TENTATIVE AGENDA - REVISED FOR COMMENT/RESPONSE DOCUMENT AND AMENDED REGULATION TEXT FOR AMENDMENT TO FEE REGULATION - SEE PAGES 15-22
STATE WATER CONTROL BOARD MEETING
MONDAY, JUNE 21, 2010
AND
TUESDAY, JUNE 22, 2010 (if necessary)

House Room C
General Assembly Building
9th & Broad Streets
Richmond, Virginia

Convene – 9:30 a.m. (Both Days)

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Louisa County Water Authority
Prince William County Service Authority
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Town of Surry (Surry Co.)
Tidewater Regional Office
U.S. Navy, Naval Air Station Oceana (Virginia Beach)
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ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to the staff contact listed below.

PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-

day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is an additional comment period, usually 45 days, during which the public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

CASE DECISIONS: Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented during the public comment period (i.e., those who commented at the public hearing or during the public comment period) up to 3 minutes to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

POOLING MINUTES: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances, new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or

pending case decisions. Those wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cindy.berndt@deq.virginia.gov.

ISSUANCE OF VPA PERMIT NO. VPA03002, NUTRI-BLEND, INC. (CAMPBELL COUNTY): On March 6, 2009, DEQ received a Virginia Pollution Abatement (VPA) application from Nutri-blend, Inc. for the Issuance of Permit VPA03002, for land application of biosolids on 160 fields in Campbell County. Nutri-blend, Inc. is authorized to apply biosolids to one field owned by G.D. Gilliam under the administratively continued VDH Biosolids Use Regulation (BUR) permit No. 134. This draft permit authorizes application of biosolids totaling 3424.3 acres of crop land for hay. Notification regarding DEQ's receipt of the application was made to the Campbell County Administrator and copied to the Virginia Department of Health by letter on May 19, 2009, and a notice of the application and a public meeting was published in the Lynchburg *News and Advance* newspaper on May 28, 2009. A public information meeting was held on June 11, 2009. Review of the application and proposed draft permit was completed by Virginia Department of Game and Inland Fisheries (DGIF) on April 16, 2010. Review of the application and proposed draft permit was completed by Virginia Department of Conservation and Recreation (DCR) on July 14, 2009. Notice of the draft permit was published in the *News and Advance* on October 4, 2009 and October 11, 2009. The public comment period ended on November 6, 2009. During the public comment period, 212 comments were received requesting a public hearing. The public response requesting a hearing prompted the regional director and agency director to authorize a public hearing to obtain additional comments concerning this permit. The hearing was advertised and scheduled for February 4, 2009 but due to public comments on our notification procedures the proposed draft permit and public hearing had to be re-noticed using proper notification procedures. Re-notice of the draft permit and public hearing was published in the *News and Advance* on January 31, 2010 and February 7, 2010. The hearing was held at 7:00 p.m. on March 16, 2010, in the Rustburg High School Auditorium in Rustburg, Virginia. Rev. Shelton Miles served as hearing officer. An informational meeting preceded the hearing. Including the applicant, 24 individuals provided verbal comments at the public hearing. DEQ received 204 comments during the comment period, including the verbal comments. A set of 173 previously submitted form letters from 2009 were re-submitted on March 29, 2010 and are included in the summaries for the comment period. Staff received several comments on the proposed draft permit and combined some of them where it is possible without losing specifics. A summary of the comments follows. The comments are organized and presented by issue; there is an accompanying table identifying each person/organization that provided comments and their comments. Please contact Kevin Crider kevin.crider@deq.virginia.gov for a full copy of the comments received. Most of the citizens providing comment were either opposed to the application of biosolids, or requested more stringent permit requirements.

Summary of Comments Received During the Public Comment Period and Public Hearing

1. *Opposed to land application of biosolids/Denial of Permit.* Numerous commenters expressed unqualified opposition to the practice of land application in Campbell County. There were also 8 speakers and 3 writers that asked DEQ to deny the permit.

Staff Response

The DEQ appreciates the information provided by commenters who are opposed to the land application of biosolids. The agency, however, is tasked with supporting environmental law through enforcement of regulations. At the present time, the practice is authorized and regulated in Virginia.

2. *Water quality from run-off.* Numerous commenters were concerned about run-off from the applied sites that could affect stream quality and groundwater.

Staff Response

Draft VPA03002 was prepared in accordance with 9VAC25-32-10 et seq. VPA Regulation 9VAC25-32-560.B.3.d.1 requires minimum setback distances for occupied dwellings, water supply wells or springs, property lines, perennial streams and other surface waters, intermittent streams/drainage ditches, all improved roadways, rock outcrops and sinkholes, and agricultural drainage ditches. These setback requirements along with 9VAC25-32-30.A that prohibits a discharge from a VPA permitted facility are designed to protect against surface and groundwater contamination. Additionally, the agency inspection program is notified prior to land application of biosolids and inspectors monitor land application sites to ensure permit conditions are met and the biosolids are not leaving the site.

3. *Environmental Health Risk/DEQ can't protect public.* Numerous commenters expressed concerns for the possibility of public health risks from the land application of biosolids. Many of the speakers noted there were suppressed immuno-deficiency citizens nearby the proposed fields. Additionally 11 speakers and 1 writer commented that DEQ could not adequately protect the public by allowing the permit to be issued.

Staff Response

As required by § 62.1-44.19:3, DEQ submitted the application and draft VPA03002 to the Virginia Department of Health. No additional recommendations for permit modification to protect public health were received. Prior to the March 26 public hearing, information stations were available to the citizens of Campbell County. During the course of the evening, the VDH representative did not receive any requests for permit modification on the grounds of specific health concerns. VDH has not reported any requests to DEQ for permit modification since that time. DEQ staff will extend the dwelling buffer up to 400 feet at the request of any individual. Concerned citizens seeking greater than 400 feet should contact the district Health Director.

In accordance with House Joint Resolution No. 694, the Secretary of Natural Resources and Secretary of Health and Human Services convened a Panel of experts in 2007 to study the impact of land application of biosolids on human health and the environment. The final report of this panel was published in December, 2008 and was published as House Document No. 27. Additional information pertaining to the expert panel and the final report can be accessed at http://www.deq.virginia.gov/info/biosolidspanel.html. The panel determined that "as long as biosolids are applied in conformance with all state and federal law and regulations, there is no scientific evidence of any toxic effect to soil organisms, plants grown in treated soils, or to humans (via acute effects or bio-accumulation pathways) from inorganic trace elements (including heavy metals) found at the current concentrations in biosolids."

4. *Nutrient Management Plan (NMP).* Two speakers and two writers indicated that the approval of the NMP is by the biosolids industry and therefore is a conflict of interest. The commenters feel that there should be an independent party approving the NMP from that of the DEQ and the industry.

Staff Response

Part I.C.2. of VPA03002 requires that the NMP be developed for each land application site prior to biosolids application, and that the NMP be prepared and revised by a certified nutrient management planner as stipulated in regulations promulgated pursuant to §10.1-104.2 of the Code of Virginia. All nutrient management plans shall account for all sources of nutrients to be applied to the site. DEQ inspection staff requires updated nutrient management plans during inspection of sites to ensure proper application rates are established based on current soils analysis. Current regulation does not require a third party to certify the NMP however this suggestion will be passed along to the TAC.

5. *Development of state regulations for Tax Map parcel ID # and Deed Records for land.* 3 speakers and 1 writer requested that DEQ record all approved permits in the land record books of the county where sludge is to be applied and to index the permit to the names of the owners of the land on which it is

spread. Additionally, these individuals request the Tax Map parcel ID # be included with the applications so that citizens can identify the locations of the proposed application.

