~~(5)~~ (8) The anticipated time periods the messages will be communicated or made available to the public.

g. The annual report shall include the following information:

(1) A list of the high-priority stormwater issues the permittee addressed in the public education and outreach program; ~~and~~

(2) A list of the summary of the public education and outreach activities conducted for the report year, including the strategies used to communicate the identified high-priority issues; [ and ]

(3) A description of any changes in high-priority stormwater issues, including, strategies used to communicate each high-priority stormwater issue issues or target audiences for the public education and outreach plan. The permittee shall provide a rationale for any of these changes [ ; and

(4) A description of public education and outreach activities conducted that included education regarding climate change ].

2. Public involvement and participation.

a. The permittee shall develop and implement procedures for the following:

(1) The public to report potential illicit discharges, improper disposal, or spills to the MS4, complaints regarding land disturbing activities, or other potential stormwater pollution concerns;

(2) The public to provide input comments on the permittee's MS4 program plan;

~~(3) Receiving public input or complaints;~~

~~(4)~~ (3) Responding to public input comments received on the MS4 program plan ~~or complaints~~; and

~~(5)~~ (4) Maintaining documentation of public input comments received on the MS4 program and associated MS4 program plan and the permittee's response.

b. No later than three months after this permit's effective date, the [ existing ] permittee shall ~~develop and maintain~~ update and maintain the webpage dedicated to the MS4 program and stormwater pollution prevention. The following information shall be posted on this webpage:

(1) The effective MS4 permit and coverage letter;

(2) The most current MS4 program plan or location where the MS4 program plan can be obtained;

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(3) The annual report for each year of the term covered by this permit no later than 30 days after submittal to the department;

(4) For permittees whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, the most current Chesapeake Bay TMDL action plan or location where the Chesapeake Bay TMDL action plan can be obtained;

(5) For permittees whose regulated MS4 is located partially or entirely in the Chesapeake Bay watershed, the Chesapeake Bay TMDL implementation annual status reports for each year of the term covered by this permit no later than 30 days after submittal to the department;

(6) A mechanism for the public to report potential illicit discharges, improper disposal, or spills to the MS4, complaints regarding land disturbing activities, or other potential stormwater pollution concerns in accordance with Part I E 2 a (1); ~~and~~

~~(5)~~ (7) Methods for how the public can provide ~~input~~ comments on the permittee's MS4 program plan in accordance with Part I E 2 a (2) and if applicable, the Chesapeake Bay TMDL action plan in accordance with Part II A 13; and

(8) Federal and state nontraditional permittees with security policies preventing a MS4 program and stormwater pollution prevention webpage from being publicly accessible may utilize an internal staff accessible webpage such as an intranet webpage to meet the requirements of Part I E 2 b.

c. ~~The permittee~~ Traditional permittees shall implement no ~~less~~ fewer than four activities per year from two or more of the categories listed in Table 2 ~~below~~ to provide an opportunity for public involvement to improve water quality and support local restoration and clean-up projects.

d. Nontraditional permittees shall implement, promote, participate in, or coordinate on no fewer than four activities per year from two or more of the categories listed in Table 2 to provide an opportunity for public involvement to improve water quality and support local restoration and clean-up projects.

<u>Educational events</u> <u>Public education activities</u>	Booth at community fair, demonstration of stormwater control projects, [ <u>climate change's effects on stormwater management,</u> ] presentation of stormwater materials to schools to meet applicable education Standards of Learning or curriculum requirements, <u>or</u> watershed walks, <del>participation on environmental advisory committees</del>
<u>Public meetings</u>	<u>Public meetings on proposed community stormwater management retrofits, green infrastructure redevelopment, ecosystem restoration projects, TMDL development, voluntary residential low impact development, [ climate change's effects on stormwater management, ] or other stormwater issues</u>
Disposal or collection events	Household hazardous chemicals collection, vehicle fluids collection
Pollution prevention	Adopt-a-storm drain program, implement a storm drain marking program, promote use of residential stormwater BMPs, implement pet waste stations in public areas, adopt-a-street program.

~~d. e.~~ The permittee may coordinate the public involvement opportunities listed in Table 2 with other MS4 permittees; however, each permittee shall be individually responsible for meeting all of the permit requirements.

~~e. f.~~ The permittee may include staff and students in public participation events; however, the activity cannot solely include or be limited to staff participants with stormwater, groundskeeping, and maintenance duties in order for an event to qualify as a public participation event.

g. Staff training required in accordance with Part I E 6 d does not qualify as a public participation event unless the training activity solicits participation from target audiences beyond staff or contractors with stormwater, groundskeeping, and maintenance duties.

h. The MS4 program plan shall include:

(1) The webpage address where mechanisms for the public to report (i) potential illicit discharges, improper disposal, or spills to the MS4, (ii) complaints regarding land disturbing activities, or (iii) other potential stormwater pollution concerns;

(2) The webpage address that contains the methods for how the public can provide input on the permittee's MS4 program; and

(3) A description of the public involvement activities to be implemented by the permittee, the anticipated time period the activities will occur, and a metric for each activity to

Public involvement opportunities	Examples (provided as example and are not meant to be all inclusive or limiting)
Monitoring	Establish or support citizen monitoring group
Restoration	Stream <del>or,</del> watershed, shoreline, beach, or park clean-up day, <del>adopt a water way</del> <u>adopt-a-waterway program, tree plantings, and riparian buffer plantings</u>

determine if the activity is beneficial to water quality. An example of metrics may include the weight of trash collected from a stream cleanup; or the number of participants in a hazardous waste collection event; ~~etc.~~

~~f. i.~~ The annual report shall include the following information:

(1) A summary of any public ~~input comments~~ on the MS4 program received (~~including stormwater complaints~~) and how the permittee responded;

(2) A summary of stormwater pollution complaints received under the procedures established in Part I E 2 a (1), excluding [ natural ] flooding complaints, and how the permittee responded;

(3) A webpage address to the permittee's MS4 program and stormwater website;

~~(3)~~ (4) Federal and state nontraditional permittees with security policies preventing the MS4 program and stormwater pollution prevention webpage from being publicly accessible utilizing an internal staff accessible website, such as intranet, shall provide evidence of the current internal MS4 program and stormwater pollution prevention webpage;

(5) A description of the public involvement activities implemented by the permittee [ , including any efforts to reach out and engage all economic and ethnic groups ];

[ (6) A description of public education and outreach activities conducted that also included education regarding climate change; ]

(4) [ ~~(6)~~ (7) ] A report of the metric as defined for each activity and an evaluation as to whether or not the activity is beneficial to improving water quality; and

~~(5)~~ [ ~~(7)~~ (8) ] The name of other MS4 permittees with whom the permittee collaborated in the public involvement opportunities.

3. Illicit discharge detection and elimination.

a. The permittee shall develop and maintain an accurate MS4 map and information table as follows:

(1) A An updated map of the storm sewer system MS4 owned or operated by the permittee within the [ census urbanized area identified by the 2010 decennial census MS4 regulated service area ] no later than [ 12 24 ] months after the permit effective date that includes, at a minimum:

(a) MS4 outfalls discharging to surface waters, except as follows:

(i) In cases where the outfall is located outside of the MS4 permittee's legal responsibility, the permittee may elect to map the known point of discharge location closest to the actual outfall; and

(ii) In cases where the MS4 outfall discharges to receiving water channelized underground, the permittee may elect to map the point downstream at which the receiving water

emerges above ground as an outfall discharge location. If there are multiple outfalls discharging to an underground channelized receiving water, the map shall identify that an outfall discharge location represents more than one outfall. This is an option a permittee may choose to use and recognizes the difficulties in accessing outfalls to underground channelized stream conveyances for purposes of mapping, screening, or monitoring;:

(b) A unique identifier for each mapped item required in Part I E 3;

(c) The name and location of receiving waters to which the MS4 outfall or point of discharge discharges;

(d) MS4 regulated service area; and

(e) ~~stormwater~~ Stormwater management facilities owned or operated by the permittee.

(2) The permittee shall maintain an outfall information table associated with the ~~storm sewer system~~ MS4 map that includes the following information for each outfall or point of discharge for those cases in which the permittee elects to map the known point of discharge in accordance with Part I E 3 a (1) (a). The outfall information table may be maintained as a shapefile attribute table. The outfall information table shall contain the following:

(a) A unique identifier as specified on the ~~storm sewer system~~ MS4 map;

(b) The latitude and longitude of the outfall or point of discharge;

(c) The estimated regulated acreage draining to the outfall or point of discharge;

(d) The name of the receiving water;

(e) The 6th Order Hydrologic Unit Code of the receiving water;

(f) An indication as to whether the receiving water is listed as impaired in the Virginia 2016 [ 2020 2022 ] 305(b)/303(d) Water Quality Assessment Integrated Report; and

(g) ~~The predominant land use for each outfall discharging to an impaired water; and~~ (h) The name of any EPA approved TMDLs for which the permittee is assigned a wasteload allocation.

(3) No later than ~~July 1, 2019~~ [ 12 24 ] months after permit issuance, the permittee shall submit to DEQ, a ~~GIS-compatible shapefile of the permittee's MS4 map as described in Part I E 3 a. If the permittee does not have an MS4 map in a GIS format, the permittee shall provide the map as a PDF document.~~ format file geodatabase or two shapefiles that contain at a minimum:

(a) A point feature class or shapefile for outfalls with an attribute table containing outfall data elements required in accordance with Part I E 3 a (2); and

(b) A polygon feature class or shapefile for the MS4 service area as required in accordance with Part I E 3 a (1)



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(d) with an attribute table containing the following information:

(i) MS4 operator name;

(ii) MS4 permit number (VAR04); and

(iii) MS4 service area [ ~~pervious, impervious, and~~ ] total acreage rounded to the nearest hundredth.

(4) All file geodatabase feature classes or shapefiles shall be submitted in the following data format standards:

(a) Point data in NAD83 or WGS84 decimal degrees global positional system coordinates;

(b) Data projected in Virginia Lambert Conformal Conic format;

(c) Outfall location accuracy shall be represented in decimal degrees rounded to at least the fifth decimal place for latitude and longitude to ensure point location accuracy (e.g., 37.61741, -78.15279); and

(d) Metadata that shall provide a description of each feature class or shapefile dataset, units of measure as applicable, coordinate system, and projection.

(5) No later than October 1 of each year, the permittee shall update the ~~storm sewer system~~ MS4 map and outfall information table to include any new outfalls constructed or TMDLs approved or both during the immediate preceding reporting period.

~~(5)~~ (6) The permittee shall provide written notification to any downstream adjacent MS4 of any known physical interconnection established or discovered after the effective date of this permit.

b. The permittee shall prohibit, through ordinance, policy, standard operating procedures, or other legal mechanism, to the extent allowable under federal, state, or local law, regulations, or ordinances, unauthorized nonstormwater discharges into the ~~storm sewer system~~ MS4. Nonstormwater discharges or flows identified in 9VAC25-890-20 D 3 shall only be addressed if they are identified by the permittee as a significant contributor of pollutants discharging to the MS4. Flows that have been identified by the department as de minimis discharges are not significant sources of pollutants to surface water.

c. The permittee shall maintain, implement, and enforce illicit discharge detection and elimination (IDDE) written procedures designed to detect, identify, and address unauthorized nonstormwater discharges, including illegal dumping, to the ~~small~~ MS4 to effectively eliminate the unauthorized discharge. Written procedures shall include:

(1) A description of the legal authorities, policies, standard operating procedures, or other legal mechanisms available to the permittee to eliminate identified sources of ongoing illicit discharges, including procedures for using legal enforcement authorities.

(2) Dry weather field screening protocols to detect, identify, and eliminate illicit discharges to the MS4. The protocol shall include:

(a) A prioritized schedule of field screening activities and rationale for prioritization determined by the permittee based on such criteria as age of the infrastructure, land use, historical illegal discharges, dumping, or cross connections;

(b) If the total number of MS4 outfalls is equal to or less than 50, a schedule to screen all outfalls annually;

(c) If the total number of MS4 outfalls is greater than 50, a schedule to screen a minimum of 50 outfalls annually such that no more than 50% are screened in the previous 12-month period. The 50% criteria is not applicable if all outfalls have been screened in the previous three years; ~~and~~

(d) The permittee may adopt a risk-based approach to dry weather screening identifying observation points based upon illicit discharge risks upstream of an outfall. Observation points may include points of interconnection, manholes, points of discharge, conveyances, or inlets suspected to have a high likelihood of receiving illicit discharges;

(e) Each observation point screened may be counted as one outfall screening activity equivalent and counted towards the requirements of Part I E 3 c (2) (b) or (2) (c); however, at least 50% of the minimum annual screening events must include outfall screening;

(f) Illicit discharges reported by the public and subsequent investigations may not be counted as screening events; however once the resolution of the investigation and the date the investigation was closed has been documented, an observation point may be established for future screening events; and

(g) A checklist or mechanism to track the following information for dry weather screening events:

(i) The unique ~~outfall~~ identifier for the outfall or observation point;

(ii) Time since the last precipitation event;

(iii) The estimated quantity of the last precipitation event;

(iv) Site descriptions (e.g., conveyance type and dominant watershed land uses);

(v) Observed indicators of possible illicit discharge events, such as floatables, deposits, stains, and vegetative conditions (e.g., dying or dead vegetation, excessive vegetative growth);

(vi) Whether or not a discharge was observed; ~~and~~

~~(vi)~~ (vii) If a discharge was observed, the estimated discharge rate (e.g., width and depth of discharge flow rate) and visual characteristics of the discharge (e.g., odor, color, clarity, floatables, deposits or stains, vegetation

~~condition, structural condition, and biology~~) and the physical condition of the outfall; and

(viii) For observation points, the location, downstream outfall unique identifier, and risk factors or rationale for establishing the observation point.

(3) A timeframe upon which to conduct an investigation to identify and locate the source of any observed unauthorized nonstormwater discharge. Priority of investigations shall be given to discharges of sanitary sewage and those believed to be a risk to human health and public safety. Discharges authorized under a separate VPDES or state permit require no further action under this permit.

(4) Methodologies to determine the source of all illicit discharges. If the permittee is unable to identify the source of an illicit discharge within six months of beginning the investigation then the permittee shall document that the source remains unidentified. If the observed discharge is intermittent, the permittee shall document that attempts to observe the discharge flowing were unsuccessful.

(5) Methodologies for conducting a follow-up investigation for illicit discharges that are continuous or that permittees expect to occur more frequently than a one-time discharge to verify that the discharge has been eliminated except as provided for in Part I E 3 c (4);

(6) A mechanism to track all illicit discharge investigations to document the following:

- (a) The dates that the illicit discharge was initially observed, reported, or both;
- (b) The results of the investigation, including the source, if identified;
- (c) Any follow-up to the investigation;
- (d) Resolution of the investigation; and
- (e) The date that the investigation was closed.

d. The MS4 program plan shall include:

(1) The MS4 map and outfall information table required by Part I E 3 a. The map and outfall information table may be incorporated into the MS4 program plan by reference. The map shall be made available to the department within 14 days upon request;

(2) Copies of written notifications of ~~new~~ physical interconnections given by the permittee to other MS4s; and

(3) The IDDE procedures described in Part I E 3 c.

e. The annual report shall include:

(1) A confirmation statement that the MS4 map and outfall information table have been updated to reflect any changes to the MS4 occurring on or before June 30 of the reporting year;

(2) The total number of outfalls and observation points screened during the reporting period as part of the dry weather screening program; and

(3) A list of illicit discharges to the MS4, including spills reaching the MS4 with information as follows:

- (a) The location and source of illicit discharge;
- (b) The dates that the discharge was observed, reported, or both;
- (c) Whether the discharge was discovered by the permittee during dry weather screening, reported by the public, or other method (describe);
- (d) How the investigation was resolved;
- (e) A description of any follow-up activities; and
- (f) The date the investigation was closed.

4. Construction site stormwater runoff and erosion and sediment control.

a. The permittee shall utilize its legal authority, such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements, to address discharges entering the MS4 from regulated construction site stormwater runoff. The permittee shall control construction site stormwater runoff as follows:

(1) If the traditional permittee is a city, county, or town that has adopted a Virginia Erosion and Sediment Control Program (VESCP), the permittee shall implement the VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840);

(2) If the traditional permittee is a town that has not adopted a VESCP, implementation of a VESCP consistent with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840) by the surrounding county shall constitute compliance with Part I E 4 a; such town shall notify the surrounding county of erosion, sedimentation, or other construction stormwater runoff problems;

(3) If the nontraditional permittee is a state agency; public institution of higher education, including community colleges, colleges, and universities; or federal entity and has developed standards and specifications in accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee shall implement the most recent department approved standards and specifications; or

(4) If the nontraditional permittee is a state agency; public institution of higher education, including community colleges, colleges, and universities; or federal entity and has not developed standards and specifications in

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accordance with the Virginia Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Control Regulations (9VAC25-840), the permittee shall inspect all land disturbing activities as defined in § 62.1-44.15:51 of the Code of Virginia that result in the disturbance [ activities ] of 10,000 square feet or greater, or 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay Preservation Act, as follows:

- (a) During or immediately following initial installation of erosion and sediment controls;
- (b) At least once per every two-week period;
- (c) Within 48 hours following any runoff producing storm event; and
- (d) At the completion of the project prior to the release of any performance bond.

(5) If the nontraditional permittee is a ~~subdivision of a local government such as a school board or other local government body~~, the permittee shall inspect those projects resulting in a land disturbance as defined in § 62.1-44.15:51 of the Code of Virginia occurring on lands owned or operated by the permittee that result in the disturbance of 10,000 square feet or greater, 2,500 square feet or greater in accordance with areas designated under the Chesapeake Bay Preservation Act, or in accordance with more stringent thresholds established by the local government, as follows:

- (a) During or immediately following initial installation of erosion and sediment controls;
- (b) At least once per every two-week period;
- (c) Within 48 hours following any runoff producing storm event; and
- (d) At the completion of the project prior to the release of any performance bond.

b. The permittee shall require implementation of appropriate controls to prevent nonstormwater discharges to the MS4, such as wastewater, concrete washout, fuels and oils, and other illicit discharges identified during land disturbing activity inspections ~~of the MS4~~. The discharge of nonstormwater discharges other than those identified in 9VAC25-890-20 D through the MS4 is not authorized by this state permit.

c. Employees and contractors serving as plan reviewers, inspectors, program administrators, and construction site operators shall obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations;

d. The permittee's MS4 program plan shall include:

(1) If the permittee implements a an erosion and sediment control program for construction site stormwater runoff ~~control program~~ in accordance with Part I E 4 a (1), the local ordinance citations for the VESCP program;

(2) If the permittee ~~implements a~~ is a town that does not implement an erosion and sediment control program for construction site stormwater runoff ~~control program~~ in accordance with Part I E 4 a ~~(3)~~: (2), the county ordinance citations for the VESCP program the town is subject to;

(3) If the permittee implements annual standards and specifications for erosion and sediment control and construction site stormwater runoff in accordance with Part I E 4 a (3):

- (a) The most recently approved standards and specifications or if incorporated by reference, the location where the standards and specifications can be viewed; and
- (b) A copy of the most recent standards and specifications approval letter from the department;

~~(3)~~ (4) A description of the legal authorities utilized to ensure compliance with Part I E 4 a ~~to~~ for erosion and sediment control and construction site stormwater runoff control, such as ordinances, permits, orders, specific contract language, policies, and interjurisdictional agreements;

~~(4) Written~~ (5) For traditional permittees, written inspection procedures to ensure the VESCP requirements are maintained in accordance with 9VAC25-840-90 A and onsite erosion and sediment controls are properly implemented and all associated documents utilized during inspection including the inspection schedule in accordance with 9VAC25-840-60 B;

~~(5) Written procedures for requiring compliance through corrective action or enforcement action to the extent allowable under federal, state, or local law, regulation, ordinance, or other legal mechanisms; and~~

(6) For nontraditional permittees, erosion and sediment control plans or annual standards and specifications shall be approved by the department in accordance with § 62.1-44.15:55 of the Code of Virginia. Compliance with approved erosion and sediment control plans or annual standards and specifications shall be ensured by the permittee with written inspection procedures that at minimum include the following:

(a) An inspection checklist for documenting onsite erosion and sediment control structures and systems are properly maintained and repaired as needed to ensure continued performance of their intended function; and

(b) A list of all associated documents utilized for inspections, including checklists, department approved erosion and sediment control plans, or the most recently department approved annual standards and specifications, and any other documents utilized;

(7) Traditional permittees shall maintain written procedures for requiring VESCP compliance through corrective action or enforcement action in accordance with § 62.1-44.15:58 of the Code of Virginia;

(8) Nontraditional permittees shall maintain written procedures for requiring compliance with department approved erosion and sediment control plans and annual standards and specifications through corrective action or enforcement action to the extent allowable under federal, state, or local law, regulation, ordinance, or other legal mechanisms; and

(9) The roles and responsibilities of each of the permittee's departments, divisions, or subdivisions in implementing the erosion and sediment control and construction site stormwater runoff control requirements in Part I E 4.

~~d. e.~~ The annual report shall include the following:

(1) [ Total number of erosion and sediment control inspections conducted;

(2) Total number of each type of compliance action and enforcement action implemented; and

(3) ] If the permittee implements a construction site stormwater runoff program in accordance with Part I E 4

~~a-~~ (3) For nontraditional permittees:

(a) A confirmation statement that land disturbing projects that occurred during the reporting period have been conducted in accordance with the current department approved annual standards and specifications for erosion and sediment control; and

(b) If one or more of the any land disturbing projects were not conducted with the without department approved annual standards and specifications, an explanation as to why the projects did not conform to the approved standards and specifications a list of all land disturbing projects that occurred during the reporting period with erosion and sediment control plan approval dates for each project.

~~[ (2) Total number of erosion and sediment control inspections conducted; and~~

~~(3) ] The total [ Total number ] and [ of each type of compliance action and enforcement ] actions [ action implemented ] and the type of enforcement actions [ - ]~~

5. Post-construction stormwater management for new development and development on prior developed lands.

a. The permittee shall address post-construction stormwater runoff that enters the MS4 from the following land disturbing activities by implementing a post-construction stormwater runoff management program as follows:

(1) If the traditional permittee is a city, county, or town, with an approved Virginia Stormwater Management Program (VSMP), the permittee shall implement the VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) as well as [ develop maintain ] an inspection and maintenance program in accordance with ~~Parts~~ Part I E 5 b and c;

(2) If the traditional permittee is a town that has not adopted a VSMP, implementation of a VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870) by the surrounding county shall constitute compliance with Part I E 5 a; such town shall notify the surrounding county of erosion, sedimentation, or other post-construction stormwater runoff problems and [ develop maintain ] an inspection and maintenance program in accordance with Part I E 5 b and c and d;

(3) If the traditional permittee is a state agency; public institution of higher education including community colleges, colleges, and universities; or federal entity and has developed standards and specifications in accordance city, county, or town receiving initial permit coverage during the permit term and must obtain VSMP approval from the department, the permittee shall implement the VSMP consistent with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870), the permittee shall implement the most recent department approved standards and specifications and as well as develop an inspection and maintenance program in accordance with Part I E 5 b and c no later than 60 months after receiving permit coverage;

(4) If the nontraditional permittee is a state agency; public institution of higher education, including community colleges, colleges, and universities; or federal entity and has not developed standards and specifications in accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and Virginia Stormwater Management VSMP Regulations (9VAC25-870), the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 and with the implementation of a maintenance and the most recent department approved standards and specifications and [ develop maintain ] an inspection and maintenance program consistent in accordance with Part I E 5 b; or

(5) If the nontraditional permittee is a subdivision of a local government such as a school board or other local government body, the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 or in accordance with more stringent local requirements, if applicable, state agency; public institution of higher education, including community colleges, colleges, and universities; or federal entity, and has not developed standards and specifications in accordance with the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and VSMP Regulations (9VAC25-870), the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 and with the implementation of a maintenance and inspection

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program consistent with Part I E 5 b [ no later than 60 months after receiving permit coverage ]; or

(6) If the nontraditional permittee is a school board or other local government body, the permittee shall implement a post-construction stormwater runoff control program through compliance with 9VAC25-870 or in accordance with more stringent local requirements, if applicable, and with the implementation of a maintenance and inspection program consistent with Part I E 5 b.

b. The permittee shall implement an inspection and maintenance program for those stormwater management facilities owned or operated by the permittee ~~that discharges to the MS4~~ as follows:

(1) [ ~~The~~ Within six months of the permit effective date, the ] permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of its stormwater management facilities. ~~The permittee may use inspection and maintenance specifications available from the Virginia Stormwater BMP Clearinghouse or inspection and maintenance plans developed in accordance with the department's Stormwater Local Assistance Fund (SLAF) guidelines;~~

(2) Employees and contractors implementing the stormwater program shall obtain the appropriate certifications as required under the Virginia Stormwater Management Act and its attendant regulations;

(3) The permittee shall inspect stormwater management facilities owned or operated by the permittee no less frequently than once per year. The permittee may choose to implement an alternative schedule to inspect these stormwater management facilities based on facility type and expected maintenance needs provided that the alternative schedule and rationale is included in the MS4 program plan. The alternative inspection frequency shall be no less often than once per five years; and

~~(3)~~ (4) If during the inspection of the stormwater management facility conducted in accordance with Part I E 5 b (2), it is determined that maintenance is required, the permittee shall conduct the maintenance in accordance with the written procedures developed under Part I E 5 b (1).

c. For ~~those~~ traditional permittees described in Part I E 5 a (1) ~~or~~, (2), or (3), the permittee shall:

(1) Implement an inspection and enforcement program for stormwater management facilities not owned by the permittee (i.e., privately owned) that includes:

(a) An inspection frequency of no less often than once per five years for all privately owned stormwater management facilities that discharge into the MS4; and

(b) [ Adequate ~~Require adequate~~ ] long-term operation and maintenance by the owner of the stormwater management facility by requiring the owner to develop and record a

maintenance agreement, including an inspection schedule to the extent allowable under state or local law or other legal mechanism;

(2) Utilize its legal authority for enforcement of the maintenance responsibilities in accordance with 9VAC25-870-112 if maintenance is neglected by the owner; ~~and~~

(3) The permittee may develop and implement a progressive compliance and enforcement strategy provided that the strategy is included in the MS4 program plan;

(4) The permittee may utilize the inspection reports provided by the owner of a stormwater management facility as part of an inspection and enforcement program in accordance with 9VAC25-870-114 C.

~~d. The permittee shall maintain an electronic database or spreadsheet of all known permittee owned or permittee-operated and privately owned stormwater management facilities that discharge into the MS4. The database shall also include all BMPs implemented by the permittee to meet the Chesapeake Bay TMDL load reduction as required in Part II A. A database shall include the following information as applicable:~~

~~(1) The stormwater management facility or BMP type;~~

~~(2) The stormwater management facility or BMPs location as latitude and longitude;~~

~~(3) The acres treated by the stormwater management facility or BMP, including total acres, pervious acres, and impervious acres;~~

~~(4) The date the facility was brought online (MM/YYYY). If the date brought online is not known, the permittee shall use June 30, 2005;~~

~~(5) The 6th Order Hydrologic Unit Code in which the stormwater management facility is located;~~

~~(6) Whether the stormwater management facility or BMP is owned or operated by the permittee or privately owned;~~

~~(7) Whether or not the stormwater management facility or BMP is part of the permittee's Chesapeake Bay TMDL action plan required in Part II A or local TMDL action plan required in Part II B, or both;~~

~~(8) If the stormwater management facility or BMP is privately owned, whether a maintenance agreement exists; and~~

~~(9) The date of the permittee's most recent inspection of the stormwater management facility or BMP.~~

~~e. The electronic database or spreadsheet shall be updated no later than 30 days after a new stormwater management facility is brought online, a new BMP is implemented to meet a TMDL load reduction as required in Part II, or discovered if it is an existing stormwater management facility.~~

~~f. The permittee shall use the DEQ Construction Stormwater Database or other application as specified by~~

~~the department to report each stormwater management facility installed after July 1, 2014, to address the control of post construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities.~~

~~g. No later than October 1 of each year, the permittee shall electronically report the stormwater management facilities and BMPs implemented between July 1 and June 30 of each year using the DEQ BMP Warehouse and associated reporting template for any practices not reported in accordance with Part I E 5 f including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in accordance with the Chesapeake Bay Preservation Act regulations (9VAC25-830) and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required.~~

~~h. d.~~ The MS4 program plan shall include:

- (1) If the permittee implements a VSMP in accordance with Part I E 5 a (1) ~~and~~, (2), or (3):
  - (a) A copy of the VSMP approval letter issued by the department;
  - (b) Written inspection procedures and all associated documents utilized in the inspection of privately owned stormwater management facilities; and
  - (c) Written procedures for compliance and enforcement of inspection and maintenance requirements for privately owned ~~BMPs~~, stormwater management facilities;
- (2) If the permittee implements a post-development stormwater runoff control program in accordance with Part I E 5 a ~~(3)~~ (4):
  - (a) The most recently approved standards and specifications or if incorporated by reference, the location where the standards and specifications can be viewed; and
  - (b) A copy of the most recent standards and specifications approval letter from the department;
- (3) A description of the legal authorities utilized to ensure compliance with Part I E 5 a for post-construction stormwater runoff control such as ordinances (provide citation as appropriate), permits, orders, specific contract language, and interjurisdictional agreements;
- (4) Written inspection and maintenance procedures and ~~all other~~ associated template documents utilized during inspection and maintenance of stormwater management facilities owned or operated by the permittee; and
- (5) The roles and responsibilities of each of the permittee's departments, divisions, or subdivisions in implementing the post-construction stormwater runoff control program; and ~~(6) The stormwater management facility spreadsheet or database incorporated by reference and the location or~~

~~webpage address where the spreadsheet or database can be reviewed.~~

~~i. e.~~ The annual report shall include the following information:

- (1) If the traditional permittee implements a Virginia Stormwater Management Program VSMP in accordance with Part I E 5 a (1) ~~and~~, (2), or (3):
    - (a) The number of privately owned stormwater management facility inspections conducted; and
    - (b) The number of enforcement actions initiated by the permittee to ensure long-term maintenance of privately owned stormwater management facilities including the type of enforcement action;
  - (2) Total number of inspections conducted on stormwater management facilities owned or operated by the permittee;
  - (3) A description of the significant maintenance, repair, or retrofit activities performed on the stormwater management facilities owned or operated by the permittee to ensure it continues to perform as designed. This does not include routine activities such as grass mowing or trash collection;
  - (4) ~~A~~ For traditional permittees as specified in Part I E 5 a (1), a confirmation statement that the permittee submitted stormwater management facility information through the Virginia Construction Stormwater General Permit database for those land disturbing activities for which the permittee was required to obtain coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities in accordance with Part I E 5 ~~£ III B 1~~ or a statement that the permittee did not complete any projects requiring coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880); and
  - (5) A confirmation statement that the permittee electronically reported ~~BMPs~~ stormwater management facilities using the DEQ BMP Warehouse in accordance with Part I E 5 g ~~and the date on which the information was submitted III B 1 and 2; and~~
  - (6) A confirmation statement that the permittee electronically reported stormwater management facilities inspected using the DEQ BMP Warehouse in accordance with Part III B 5.
6. Pollution prevention and good housekeeping for facilities owned or operated by the permittee within the MS4 service area.
- a. The permittee shall maintain and implement written good housekeeping procedures for those activities listed in Part I E 6 b at facilities owned or operated by the permittee, ~~such as road, street, and parking lot maintenance; equipment maintenance; and the application, storage, transport, and disposal of pesticides,~~

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herbicides, and fertilizers designed to meet the following objectives:

- (1) Prevent illicit discharges;
- (2) Ensure ~~the proper disposal~~ permittee staff or contractors properly dispose of waste materials, including landscape wastes and prevent waste materials from entering the MS4;
- (3) Prevent the discharge of wastewater or ~~permittee vehicle wash water or both~~ not authorized in accordance with 9VAC25-890-20 D 3 u, into the MS4 without authorization under a separate VPDES permit; and
- (4) ~~Require implementation of best management practices when discharging water pumped from utility construction and maintenance activities;~~ Minimize the pollutants in stormwater runoff.

b. The permittee shall develop and implement written good housekeeping procedures that meet the objectives established in Part I E 6 a for the following activities:

(1) Road, street, sidewalk, and parking lot maintenance and cleaning:

(a) Within 24 months of permit issuance, permittees that apply anti-icing and deicing agents shall update and implement procedures in accordance with Part I E to include implementation of best management practices for anti-icing and deicing agent application, transport, and storage;

(b) Procedures developed in accordance with Part I E shall prohibit the application of any anti-icing or deicing agent containing urea or other forms of nitrogen or phosphorus;

(2) Renovation and significant exterior maintenance activities (e.g., painting, [ ~~building power washing,~~ ] roof resealing, and HVAC coil cleaning) not covered under a separate VSMP construction general permit. The permittee shall develop and implement procedures no later than 36 months after permit issuance;

(3) Discharging water pumped from construction and maintenance activities [ not covered by another permit covering such activities ];

(4) Temporary storage of landscaping materials;

(5) ~~Minimize the pollutants in stormwater runoff from bulk storage areas (e.g., salt storage, topsoil stockpiles) through the use of best management practices~~ Maintenance of permittee owned or operated vehicles and equipment (i.e., prevent pollutant discharges from leaking permittee vehicles and equipment);

(6) Prevent pollutant discharge into the MS4 from leaking municipal automobiles and equipment. Application of materials, including pesticides and herbicides shall not exceed manufacturer's recommendations; and

(7) Ensure that the application of materials, including fertilizers and pesticides, is conducted in accordance with the Application of fertilizer shall not exceed maximum

application rates established by applicable nutrient management plans. For areas not covered under nutrient management plans where fertilizer is applied, application rates shall not exceed manufacturer's recommendations.