Staff Response

The concept described in this comment is not a requirement of the current regulations. However, a regulatory action is currently underway to revise the biosolids land application regulations. This suggestion will be passed onto the Technical Advisory committee and DEQ staff for consideration as they work on these revisions.

6. *Proximity to Schools*. Numerous commenters were concerned over the proximity to schools.

Staff Response

The current regulations do not provide for buffers adjacent to schools. The nearest school (Rustburg High School) to a proposed field is over 1 mile.

As required by § 62.1-44.19:3, DEQ submitted the application and draft VPA03002 to the Virginia Department of Health. No recommendations for permit modification to protect public health were received in relation to proximity of schools.

7. *Unsuitable Soil Types*. 16 commenters were concerned over the unsuitable soil types for land applying biosolids in certain areas of Campbell County. These comments also include concerns of groundwater contamination due to the soil types.

Staff Response

Department of Conservation and Recreation (DCR) reviewed the application and made comments on July 14, 2009. DEQ staff responded to DCR on September 3, 2009. DEQ staff performed further site inspections and evaluations on in 2010 and compiled a report dated February 12, 2010. Based on study, some buffers along the creek were added to one field (T1202 Field 3).

8. *DEQ underfunded, Suggests Higher Fees*. 2 Speakers suggested that the fees for the biosolids program should be raised to help fund DEQ. Additionally 4 speakers and one writer further suggested that DEQ was not trained and unqualified to perform its jobs due to the underfunding.

Staff Response

The program is fully funded through fee collections. The amount of funding allotted to support the biosolids permitting and compliance program, including staff development, is commensurate with the staffing identified as necessary when the program was transferred to DEQ.

9. *Limited Local government in the process*. 4 speakers voiced dissatisfaction with the role that local government plays in the current regulation and proposed draft permit. The commenters feel that local government should have a larger role in the process.

Staff Response

The role of local government is prescribed in the current law and regulation and these procedures were followed in the development of the proposed draft permit.

10. *DEQ lacks authority for permit issuance*. 4 speakers and 1 writer expressed unqualified remarks on DEQ's Authority to issue the current proposed draft permit.

Staff Response

Current law gives DEQ the authority to issue the current permit.

11. *DEQ Enforcement is weak*. Two speakers and two writers expressed unqualified opposition to DEQ's enforcement of the proposed draft permit when the land appliers are non-compliant.

Staff Response

The current inspection staff is dedicated to ensuring compliance with the permit and the permittee is required to give DEQ staff notice prior to land application of biosolids so that unannounced site inspections may be conducted while land application of sewage sludge is in progress. In order to determine compliance with the law and regulations, DEQ is currently inspecting approximately 80% of the farms where biosolids is applied, and inspecting approximately 70% of the farms during land application activities. DEQ utilizes informal corrective action, as well as formal enforcement if necessary to ensure compliance.

12. *Errors regarding information in the permit application*. 6 speakers and 7 writers commented on information in the permit application that proved to be erroneous.

Staff Response

Public input on the accuracy of the permit application resulted in corrections to the application by Nutri-Blend. The staff and local government worked with the company staff to remedy these errors and improve the application.

13. *Outdated Science Unknown Toxins in Sludge*. 6 speakers and 11 writers commented on the outdated science and research that is referenced by DEQ and EPA as it relates to safe agribusiness practices. The commenters also stated that due to the dated research and science, there were many unknown toxins not being analyzed for in the biosolids.

Staff Response

The vector attraction and pathogen reduction permit requirements and Nutrient Management Plan requirements follow current waste treatment and agronomic practices designed to be protective of human health and the environment. While research is an ongoing process, these practices are protective due to their conservative design. Research into "emerging pollutants" is an ongoing process in all permitting programs at DEQ and new criteria are adopted when deemed necessary through the Triennial review process and subsequently incorporated into permits.

14. *Insufficient Buffers Request Extensions*. A total of 186 commenters requested increased buffers due to health concerns, groundwater and wildlife.

Staff Response

As required by § 62.1-44.19:3, DEQ submitted the application and draft VPA03002 to the Virginia Department of Health. No additional recommendations for permit modification to protect public health were received. Prior to the March 26 public hearing, information stations were available to the citizens of Campbell County. During the course of the evening, the VDH representative did not receive any requests for permit modification on the grounds of specific health concerns. VDH has not reported any requests to DEQ for permit modification since that time. DEQ staff will extend the dwelling buffer up to 400 feet at the request of any individual. Concerned citizens seeking greater than 400 feet should contact the district Health Director.

15. *Misleading Info to farmers - Biosolids not 'fertilizer'*. 7 speakers and 5 writers commented that the Biosolids industry and DEQ do not provide enough information to the farmers and citizens and reference to the biosolids as a 'fertilizer' is misleading and inaccurate.

Staff Response

The farming community is well aware of the source of biosolids. There is a long history of research documenting the nutrient benefits of using biosolids and to improve crop production and the ability of the organic constituents to improve soil characteristics for agronomic practices. As fertilization of crops is the primary reason that a farmer would desire biosolids to be land applied, and the fact that biosolids will replace much of the commercial fertilizer that would be land applied, reference to the term 'fertilizer' is not misplaced.

16. *Pets, Cattle, Wildlife and Threatened and Endangered Species*. Numerous commenters had concerns with respect to animals and wildlife having access to fields that had been land applied and the run-off to the streams nearby.

Staff Response

The application and proposed draft permit were reviewed by Virginia Department of Game and Inland Fisheries with the review and comments available to DEQ on April 16, 2010. VDGIF recommended a 300 feet buffer along the Falling River and a 200 ft. buffer on all of the tributaries to the Falling River. VDGIF also recommended implementation of appropriate erosion and sediment controls during application of biosolids.

As the existing field management and buffer provisions in the permit are designed to ensure no-discharge conditions and thus sufficient to protect water quality, these provisions are also protective of the aquatic resources of the Falling River. Therefore DEQ does not propose any modifications to the permit. The closest land application field to the river is approximately 100 feet. The sites closest to the Falling River are in hay and pasture, providing additional protection against erosion and sediment loss. DEQ has forwarded the concerns of DGIF to the permit applicant for their consideration.

17. *Prefers DEQ to VDH*. 1 writer commented that DEQ had been better to work with since the program has been transferred.

Staff Response
The staff offers no response, however appreciates the comments of the individual.
18. *Inadequate Notification/Grazing Timeframe.* 2 writers commented on improvements to the posted notification when biosolids are being land applied and one speaker commented on the time specifications of livestock grazing on land that had received biosolids.
Staff Response
The current regulations have specific requirements for land appliers such as signs and flags (48 hours prior to and post application). The current regulation has specific requirements prohibiting livestock grazing for specified time periods after biosolids has been land applied, as follows: 30 days for beef cattle and 60 days for lactating dairy cattle.
19. *Supports Biosolids*. 2 Speakers, one of which was the applicant spoke in favor of land application of biosolids. One individual was a farmer who had land applied biosolids for over 20 years in Bedford County and has observed no negative effects to his land, livestock or water quality.
Staff Response
The staff offers no response, however appreciates the comments of the individuals.