~~b. c.~~ The permittee shall require through the use of contract language, training, written procedures, or other measures within the permittee's legal authority that contractors employed by the permittee and engaging in activities described in Part I E 6 b follow established good housekeeping procedures and use appropriate control measures to minimize the discharge of pollutants to the MS4.

d. The written procedures established in accordance with Part I E 6 a and b shall be utilized as part of the employee training program at Part I E 6 m, and the permittee shall develop a written training plan for applicable field personnel that ensures the following:

(1) Applicable field personnel shall receive training in the prevention, recognition, and elimination of illicit discharges no less often than once per 24 months;

(2) Employees performing road, street, sidewalk, and parking lot maintenance shall receive training in good housekeeping procedures required under Part I E 6 b (1) no less often than once per 24 months;

(3) Employees working in and around facility maintenance, public works, or recreational facilities shall receive training in applicable Part I E 6 a and b good housekeeping procedures required no less often than once per 24 months;

(4) Employees working in and around high-priority facilities with a stormwater pollution prevention plan (SWPPP) shall receive training in applicable site specific SWPPP procedures no less often than once per 24 months;

(5) Employees whose duties include emergency spill control and response shall be trained in spill control and response. Emergency responders, such as firefighters and law-enforcement officers, trained on the handling of spill control and response as part of a larger emergency response training shall satisfy this training requirement and be documented in the training plan; and

(6) Employees and contractors hired by the permittee who apply pesticides and herbicides shall be trained and certified in accordance with the Virginia Pesticide Control Act (§ 3.2-3900 et seq. of the Code of Virginia). Certification by the Virginia Department of Agriculture and Consumer Services (VDACS) Pesticide and Herbicide Applicator program shall constitute compliance with this requirement. Contracts for the application of pesticide and herbicides executed after the effective date of this permit shall require contractor certification.

e. The permittee shall maintain documentation of each training activity conducted by the permittee to fulfill the requirements of Part I E 6 d for a minimum of three years

after training activity completion. The documentation shall include the following information:

- (1) The date when applicable employees have completed the training activity;
- (2) The number of employees who have completed the training activity; and
- (3) The training objectives and good housekeeping procedures required under Part I E 6 a covered by training activity.

f. The permittee may fulfill the training requirements in Part I E 6 d, in total or in part, through regional training programs involving two or more MS4 permittees; however, the permittee shall remain responsible for ensuring compliance with the training requirements.

~~e. Within 12 months of state permit coverage, the permittee shall identify which of the high-priority facilities have a high potential of discharging pollutants.~~  
g. [ Within 12 months of permit coverage, the permittee shall identify any new high-priority facilities located in expanded 2020 census urban areas with a population of at least 50,000.

h. Within 36 months of permit coverage, the permittee shall implement SWPPPs for high-priority facilities meeting the conditions of Part I E 6 i and which are located in expanded 2020 census urban areas with a population of at least 50,000.

~~i.] The permittee shall maintain and implement a site specific stormwater pollution prevention plan (SWPPP) for each high-priority facility identified. High-priority facilities that have a high potential for discharging pollutants are those facilities that are not covered under a as defined in 9VAC25-890-1 that does not have or require separate VPDES permit coverage, and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff:~~

- (1) Areas where residuals from using, storing, or cleaning machinery or equipment remain and are exposed to stormwater;
- (2) Materials or residuals on the ground or in stormwater inlets from spills or leaks;
- (3) Material handling equipment;
- (4) Materials or products that would be expected to be mobilized in stormwater runoff during loading or unloading or transporting activities (e.g., rock, salt, fill dirt);
- (5) Materials or products stored outdoors (except final products intended for outside use where exposure to stormwater does not result in the discharge of pollutants);
- (6) Materials or products that would be expected to be mobilized in stormwater runoff contained in open,

deteriorated, or leaking storage drums, barrels, tanks, and similar containers;

- (7) Waste material except waste in covered, nonleaking containers (e.g., dumpsters);
- (8) Application or disposal of process wastewater (unless otherwise permitted); or
- (9) Particulate matter or visible deposits of residuals from roof stacks, vents, or both not otherwise regulated (i.e., under an air quality control permit) and evident in the stormwater runoff.

~~4. [ h. j. ]~~ Each SWPPP as required in Part I E 6 e g shall include the following:

- (1) A site description that includes a site map identifying all outfalls, direction of stormwater flows, existing source controls, and receiving water bodies;
- (2) A description and checklist of the potential pollutants and pollutant sources;
- (3) A description of all potential nonstormwater discharges;
- (4) ~~Written procedures designed to reduce and prevent pollutant discharge~~ A description of all structural control measures, such as stormwater management facilities and other pollutant source controls, applicable to SWPPP implementation (e.g., permeable pavement or oil-water separators that discharge to sanitary sewer are not applicable to the SWPPP), such as oil-water separators, and inlet protection designed to address potential pollutants and pollutant sources at risk of being discharged to the MS4;
- (5) ~~A description of the applicable training as required in Part I E 6 m~~ A maintenance schedule for all stormwater management facilities and other pollutant source controls applicable to SWPPP implementation described in Part I E 6 h (4);
- (6) ~~Procedures to conduct an annual comprehensive site compliance evaluation~~ Site specific written procedures designed to reduce and prevent pollutant discharge that incorporate by reference applicable good housekeeping procedures required under Part I E 6 a and b;
- (7) A description of the applicable training as required in Part I E 6 d (4);
- (8) ~~An inspection frequency of no less often than once per year and maintenance requirements for site specific source controls. The date of each inspection and associated findings and follow-up shall be logged in each SWPPP; and~~
- (8) (9) A log of each unauthorized discharge, release, or spill incident reported in accordance with Part III IV G including the following information:
  - (a) Date of incident;
  - (b) Material discharged, released, or spilled; and



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(c) Estimated quantity discharged, released, or spilled;

(10) A log of modifications to the SWPPP made as the result of any unauthorized discharge, release, or spill in accordance Part I E 6 j or changes in facility activities and operation requiring SWPPP modification; and

(11) The point of contact for SWPPP implementation.

~~e. [ i. k. ]~~ No later than June 30 of each year, the permittee shall annually review any high-priority facility owned or operated by the permittee for which ~~a~~ an SWPPP has not been developed to determine if the facility ~~has a high potential to discharge pollutants as~~ meets any of the conditions described in Part I E 6 ~~e g.~~ If the facility is determined to ~~be a high-priority facility with a high potential to discharge pollutants~~ need an SWPPP, the permittee shall develop ~~a~~ an SWPPP meeting the requirements of Part I E 6 ~~d h~~ no later than December 31 of that same year. The permittee shall maintain a list of all high-priority facilities owned or operated by the permittee not required to maintain an SWPPP in accordance with Part I E 6 g and this list shall be available upon request.

~~f. [ i. l. ]~~ The permittee shall review the contents of any site specific SWPPP no later than 30 days after any unauthorized discharge, release, or spill reported in accordance with Part ~~III~~ IV G to determine if additional measures are necessary to prevent future unauthorized discharges, releases, or spills. If necessary, the SWPPP shall be updated no later than 90 days after the unauthorized discharge.

~~g. [ k. m. ]~~ The SWPPP shall be kept at the high-priority facility ~~with a high potential to discharge~~ and utilized as part of ~~staff~~ employee SWPPP training required in Part I E 6 ~~m d~~ (4). The SWPPP and associated documents may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site.

~~h. [ i. n. ]~~ If activities change at a facility such that the facility no longer meets the ~~criteria~~ definition of a high-priority facility ~~with a high potential to discharge pollutants as described in Part I E 6 e,~~ the permittee may remove the facility from the list of high-priority facilities with a high potential to discharge pollutants.

~~i. [ m. o. ]~~ If activities change at a facility such that the facility no longer meets the criteria requiring SWPPP coverage as described in Part I E 6 g, the permittee may remove the facility from the list of high-priority facilities that require SWPPP coverage.

[ ~~n. p.~~ ] The permittee shall maintain and implement turf and landscape nutrient management plans that have been developed by a certified turf and landscape nutrient management planner in accordance with § 10.1-104.2 of the Code of Virginia on all lands owned or operated by the permittee where nutrients are applied to a contiguous area greater than one acre. If nutrients are being applied to

achieve final stabilization of a land disturbance project, application shall follow the manufacturer's recommendations.

[ ~~q.~~ Within 12 months of permit coverage, the permittee shall identify contiguous areas greater than one acre located in expanded 2020 census urban areas with population of at least 50,000 and within the permittee's MS4 service area requiring turf and landscape nutrient management plans.

~~r.~~ Within 36 months of permit coverage, the permittee shall implement turf and landscape nutrient management plans on contiguous areas greater than one acre located in expanded 2020 census urban areas with a population of least 50,000 and within the permittee's MS4 service area. ]

~~j. Permittees [ o. s. ]~~ If nutrients are being applied to achieve final stabilization of a land disturbance project, application shall follow the manufacturer's recommendations. For newly established turf where nutrients are applied to a contiguous area greater than one acre, the permittee shall implement a nutrient management plan no later than six months after the site achieves final stabilization.

[ ~~p. t.~~ ] Nutrient management plans developed in accordance with Part I E 6 n shall be submitted to the Department of Conservation and Recreation (DCR) for approval.

[ ~~q. u.~~ ] Nutrient management plans that are expired as of the effective date of this permit shall be submitted to DCR for renewal within six months after the effective date of this permit. Thereafter, all nutrient management plans shall be submitted to DCR at least 30 days prior to nutrient management plan expiration. Within 36 months of permit coverage, no nutrient management plans maintained by the permittee in accordance with Part I E 6 n shall be expired due to DCR documented noncompliance with 4VAC50-85-130 provided to the permittee.

[ ~~r. v.~~ ] Nutrient management plans may be maintained as a hard copy or electronically as long as the documents are available to employees at the applicable site.

[ ~~s. w.~~ ] Nontraditional permittees with lands regulated under § 10.1-104.4 of the Code of Virginia, including state agencies, state colleges and universities, and other state government entities, shall continue to implement turf and landscape nutrient management plans in accordance with this statutory requirement.

~~k.~~ The permittee shall not apply any deicing agent containing urea or other forms of nitrogen or phosphorus to parking lots, roadways, and sidewalks, or other paved surfaces.

~~l.~~ The permittee shall require through the use of contract language, training, standard operating procedures, or other measures within the permittee's legal authority that contractors employed by the permittee and engaging in

activities with the potential to discharge pollutants use appropriate control measures to minimize the discharge of pollutants to the MS4.

m. The permittee shall develop a training plan in writing for applicable staff that ensures the following:

(1) Field personnel receive training in the recognition and reporting of illicit discharges no less than once per 24 months;

(2) Employees performing road, street, and parking lot maintenance receive training in pollution prevention and good housekeeping associated with those activities no less than once per 24 months;

(3) Employees working in and around maintenance, public works, or recreational facilities receive training in good housekeeping and pollution prevention practices associated with those facilities no less than once per 24 months;

(4) Employees and contractors hired by the permittee who apply pesticides and herbicides are trained or certified in accordance with the Virginia Pesticide Control Act (§ 3.2-3900 et seq. of the Code of Virginia). Certification by the Virginia Department of Agriculture and Consumer Services (VDACS) Pesticide and Herbicide Applicator program shall constitute compliance with this requirement;

(5) Employees and contractors serving as plan reviewers, inspectors, program administrators, and construction site operators obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations;

(6) Employees and contractors implementing the stormwater program obtain the appropriate certifications as required under the Virginia Stormwater Management Act and its attendant regulations; and

(7) Employees whose duties include emergency response have been trained in spill response. Training of emergency responders such as firefighters and law enforcement officers on the handling of spill releases as part of a larger emergency response training shall satisfy this training requirement and be documented in the training plan.

n. The permittee shall maintain documentation of each training event conducted by the permittee to fulfill the requirements of Part I E 6 m for a minimum of three years after the training event. The documentation shall include the following information:

(1) The date of the training event;

(2) The number of employees attending the training event; and

(3) The objective of the training event.

o. The permittee may fulfill the training requirements in Part I E 6 m, in total or in part, through regional training programs involving two or more MS4 permittees;

however, the permittee shall remain responsible for ensuring compliance with the training requirements.

~~¶ [      . ]~~ The MS4 program plan shall include:

(1) ~~The~~ A list of written good housekeeping procedures for the operations and maintenance activities as required by Part I E 6 a and b;

(2) A list of all high-priority facilities owned or operated by the permittee required to maintain an SWPPP in accordance with Part I E 6 e, ~~and whether or not the facility has a high potential to discharge~~ g that includes the facility name, facility location, and the location of the SWPPP hardcopy or electronic document being maintained. The SWPPP for each high-priority facility shall be incorporated by reference;

(3) A list of ~~lands~~ locations for which turf and landscape nutrient management plans are required in accordance with Part I E 6 ~~i and j~~ n and s, including the following information:

(a) The total acreage ~~on which nutrients are applied~~ covered by each nutrient management plan;

(b) ~~The date of the most recently approved nutrient management plan for the property; and~~ The DCR approval date and expiration date for each nutrient management plan;

(c) The location ~~in which the individual turf and landscape nutrient management plan is located~~ of the nutrient management plan hardcopy or electronic document being maintained;

(4) A summary of mechanisms the permittee uses to ensure contractors working on behalf of the permittees implement the necessary good housekeeping and pollution prevention procedures, and stormwater pollution plans as appropriate; and

(5) The written training plan as required in Part I E 6 ~~m d~~.

~~¶ [      . ]~~ The annual report shall include the following:

(1) A summary of any ~~operational~~ written procedures developed or modified in accordance with Part I E 6 a and b during the reporting period;

(2) ~~A summary of any new SWPPPs developed in accordance Part I E 6 e during the reporting period~~ A confirmation statement that all high-priority facilities were reviewed to determine if SWPPP coverage is needed during the reporting period;

(3) ~~A summary of any SWPPPs modified in accordance with Part I E 6 f or the rationale of any high priority facilities delisted in accordance with Part I E 6 h during the reporting period~~ A list of any new SWPPPs developed in accordance Part I E 6 i during the reporting period;

(4) A summary of any ~~new~~ turf and landscape nutrient management plans developed that includes: (a) Location and the total acreage of each land area; and (b) The date of

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~~the approved nutrient management plan; and SWPPPs modified in accordance with Part I E 6 j, 6 l, or 6 m;~~

~~(5) The rationale of any high-priority facilities delisted in accordance with Part I E 6 l or m during the reporting period;~~

~~(6) The status of each nutrient management plan as of June 30 of the reporting year (e.g., approved, submitted and pending approval, and expired);~~

~~(7) A list of the training events activities conducted in accordance with Part I E 6 m d, including the following information:~~

- ~~(a) The completion date of for the training event activity;~~
- ~~(b) The number of employees who attended completed the training event activity; and~~
- ~~(c) The objective of objectives and good housekeeping procedures covered by the training event activity.~~

## Part II TMDL Special Conditions

### A. Chesapeake Bay TMDL special condition.

1. The Commonwealth in its Phase I ~~and~~, Phase II, and Phase III Chesapeake Bay TMDL Watershed Implementation Plans (WIPs) committed to a phased approach for MS4s, affording MS4 permittees up to three full five-year permit cycles to implement necessary reductions. This permit is consistent with the Chesapeake Bay TMDL and the Virginia Phase I ~~and~~, Phase II WIPs, and Phase III WIPs to meet the Level 2 (L2) scoping run for existing developed lands as it represents an implementation of an additional ~~35%~~ 60% of L2 as specified in the ~~2010~~ Phase I ~~and~~, Phase II, and Phase III WIPs. In combination with the ~~5.0%~~ 40% reduction of L2 that has already been achieved, a total reduction ~~at the end of this permit term no later than October 31, 2028,~~ of 40% ~~100%~~ of L2 [ ~~will~~ shall ] be achieved. Conditions of future permits will be consistent with the TMDL or WIP conditions in place at the time of permit issuance.

2. The following definitions apply to Part II of this state permit for the purpose of the Chesapeake Bay TMDL special condition for discharges in the Chesapeake Bay Watershed:

"Existing sources" means pervious and impervious urban land uses served by the MS4 as of June 30, 2009.

"New sources" means pervious and impervious urban land uses served by the MS4 developed or redeveloped on or after July 1, 2009.

"Pollutants of concern" or "POC" means total nitrogen, ~~and~~ total phosphorus, ~~and~~ total suspended solids.

"Transitional sources" means regulated land disturbing activities that are temporary in nature and discharge through the MS4.

3. Reduction requirements for permittees previously covered under the General VPDES Permit for Discharges of Stormwater from MS4 effective November 1, 2018. No later than ~~the expiration date of this permit October 31, 2028,~~ the permittee shall reduce the load of total nitrogen, ~~and~~ total phosphorus, ~~and~~ total suspended solids from existing developed lands served by the MS4 as of June 30, 2009, within the 2010 Census urbanized areas by at least ~~40%~~ 100% of the Level 2 (L2) Scoping Run Reductions. The ~~40%~~ 100% reduction is the sum of (i) the first phase reduction of 5.0% of the L2 Scoping Run Reductions based on the lands located within the 2000 Census urbanized areas required by June 30, 2018; (ii) the second phase reduction of at least 35% of the L2 Scoping Run based on lands within the 2000 Census urbanized areas required by June 30, 2023; ~~and~~ (iii) the second phase reduction of at least 40% of the L2 Scoping Run, which shall only apply to the additional lands that were added by the 2010 expanded Census urbanized areas required by June 30, 2023; ~~and~~ (iv) the third phase reduction of least 60% of the L2 Scoping Run based on lands within the 2000 and 2010 expanded Census urbanized areas required by October 31, 2028. The required reduction shall be calculated using Tables 3a, 3b, 3c, and 3d ~~below~~ as applicable:

Table 3a

Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the James River, Lynnhaven, and Little Creek Basins

		A	B	C	D	E	F E	G F
Pollutant	Subsource	Loading rate (lbs/ac/yr) <sup>1</sup>	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres) <sup>2</sup>	Load(lbs/yr) <sup>3</sup>	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	<del>Percentage of L2 required reduction by 6/30/2023</del>	<del>40% 100%</del> cumulative reduction Required by <del>6/30/2023</del> <u>10/31/2028</u> (lbs/yr) <sup>4</sup>	Sum of <del>40% 100%</del> cumulative reduction (lb/yr) <sup>5</sup>

Nitrogen	Regulated urban impervious	9.39			9%	40%		
	Regulated urban pervious	6.99			6%	40%		
Phosphorus	Regulated urban impervious	1.76			16%	40%		
	Regulated urban pervious	0.5			7.25%	40%		
Total suspended solids	Regulated urban impervious	676.94			20%	40%		
	Regulated urban pervious	101.08			8.75%	40%		

<sup>1</sup>Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.

<sup>2</sup>To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

<sup>3</sup>Column C = Column A x Column B.

<sup>4</sup>Column ~~F~~ E = Column C x Column D ~~x Column E~~.

<sup>5</sup>Column ~~G~~ F = The sum of the subsource cumulative reduction required by ~~6/30/23~~ 10/31/2028 (lbs/yr) as calculated in Column ~~F~~ E.

Table 3b  
Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the Potomac River Basin

		A	B	C	D	E	<del>F</del> <u>E</u>	<del>G</del> <u>F</u>
Pollutant	Subsource	Loading rate (lbs/ac/yr) <sup>1</sup>	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres) <sup>2</sup>	Load (lbs/yr) <sup>3</sup>	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	<del>Percentage of L2 required reduction by 6/30/2023</del>	40% <del>100%</del> cumulative reduction required by <del>6/30/2023</del> <u>10/31/2028</u> (lbs/yr) <sup>4</sup>	Sum of 40% <del>100%</del> cumulative reduction (lb/yr) <sup>5</sup>
Nitrogen	Regulated urban impervious	16.86			9%	40%		
	Regulated urban pervious	10.07			6%	40%		
Phosphorus	Regulated Urban Impervious	1.62			16%	40%		

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	Regulated urban pervious	0.41			7.25%	40%		
Total suspended solids	Regulated urban impervious	1171.32			20%	40%		
	Regulated urban pervious	175.8			8.75%	40%		

<sup>1</sup>Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2

<sup>2</sup>To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

<sup>3</sup>Column C = Column A x Column B.

<sup>4</sup>Column ~~F E~~ = Column C x Column D ~~x Column E~~.

<sup>5</sup>Column ~~G F~~ = The sum of the subsources cumulative reduction required by ~~6/30/23~~ 10/31/2028 (lbs/yr) as calculated in Column ~~F E~~.

Table 3c

Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the Rappahannock River Basin

		A	B	C	D	E	F E	G F
Pollutant	Subsource	Loading rate (lbs/ac/yr) <sup>1</sup>	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres) <sup>2</sup>	Load (lbs/yr) <sup>3</sup>	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	<del>Percentage of L2 required reduction by 6/30/2023</del>	<del>40% 100%</del> cumulative reduction Required by <del>6/30/2023</del> <u>10/31/2028</u> (lbs/yr) <sup>4</sup>	Sum of <del>40% 100%</del> cumulative reduction (lb/yr) <sup>5</sup>
Nitrogen	Regulated urban impervious	9.38			9%	40%		
	Regulated urban pervious	5.34			6%	40%		
Phosphorus	Regulated urban impervious	1.41			16%	40%		
	Regulated urban pervious	0.38			7.25%	40%		
Total suspended solids	Regulated urban impervious	423.97			20%	40%		

	Regulated urban pervious	56.01			8.75%	40%		
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<sup>1</sup>Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.

<sup>2</sup>To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

<sup>3</sup>Column C = Column A x Column B.

<sup>4</sup>Column ~~F~~ E = Column C x Column D ~~x Column E~~.

<sup>5</sup>Column ~~G~~ F = The sum of the subsource cumulative reduction required by ~~6/30/23~~ 10/31/2028 (lbs/yr) as calculated in Column ~~F~~ E.

Table 3d  
Calculation Sheet for Estimating Existing Source Loads and Reduction Requirements for the York River and Poquoson Coastal Basin

		A	B	C	D	E	<del>F</del> <u>E</u>	<del>G</del> <u>F</u>
Pollutant	Subsource	Loading rate (lbs/ac/yr) <sup>1</sup>	Existing developed lands as of 6/30/09 served by the MS4 within the 2010 CUA (acres) <sup>2</sup>	Load (lbs/yr) <sup>3</sup>	Percentage of MS4 required Chesapeake Bay total L2 loading reduction	<del>Percentage of L2 required reduction by 6/30/2023</del>	40% <del>100%</del> cumulative reduction required by <u>6/30/2023</u> <u>10/31/2028</u> (lbs/yr) <sup>4</sup>	Sum of <del>40% 100%</del> cumulative reduction (lb/yr) <sup>5</sup>
Nitrogen	Regulated urban impervious	7.31			9%	40%		
	Regulated urban pervious	7.65			6%	40%		
Phosphorus	Regulated urban impervious	1.51			16%	40%		
	Regulated urban pervious	0.51			7.25%	40%		
Total suspended solids	Regulated urban impervious	456.68			20%	40%		
	Regulated urban pervious	72.78			8.75%	40%		

<sup>1</sup>Edge of stream loading rate based on the Chesapeake Bay Watershed Model Progress Run 5.3.2.

<sup>2</sup>To determine the existing developed acres required in Column B, permittees should first determine the extent of their regulated service area based on the 2010 Census urbanized area (CUA). Next, permittees will need to delineate the lands within the 2010 CUA served by the MS4 as pervious or impervious as of the baseline date of June 30, 2009.

<sup>3</sup>Column C = Column A x Column B.

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<sup>4</sup>Column ~~F~~ E = Column C x Column D ~~x Column E~~.

<sup>5</sup>Column ~~G~~ F = The sum of the subsources cumulative reduction required by ~~6/30/23~~ 10/31/2028 (lbs/yr) as calculated in Column ~~F~~ E.

4. No later than ~~the expiration date of this permit~~ October 31, 2028, the permittee shall offset ~~40%~~ 100% of the increased loads from new sources initiating construction between July 1, 2009, and ~~June 30, 2019~~ October 31, 2023, and designed in accordance with 9VAC25-870 Part II C (9VAC25-870-93 et seq.) if the following conditions apply:

- a. The activity disturbed one acre or greater; and
- b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is equivalent to an average land cover condition of 16% impervious cover.

The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent pollutant load for new sources of nitrogen and total suspended solids for new sources meeting the requirements of this condition.

5. No later than ~~the expiration date of this permit~~ October 31, 2028, the permittee shall offset the increased loads from projects grandfathered in accordance with 9VAC25-870-48 that begin construction after July 1, 2014, if the following conditions apply:

- a. The activity disturbs one acre or greater; and
- b. The resulting total phosphorous load was greater than 0.45 lb/acre/year, which is equivalent to an average land cover condition of 16% impervious cover.

The permittee shall utilize Table 4 ~~below~~ to develop the equivalent pollutant load for grandfathered sources of nitrogen and total suspended solids for grandfathered sources meeting the requirements of this condition.

Ratio of Phosphorus to Other POCs (Based on All Land Uses 2009 Progress Run)	Phosphorus Loading Rate (lbs/acre)	Nitrogen Loading Rate (lbs/acre)	<del>Total Suspended Solids Loading Rate (lbs/acre)</del>
James River Basin, Lynnhaven, and Little Creek Basins	1.0	5.2	<del>420.9</del>
Potomac River Basin	1.0	6.9	<del>469.2</del>
Rappahannock River Basin	1.0	6.7	<del>320.9</del>
York River Basin (including Poquoson Coastal Basin)	1.0	9.5	<del>531.6</del>

6. Reductions achieved in accordance with the General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems effective July 1, 2013, and November 1, 2018, shall be applied toward the total reduction requirements to demonstrate compliance with Part II A 3, A 4, and A 5.

7. 40% of L2 reductions for total nitrogen and total phosphorus shall [ at a minimum, ] be maintained by the permittee during the permit term.

8. Reductions shall be achieved in each river basin as calculated in Part II A 3 or for reductions in accordance with Part II A 4 and A 5 in the basin in which the new source or grandfathered project occurred.

~~8.~~ 9. Loading and reduction values greater than or equal to 10 pounds calculated in accordance with Part II A 3, A 4,

and A 5 shall be calculated and reported to the nearest pound without regard to mathematical rules of precision. Loading and reduction values of less than 10 pounds reported in accordance with Part II A 3, A 4, and A 5 shall be calculated and reported to two significant digits.

~~9.~~ 10. Reductions required in Part II A 3, A 4, and A 5 shall be achieved through one or more of the following:

- a. BMPs approved by the Chesapeake Bay Program;
- b. BMPs approved by the department; or
- c. A trading program described in Part II A [ ~~10~~ 11 ].

~~10.~~ 11. The permittee may acquire and use total nitrogen and total phosphorus credits in accordance with § 62.1-44.19:21 of the Code of Virginia ~~and total suspended solids in accordance with § 62.1-44.19:21.1 of the Code of Virginia~~ for purposes of compliance with the required reductions in

Table 3a, Table 3b, Table 3c, and Table 3d of Part II A 3; Part II A 4; and Part II A 5, provided the use of credits has been approved by the department. The exchange of credits is subject to the following requirements:

- a. The credits are generated and applied to a compliance obligation in the same calendar year;
- b. The credits are generated and applied to a compliance obligation in the same tributary;
- c. The credits are acquired no later than June 1 immediately following the calendar year in which the credits are applied;
- d. No later than June 1 immediately following the calendar year in which the credits are applied, the permittee certifies on an MS4 Nutrient Credit Acquisition Form that the permittee has acquired the credits; and
- e. Total nitrogen and total phosphorus credits shall be either point source credits generated by point sources covered by the Watershed Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed general permit issued pursuant to § 62.1-44.19:14 of the Code of Virginia; or nonpoint source credits certified pursuant to § 62.1-44.19:20 of the Code of Virginia;

~~f. Sediment credits shall be derived from one of the following:~~

- ~~(1) Implementation of BMP in a defined area outside of an MS4 service area, in which case the necessary baseline sediment reduction for such defined area shall be achieved prior to the permittee's use of additional reductions as credit; or~~
- ~~(2) A point source wasteload allocation established by the Chesapeake Bay total maximum daily load, in which case the credit is the difference between the wasteload allocation specified as an annual mass load and any lower monitored annual mass load that is discharged as certified on an MS4 Sediment Credit Acquisition Form.~~

~~g. Sediment credits shall not be associated with phosphorus credits used for compliance with the stormwater nonpoint nutrient runoff water quality criteria established pursuant to § 62.1-44.15:28 of the Code of Virginia.~~

~~11. No later than 12 months after the permit effective date, the permittee shall submit an updated Chesapeake Bay TMDL action plan for the reductions required in Part II A 3, A 4, and A 5 that includes the following information:~~

- ~~a. Any new or modified legal authorities, such as ordinances, permits, policy, specific contract language, orders, and interjurisdictional agreements, implemented or needing to be implemented to meet the requirements of Part II A 3, A 4, and A 5.~~

12. Chesapeake Bay TMDL action plan requirements.

a. Permittees applying for initial coverage under this general permit shall submit a draft first phase Chesapeake Bay TMDL action plan to the department no later than October 31, 2028, unless the department grants a later date. The required reduction shall be calculated using Tables 3a, 3b, 3c, and 3d as applicable. The first phase action plan shall achieve a minimum reduction of least 40% of the L2 Scoping Run based on lands within the 2000 and 2010 expanded Census urbanized areas no later than October 31, 2033. The action plan shall include the following information:

~~b. (1) The load and cumulative reduction calculations for each river basin calculated in accordance with Part II A 3, A 4, and A 5 [ - ]~~

~~e. The total reductions achieved as of July 1, 2018, for each pollutant of concern in each river basin.~~

~~d. A list of BMPs implemented prior to July 1, 2018, to achieve reductions associated with the Chesapeake Bay TMDL including:~~

- ~~(1) The date of implementation; and~~
- ~~(2) The reductions achieved. [ ; ]~~

~~e. (2) The BMPs to be implemented by the permittee prior to the expiration of this permit to meet the cumulative achieve 40% of the reductions calculated in Part II A 3, A 4, and A 5, including as applicable 13 a:~~

- ~~(1) (a) Type of BMP;~~
- ~~(2) (b) Project name;~~
- ~~(3) (c) Location;~~
- ~~(4) (d) Percent removal efficiency for each pollutant of concern; and~~
- ~~(5) (e) Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 8 9 for each pollutant of concern; [ and~~

~~(3) A preliminary schedule for implementation of the BMPs included in the Chesapeake Bay TMDL action plan; and~~

~~(4) A summary of any comments received as a result of public participation required in Part II A 14, the permittee's response, identification of any public meetings to address public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a result of public participation. ]~~

~~f. A summary of any comments received as a result of public participation required in Part II A 12, the permittee's response, identification of any public meetings to address public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a result of public participation.~~

12. b. For permittees previously covered under the General VPDES Permit for the Discharge of Stormwater from MS4 effective November 1, 2018, no later than 12 months



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after the permit effective date, the permittee shall submit a third phase Chesapeake Bay TMDL action plan for the reductions required in Part II A 3, A 4, and A 5 that includes the following information:

(1) Any new or modified legal authorities, such as ordinances, permits, policy, specific contract language, orders, and interjurisdictional agreements, implemented or needing to be implemented to meet the requirements of Part II A 3, A 4, and A 5.

(2) The load and cumulative reduction calculations for each river basin calculated in accordance with Part II A 3, A 4, and A 5.

(3) The total reductions achieved as of November 1, 2023, for each pollutant of concern in each river basin.

(4) A list of BMPs implemented prior to November 1, 2023, to achieve reductions associated with the Chesapeake Bay TMDL, including:

(a) The date of implementation; and

(b) The reductions achieved.

(5) The BMPs to be implemented by the permittee within 60 months of the effective date of this permit to meet the cumulative reductions calculated in Part II A 3, A 4, and A 5, including as applicable:

(a) Type of BMP;

(b) Project name;

(c) Location;

(d) Percent removal efficiency for each pollutant of concern; [ ~~and~~ ]

(e) Calculation of the reduction expected to be achieved by the BMP calculated and reported in accordance with the methodologies established in Part II A 9 for each pollutant of concern; and

[ (f) A preliminary schedule for implementation of the BMPs included in the Chesapeake Bay TMDL action plan. ]

(6) A summary of any comments received as a result of public participation required in Part II A 13, the permittee's response, identification of any public meetings to address public concerns, and any revisions made to Chesapeake Bay TMDL action plan as a result of public participation.

13. Prior to submittal of the action plan required in Part II A ~~12~~ [ a and ] b, [ ~~the permittee permittees~~ ] shall provide an opportunity for public comment for no fewer than 15 days on the additional BMPs proposed to meet the reductions not previously approved by the department in the first third phase Chesapeake Bay TMDL action plan for no less than 15 days.