ISSUANCE OF VPA PERMIT NO. VPA03004, SYNAGRO (AMHERST COUNTY): On June 30, 2008, DEQ received a Virginia Pollution Abatement (VPA) application from Synagro for the Issuance of Permit VPA03004, for land application of biosolids on two sites in Amherst County. Synagro was not authorized to apply biosolids in Amherst County under either the old DEQ VPA or the VDH Biosolids Use Regulation (BUR) permit programs. The draft permit authorizes application of biosolids to 142 acres of crop land for hay. Notification regarding DEQ's receipt of the application was made to the Amherst County Administrator and copied to the Virginia Department of Health by letter on September 11, 2008, and a notice of the application and a public meeting was published in the Amherst *New Era Progress* newspaper on May 21, 2009. A public information meeting was held on May 28, 2009. Notice of the draft permit was published in the *New Era Progress* on November 12, 2009, and November 19, 2009. The public comment period ended on December 14, 2009. During the public comment period, thirty-seven comments were received requesting a public hearing. Notice of the public hearing was published in the *New Era Progress* on February 18, 2010 and February 25, 2010. The hearing was held at 7:00 p.m. on March 22, 2010, in the Amherst County Administrative Building in Amherst, Virginia. Rev. Shelton Miles served as hearing officer. An informational meeting preceded the hearing. Including the applicant, 20 individuals provided verbal comments at the public hearing. DEQ received 37 comments during the comment period, including the verbal comments. Staff received several comments on the draft permit and combined some of them where it is possible without losing specifics. A summary of the comments received with staff responses follows. The comments are organized and presented by issue; there is an accompanying table identifying each person/organization that provided comments and their comments. Please contact Frank Bowman frank.bowman@deq.virginia.gov for a full copy of the comments received. Most of the citizens providing comment were either opposed to the application of biosolids, or requested more stringent permit requirements.

Summary of Comments Received During the Public Comment Period and Public Hearing
1. *Opposed to land application of biosolids*. Four speakers and one writer expressed unqualified opposition to the practice of land application. Six speakers and one writer were opposed to land application because of location.
Staff Response
The DEQ appreciates the information provided by commenter's who are opposed to the land application of biosolids. The agency, however, is tasked with supporting environmental law through enforcement of regulations. At the present time, the practice is authorized and regulated in Virginia.
One of the fields permitted by this permit action is near a Public Trail that been recognized as a recreation site. The field in question is over 400 feet away from the closest point of this Trail and on the other side

of the Piney River. The permit includes restrictions that are protective of water quality and the health, safety and welfare of the public, including those utilizing the public trail.

2. *Water quality in the Piney River.* Three speakers were concerned about run-off/flooding impacting Piney River. Responses requested permit action that ranged from denial/withdrawal of the permit to largely increased buffers for land application.

Staff Response

Draft VPA03004 was prepared in accordance with 9VAC25-32-10 et seq. VPA Regulation 9VAC25-32-560.B.3.d.1 requires minimum setback distances for occupied dwellings, water supply wells or springs, property lines, perennial streams and other surface waters, intermittent streams/drainage ditches, all improved roadways, rock outcrops and sinkholes, and agricultural drainage ditches. These setback requirements along with 9VAC25-32-30.A that prohibits a discharge from a VPA permitted facility are designed to protect against surface and groundwater contamination. Additionally, the agency inspection program is notified prior to land application of biosolids and inspectors monitor land application sites to ensure permit conditions are met and the biosolids are not leaving the site.

3. *Environmental health.* Seven speakers and one writer expressed concerns for the possibility of public health risks from the land application of biosolids. One speaker expressed concern for biosolids constituents entering the food chain. One speaker stated that after use of biosolids on his yard, neither he nor his family suffered any ill health effects.

Staff Response

As required by § 62.1-44.19:3, DEQ submitted the application and draft VPA03004 to the Virginia Department of Health. No additional recommendations for permit modification to protect public health were received. Prior to the March 22 public hearing, information stations were available to the citizens of Amherst County. During the course of the evening, the VDH representative did not receive any requests for permit modification on the grounds of specific health concerns. VDH has not reported any requests to DEQ for permit modification since that time.

In accordance with House Joint Resolution No. 694, the Secretary of Natural Resources and Secretary of Health and Human Services convened a Panel of experts in 2007 to study the impact of land application of biosolids on human health and the environment. The final report of this panel was published in December, 2008 and was published as House Document No. 27. Additional information pertaining to the expert panel and the final report can be accessed at http://www.deq.virginia.gov/info/biosolidspanel.html. The panel determined that "as long as biosolids are applied in conformance with all state and federal law and regulations, there is no scientific evidence of any toxic effect to soil organisms, plants grown in treated soils, or to humans (via acute effects or bio-accumulation pathways) from inorganic trace elements (including heavy metals) found at the current concentrations in biosolids."

4. *Nutrient Management Plan.* One speaker said that review of the NMP shows 4 items: the plan expired in 2007; there are only 2 soil tests for 130+ acres (2004 sample tests very low and 2005 tests very high for P) and soil pH of both tests of 5.1 is below agronomic levels; difference between hay and pasture application rates and requirement to apply biosolids when crops are actively growing is contrary to good agronomic practice; and agriculture is 50% culprit of nutrients impacting Bay.

Staff Response

Part I.C.2. of VPA03004 requires that the NMP be developed for each land application site prior to biosolids application, and that the NMP be prepared and revised by a certified nutrient management planner as stipulated in regulations promulgated pursuant to §10.1-104.2 of the Code of Virginia. All nutrient management plans shall account for all sources of nutrients to be applied to the site. The NMP submitted with the permit application was submitted as supplemental information, and must be updated prior to land application. DEQ inspection staff requires updated nutrient management plans during inspection of sites to ensure proper application rates are established based on current soils analysis.

5. *Development of state regulations.* One speaker requests that DEQ record all approved permits in the land record books of the county where sludge is to be applied and to index the permit to the names of the owners of the land on which it is spread.

Staff Response

The concept described in this comment is not a requirement of the current regulations. However, a regulatory action is currently underway to revise the the biosolids land application regulations. This suggestion will be passed onto the Technical Advisory Committee and DEQ staff for consideration as they work on these revisions.

6. *Limit on application*. Speakers requested imposing time restrictions on applications such that no applications be made during special regularly-held county events such as the garlic, sorghum and vineyard festivals.

Staff Response

Section 62.1-44.19:3. E. of the Code of Virginia specifies the conditions under which the DEQ may add additional restrictions:

Where, because of site-specific conditions, including soil type, identified during the permit application review process, the Department determines that special requirements are necessary to protect the environment or the health, safety or welfare of persons residing in the vicinity of a proposed land application site, the Department may incorporate in the permit at the time it is issued reasonable special conditions regarding buffering, transportation routes, slope, material source, methods of handling and application, and time of day restrictions exceeding those required by the regulations adopted under this section.

Requirements for buffers from the land application site as well as biosolids treatment processes are included in the permit to address public health concerns. In addition, as required by § 62.1-44.19:3.D., DEQ submitted the application and draft VPA03004 to the Virginia Department of Health. No recommendations for permit modification to protect public health were received in relation to public gatherings or events.

ISSUANCE OF VPA PERMIT NO. VPA00054 – RECYC SYSTEMS, INC. – FAUQUIER COUNTY: Recyc Systems Inc. submitted a Virginia Pollution Abatement (VPA) permit application for the land application of Biosolids. The Permit application included 4463.5 acres on 29 farms; 23 of the 29 farms are currently permitted under Virginia Department of Health (VDH), Biosolids Use Regulation (BUR) No. 004 and are currently eligible for land application. Notice for this proposed permit action was published in the *Fauquier Times Democrat* on November 18 and November 25, 2009. The 30-day public notice period was November 18 through December 17, 2009. The public notice comment period ended on December 17, 2009. The public hearing was held at 7:15 p.m. on March 16, 2010, at the auditorium of Liberty High School in Bealeton, VA. Ms. Komal Jain served as hearing officer. An interactive informational session preceded the hearing.