13. For each reporting period, the corresponding annual report shall include the following information:

[ 14. Chesapeake Bay TMDL implementation annual status report. ]

a. A list of BMPs implemented during the reporting period but not reported to the DEQ BMP Warehouse in accordance with Part I E 5 g and the estimated reduction of pollutants of concern achieved by each and reported in pounds per year; Permittees previously covered under the General VPDES Permit for Discharges of Stormwater from MS4 effective November 1, 2018, shall submit a Chesapeake Bay TMDL implementation annual status report in a method (i.e., how the permittee must submit) and format (i.e., how the report shall be laid out) as specified by the department no later than October 1 of each year. The report shall cover the previous year from July 1 to June 30.

b. If the permittee acquired credits during the reporting period to meet all or a portion of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were acquired; Following notification from the department of the start date for the required electronic submission of Chesapeake Bay TMDL implementation annual status reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with 9VAC25-31-1020 and this section. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.

c. The progress, using the final design efficiency of the BMPs, toward meeting the required cumulative reductions for total nitrogen, total phosphorus, and total suspended solids; and The year two Chesapeake Bay TMDL implementation annual status report shall contain a summary of any public comments on the Chesapeake Bay TMDL action plan received and how the permittee responded.

d. A list of BMPs that are planned to be implemented during the next reporting period. Each Chesapeake Bay TMDL implementation annual status report shall include the following information:

(1) A list of Chesapeake Bay TMDL action plan BMPs, not including annual practices, implemented prior to the reporting period that includes the following information for reported BMP:

(a) The number of BMPs for each BMP type;

(b) The estimated reduction of pollutants of concern achieved by each BMP type and reported in pounds of pollutant reduction per year; and

(c) A confirmation statement that the permittee electronically reported Chesapeake Bay TMDL action plan BMPs inspected using the DEQ BMP Warehouse in accordance with Part III B 5.

(2) A list of newly implemented BMPs including annual practices implemented during the reporting period that includes the following information for each reported BMP or a statement that no BMPs were implemented during the reporting period:

(a) The BMP type and a description of the location for each BMP;

(b) The estimated reduction of pollutants of concern achieved by each BMP and reported in pounds of pollutant reduction per year; and

(c) A confirmation statement that the permittee electronically reported BMPs using the DEQ BMP Warehouse in accordance with Part III B 3.

e. If the permittee acquired credits during the reporting period to meet all or a portion of the required reductions in Part II A 3, A 4, or A 5, a statement that credits were acquired.

f. Pollutant load reductions generated by annual practices, such as street and storm drain cleaning, shall only be applied to the compliance year in which the annual practice was implemented.

g. The progress, using the final design efficiency of the BMPs, toward meeting the required cumulative reductions for total nitrogen and total phosphorus.

h. Any revisions made to the Chesapeake Bay TMDL action plan.

i. A list of BMPs that are planned to be implemented during the next reporting period.

[ 15. Within 60 months after permit issuance, the permittee shall update the Phase III Chesapeake Bay TMDL action plan to offset the increased loads from new sources initiating construction between July 1, 2009, and October 31, 2023, that are located in the expanded 2020 census urban areas with a population of at least 50,000, and within the permittee's MS4 service area, and designed in accordance with 9VAC25-870 Part II C (9VAC25-870-93 et seq.), if the following conditions apply:

a. The activity disturbed one acre or greater; and

b. The resulting total phosphorous load was greater than 0.45 pounds per acre per year, which is equivalent to an average land cover condition of 16% impervious cover.

The permittee shall utilize Table 4 of Part II A 5 to develop the equivalent nitrogen pollutant load for new sources meeting the requirements of this condition.

16. Within 60 months after permit issuance, the permittee shall update the Phase III Chesapeake Bay TMDL action plan to offset the increased loads from projects grandfathered in accordance with 9VAC25-870-48 that are located in the expanded 2020 census urban areas with a population of least 50,000, and within the permittee's MS4

service area, and began construction after July 1, 2014, if the following conditions apply:

a. The activity disturbs one acre or greater; and

b. The resulting total phosphorous load was greater than 0.45 pounds per acre per year, which is equivalent to an average land cover condition of 16% impervious cover.

The permittee shall utilize Table 4 of Part II A 6 to develop the equivalent nitrogen pollutant load for grandfathered sources meeting the requirements of this condition. ]

B. Local TMDL special condition.

1. The permittee Permittees applying for initial coverage under this general permit shall develop a local TMDL action plan designed to reduce loadings for pollutants of concern if the permittee discharges the pollutants of concern to an impaired water for which a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) prior to October 31, 2023, and in which an individual or aggregate wasteload has been allocated to the permittee. The permittee shall develop action plans to meet the conditions of Part II B 4, B 5, B 6, B 7, and B 8 as applicable. Each local TMDL action plan shall be provided to the department no later than October 31, 2028, unless the department grants a later date.

2. Permittees previously covered under the General VPDES Permit for Discharges of Stormwater from MS4 effective November 1, 2018, shall develop and maintain a local TMDL action plan designed to reduce loadings for pollutants of concern if the permittee discharges the pollutants of concern to an impaired water for which a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) as described in Part II B 4 a and 4 2 a and 2 b:

a. For TMDLs approved by the EPA prior to July 1, 2013 2018, and in which an individual or aggregate wasteload has been allocated to the permittee, the permittee shall develop and initiate or update as applicable the previously approved local TMDL action plans to meet the conditions of Part II B 3, B 4, B 5, B 6, and B 7, and B 8, as applicable, no later than 18 months after the permit effective date and continue implementation of the action plan; and. Updated action plans shall include:

(1) An evaluation of the results achieved by the previous action plan; and

(2) Any adaptive management strategies incorporated into updated action plans based on action plan evaluation.

b. For TMDLs approved by EPA on or after July 1, 2013 2018, and prior to June 30, 2018 October 31, 2023, and in which an individual or aggregate wasteload has been allocated to the permittee, the permittee shall develop and initiate implementation of action plans to meet the conditions of Part II B 3, B 4, B 5, B 6, and B 7, and B 8, as applicable for each pollutant for which wasteloads have

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been allocated to the permittee's MS4 no later than 30 months after the permit effective date.

~~2.~~ 3. The permittee shall complete implementation of the TMDL action plans as [ ~~soon as practicable~~ determined by the schedule ]. TMDL action plans may be implemented in multiple phases over more than one permit cycle using the adaptive iterative approach provided adequate progress is achieved in the implementation of BMPs designed to reduce pollutant discharges in a manner that is consistent with the assumptions and requirements of the applicable TMDL.

~~3.~~ 4. Each local TMDL action plan developed by the permittee shall include the following:

- a. The TMDL project name;
- b. The EPA approval date of the TMDL;
- c. The wasteload allocated to the permittee (individually or in aggregate), and the corresponding percent reduction, if applicable;
- d. Identification of the significant sources of the pollutants of concern discharging to the permittee's MS4 [ ~~and~~ ] that are not covered under a separate VPDES permit. For the purposes of this requirement, a significant source of pollutants of concern means a discharge where the expected pollutant loading is greater than the average pollutant loading for the land use identified in the TMDL;

e. The BMPs designed to reduce the pollutants of concern in accordance with ~~Parts~~ Part II B 4, B 5, and B 6, B 7, and B 8;

f. Any calculations required in accordance with Part II ~~B 4, B 5, or B 6, B 7, or B 8~~;

g. For action plans developed in accordance with Part II ~~B 4 and B 5, B 6, and B 8~~, an outreach strategy to enhance the public's education (including employees) on methods to eliminate and reduce discharges of the pollutants; and

h. A schedule of anticipated actions planned for implementation during this permit term.

~~4.~~ 5. Bacterial TMDLs.

a. ~~If the permittee is an approved VSMP authority, the permittee~~ Traditional permittees shall select and implement at least three of the strategies listed in Table 5 ~~below~~ designed to reduce the load of bacteria to the MS4. Selection of the strategies shall correspond to sources identified in Part II B ~~3 4~~ d.

b. ~~If the permittee is not an approved VSMP authority, the permittee~~ Nontraditional permittees shall select at least one strategy listed in Table 5 ~~below~~ designed to reduce the load of bacteria to the MS4 relevant to sources of bacteria applicable within the MS4 regulated service area. Selection of the strategies shall correspond to sources identified in Part II B ~~3 4~~ d.

Table 5 Strategies for Bacteria Reduction Stormwater Control/Management Strategy	
Source	Strategies (provided as an example and not meant to be all inclusive or limiting)
Domestic pets (dogs and cats)	<p>Provide signage to pick up dog waste, providing pet waste bags and disposal containers.</p> <p>Adopt and enforce pet waste ordinances or policies, or leash laws or policies.</p> <p>Place dog parks away from environmentally sensitive areas.</p> <p>Maintain dog parks by removing disposed of pet waste bags and cleaning up other sources of bacteria.</p> <p>Protect riparian buffers and provide unmanicured vegetative buffers along streams to dissuade stream access.</p>
Urban wildlife	<p>Educate the public on how to reduce food sources accessible to urban wildlife (e.g., manage restaurant dumpsters and grease traps, residential garbage, feed pets indoors).</p> <p>Install storm drain inlet or outlet controls.</p> <p>Clean out storm drains to remove waste from wildlife.</p> <p>Implement and enforce urban trash management practices.</p> <p>Implement rooftop disconnection programs or site designs that minimize connections to reduce bacteria from rooftops</p> <p>Implement a program for removing animal carcasses from roadways and properly disposing of the same (either through proper storage or through transport to a licensed facility).</p>
Illicit connections or illicit discharges to the MS4	<p>Implement an enhanced dry weather screening and illicit discharge, detection, and elimination program beyond the requirements of Part I E 3 to identify and remove illicit</p>

	<p>connections and identify leaking sanitary sewer lines infiltrating to the MS4 and implement repairs.</p> <p>Implement a program to identify potentially failing septic systems.</p> <p>Educate the public on how to determine whether their septic system is failing.</p> <p>Implement septic tank inspection and maintenance program.</p> <p>Implement an educational program beyond any requirements in Part I E 1 though E 6 to explain to citizens why they should not dump materials into the MS4.</p>
Dry weather urban flows (irrigations, <del>earwashing</del> <u>car washing</u> , powerwashing, etc.)	<p>Implement public education programs to reduce dry weather flows from storm sewers related to lawn and park irrigation practices, <del>earwashing</del> <u>car washing</u>, powerwashing and other nonstormwater flows.</p> <p>Provide irrigation controller rebates.</p> <p>Implement and enforce ordinances or policies related to outdoor water waste.</p> <p>Inspect commercial trash areas, grease traps, washdown practices, and enforce corresponding ordinances or policies.</p>
Birds (Canadian geese, gulls, pigeons, etc.)	<p>Identify areas with high bird populations and evaluate deterrents, population controls, habitat modifications and other measures that may reduce bird-associated bacteria loading.</p> <p>Prohibit feeding of birds.</p>
Other sources	<p>Enhance maintenance of stormwater management facilities owned or operated by the permittee.</p> <p>Enhance requirements for third parties to maintain stormwater management facilities.</p> <p>Develop BMPs for locating, transporting, and maintaining portable toilets used on permittee-owned sites. Educate third parties that use portable toilets on BMPs for use.</p> <p>Provide public education on appropriate recreational vehicle dumping practices.</p>

5- 6. Local sediment, phosphorus, and nitrogen TMDLs.

a. The permittee shall reduce the loads associated with sediment, phosphorus, or nitrogen through implementation of one or more of the following:

(1) One or more of the BMPs from the Virginia Stormwater BMP Clearinghouse listed in 9VAC25-870-65 or other approved BMPs found on the Virginia Stormwater BMP Clearinghouse website;

(2) One or more BMPs approved by the Chesapeake Bay Program. Pollutant load reductions generated by annual practices, such as street and storm drain cleaning, shall only be applied to the compliance year in which the annual practice was implemented; or

(3) Land disturbance thresholds lower than Virginia's regulatory requirements for erosion and sediment control and post development stormwater management.

b. The permittee may meet the local TMDL requirements for sediment, phosphorus, or nitrogen through BMPs implemented or sediment, phosphorus, or nitrogen credits acquired. BMPs implemented and nutrient and sediment credits acquired to meet the requirements of the Chesapeake Bay TMDL in Part II A may also be utilized to meet local TMDL requirements as long as the BMPs are implemented or the credits are generated in the watershed for which local water quality is impaired.

c. The permittee shall calculate the anticipated load reduction achieved from each BMP and include the calculations in the action plan required in Part II B 3 4 f.

d. No later than 36 months after the effective date of this permit, the permittee shall submit to the department an update on the progress made toward achieving [ local TMDL ] action plan goals and the anticipated end dates by which the permittee will meet each ~~WLA~~ wasteload allocation for sediment, phosphorus, or nitrogen. The proposed end date may be developed in accordance with Part II B 2 3.

6- 7. Polychlorinated biphenyl (PCB) TMDLs.

a. For each PCB TMDL action plan, the permittee shall include an inventory of potentially significant sources of PCBs owned or operated by the permittee that drains to the MS4 that includes the following information:

- (1) Location of the potential source;
- (2) Whether or not the potential source is from current site activities or activities previously conducted at the site that have been terminated (i.e., legacy activities); and
- (3) A description of any measures being implemented or to be implemented to prevent exposure to stormwater and the discharge of PCBs from the site.

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b. If at any time during the term of this permit, the permittee discovers a previously unidentified significant source of PCBs within the permittee's MS4 regulated service area, the permittee shall notify DEQ in writing within 30 days of discovery.

c. As part of its annual reporting requirements, the permittee shall submit results of any action plan PCB monitoring or product testing conducted and any adaptive management strategies that have been incorporated into the updated action plan based upon monitoring or product testing results if the permittee has elected to perform monitoring or product testing or both.

## 8. Chloride TMDLs.

a. ~~[ Traditional~~ No later than 36 months after the permit effective date, ] permittees shall develop an anti-icing and deicing agent education and outreach strategy that identifies target audiences for increasing awareness of anti-icing and deicing agent application impacts on receiving waters and encourages implementation of enhanced BMPs for application, handling, and storage of anti-icing and de-icing agents used for snow and ice management.

b. ~~[ Traditional permittee anti-icing~~ Anti-icing ] and deicing agent education and outreach strategies shall contain a schedule to implement two or more of the strategies listed in Part I E 1 d Table 1 per year to communicate to target audiences the importance of responsible anti-icing and deicing agent application, transport, and storage.

c. No later than 36 months after permit issuance, the permittee shall review good housekeeping procedures for anti-icing and deicing agent application, handling, storage, and transport activities required under Part I E 6 b (1) (a) and identify a minimum of two strategies for implementing enhanced BMPs that promote efficient management and application of anti-icing and deicing agents while maintaining public safety.

~~7- 9.~~ 9. Prior to submittal of the action plan required in Part II B 4 2, the permittee shall provide an opportunity for public comment proposed for no fewer than 15 days on the proposal to meet the local TMDL action plan requirements for no less than 15 days.

~~8- 10.~~ 10. The MS4 program plan as required by Part I B of this permit shall incorporate each local TMDL action plan. Local TMDL action plans may be incorporated by reference into the MS4 program plan provided that the program plan includes the date of the most recent local TMDL action plan and identification of the location where a copy of the local TMDL action plan may be obtained.

~~9- 11.~~ 11. For each reporting period, each annual report shall include a summary of actions conducted to implement each local TMDL action plan.

C. Inspection and maintenance of ecosystem restoration projects used for TMDL compliance.

1. Within 36 months of permit issuance the permittee shall develop and maintain written inspection and maintenance procedures in order to ensure adequate long-term operation and maintenance of ecosystem restoration projects as defined in 9VAC25-890-1 and implemented as part of a TMDL action plan developed in accordance with Part II A, B, or both. The permittee may utilize inspection and maintenance protocols developed by the Chesapeake Bay Program or inspection and maintenance plans developed in accordance with the department's Stormwater Local Assistance Fund (SLAF) guidelines.

2. The permittee shall inspect ecosystem restoration projects owned or operated by the permittee and implemented as part of a current TMDL action plan developed in accordance with Part II A or B no less than once every 60 months.

### Part III

#### Conditions Applicable to All State and VPDES Permits DEQ BMP Warehouse Reporting

A. For the purpose of Part III of this permit, "best management practice" or "BMP" means a practice that achieves quantifiable nitrogen, phosphorus, or total suspended solids reductions, including stormwater management facilities, ecosystem restoration projects, annual practices, and other practices approved by the department for reducing nitrogen, phosphorus, and total suspended solids pollutants.

B. No later than October 1 of each year the permittee shall electronically report [ new ] BMPs implemented and inspected as applicable between July 1 and June 30 of each year using the DEQ BMP Warehouse.

~~[ 1. Traditional permittees specified in Part I E 5 a (1) shall use the DEQ Construction Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities.~~

~~2- 1. ]~~ The permittee shall use the associated reporting template for stormwater management facilities not reported in accordance with Part III B [ 4 5 ], including stormwater management facilities installed to control post-development stormwater runoff from land disturbing activities less than one acre in accordance with the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830), if applicable, and for which a General VPDES Permit for Discharges of Stormwater from Construction Activities was not required.

~~[ 3- 2. ]~~ The permittee shall use the DEQ BMP Warehouse to report BMPs that were not reported in accordance with Part III B 1 or B [ 2 5 ] and were implemented as part of a

TMDL action plan to achieve nitrogen, phosphorus, and total suspended solids reductions in accordance with Part II A or B.

[ 4. 3. ] The permittee shall use the DEQ BMP Warehouse to report any BMPs that were not reported in accordance with Part III B 1, B 2, or B [ 3 5 ].

[ 5. 4. ] The permittee shall use the DEQ BMP Warehouse to report the most recent inspection date for BMPs in accordance with Part I E 5 b or 5 c, or in accordance with Part II C and the most recent associated TMDL action plan.

[ 5. Traditional permittees specified in Part I E 5 a (1) shall use the DEQ Construction Stormwater Database or other application as specified by the department to report each stormwater management facility installed after July 1, 2014, to address the control of post-construction runoff from land disturbing activities for which the permittee is required to obtain a General VPDES Permit for Discharges of Stormwater from Construction Activities. ]

C. The following information for each [ new ] BMP reported in accordance with Part III B 1, B 2, B 3, or B [ 4 5 ] shall be reported to the DEQ BMP Warehouse as applicable:

1. The BMP type;
2. The BMP location as decimal degree latitude and longitude;
3. The acres treated by the BMP, including total acres and impervious acres;
4. The date the BMP was brought online (MM/YYYY). If the date brought online is not known, the permittee shall use 06/2005;
5. The 6th Order Hydrologic Unit Code in which the BMP is located;
6. Whether the BMP is owned or operated by the permittee or privately owned;
7. Whether or not the BMP is part of the permittee's Chesapeake Bay TMDL action plan required in Part II A or local TMDL action plan required in Part II B, or both;
8. If the BMP is privately owned, whether a maintenance agreement exists;
9. The date of the permittee's most recent inspection of the BMP; and
10. Any other information specific to the BMP type required by the DEQ BMP Warehouse (e.g., linear feet of stream restoration).

D. [ No later than October 1 of each year, the permittee shall electronically report the most recent inspection date for any existing BMP that was previously reported and re-inspected between July 1 and June 30 using the BMP Warehouse. If an existing BMP has not been previously reported, the BMP shall

be reported as new in accordance with Part III B and Part III C. No later than October 1 of each year the DEQ BMP Warehouse shall be updated if an existing BMP is discovered between July 1 and June 30 that was not previously reported to the DEQ BMP Warehouse.

E. ] No later than October 1 of each year the DEQ BMP Warehouse shall be updated if an existing BMP is discovered between July 1 and June 30 that was not previously reported to the DEQ BMP Warehouse.

Part IV

Conditions Applicable to All State and VPDES Permits

NOTE: Discharge monitoring is not required for compliance purposes by this general permit. If the operator chooses to monitor stormwater discharges for informational or screening purposes, the operator does not need to comply with the requirements of ~~Parts III~~ Part IV A, B, or C.

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitoring 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 state permit. Analyses performed according to test procedures approved under 40 CFR Part 136 shall be performed by an environmental laboratory certified under regulations adopted by the Department of General Services (1VAC30-45 or 1VAC30-46).
3. The operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Monitoring records and reports shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individuals who performed the sampling or measurements;
  - c. The dates and times analyses were performed;
  - d. The individuals who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
2. The operator 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 state permit, and records of all data used to complete the registration statement for this state permit, for a period of at least three years from the date of the sample, measurement,

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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 operator, or as requested by the ~~board~~ department.

## C. Reporting monitoring results.

1. The operator shall submit the results of the monitoring as may be performed in accordance with this state permit with the annual report unless another reporting schedule is specified elsewhere in this state permit.

2. Monitoring results shall be reported on a discharge monitoring report (DMR); on forms provided, approved, or specified by the department; or in any format provided that the date, location, parameter, method, and result of the monitoring activity are included. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with 9VAC25-31-1020 and this section. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.

3. If the operator monitors any pollutant specifically addressed by this state permit more frequently than required by this state 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 state 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 state permit.

D. Duty to provide information. The operator shall furnish within a reasonable time, any information that the ~~board~~ department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this state permit or to determine compliance with this state permit. The ~~board~~, department, or EPA may require the operator 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 surface waters, or such other information as may be necessary to accomplish the purposes of the CWA and Virginia Stormwater Management Act. The operator shall also furnish to the ~~board~~, department, or EPA upon request, copies of records required to be kept by this state 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 state permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized stormwater discharges. Pursuant to § 62.1-44.5 of the Code of Virginia, except in compliance with a state permit issued by the department, it shall be unlawful to cause a stormwater discharge from a MS4.

G. Reports of unauthorized discharges. Any operator of a ~~small~~ MS4 who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-44.34:19 of the Code of Virginia that occurs during a 24-hour period into or upon surface waters or who discharges or causes or allows a discharge that may reasonably be expected to enter surface waters shall notify the department of the discharge immediately (see Part IV I 4) upon discovery of the discharge, but in no case later than within 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 state 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" (in Part III IV U) or "an upset," (in Part III IV V), should occur from a facility and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify (see Part IV I 4), in no case later than within 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 operator shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part

~~III~~ IV I 2. Unusual and extraordinary discharges include any discharge resulting from:

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

I. Reports of noncompliance.

1. The operator shall report any noncompliance ~~which that~~ may adversely affect surface waters or may endanger public health.

~~1. a. [ An oral A ]~~ report to the department shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under ~~this subdivision~~ Part IV I:

- ~~a. (1)~~ Any unanticipated bypass; and
- ~~b. (2)~~ Any upset that causes a discharge to surface waters.
- ~~2. b.~~ A written report shall be submitted within five days and shall contain:
  - ~~a. (1)~~ A description of the noncompliance and its cause;
  - ~~b. (2)~~ The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
  - ~~c. (3)~~ Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The department may waive the written report on a case-by-case basis for reports of noncompliance under Part ~~III~~ IV I if the ~~[ oral ]~~ report has been received within 24 hours and no adverse impact on surface waters has been reported.

~~3. 2.~~ The operator shall report all instances of noncompliance not reported under Part ~~III I 1 or 2~~ IV I 1 b, in writing, as part of the annual reports that are submitted. The reports shall contain the information listed in Part ~~III~~ IV I 2.

~~NOTE: 3.~~ The immediate (within 24 hours) reports required in Part ~~III~~ IV G, H, and I shall be made to the department. Reports may be made by telephone, email, ~~or [ fax ], or~~ online at [ <https://www.deq.virginia.gov/get-involved/pollution-response> <https://www.deq.virginia.gov/our-programs/pollution-response/pollution-data-and-reporting> ]. For reports outside normal working hours, ~~leaving a recorded message shall fulfill the immediate reporting requirement~~ the online portal shall be used. For emergencies, call the Virginia Department of Emergency Management maintains a 24-hour telephone service Management's Emergency Operations Center (24-hours) at 1-800-468-8892.

4. Where the operator becomes aware of a failure to submit any relevant facts, or submittal of incorrect information in any report, including a registrations statement, to the department, the operator shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The operator 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 operator plans an alteration or addition to any building, structure, facility, or installation that may meet one of the criteria for determining whether a facility is a new source in 9VAC25-870-420:
- b. The operator plans an alteration or addition that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this state permit; or

2. The operator shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with state 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 chapter, 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 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 state 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 chapter, a principal executive officer of a public agency includes:



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- (1) The chief executive officer of the agency, or
- (2) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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

- a. The authorization is made in writing by a person described in Part ~~III~~ IV 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 operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
- c. The signed and dated written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part ~~III~~ IV K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the MS4, a new authorization satisfying the requirements of Part ~~III~~ IV K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part ~~III~~ IV K 1 or K 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 operator shall comply with all conditions of this state permit. Any state permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this state permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for state

permit termination, revocation and reissuance, or modification; or denial of a state permit renewal application.

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

M. Duty to reapply. If the operator wishes to continue an activity regulated by this state permit after the expiration date of this state permit, the operator shall submit a new registration statement at least 90 days before the expiration date of the existing state permit, unless permission for a later date has been granted by the ~~board~~ department. The ~~board~~ department shall not grant permission for registration statements to be submitted later than the expiration date of the existing state permit.

N. Effect of a state permit. This state 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 state permit shall be construed to preclude the institution of any legal action under, or relieve the operator 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 state permit conditions on "bypassing"-(in Part ~~III~~ IV U); and "upset"-(in Part ~~III~~ IV V) nothing in this state permit shall be construed to relieve the operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this state permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties to which the operator is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

Q. Proper operation and maintenance. The operator 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 operator to achieve compliance with the conditions of this state 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 operator only when the operation is necessary to achieve compliance with the conditions of this state 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 surface waters and in compliance with all applicable state and federal laws and regulations.

S. Duty to mitigate. The operator shall take all reasonable steps to minimize or prevent any discharge in violation of this state 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 an operator 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 state permit.

U. Bypass.

1. "Bypass," as defined in 9VAC25-870-10, means the intentional diversion of waste streams from any portion of a treatment facility. The operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part ~~III~~ IV U 2 and U 3.

2. Notice.

- a. Anticipated bypass. If the operator knows in advance of the need for a bypass, the operator shall submit prior notice to the department, if possible at least 10 days before the date of the bypass.
- b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass as required in Part ~~III~~ IV I.

3. Prohibition of bypass.

- a. Except as provided in Part ~~III~~ IV U 1, bypass is prohibited, and the ~~board or~~ department may take enforcement action against an operator 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 operator submitted notices as required under Part ~~III~~ IV U 2.
- b. The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three conditions listed in Part ~~III~~ IV U 3 a.

V. Upset.

1. An "upset," as defined in 9VAC25-870-10, means an exceptional incident in which there is unintentional and

temporary noncompliance with technology based state permit effluent limitations because of factors beyond the reasonable control of the operator. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based state permit effluent limitations if the requirements of Part ~~III~~ IV V 4 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.

3. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

4. An operator 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 operator can identify the causes of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The operator submitted notice of the upset as required in Part ~~III~~ IV I; and
- d. The operator complied with any remedial measures required under Part ~~III~~ IV S.

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

W. Inspection and entry. The operator shall allow the department ~~as the board's designee~~, EPA, or an authorized representative (including an authorized contractor), upon presentation of credentials and other documents as may be required by law, to:

- 1. Enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this state permit;
- 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this state permit;
- 3. Inspect and photograph at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this state 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 Virginia Stormwater

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Management Act, any substances or parameters at any location.

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

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

Y. Transfer of state permits.

1. State permits are not transferable to any person except after notice to the department. Except as provided in Part **III IV** Y 2, a state permit may be transferred by the operator to a new operator only if the state permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.

2. As an alternative to transfers under Part **III IV** Y 1, this state permit may be automatically transferred to a new operator if:

- a. The current operator notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new operators containing a specific date for transfer of state permit responsibility, coverage, and liability between them; and
- c. The department does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the state permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part **III IV** Y 2 b.

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

VA.R. Doc. No. R22-6940; Filed September 7, 2023, 9:04 a.m.



## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF PHARMACY

#### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been filed by the agency. 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 with a hyperlink 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.

**Titles of Regulations: 18VAC110-21. Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians.**

**18VAC110-30. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.**

**Agency Contact:** Erin Barrett, Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

FORMS (18VAC110-21)

[Application for Licensure as a Pharmacist by Examination \(rev. 3/2023\)](#)

[Application for Licensure as a Pharmacist by Endorsement \(rev. 3/2023\)](#)

[Instructions for Reinstating or Reactivating a Pharmacist License \(rev. 3/2023\)](#)

[Instructions for Reinstating a Pharmacy Technician Registration \(rev. 4/2023\)](#)

[Application for Registration as a Pharmacy Technician \(eff. 6/2021\)](#)

[Application for Registration as a Limited-Use Pharmacy Technician for use exclusively in a free clinic \(rev. 3/2023\)](#)

[Affidavit for Limited-use Pharmacy Technician \(rev. 5/2018\)](#)

[Application for Approval of Pharmacy Technician Training Program \(rev. 10/2020\)](#)

~~[Application for Registration as a Pharmacy Technician Trainee \(rev. 3/2023\)](#)~~

[Application for Registration as a Pharmacy Technician Trainee \(rev. 8/2023\)](#)

[Application for Registration as a Pharmacy Intern \(rev. 3/2023\)](#)

[Application for Registration as a Pharmacy Intern for Graduates of a Foreign College of Pharmacy \(rev. 3/2023\)](#)

[Affidavit of Practical Experience as a Pharmacy Intern \(rev. 3/2019\)](#)

[Name Change Form for Individuals \(rev. 3/2018\)](#)

[Application for Approval of a Continuing Education Program \(rev. 10/2020\)](#)

[Application for Approval of an Innovative \(PILOT\) Program \(rev. 6/2021\)](#)

[Application for Approval of a Repackaging Training Program \(rev. 10/2020\)](#)

[Continuing Education \(CE\) Credit Form for Preceptors \(rev. 7/2020\)](#)

[Application for Approval of ACPE Accredited Pharmacy School Course\(s\) for Continuing Education Credit \(rev. 6/2020\)](#)

[Sponsor Certification for Volunteer Registration \(rev. 4/2018\)](#)

[Application for Volunteer Practice by a Pharmacist \(rev. 4/2018\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 4/2018\)](#)

FORMS (18VAC110-30)

[Application for a Controlled Substances Registration Certificate \(rev. 10/2020\)](#)

[Controlled Substances Registration Inspection Report \(rev. 1/2020\)](#)

[Application for a License to Sell Controlled Substances by a Practitioner of the Healing Arts \(rev. 3/2023\)](#)

~~[Application for Limited Use Facility Dispensing Permit for Nonprofit \(rev. 1/2021\)](#)~~

~~[Limited Use Practitioner Dispensing License for Nonprofit \(rev. 1/2021\)](#)~~

[Application for Limited Use Facility Dispensing Permit for Nonprofit \(rev. 8/2023\)](#)

[Application for Limited Use Practitioner Dispensing License for Nonprofit \(rev. 8/2023\)](#)

VA.R. Doc. No. R24-7675; Filed August 29, 2023, 9:13 a.m.