- Eleven people provided oral comments at the public hearing
- Twenty-six written comments were received prior to the hearing
- Twelve written comments were received after the hearing

Summary of Public Comments

1. Chesapeake Bay Watershed

Comments were received from the Fauquier County Administrator expressing concerns about:

- Reduction of Nitrogen and Phosphorous loading requirements
- Jurisdiction accountability for loading allocations
- the recent EPA TMDL Report and Implementation Plan required of localities

Staff Response:

VPA Regulation 9VAC25-32-560.A.1 sets forth requirements for biosolids application rates, application times, and site management conditions. These requirements include the development and implementation of a Nutrient Management Plan (NMP), based on soil conditions and crop requirements. The rate determined by the NMP limits Nitrogen and Phosphorus applications to prevent excess nutrient loading. The Chesapeake Bay TMDL is still in development; therefore these comments will be further evaluated during the regulatory process and may affect future permit requirements.

2. Protection of Surface Water, Groundwater and Impaired Streams

The following comments were received on surface and ground water:

- Groundwater is the predominant drinking water supply for the County
- Potential for contamination from runoff

One comment was received expressing concerns about land included in the permit application being adjacent to impaired stream segments.

Staff Response:

VPA Regulation 9VAC25-32-560.B.3.d.1 requires minimum setback distances for occupied dwellings, water supply wells or springs, property lines, perennial streams and other surface waters, intermittent streams/drainage ditches, all improved roadways, rock outcrops and sinkholes, and agricultural drainage ditches. These setback requirements along with 9VAC25-32-30.A that prohibits a discharge from a VPA permitted facility are designed to protect against surface and ground water contamination. Additionally, the agency inspection program is notified prior to land application of biosolids and inspectors monitor land application sites to ensure permit conditions are met and the biosolids are not leaving the site.

3. Biosolids Composition and Protection of Human Health and the Environment

Many comments were received expressing concerns over the composition of biosolids as it relates to human health and the environment. The comments included:

- Potential risks from unknown pathogens, metals and other contaminants
- Lack of significant research to assess risks to human health and the environment
- Long term effects
- Does the treatment process make the material 100% safe
- Is the treatment process effective
- Monitoring requirements for pre and post land application – soil and water sampling and monitoring
- No standardization of material between sources
- Toxicity
- Require research prior to land application
- Other countries (Switzerland, Sweden) have banned use of the material
- Pollution sensitive sites and/or individuals have not been accounted for in studies
- Large food companies (Campbell's, Heinz, General mills, etc.) will not accept products from land that has used biosolids

Staff Response:

In accordance with House Joint Resolution No. 694, the Secretary of Natural Resources and Secretary of Health and Human Services convened a Panel of experts in 2007 to study the impact of land application of biosolids on human health and the environment. Information pertaining to the expert panel and the final report can be accessed at http://www.deq.virginia.gov/info/biosolidspanel.html. The panel determined that "as long as biosolids are applied in conformance with all state and federal law and regulations, there is no scientific evidence of any toxic effect to soil organisms, plants grown in treated soils, or to humans (via acute effects or bio-accumulation pathways) from inorganic trace elements (including heavy metals) found at the current concentrations in biosolids."

4. H1N1 Virus

Several comments were received expressing concerns about biosolids treatment as it relates to the H1N1 virus.

Staff Response:

Staff discussed the matter with VDH staff and they advise that the virus would not survive the wastewater treatment process and therefore would not be a factor during land application activities.

5. Wildlife

Comments were received concerning how wildlife moving thorough land application sites is affected by biosolids land application.

Staff Response:

This matter is germane to all biosolids land applications and was addressed as part of the development of the regulation. Staff believes the management requirements set forth by the VPA Regulation and the limited exposure of wildlife pose no greater threat than normal agricultural activity.

6. Liability

One comment was received questioning where the liability and damages rest in the event of a failure to meet safeguards and who specifically has the financial liability for cleaning the polluted waterways and adjacent properties.

Staff Response:

The VPA Regulation 9VAC25-32-490 sets forth guidelines for compliance with biosolids use practices. The permit holder is responsible for ensuring that all federal, state, and local regulations are met. The permit holder is required, by regulation, to obtain financial assurance. Should contamination due to non-compliance of the regulation be determined the permit holder would be liable and subject to enforcement action.

7. Alternate Technology

Several comments were received questioning use of alternate disposal methods for biosolids, specifically waste to energy alternatives.

Staff Response:

Alternative disposal technologies are still in development in Virginia. Although the Northern Region has two wastewater treatment facilities that incinerate biosolids for disposal, incineration is expensive and contributes to air quality concerns. Land application is a viable reuse of biosolids.

8. Draft Permit Validity

Two comments were received from one individual addressing the DEQ draft permits for Campbell County and Shenandoah County. The concerns raised are as follows:

- The land application of biosolids requires a valid permit – one that complies with statutory and regulatory requirements
- DEQ cannot draft a valid permit based on an incomplete permit application
- The State Water Control Board has failed to adopt regulations that protect human health and the environment

Staff Response:

The comments are directed at two other VPA permits and not the subject permit. Nonetheless, Staff believes the draft permit for Recyc Systems is in accordance with federal and state regulations and is protective of water quality.

CONSIDERATION OF A FAST TRACK RULEMAKING TO AMEND THE WATER QUALITY STANDARDS REGULATION (9 VAC 25-260-185) TO INCLUDE THE OCTOBER 2007, SEPTEMBER 2008 AND MAY 2010 CHESAPEAKE BAY CRITERIA ASSESSMENT PROTOCOLS ADDENDA: Staff intends to ask the Board at their June 21-22, 2010 meeting for approval to initiate a rulemaking to amend the Water Quality Standards regulation to include the October 2007, September 2008 and May 2010 Chesapeake Bay Criteria Assessment Protocols Addenda. The staff proposal will be for a fast track rulemaking as the amendment is expected to be non-controversial because these protocols have been developed by U.S. EPA through a collaborative process within the Chesapeake Bay Program. These protocols reflect the best scientific approach for the Bay states to use in assessing attainment of the standards for the Chesapeake Bay and its tidal rivers. These recently published protocols are being used by U.S. EPA to develop the Total Maximum Daily Loads for the Bay and its tidal rivers. EPA has set a December 31, 2010 completion date for the TMDLs. In 2005 the State Water Control Board adopted standards specifically for the Chesapeake Bay and its tidal rivers. Due to the complex nature of the circulation patterns and varying salinity of the Bay waters the standards regulation also includes reference to criteria assessment procedures published by EPA. Since that initial action, the Board has approved an amendment to the standards regulation to include reference to updated assessment procedures published by EPA in 2007. EPA has continued to refine the assessment procedures as scientific research and management applications reveal new insights and knowledge about the Chesapeake Bay. Each of EPA's updated procedure documents replace or otherwise supersede similar criteria assessment

procedures published in earlier documents, but not all of them. Therefore, it is necessary for the Virginia standards to refer to each of the addenda published by EPA. The 2007 addendum documents numerical Chesapeake Bay chlorophyll *a* criteria and reference concentrations. The 2008 addendum includes refinements to procedures for assessing Chesapeake Bay water clarity and SAV criteria. The 2010 addendum includes guidance to address: 1. how to properly assess dissolved oxygen criteria as the boundary between open water and deep water varies; 2. revisions to the methodology and application of biologically-based reference curves for the statistical-based approach of criteria assessment; and, 3. revisions to the methodology for assessing chlorophyll *a* criteria, which applies to the tidal James River. TMDLs must be developed in accordance with approved water quality standards. Therefore, these new assessment procedures must be incorporated in the Virginia Water Quality Standards regulation in a timely way so that the Chesapeake Bay TMDLs can be approved by EPA by December 31, 2010 consistent with the new assessment procedures.