## BOARD OF PHYSICAL THERAPY

### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been filed by the agency. 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 with a hyperlink 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: 18VAC112-20. Regulations Governing the Practice of Physical Therapy.**

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

### FORMS

~~Application for Licensure by Examination to Practice Physical Therapy as a Physical Therapist or Physical Therapist Assistant form available online at [https://www.dhp.virginia.gov/PhysicalTherapy/physther\\_forms.htm](https://www.dhp.virginia.gov/PhysicalTherapy/physther_forms.htm)~~

~~Application for Licensure by Examination to Practice Physical Therapy (rev. 3/2023)~~

~~Application for Licensure by Endorsement to Practice Physical Therapy as a Physical Therapist or Physical Therapist Assistant form available online at [https://www.dhp.virginia.gov/PhysicalTherapy/physther\\_forms.htm](https://www.dhp.virginia.gov/PhysicalTherapy/physther_forms.htm)~~

~~Application for Licensure by Endorsement to Practice Physical Therapy (rev. 3/2023)~~

~~Application for Reinstatement to Practice Physical Therapy (rev. 3/2023)~~

~~Application for Reinstatement after Disciplinary Action (rev. 3/2023)~~

~~Checklist and Instructions for Application for Licensure by Endorsement to Practice Physical Therapy (rev. 4/2021)~~

~~Checklist and Instructions for Application for Licensure by Endorsement to Practice Physical Therapy (Graduate of a Non-Approved Program) (rev. 4/2021)~~

~~Checklist and Instructions for Application for Licensure by Examination to Practice Physical Therapy (rev. 7/2020)~~

~~Checklist and Instructions for Application for Licensure by Examination to Practice Physical Therapy (Graduate of a Non-Approved Program) (rev. 7/2020)~~

~~Instructions: Reinstatement of Licensure to Practice as a Physical Therapist or Physical Therapist Assistant (rev. 4/2021)~~

~~Trainee Application Statement of Authorization (rev. 7/2020)~~

~~Trainee Application Statement of Authorization (Graduates of a Non-Approved PT or PTA Program Who Need to Complete a Full-Time 1,000 Hours of Traineeship) (rev. 7/2020)~~

~~Trainee Application Statement of Authorization (320-hour Traineeship) (rev. 7/2020)~~

~~320-Hour Traineeship Completion Form (rev. 7/2020)~~

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~~Educational Authorization Form (rev. 7/2020)~~

~~Continued Competency Activity and Assessment Form (rev. 1/2015)~~

~~Continuing Education (CE) Credit Form for Volunteer Practice (rev. 7/2020)~~

~~Application for Direct Access Certification (rev. 3/2023)~~

~~Instructions Direct Access Certification by Experience (rev. 11/2020)~~

~~Instructions Direct Access Certification by Transitional Doctorate (rev. 11/2020)~~

~~Direct Access Patient Attestation and Medical Release Form (rev. 7/2021)~~

~~Name/Address Change Form (rev. 7/2020)~~

~~Request for Verification of a Virginia Physical Therapy License (rev. 7/2020)~~

[Application for Licensure by Examination to Practice Physical Therapy \(rev. 8/2023\)](#)

[Application for Licensure by Endorsement to Practice Physical Therapy \(rev. 8/2023\)](#)

[Application for Reinstatement to Practice Physical Therapy \(rev. 8/2023\)](#)

[Application for Reinstatement after Disciplinary Action to Practice Physical Therapy \(rev. 8/2023\)](#)

[Application for Traineeship to Practice Physical Therapy Statement of Authorization \(rev. 8/2023\)](#)

[Application for Unlicensed Graduate Traineeship to Practice Physical Therapy Statement of Authorization \(rev. 8/2023\)](#)

[Completion Form for 320-hour Traineeship to Practice Physical Therapy \(rev. 8/2023\)](#)

[Verification of Physical Therapy Education for Graduates of Approved Programs Only \(rev. 8/2023\)](#)

[Continued Competency Activity and Assessment Form \(rev. 8/2023\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 8/2023\)](#)

[Application for Direct Access Certification \(rev. 8/2023\)](#)

[Direct Access Patient Attestation and Medical Release Form \(rev. 7/2023\)](#)

[Physical Therapy Name/Address Change Form \(rev. 8/2023\)](#)

[Request for Verification of a Virginia Physical Therapy License \(rev. 8/2023\)](#)

[Application for Reactivation \(Inactive to Active\) to Practice Physical Therapy \(rev. 8/2023\)](#)

[Out-of-State Practitioner Reporting Form \(rev. 7/2023\)](#)

VA.R. Doc. No. R24-7676; Filed August 29, 2023, 2:13 p.m.

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## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### Final Regulation

**REGISTRAR'S NOTICE:** The State Board of Social Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. Additionally, the following regulatory action is also exempt from Article 2 in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **22VAC40-675. Personnel Policies for Local Departments of Social Services (amending 22VAC40-675-40, 22VAC40-675-180, 22VAC40-675-190).**

**Statutory Authority:** §§ 63.2-217 and 63.2-219 of the Code of Virginia.

**Effective Date:** October 26, 2023.

**Agency Contact:** Leighann Smigielski, Senior Policy Analyst, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7059, email [r.leighann.smigielski@dss.virginia.gov](mailto:r.leighann.smigielski@dss.virginia.gov).

**Summary:**

*The amendments (i) remove a listing of protected classes from the regulatory text to make the regulation easier to keep in compliance with the federal law; (ii) remove the requirement for local departments of social services to complete an Affirmative Action Plan in conformance with 41 CFR Subpart A, § 60-1.5; (iii) update the location where employees or applicants of local departments of social services will file discrimination complaints; and (iv) correct or improve style, form, or syntax to clarify requirements.*

**22VAC40-675-40. Inclusion in local jurisdiction personnel plans.**

A. It is the policy of the board to allow local department employees to be included in the approved local jurisdiction personnel plans instead of utilizing personnel policies outlined in the administrative manual.

B. Comprehensive jurisdiction plans shall meet merit system standards and be comparable to personnel policies included in the administrative manual. Specific personnel functions that must be included in local jurisdiction personnel plans are listed in the administrative manual.

C. Such plans must be documented to the satisfaction of the board.

D. The board must approve the inclusion of local department employees in a jurisdiction's personnel plan prior to such inclusion becoming effective.

#### **22VAC40-675-180. Equal employment opportunity.**

~~A. The board promotes equal employment opportunity in the recruitment and selection process by ensuring that qualification requirements are job related and that such requirements do not limit or restrict employment opportunities because of race, color, religion, sex, age, disability, national origin, or political affiliation (except where sex or age is a bona fide occupational qualification) and follows all applicable federal, state, and local nondiscrimination laws.~~

~~B. All local departments shall prepare their own affirmative action plan in accordance with the administrative manual or comply with a written local jurisdiction plan that provides an aggressive, coherent management program for equal employment for all employees and applicants for employment.~~

~~C. B. Employees or applicants for employment who believe that they have been discriminated against may file a complaint with the Virginia Department of Human Resource Management, Office of Equal Employment Services, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219 nearest local office of the Equal Employment Opportunity Commission.~~

~~D. C. All local departments are required to cooperate fully with the Office of Equal Employment Services Opportunity Commission or any other official investigation of charges of discrimination. Cooperation includes providing papers, notes, documents, and any other written material and responding to questions deemed necessary to investigate the charge.~~

#### **22VAC40-675-190. Policy, intent and purpose Intent and scope of the standards of conduct.**

A. The intent of the standards of conduct is to protect the well-being of employees, ~~assure~~ ensure safe and efficient operations, and establish a fair and objective process for correcting ~~and treating~~ unacceptable conduct.

B. Standards of conduct shall be limited to employee conduct occurring at work or when otherwise representing the local department in a ~~work-related~~ work-related capacity, unless otherwise specified in department policies and procedures.

V.A.R. Doc. No. R24-7381; Filed August 31, 2023, 3:43 p.m.

## **TITLE 24. TRANSPORTATION AND MOTOR VEHICLES**

### **VIRGINIA AVIATION BOARD**

#### **Final Regulation**

Title of Regulation: **24VAC5-20. Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia (amending 24VAC5-20-10; adding 24VAC5-20-410 through 24VAC5-20-450).**

Statutory Authority: §§ 5.1-2.2 and 5.1-2.15 of the Code of Virginia.

Effective Date: October 25, 2023.

Agency Contact: Stephen Smiley, Senior Aviation Planner, Virginia Department of Aviation, 5702 Gulfstream Road, Richmond, VA 23250, telephone (804) 236-3627, FAX (804) 236-3635, or email [stephen.smiley@doav.virginia.gov](mailto:stephen.smiley@doav.virginia.gov).

#### Summary:

*As required by Chapter 345 of the 2020 Acts of Assembly, the amendments establish Part VIII (Unmanned Aircraft) of Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia (24VAC5-20) that authorizes localities and other political subdivisions to adopt local regulations for the take-off and landing of unmanned aircraft on properties owned by the locality or other political subdivision, including (i) what the locality or other political subdivision must do to adopt and finalize a local regulation and (ii) exceptions to enable an unmanned aircraft to be launched and landed during an emergency under certain circumstances and to enable a sole occupant of public property to launch and land unmanned aircraft on the property possessed by the occupant.*

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

#### **24VAC5-20-10. Definitions.**

Words or terms defined in § 5.1-1 of the Code of Virginia are incorporated by reference. The following words and terms when used in this ~~regulation~~ chapter shall have the following meanings unless the context clearly indicates otherwise:

"Aircraft" means any contrivance now known or hereafter invented that is controlled, used, and usually occupied by a person for the purpose of navigation and transportation through the air, excepting "hang glider" as defined in § 5.1-1 of the Code of Virginia. Commonly recognized names for aircraft include, ~~but are not limited to,~~ planes, helicopters, seaplanes, ultralights, and hot air balloons.

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"Airline" means an air carrier operation under Federal Aviation Regulations 14 CFR Part 119, 14 CFR Part 121, 14 CFR Part 129, or 14 CFR Part 135 providing scheduled passenger service.

"Airport sponsor" means an entity that is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants, and other obligations required for an airport.

"Antique aircraft" means any aircraft constructed by the original manufacturer; or ~~his~~ the manufacturer's licensee; on or before December 31, 1945.

"Approach surface" means a surface longitudinally centered on the extended runway centerline and extending outward and upward. An approach surface is applied to each end of each runway.

"Aviation" means activities and infrastructure related to transportation by air, including ~~but not limited to~~ (i) the operation, construction, repair, or maintenance of aircraft, aircraft power plants, and accessories; (ii) the establishment, design, construction, extension, operation, improvement, repair, or maintenance of airports or landing areas; and (iii) navigable airspace, other air navigation facilities, and air instruction.

"Commercial operator" means a person, except an airline, who operates any aircraft for the purpose of rental or charter or for other purposes from which revenue is derived.

"Contract carrier permit" means a permit issued by the department to contract carriers operating under Federal Aviation Regulations 14 CFR Part 61, 14 CFR Part 135, or 14 CFR Part 141 for transport of passengers or freight on demand by air. Owners of aircraft who contract to provide flight instruction in their aircraft for profit are required to have a contract carrier permit.

"Day/VFR Use Only License" means a conditional airport license issued with the restriction that operations at the airport can only occur between sunrise and sunset and only under Visual Flight Rules (VFR) for the purpose of allowing continuing operations at an airport that is not in compliance with the minimum requirement for approach surfaces.

"Department" means the Virginia Department of Aviation.

"Effective runway length" means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway and the far end thereof.

"Hazard" means a fixed or mobile structure or object, natural growth, or use of land that obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to the landing or taking off of aircraft.

"Helipad" means a small designated area, usually with a prepared surface, on an airport, heliport, landing/takeoff area,

apron/ramp, or movement area used for the takeoff, landing, or parking of helicopters.

"Heliport" means (i) an identifiable area on land, water, or structure, including a building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters or other rotorcraft or (ii) appurtenant areas that are used, or intended for use, for heliport buildings or other heliport facilities including rights-of-way, easements, and all heliport buildings and facilities located thereon.

"Noncommercial dealer" means a person who owns and offers for sale a minimum of three aircraft during any consecutive 12-month period, which aircraft are not used for personal use, rental, charter, or for a purpose from which revenue is derived.

"Obstacle" means a fixed or mobile object that interferes with the siting or operation of navigational aids or that may control the establishment of instrument procedures. An obstacle could be located on an area intended for the ground movement of aircraft or would extend above the approach surfaces intended to protect aircraft in flight or the runway object free area.

"Obstruction" means an object, obstacle, or structure that penetrates the approach surfaces or runway object free area at an aircraft landing area. The obstruction may be man-made or of natural growth, including trees.

"Obstruction clearance plane" means a plane sloping upward from the runway at a slope meeting the appropriate requirements to clear all obstructions within a specified area as shown in a profile view of that area.

"Private-Use Landing Area License" means a license issued for a facility not open for public use, including airports, heliports, helipads, and seaplane bases, that is within five nautical miles of a licensed public-use airport, in accordance with § 5.1-7 of the Code of Virginia.

"Runway" means a rectangular surface area that may be turf, paved, or water course that is designed specifically for the purpose of approaching and landing and taking-off and departing of aircraft.

"Runway object free area" means an imaginary area centered on the runway centerline that is clear of aboveground objects protruding above the runway centerline, except for allowable objects necessary for air navigation or aircraft ground maneuvering purposes.

"Runway safety area" means a rectangular area symmetrical about the runway centerline, which includes the runway, runway shoulders, and safety overruns, if present. The portion abutting the edge of the runway shoulders, runway ends, and safety overruns is cleared, drained, graded, and usually turfed. Under normal conditions, the runway safety area is capable of supporting snow removal, firefighting, and rescue equipment

and of accommodating the occasional passage of aircraft without causing major damage to the aircraft.

"Safety overrun" or "stopway" means an area beyond the takeoff runway, no less wide than the runway and centered upon the extended centerline of the runway, able to support an aircraft during an aborted takeoff without causing structural damage to the aircraft and designated by the airport authorities for use in decelerating the aircraft during an aborted takeoff.

"Seaplane base" means an area of water used or intended to be used for the landing and takeoff of aircraft, together with appurtenant shoreside buildings and facilities.

"Structure" means (i) a man-made object, including a mobile object, constructed or erected by man, including ~~but not limited to~~ buildings, towers, cranes, smokestacks, earth formations, overhead transmission lines, flag poles, and ship masts or (ii) natural objects, including ~~but not limited to~~ trees.

"Threshold" means the beginning of that portion of the runway identified for the landing of aircraft. A threshold may be displaced, or moved down the runway, to provide for adequate safety provisions.

"UAS" means unmanned aircraft system.

"Ultralight" means an aircraft that (i) is used or intended to be used for manned operation in the air by a single occupant; (ii) is used or intended to be used for recreation and sport purposes only; (iii) does not have a United States or foreign air worthiness certificate; (iv) weighs less than 254 pounds empty weight, excluding floats and safety devices that are intended for deployment in a potentially catastrophic situation; (v) has a fuel capacity not exceeding five United States gallons; and (vi) is not capable of more than 55 knots calibrated airspeed at full power in level flight and has a power-off stall speed that does not exceed 24 knots calibrated airspeed.

"Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

## Part VIII Unmanned Aircraft

### 24VAC5-20-410. Definitions for Part VIII, Unmanned Aircraft.

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

"Commercial operator" means a person operating a UAS for a commercial purpose in compliance with applicable Federal Aviation Administration regulations.

"Emergency response personnel" means the officials and employees of governmental and nongovernmental entities responding to or supporting emergency response operations, including search and rescue, law enforcement, hazardous materials, fires, car crashes, and natural or man-made disasters.

"Locality" or "local government" means a county, city, or town.

"Operator" means the person who is directly responsible for the operation of an unmanned aircraft.

"Property owned" means any real property owned through fee interest, together with all buildings and other structures, facilities, or improvements located on the real property.

"Political subdivision" means (i) a locality, (ii) a school division, or (iii) any park authority, jail authority, or airport authority that has the power to enact or promulgate ordinances or regulations having the force or effect of law.

"Recreational operator" means a person who is operating an unmanned aircraft solely for a recreational purpose and is fully in compliance with 49 USC § 44809.

### 24VAC5-20-420. Political subdivision powers.

A. Any political subdivision may regulate the take-off and landing of an unmanned aircraft on property owned by the political subdivision, in a manner consistent with this part. All regulations of any political subdivision, whether enacted by ordinance or resolution by a locality or adopted by a political subdivision other than a locality, must comply with this part of this chapter.

B. The regulations may provide for times when take-offs and landings are allowed.

C. The regulations may designate specific properties of increased concern for public safety or risk to natural resources where an operator seeking to use the property must show (i) the purpose of the take-off and landing, (ii) what steps the operator will take to limit risk to the public or to natural resources, and (iii) information to demonstrate that the take-off and landing can be carried out without harm to the identified public safety risk or natural resources. On such properties, the regulation may deny permission to take-off or land unmanned aircraft, unless the operator can demonstrate the safety of the take-off and landing, based on the information provided.

Prior to designating any properties pursuant to this subsection, the political subdivision must show the basis for the designation. The designation must be based on a significant and specific risk to public safety or to natural resources. Every area designated pursuant to this subsection must include a map showing, with specificity, the area of prohibited use. The map and any related documents must be provided in electronic, computable, machine-readable, and transmissible form.

D. For unmanned aircraft with a takeoff weight of 55 pounds or more, the regulations may require the operator to provide information prior to any take-off or landing, demonstrating the safety of the take-off and landing. This subsection is inapplicable to any licensed airport or licensed UAS facility.

E. No political subdivision shall require a permit for operators for take-off and landing unmanned aircraft in areas designated



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for unmanned aircraft use. This subsection shall not apply to unmanned aircraft covered by subsection C of this section.

F. No [ political ] subdivision shall regulate the take-off and landing of unmanned aircraft with a ready-for-take-off weight of less than 0.55 pounds, except on properties regulated pursuant to the authority in subsection B of this section.

G. Any political subdivision may provide or participate in offering UAS classes, competitions, and similar events on its property.

## **24VAC5-20-430. Procedure for adopting an ordinance or regulation.**

A. Any locality that proposes to regulate the take-off and landing of unmanned aircraft on property owned by it shall enact such regulations by ordinance or resolution. Any other political subdivision shall adopt regulations for such purposes.

B. No proposed ordinance or regulation may be advertised for a public hearing until the political subdivision has submitted the regulation to the department for comment and the department has notified the political subdivision that the ordinance or regulation is consistent with this chapter.