FINAL EXEMPT ACTION: AMENDMENTS TO THE FEES FOR PERMITS AND CERTIFICATES REGULATION (9VAC25-20): This final exempt regulatory action is being taken to implement provisions of House Bill 30 (HB 30), item 355, as enacted by the 2010 General Assembly. These are final amendments to the existing regulation. Staff intends to ask the Board for adoption of the amendments to the Fees for Permits and Certificates Regulation (9VAC25-20) with an effective date of July 1, 2010, or as soon thereafter as is consistent with the Administrative Process Act. Under the 2010 budget, as amended and enacted by the 2010 General Assembly, general funds for the Department of Environmental Quality water programs were reduced by $1,250,000. However, item 355 of HB 30 was intended to make up that shortfall in that it provided that permit fees assessed and collected under paragraphs B.1. and B.2. of § 62.1-44.15:6 of the Code of Virginia would be set at an amount not more than 50 percent of direct costs of the VPDES and VPA permit programs. This statutory budget language supersedes statutory language in § 62.1-44.15:6 of the Code of Virginia that provides in paragraph B.1 that "in no instance shall the Board exceed the following amounts for the processing of each type of permit/certificate category," and provides in paragraph B.2 that each permitted facility pay a maintenance fee "not to exceed the following amounts." Recovery of $1,250,000 cannot be assured through increases in the permit fees charged for VPDES and VPA applications because the number of applications received during any given year is not predictable. However, the number of permits effective in any calendar year is stable and predictable, so an increase in permit maintenance fees charged to permitted facilities can be relied upon to generate funds sufficient to meet the $1,250,000 shortfall in general funds. Recovery of $1,250,000 through the collection of permit maintenance fees alone represents an overall 64.1 percent increase in the permit maintenance fees charged to permitted facilities. The permit maintenance fee cap on fees due from a local government or public service authority with permits for multiple facilities in a single jurisdiction, based on permits held as of April 1, 2004, is also increased by 64.1 percent. With these increases, the total fees collected in support of VPDES and VPA permits will represent approximately 40 percent of the current direct costs of administration, compliance and enforcement of those permit programs, well below the 50 percent budgetary limit on such fees. A regulatory cap corresponding to this budgetary limit is also proposed. Growth in the direct costs for the VPDES and VPA permit programs is also predictable and will result in additional funding shortfalls over time. Annual increases in the permit maintenance fees consistent with the growth in the Consumer Price Index (CPI, published by the U.S. Department of Labor, Bureau of Labor Statistics) will offset those additional annual shortfalls. Adjustments made using a 12-month average of the previous year's CPI will allow

facilities to calculate their fees a full year before the date the permit maintenance fees are due and allow permitted facilities to budget appropriately for those fees. Use of the 2009 CPI as a base year will result in no CPI increases in permit maintenance fees for the 2010 calendar year and small increases thereafter. HB 30, item 355, paragraph F 2 exempts the initial regulatory amendments to implement these fee increases from the requirements of Article 2 (§ 2.2-4006, et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia (Administrative Process Act). Therefore, this amendment is processed as exempt final. Nonetheless, comments from the public were invited during an abbreviated comment period (May 14, 2010 to May 27, 2010). Notice of the comment period was published electronically on the Department's web site throughout the comment period and was published electronically as a notice and by email distributed through the Virginia Regulatory Town Hall on May 14, 2010. The comments received during the comment period and the Department's responses will be provided to the Board prior to the meeting.

Changes to existing regulations:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-142.	N/A.	Permit Maintenance Fees.	N/A.
A 1.	N/A.	Sets fee amounts to be applied annually for each individual VPDES permit.	Increases all base fee amounts by 64.1percent. Necessary to recover $1,250,000 budget shortfall.
A 2.	N/A.	Sets fee amounts to be applied annually for each individual VPA permit.	Increases all base fee amounts by 64.1 percent. Necessary to recover a $1,250,000 budget shortfall.
N/A.	A 3.	None.	Provides a method of calculating annual adjustments in permit maintenance fees based upon increases in the average Consumer Price Index from a 2009 base year average value. Necessary to recover future additional budgetary shortfalls that result from increased direct costs related to the VPDES and VPA permit programs.
N/A.	A 4.	None.	Provides for rounding fees to the nearest dollar. Necessary to simplify the calculation, billing and payment of fees.
N/A.	A 5.	None.	Provides a regulatory limit on VPDES and VPA permit fees collected. Necessary to incorporate the limit required in HB 30 language.
B 3.	N/A.	Provides a monetary cap on total permit maintenance fees due from certain public authorities with multiple facilities.	Increased cap on permit maintenance fees by 64.1 percent. Necessary to recover a $1,250,000 budget shortfall.

SUMMARY AND ANALYSIS OF PUBLIC COMMENT FOR REGULATION REVISION A10wt CONCERNING FEES FOR PERMITS AND CERTIFICATES (9VAC25 CHAPTER 20)

INTRODUCTION

The department opened for public comment a proposed regulation revision concerning amendments to the regulation for fees for permits and certificates (9VAC25-20).

A public comment period was advertised accordingly and held from May 14 to May 27, 2010. The proposed regulation amendments subject to the comment period are summarized below followed by a summary of the public participation process and an analysis of the public comment.

SUMMARY OF PROPOSED AMENDMENTS

The proposed regulation amendments concerned provisions covering permit maintenance fees for Virginia Pollutant Discharge Elimination System (VPDES) and Virginia Pollution Abatement (VPA) facilities. A summary of the amendments follows:

1. A 64% increase in the base permit maintenance fee rate to allow DEQ to recover $1,250,000 of revenue lost from the general fund appropriations under Item 355 of House Bill 30, as amended and enacted by the 2010 General Assembly;
2. A predictable annual adjustment of the permit maintenance fees in order to cover changes in the direct costs for administration, compliance and enforcement of VPDES and VPA permits;
3. An increase in the cap on the amount of permit maintenance fees due from certain public authorities with multiple facilities; and
4. A cap on the total amount of permit fees collected.

SUMMARY OF PUBLIC PARTICIPATION PROCESS

A public comment period was held from May 14 to May 27, 2010. A total of 9 written comments were received from four persons representing different organizations. Notice of the comment period was given to the public on or about May 14, 2010 on the Virginia Regulatory Town Hall web site (http://www.townhall.virginia.gov) and on the department web site (http://www.deq.virginia.gov/info/permit_changes.html). In addition, personal notice of the opportunity to comment was given by email to those persons signed up on the Town Hall web site to receive notices of regulatory actions. The complete text of each comment is included in the public comment report which is on file at the department.

ANALYSIS OF COMMENT

Below is a summary of each comment and the accompanying analysis. Included is a brief statement of the subject, the identification of the commenter, the summarized text of the comment and the board's response (analysis and action taken). Each issue is discussed in light of all of the comments received that affect that issue. The board has reviewed the comments and developed a specific response based on its evaluation of the issue raised. The board's action is based on consideration of the overall goals and objectives of the water program and the intended purpose of the regulation.

1. **SUBJECT**: Opposition to the legislation.

COMMENTER: Virginia Manufacturers Association (VMA).

TEXT: The VMA opposed legislation for any fee increases on the basis that improvement and efficiencies over the last several years should have reduced the funding required for the entire direct permitting process. Costs should be reduced and or at least stable and not requiring an increase.

RESPONSE: The fee increases are proposed not to cover increased permit programs costs, but to recover a $1,250,000 shortfall due to a budget reduction by that amount of general funds assigned to water permit programs. House Bill 30 (HB30), item 355 was enacted to make up for that shortfall through an increase in permit fees. No change is made to the proposal based upon this comment.

2. **SUBJECT**: Enforcement costs are not "direct costs" of permitting.

COMMENTER: VMA.

TEXT: The fees are intended to replace only those general funds related to the direct cost of permitting and we are concerned that there may be other than direct cost items in the formula. A specific concern is the cost of enforcement. Our definitions of "direct cost" are: (i) those costs that can be allocated specifically to a program or assigned to a specific activity, and (ii) those costs incurred for the specific purpose of issuing or reissuing a permit and shall be limited to the cost of salary, fringe benefits, and direct supporting costs necessary to approve a permit such as telecommunications, equipment and office supplies.

RESPONSE: The increase in fees specified by HB30, item 355 was not intended to replace only those general funds related to the direct costs associated with permitting. The budget item specifically states that regulatory permit fees ... "shall be set at an amount representing not more than 50 percent of the direct costs for the administration, compliance and enforcement of Virginia Pollutant Discharge Elimination System [VPDES] permits and Virginia Pollution Abatement [VPA] permits." No change is made to the proposal based upon this comment.

3. **SUBJECT**: Program efficiencies should be maximized.

COMMENTER: VMA.

TEXT: The VMA believes that the Board should develop and implement policies and procedures to maximize efficiency and eliminate unnecessary delays in the permitting process.

RESPONSE: The department is constantly reviewing the permitting process to maximize program efficiencies and eliminate unnecessary delays. Policies and procedures are developed and implemented by the Department as necessary to ensure that any deficiencies that are identified as part of that review process are corrected. No change is made to the proposal based upon this comment.

4. **SUBJECT**: Opposition to increases in VPDES fees.

COMMENTER: New River Resource Authority.

TEXT: We oppose any increase to VPDES Fees. Ultimately, the cost of these fees will have to be passed on to the customers of the New River Resource Authority. Other than a

budget shortfall, there is no reason, thought or justification for increasing the fees by 65%.

RESPONSE: The fee increases specified by the 2010 General Assembly in HB30, Item 355 did result from a statewide budgetary shortfall. The General Assembly took $1,250,000 from the Department's VPDES and VPA programs and directed that the Department recover the shortfall through fee increases to those programs. No change is made to the proposal based upon this comment.

5. **SUBJECT**: Support for a uniform, across-the-board increase in fees.

COMMENTER: Virginia Association of Municipal Wastewater Agencies (VAMWA).

TEXT: DEQ reached out and provided an opportunity on April 12, 2010, to meet and discuss the potential increases with stakeholders, including Chris Pomeroy of AquaLaw. At that time, DEQ reported that its objective is to fill the $1.25 million gap resulting from the loss of general funds in the state budget, confirmed that this requires fees sufficient to cover approximately 39% of direct costs. Mr. Pomeroy suggested that a simple and equitable approach for implementing the legislative mandate would be a uniform percentage increase across all fee categories. VAMWA supports this fair and uniform approach to implementation of the requirement for DEQ to replace $1.25 million of former general funds by fee revenue. The proposal unfairly allocates 100% of the fee increase burden to permittees paying permit maintenance fees because no portion of the increase is allocated to the current fees for new or modified permits. The 65% increase of concern to VAMWA appears to derive from the concept – which to our knowledge was not addressed in any legislative hearing – of holding harmless applicants for new or modified permits by shifting the full burden to permittees paying permit maintenance fees only. This appears to be inappropriate for three reasons. First, it seems contrary to the long history in Virginia's statutory and regulatory permit fee structure of relating permit fees to the service provided by DEQ staff in issuing permits. By holding the new or modified permit categories harmless from this legislative action, the proposal appears to depart from precedent and the basic principal of relating fees to services provided, among other criteria. Second, this approach of imposing the full weight of the fee increase on our members' "permit maintenance" fees seems arbitrary in that the development of new or modified permits requires more work by DEQ permit writers than the simple "maintenance" of existing permits, without modification, for the permit term. Third, by decoupling the pending increase from the fee caps by permit category established by statute at Va. Code § 62.1-44.15:6, the proposal appears to ignore the balance among permit fee categories that previously established by the General Assembly. If a 65% increase for certain categories and zero increase for other categories were permissible, that would suggest that the statute is irrelevant and the Board could disregard it completely. We do not believe that the 2010-2012 Appropriations Act can be read that broadly, especially given the reference in the pertinent item in the Appropriations Act to this very statute (Va. Code § 62.1-44.15:6). For a more equitable, balanced approach, and for consistency with the statute referenced in the Appropriations Act item in question, the fee increase should be applied uniformly (i.e., equal percentage) to all categories of permits and permit fees (new permit, modification, and maintenance) at a level necessary to provide approximately $1.25 million in additional fee revenue to DEQ.

RESPONSE: The number of permits effective in any year is stable and predictable, so an increase in permit maintenance fees can be relied upon to generate funds sufficient to meet the $1,250,000 shortfall. However, the number of permit applications received in any year is not predictable, is highly variable, and could be zero. So increasing permit application fees can't be depended upon to reliably recover any part of that shortfall.

Additionally, increasing permit application fees would be an unbalanced method of assessing funds to pay for "administration, compliance and enforcement of Virginia Pollutant Discharge Elimination System [VPDES] permits and Virginia Pollution Abatement [VPA] permits." Facilities with new applications pending have no compliance or enforcement costs associated with review of those applications. Facilities with pending permit modification applications would pay double the increased fees, once for the application and once for their annual maintenance fees.

Finally, the 2010 General Assembly was not specific about how the Department was to apportion the increase in fees. § 62.1-44.15:6 of the Code of Virginia specifies that the fees shall not exceed certain specified amounts and specifies that the fees shall reflect the amount of work required on the permits; yet the General Assembly's budget item specifies that higher fees are to be set, specifies that the fees shall reflect not just the costs of the permits, but also compliance and enforcement, and gives a timeline that is inconsistent with a new evaluation of the work required. The Department concludes from these differences that it is appropriate to leave permit application fees at the amounts that the General Assembly specified earlier, and that increasing only the permit maintenance fees would accurately reflect the 2010 General Assembly's requirement that the fees cover some additional direct costs of compliance and enforcement of the permits. No change is made to the proposal based upon this comment.

6. **SUBJECT**: Permit maintenance fees should be increased by no more than 50%.

COMMENTER: VAMWA.

TEXT: During the meeting, DEQ confirmed that replacing $1.25 million of former revenue requires fees sufficient to cover approximately 39% of direct costs, and indicated that fees currently cover approximately 27% of direct costs (during the session we had understood that to be 29%). If a uniform percentage increase were applied to the current fee schedule, it appears that fee increases of approximately 44% (calculated as follows: [39– 27]/ 27) would be sufficient to generate the required $1.25 million. Accordingly, the proposed 65% permit maintenance fee increase should be reduced to no more than a 50% increase.

RESPONSE: The revenue numbers discussed in this comment are too low to recover the $1,250,000 shortfall. Increasing just the permit maintenance fees by 50% will not generate sufficient revenue to recover the shortfall. For example, $2.9 million was collected from fees in 2009 (representing 27% of direct costs of the program). To make up for the budget shortfall, $4.2 million in fee assessments would be required in 2010 (representing 39% in direct costs of the program). The entire $1,250,000 shortfall has to be collected through increased fees. Considering fee caps and exemptions, it requires more than a 60% increase in permit maintenance fees from the remaining eligible facilities just to collect that extra $1.25 million. The proposed 64% increase in permit maintenance fees should generate the necessary revenue to cover the shortfall and, combined with average application fee revenue, it should generate the necessary revenue to support about 40% of the total program costs, well below the "50 percent of direct costs" allowed by HB30, item 355.