C. A locality may regulate the use of unmanned aircraft by ordinance or resolution. The locality shall hold a public hearing prior to adoption of regulations. The locality shall advertise the hearing and the substance of the ordinance or regulation on the locality website for a minimum of 14 days, displayed where public hearings are set out on the locality's website and shall include the advertising in the applicable social media feeds of the locality for the same period of time. The regulation must be based on findings of need for public safety protection or protection of specific natural resources.

D. Any political subdivision other than a locality shall hold a public hearing prior to adoption of a regulation. The other political subdivision shall advertise the hearing and the substance of the regulation on the subdivision's website for a minimum of 14 days, displayed where public hearings are set out on the political subdivision's website and shall include notice of the advertising in the applicable social media feeds of the subdivision for the same period of time. The regulation must be based on findings of need for public safety enhancement protection or protection of specific natural resources.

E. Every political subdivision shall report the adoption of any regulation permitted by this chapter to the Department of Aviation within 14 days of adoption. The report shall include an electronic copy of the regulations, policies, maps, and any other documents related to the regulation with links to the political subdivision's regulation. No regulation shall take effect until it is published on the department's website.

F. The department will publish all new or revised regulations or ordinances or provide links to the political subdivision's website pages containing such information within 14 days of

receipt from the political subdivision. The department shall publish and update annually on its website, and any other website the department deems appropriate, a summary of any such regulations or ordinances adopted.

G. If, at any time, the department deems a political subdivision's local regulation to be inconsistent with this chapter, the department will inform the subdivision of the discrepancies. The political subdivision shall amend its regulation to eliminate the discrepancies.

## **24VAC5-20-440. Exceptions.**

A. No ordinance or regulation may prohibit:

1. The take-off or landing of an unmanned aircraft by a commercial operator in compliance with Federal Aviation Administration regulations or as deemed reasonable or necessary by private or public entities for emergency or maintenance support functions or services, including the protection and maintenance of public or private critical infrastructure;

2. The landing of an unmanned aircraft by an operator in compliance with Federal Aviation Administration regulations as deemed reasonable or necessary by the operator in the event of a technical malfunction of an unmanned aircraft system;

3. The take-off or landing of an unmanned aircraft being operated by a sworn public safety officer or other emergency response personnel in the performance of the public safety officer's duties;

4. The take-off or landing of an unmanned aircraft owned or operated by the United States government or any operator under contract with any agency of the United States government in performance of the officer's assigned duties;

5. The take-off or landing of an unmanned aircraft by a commercial operator done as a part of the response to an emergency declared by the Governor or a local emergency declared pursuant to the laws of the Commonwealth; or

6. The take-off or landing of unmanned aircraft by employees and agents of a political subdivision on that political subdivision's lands.

B. No political subdivision's local regulation enacted pursuant to the authority in this chapter shall apply to take-offs and landings on the vehicular travel portions of public highways or streets or to rights of ways adjacent to travel portions of the highways or streets.

C. If a private entity has exclusive use of more than one-half acre of public property for a specific event, such as a concert, sports activity, or family event, any local regulation may allow the entity to launch and land its own unmanned aircraft at the event and may allow an operator employed by the entity to launch and land unmanned aircraft during the event on that property only.

**24VAC5-20-450. Federal laws and regulations.**

Nothing in this chapter shall allow any use of unmanned aircraft in any manner inconsistent with federal laws and regulations, including Title 14 of the Code of Federal Regulations.

VA.R. Doc. No. R21-6599; Filed August 31, 2023, 12:10 p.m.

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# GUIDANCE DOCUMENTS

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## PUBLIC COMMENT OPPORTUNITY

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

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

### BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Title of Document: [Guidance for Continuing Education \(CE\) Audits and Sanctioning for Failure to Complete CE.](#)

Public Comment Deadline: October 25, 2023.

Effective Date: October 26, 2023.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

### COMMONWEALTH TRANSPORTATION BOARD

Titles of Documents: [Revenue Sharing Program Guidelines.](#)  
[Transportation Alternatives Program Guide.](#)

Public Comment Deadline: October 25, 2023.

Effective Date: October 26, 2023.

Agency Contact: JoAnne P. Maxwell, Regulatory Coordinator, Policy Division, Department of Transportation, 1401 East Broad Street, 11th Floor, Richmond, VA 23219, telephone (804) 786-1830, or email [joanne.maxwell@vdot.virginia.gov](mailto:joanne.maxwell@vdot.virginia.gov).

### BOARD OF MEDICINE

Title of Document: [Disclosures by Licensed Professional Midwives for High-Risk Pregnancy Conditions.](#)

Public Comment Deadline: October 25, 2023.

Effective Date: October 26, 2023.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

### STATE WATER CONTROL BOARD

Title of Document: [Public Participation Procedures for Water Quality Management Planning.](#)

Public Comment Deadline: October 25, 2023.

Effective Date: October 26, 2023.

Agency Contact: Tony Cario, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 814-7774, or email [anthony.cario@deq.virginia.gov](mailto:anthony.cario@deq.virginia.gov).

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Title of Document: [2024 Water Quality Assessment Guidance Manual.](#)

Public Comment Deadline: October 25, 2023.

Effective Date: October 26, 2023.

Agency Contact: Amanda Shaver, Department of Environmental Quality, 1100 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 774-8416, or email [amanda.shaver@deq.virginia.gov](mailto:amanda.shaver@deq.virginia.gov).

### VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Title of Document: [Information Technology Contingent Labor Authorized Users Policy for Procuring and Managing Contingent Labor Resources.](#)

Public Comment Deadline: October 25, 2023.

Effective Date: October 26, 2023.

Agency Contact: Joshua Heslinga, Policy Planning Manager III, Virginia Information Technologies Agency, 7325 Beaufont Springs Drive, Richmond, VA 23225, telephone (804) 551-2902, or email [joshua.heslinga@vita.virginia.gov](mailto:joshua.heslinga@vita.virginia.gov).

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# GENERAL NOTICES

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## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Proposed Enforcement Action for A&K Hotel LLC (Reste Motel)

The Virginia Department of Environmental Quality (DEQ) proposes to issue a consent special order to A&K Hotel LLC for alleged violation of the State Water Control Law at Reste Motel, 3190 Sussex Drive, Emporia, Virginia. A description of the proposed action is available at the DEQ office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The agency contact will accept comments by email or postal mail from September 25, 2023, to October 25, 2023.

**Contact Information:** Jeff Reynolds, Regional Enforcement Manager, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 720-4754, or email [jefferson.reynolds@deq.virginia.gov](mailto:jefferson.reynolds@deq.virginia.gov).

### Proposed Enforcement Action for A&K Hotel LLC (Knights Inn)

The Virginia Department of Environmental Quality (DEQ) proposes to issue a consent special order to A&K Hotel LLC for alleged violation of the State Water Control Law at Knights Inn, 3173 Sussex Drive, Emporia, Virginia. A description of the proposed action is available at the DEQ office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The agency contact will accept comments by email or postal mail from September 25, 2023, to October 25, 2023.

**Contact Information:** Jeff Reynolds, Regional Enforcement Manager, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 720-4754, or email [jefferson.reynolds@deq.virginia.gov](mailto:jefferson.reynolds@deq.virginia.gov).

### Proposed Enforcement Action for BFI Waste Systems of Virginia LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for BFI Waste Systems of Virginia LLC for violations of State Water Control Law, regulations, and Virginia Pollutant Discharge Elimination System (VPDES) Permit Registration No. VAR052236 in Henrico County at the BFI Old Dominion Landfill. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept written comments from September 25, 2023, to October 25, 2023.

**Contact Information:** Kristen Sadtler, Water Enforcement Coordinator and Adjudication Officer, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 664-3864, or email [kristen.sadtler@deq.virginia.gov](mailto:kristen.sadtler@deq.virginia.gov).

### Public Comment Opportunity on a Permit to Limit Air Pollution Emitted by a Facility in Alleghany County, Virginia

Purpose of notice: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a permit to limit air pollution emitted by a facility in Alleghany County, Virginia. The Commonwealth intends to submit the permit as a revision to its state implementation plan (SIP) in accordance with the requirements of § 110(a) of the federal Clean Air Act. The SIP is the plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the federal Clean Air Act.

Public comment period: September 25, 2023, to October 25, 2023.

Public hearing: On July 31, 2023, a notice of public comment period for this action was published. The notice included an opportunity for the public to request that a hearing be held; two requests were received. Accordingly, this notice is to announce that a public hearing will be conducted at the DEQ Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, at 3 p.m. on October 25, 2023.

Permit name: State operating permit issued by DEQ.

Name, address, and registration number: WestRock Virginia LLC - Covington, 104 East Riverside Street, Covington, VA 24426, Registration No. 20328.

Description of proposal: The proposed revision consists of a permit to control emissions of sulfur dioxide (SO<sub>2</sub>) to the atmosphere from the facility listed in this notice.

The proposed revision will consist of a determination of regional haze reasonable progress for the control of emissions of SO<sub>2</sub> to the atmosphere from the WestRock Virginia LLC - Covington facility. The regional haze reasonable progress determination is being made pursuant to 40 CFR 51.308(f) and to Article 5 (9VAC5-80-800 et seq.) of 9VAC5-80, Permits for Stationary Sources. Reasonable progress for SO<sub>2</sub> emissions from the WestRock Virginia - LLC Covington facility has been determined to be a decrease in emission limit to 1,359 tons per year of SO<sub>2</sub> emissions from the WestRock Virginia LLC - Covington facility as a whole. No emissions increases are anticipated as a result of this project.

A state operating permit is to be issued as the administrative mechanism to ensure compliance with regional haze reasonable progress requirements. The permit is being issued pursuant to Article 5 (9VAC5-80-800 et seq.) of 9VAC5-80 (Permits for Stationary Sources) and is federally enforceable upon issuance. The permit will establish emission limits for control of SO<sub>2</sub>.

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## General Notices

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Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102). Except as noted, the proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. DEQ plans to submit all provisions of the proposal as a revision to the Commonwealth of Virginia SIP.

How to comment: DEQ accepts written comments by email 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 DEQ by the last day of the comment period. Both oral and written comments are accepted at the public hearing. DEQ prefers that comments be provided in writing, along with any supporting documents or exhibits. All materials received are part of the public record.

To review proposal: The proposal and any supporting documents are available on the DEQ Air Public Notices web site at <https://www.deq.virginia.gov/permits/public-notices/air>. The documents may also be obtained by contacting the DEQ representative listed in this notice. The public may review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations: 1) Main Street Office, 22nd Floor, 1111 East Main Street, Richmond, VA, telephone (804) 698-4249; and 2) Blue Ridge Regional Office, 901 Russell Drive, Salem, VA, telephone (540) 562-6700.

Contact the agency staff for public comments, document requests, and additional information.

Contact Information: Erin Rau, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 759-9501, or email [erin.rau@deq.virginia.gov](mailto:erin.rau@deq.virginia.gov).

### MARINE RESOURCES COMMISSION

#### VMRC #2023-1756 Edward Walton Public Notice for Tidal Wetlands Hearing

Notice is hereby given that Edward Walton (VMRC #23-1756) is requesting a permit from the Virginia Marine Resources Commission to replace an existing pier with a six-foot wide open pile private pier extending 120 feet channelward of mean low water with a 16-foot by 35-foot deck, a five-foot wide by 47-foot long finger pier, a 15-foot by 36-foot open side covered boat slip, a 16-foot by 18-foot open sided gazebo, two mooring piles, and to construct a 41-foot low profile groin with a 22-foot T-head situated along the Mattaponi River at 904 Brookshire Road in King and Queen County.

The public may provide comments on this application (VMRC #2023-1756) at <https://webapps.mrc.virginia.gov/public/habitat/comments/>. The commission will accept comments by the USPS provided comments are received within 15 days of this notice to: Marine Resources Commission, Habitat

Management Division, 380 Fenwick Road, Building 96, Hampton, VA 23651.

Contact Information: Beth Howell, Office Manager, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2214, or email [jpa.permits@mrc.virginia.gov](mailto:jpa.permits@mrc.virginia.gov).

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Public Review and Comment Opportunity for Virginia Medical Assistance Eligibility Manual Draft Transmittal

Draft transmittal #DMAS-29 is available at the Department of Medical Assistance website at <https://dmas.virginia.gov/for-applicants/eligibility-guidance/transmittals/> until October 1, 2023

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

### BOARD OF PHARMACY

#### Public Hearing for Scheduling of Chemical Pursuant to § 54.1-3443 of the Code of Virginia

Pursuant to § 54.1-3443 D of the Code of Virginia, the Board of Pharmacy is giving notice of a public hearing to consider placement of a chemical substance in Schedule I of the Drug Control Act. The public hearing will be conducted at 9:06 a.m. on September 26, 2023. Instructions will be included in the agenda for the board meeting, also on September 26. Public comment may also be submitted electronically or in writing prior to September 26, 2023, to Caroline Juran, Executive Director, Board of Pharmacy, at [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

Pursuant to article § 54.1-3443 D of the Code of Virginia, the Board of Pharmacy, in consultation with the Virginia Department of Forensic Science, has identified the following compound for inclusion into Schedule I:

Tianeptine

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

## STATE WATER CONTROL BOARD

### Public Comment Opportunity for Amendment of Water Quality Management Planning Regulation

Notice of action: The State Water Control Board (Board) is considering the amendment of the regulation on water quality management planning in accordance with the Public Participation Procedures for Water Quality Management Planning. A regulation is a general rule affecting people's rights or conduct that is adopted by a state agency.

Purpose of notice: The board is seeking comments through the Department of Environmental Quality (DEQ) on the proposed amendment. The purpose of the amendment to the state's Water Quality Management Planning Regulation (9VAC25-720) is to adopt six total maximum daily load (TMDL) wasteload allocations.

Public comment period: September 25, 2023, to October 25, 2023.

Description of proposed action: DEQ staff will propose amendments of the state's Water Quality Management Planning regulation for the James River Basin (9VAC25-720-60 A) and the Roanoke River Basin (9VAC25-720-80 A). Statutory authority for promulgating these amendments can be found in subdivision 10 of § 62.1-44.15 of the Code of Virginia.

Staff intends to recommend that the board adopt six TMDL wasteload allocations as part of the state's Water Quality Management Planning Regulation in accordance with § 2.2-4006 A 4 c and B of the Code of Virginia.

The six TMDL wasteload allocations were developed in accordance with federal regulations (40 CFR § 130.7) and are exempt from the provisions of Article II (§ 2.2-4006 et seq.) of the Virginia Administrative Process Act. The wasteload allocations were subject to the TMDL public participation process contained in DEQ's Public Participation Procedures for Water Quality Management Planning. The public comment process provides the affected stakeholders an opportunity for public appeal of the TMDLs.

As of July 1, 2014, TMDL wasteload allocations can receive State Water Control Board approval prior to Environmental Protection Agency (EPA) approval due to amendments outlined in § 2.2-4006 A 14 of the Code of Virginia. The two TMDL reports in this public notice has been preliminarily reviewed by EPA for required TMDL elements, however, remain in draft form awaiting State Water Control Board approval.

Affected waterbodies and localities for the six new TMDL wasteload allocations:

James River Basin (9VAC25-720-60 A) Benthic TMDL development for the Moores Creek and Mill Creek Watersheds located in Rockbridge County, Virginia:

Benthic TMDL development for the Moores Creek and Mill Creek Watersheds proposes sediment reductions for Moores Creek and Mill Creek and provides sediment wasteload allocation of 60,080 pounds per year and 44,360 pounds per year.

Roanoke River Basin (9VAC25-720-80 A) Benthic TMDL development for the Beaverdam Creek, Fryingpan Creek, Pigg River, and Poplar Branch Watersheds located in Bedford, Franklin, and Pittsylvania Counties:

The Benthic TMDL development for the Beaverdam Creek, Fryingpan Creek, Pigg River, and Poplar Branch Watersheds proposes sediment reductions for Beaverdam Creek, Fryingpan Creek, Pigg River, and Poplar Branch and provides wasteload allocations of 51,410 pounds per year, 6,593 pounds per year, 39,200 pounds per year, and 3,357 pounds per year.

How to comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. All written comments must include the full name, address, and telephone number of the person commenting.

How a decision is made: After comments have been considered, the board will make the final decision. Citizens who submit statements during the comment period may address the board members during the board meeting at which a final decision is made on the proposal.

To review documents: The TMDL reports and the proposed regulatory amendments are available on the DEQ website at <https://www.deq.virginia.gov/our-programs/water/water-quality/tmdl-development/draft-tmdls> and by contacting the DEQ representative listed in this notice. The electronic copies are in PDF format and may be read online or downloaded.

Contact agency staff person listed for public comments, document requests, and additional information:

**Contact Information:** Anthony Cario, Guidance and Regulatory Specialist, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23235, telephone (804) 852-1514, or email [anthony.cario@deq.virginia.gov](mailto:anthony.cario@deq.virginia.gov).

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

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## General Notices

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**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.