Because the total amount of permit application fees that are reliably collected is low compared with the shortfall, increasing the permit application fees by the same percentage that permit maintenance fees are increased would not appreciably lower the percentage

increase required of permit maintenance fees. If the proposal was to increase all permit fees (both permit application and permit maintenance fees), the revenue numbers discussed in this comment (a 50% increase) would still be too low to recover the $1,250,000 shortfall. No change is made to the proposal based upon this comment.

7. **SUBJECT**: The CPI adjustment factor should be deleted.

COMMENTER: VAMWA.

TEXT: While VAMWA is open to the concept of a CPI-based escalator as a means of reducing or eliminating the need for periodic fee increases in the future, VAMWA recommends deletion of the CPI adjustment factor in this rulemaking. As an element of the 2010-2012 Appropriations Act, the proposed fee schedule increase relative to the otherwise controlling statutory maximum fees has a two-year life. If the statute should be modified in the future and a new fee regulation adopted thereunder, that would be the appropriate time to address whether a CPI adjustment factor is appropriate taking into account DEQ's historical cost experience, which is not evident from this proposal. DEQ has presented no information to our knowledge indicating that DEQ's costs will move up or down in conjunction with CPI during the biennium when this regulation will apply. The final fee schedule, with a CPI adjustment factor, should be sufficient for the biennium.

RESPONSE: Although the biennial budget process has a two-year life, the unknowns presented by the prospect of changes in future legislative sessions make it advisable that the Department propose this regulation in a form that will also do for the longer term. No change is made to the proposal based upon this comment.

8. **SUBJECT**: The CPI definition is incomplete.

COMMENTER: VAMWA

TEXT: The definition should read: "?CPI = the difference between CPI and 215.15 (the average of the CPI values for all-urban consumers for the 12-month period ending on April 30, 2009), divided by 2.15.15." This is consistent with the formula shown for ?CPI in section 142 A 3.

RESPONSE: A clearer, more consistent definition would be appropriate. Changes to the proposal will be made to reflect the intent of this comment.

9. **SUBJECT**: Don't change the $20,000 fee cap for rural areas.

COMMENTER: Augusta County Service Authority (ACSA).

TEXT: As part of the original legislation, permit maintenance fees are capped at $20,000 for publicly owned utilities like Augusta County due to the rural nature of the county with a large number of small wastewater treatment facilities serving a relatively small number of people. In the proposed amendment, the cap has been changed to $32,818 which is a 64% increase. When you compare the impact of this increase on a small utility such as ours to a large utility, the impact on our customers appears to be significantly greater and also less equitable. Although our permitted treatment capacity is only 17 % of the City of Richmond, our fee increase ($12,818) would be over four times the fee increase ($3,044) to be paid by the City. On a per connection basis, our customers would pay over $1.51 per connection for these fee increases, while the City customers would pay only $0.05 per connection for their

single permit. Budgets have already been developed for this coming fiscal year which does not include these proposed increases. The ACSA has raised sewer rates 100% in the past nine years to cover increased costs of meeting new regulations and the proposed rate increase for the next fiscal year is already in double digits without these additional expenses. Three of our service areas, that account for 50% of our customers, have between 2% and 13% of households which were identified as below the poverty level in the 2000 Census. With unemployment in Augusta County at 8.1% compared to the state figure of 7.6%, those figures are likely to increase. Since we are an Authority, tax dollars are not received so the entire increase will have to be covered by our ratepayers. We are requesting that DEQ not increase the $20,000 permit fee cap.

RESPONSE: The cap was raised so that all facilities would bear an equal proportion of the increased fees: 64%. The new cap preserves savings for the two jurisdictions affected, but it also requires that they bear their proportion of the increase. The timing of this increase is set by the 2010 General Assembly, and no other facility has budgeted for this increase either. No change is made to the proposal based upon this comment.

9VAC25-20-142. Permit maintenance fees.

A. The following annual permit maintenance fees apply to each individual VPDES and VPA permit, including expired permits that have been administratively continued, except those exempted by 9VAC25-20-50 B or 9VAC25-20-60 A 4:

1. Base fee rate for Virginia Pollutant Discharge Elimination System (VPDES) permitted facilities. (Note: All flows listed in the table below are facility "design" flows.)

VPDES Industrial Major	~~$4,800~~ $7,876
VPDES Municipal Major/Greater Than 10 MGD	~~$4,750~~ $7,794
VPDES Municipal Major/2 MGD - 10 MGD	~~$4,350~~ $7,138
VPDES Municipal Major/Less Than 2 MGD	~~$3,850~~ $6,317
VPDES Municipal Major Stormwater/MS4	~~$3,800~~ $6,235
VPDES Industrial Minor/No Standard Limits	~~$2,040~~ $3,347
VPDES Industrial Minor/Standard Limits	~~$1,200~~ $1,969
VPDES Industrial Minor/Water Treatment System	~~$1,200~~ $1,969
VPDES Industrial Stormwater	~~$1,440~~ $2,363
VPDES Municipal Minor/Greater Than 100,000 GPD	~~$1,500~~ $2,461
VPDES Municipal Minor/10,001 GPD - 100,000 GPD	~~$1,200~~ $1,969
VPDES Municipal Minor/1,001 GPD - 10,000 GPD	~~$1,080~~ $1,772
VPDES Municipal Minor/1,000 GPD or Less	~~$400~~ $656
VPDES Municipal Minor Stormwater/MS4	~~$400~~ $656

2. Base fee rate for Virginia Pollution Abatement (VPA) permits. (Note: Land application rates listed in the table below are facility "design" rates.)

VPA Industrial Wastewater Operation/Land Application of 10 or More Inches Per Year	~~$1,500~~ $2,461
VPA Industrial Wastewater Operation/Land Application of Less Than 10 Inches Per Year	~~$1,050~~ $1,723
VPA Industrial Sludge Operation	~~$750~~ $1,231
VPA Municipal Wastewater Operation	~~$1,350~~ $2,215
VPA Municipal Sludge Operation	~~$750~~ $1,231
VPA Concentrated Animal Feeding Operation	(Reserved)
VPA Intensified Animal Feeding Operation	(Reserved)
All other operations not specified above	~~$75~~ $123

3. The amount of the annual permit maintenance fee due from the owner for VPDES and VPA permits for a specified year as required by 9VAC25-20-40 C shall be calculated according to the following formulae:

$$F = B \times C$$

$$C = 1 + \Delta CPI$$

$$\Delta CPI = \frac{CPI - 215.15}{215.15}$$

where:

F = the permit maintenance fee amount due for the specified calendar year, expressed in dollars.

B = the base fee rate for the type of VPDES or VPA permit from subdivisions 1 or 2 of this subsection, expressed in dollars.

C = the Consumer Price Index adjustment factor.

ΔCPI = the difference between CPI and 215.15 (the average of the Consumer Price Index values for all-urban consumers for the 12-month period ending on April 30, 2009) [, expressed as a proportion of 215.15] .

CPI = the average of the Consumer Price Index values for all-urban consumers for the 12-month period ending on April 30 of the calendar year before the specified year for which the permit maintenance fee is due. (The Consumer Price Index for all-urban consumers is published by the U.S. Department of Labor, Bureau of Labor Statistics, U.S. All items, CUUR0000SA0).

For example, if calculating the 2010 permit maintenance fee (F) for a VPDES Industrial Major source:

CPI = 215.15 (the average of CPI values from May 1, 2008 to April 30, 2009, inclusive would be used for the 2010 permit maintenance fee calculation).

ΔCPI = zero for the 2010 permit maintenance fee calculation (i.e., [~~CPI - 215.15 = 215.15 - 215.15~~ (CPI - 215.15)/215.15 = (215.15 - 215.15)/215.15] = 0). (Note: ΔCPI for other years would not be zero.)

C = 1.0 for the 2010 permit maintenance fee calculation (i.e., 1 + ΔCPI = 1 + 0 = 1.0).

B = $7,876 (i.e. the value for a VPDES Industrial Major source, taken from subdivision 1 of this subsection).

F = $7,876 for the 2010 permit maintenance fee calculation for this VPDES Industrial Major source (i.e., $7,876 x 1.0 = $7,876).

4. Permit maintenance fees (F) calculated for each facility shall be rounded to the nearest dollar.

5. The total amount of permit fees collected by the board (permit maintenance fees plus permit application fees) shall not exceed 50% of direct costs for administration, compliance, and enforcement of VPDES and VPA permits. The Director shall take whatever action is necessary to ensure that this limit is not exceeded.

B. Additional permit maintenance fees.

1. An additional permit maintenance fee of $1,000 shall be paid annually by permittees in a toxics management program. Any facility that performs acute or chronic biological testing for compliance with a limit or special condition requiring monitoring in a VPDES permit is included in the toxics management program.

2. An additional permit maintenance fee of $1,000 shall be paid annually by permittees that have more than five process wastewater discharge outfalls at a single facility (not including "internal" outfalls).

3. For a local government or public service authority with permits for multiple facilities in a single jurisdiction, the total permit maintenance fees for all permits held as of April 1, 2004, shall not exceed ~~$20,000~~ $32,818 per year.

C. If the category of a facility (as described in 9VAC25-20-142 A 1 or 2) changes as the result of a permit modification, the permit maintenance fee based upon the permit category as of April 1 shall be submitted by October 1.

D. Annual permit maintenance fees may be discounted for participants in the Environmental Excellence Program as described in 9VAC25-20-145.

GENERAL VPDES PERMIT REGULATION FOR SEAFOOD PROCESSING FACILITIES - AMENDMENTS TO 9VAC25-115 AND REISSUANCE OF GENERAL PERMIT: The current general permit for seafood processing facilities will expire on July 23, 2011, and the regulation establishing this general permit is being amended to reissue another five-year permit. The staff intends to bring this proposed regulation amendment before the Board at their June 2010 meeting to request authorization to hold public hearings. A Notice of Intended Regulatory Action (NOIRA) for the amendment was issued on October 12, 2009. Three comments were received from the industry. Two owners agreed with the general permit and want it to continue. The third comment was a request to serve on the technical advisory committee. The staff has reviewed the current permit and facility performance. A summary of the proposed changes to the general permit follow. The draft regulation takes into consideration the recommendations of a technical advisory committee formed for this regulatory action.

Summary Of 9vac25-115 Proposed Revisions

Section 10 – Definitions. Moved the exception for mechanized clam facilities to the end of the first sentence for readability. Added a definition of TMDL because it is used in section 30.

Section 20 A – Purpose. Added the statement *No discharge from seafood processing facilities is allowed except when in compliance with this permit* as a clarification recommended by the AGO office in their comments on a different general permit. We incorporated it here in anticipation of receiving the same comment from AGO.

Section 20 C - Effective dates changed for reissuance throughout regulation.

Section 30 A and B – Authorization – Reformatted to match structure of other general permits being issued at this time. Added two additional reasons authorization to discharge cannot be granted per EPA comments on other general permits issued recently. Therefore, an owner will denied authorization when the discharge would violate the antidegradation policy or if additional requirements are needed to meet a TMDL.

Section 30 C – Authorization – Added the statement *Compliance with this general permit constitutes compliance with the Clean Water Act, the State Water Control Law, and applicable regulations under either, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation* per AGO comments on other GPs recently to recognize there are some exceptions to compliance with the CWA as stated in the permit regulation.

Section 30 D – Continuation – Added language to allow for 'administrative continuances' of coverage under the old expired general permit until we get the permit issued or we deny the registration if the permittee has submitted a timely registration and is in compliance.

Section 40 A – Registration – Reformatted to match structure of other recent general permits. Revised deadline for existing facilities currently holding an individual VPDES permit to say they must notify us 180 days prior but registration statement needs to be submitted 30 days prior to expiration of individual permit. Revised existing facility covered under existing general permit to submit registration prior to June 24, 2011 (which is 30 days prior to expiration).

Section 40 B - Added email address, allowance for computer maps to registration statement and a few other minor clarifications.

Section 50 Parts I. A –Adjusted the limits from three to two significant digits for BOD, TSS and Oil and Grease because this didn't match the Federal Effluent Limit Guidelines or current agency guidance for use of significant digits.

Section 50 Part I B – Special Conditions - Added #7 Compliance Reporting Special Condition to match similar language going into other recent general permits and individual permits. The condition defines quantification levels, how to treat results < QL and rounding rules. This helps to ensure more consistent compliance reporting.
Section 50 Part IB - Added #8 special condition *The discharges authorized by this permit shall be controlled as necessary to meet water quality standards in 9VAC25-260* which is a general requirement to meet water quality standards to match similar language going into other recent general permits.
Section 50 Part I B –Added #9 special condition *If a new process is added after coverage under the general permit is obtained, an amended registration statement must be submitted at least 30 days prior to commencing operation of the new process*. This requirement is also in the Deadlines for Registration Statement section 40, but needs to be in the permit also so the permittee knows about the requirement.
Section 50 Part II – Storm Water Pollution Prevention Plans - Added revisions for SWPPPs based on EPAs multisector general permit. These changes are going in all general permits. They are all generally clarifications. The maintenance requirements in III C have a new requirement that storm water best management practices shall be observed during active operation.
Section 50 Part III M – Conditions applicable to all permits- Duty to reapply- Allow 30 days to submit a new registration statement before expiration to reapply. This matches the registration deadlines in section 40 and better conforms to existing agency practices.
Section 50 Part III Y - Transfer of permits – Revised to say automatic transfers can occur within 30 days of transfer rather than 30 days in advance of transfer. We have been told by TAC members that notification of an ownership transfer cannot occur in advance. Our regional office staff has also stated this advance transfer notification is unnecessary and we should be able to accept a transfer notification at any time.

REISSUANCE OF THE GENERAL VPDES PERMIT FOR DOMESTIC SEWAGE DISCHARGES LESS THAN OR EQUAL TO 1,000 GALLONS PER DAY (VAG40) (9 VAC 25-110): The purpose of this agenda item is to request that the Board authorize the staff to issue a public notice and hold a public hearing on a draft regulation that will reissue the VPDES general permit for discharges from domestic sewage treatment works with a design flow of less than or equal to 1,000 GPD. The existing general permit will expire on August 1, 2011. The proposed changes to the regulation are shown, with new language underlined and language to be removed struck through. Also a summary of the significant proposed changes to the regulation follow A Notice of Intended Regulatory Action (NOIRA) for the amendment was published in the Virginia Register on August 3, 2009 and the comment period ended on September 2, 2009. The staff has reviewed the current permit and the draft regulation takes into consideration the recommendations of a technical advisory committee formed for this regulatory action. If the Board authorizes the public hearing, it would be held in late August or early September, 2010. The staff would then bring a final regulation to the Board for adoption at the December, 2010 Board meeting. This should allow the reissuance of the permit before the existing one expires on August 1, 2011.

Summary Of Significant Changes From The 2006 General Permit

This general permit replaces the 2006 Domestic Sewage Discharges General Permit (VAG40) which was issued for a five-year term on August 2, 2006. Following is a list of significant changes included in the general permit regulation as compared to the 2006 regulation:

Section 60 - Authorization to Discharge.

- Added two reasons why the Department would deny coverage under the general permit: (1) The discharge would violate the antidegradation policy stated in 9VAC25-260-30 of the Virginia Water Quality Standards; and (2) A TMDL (board adopted, EPA approved or EPA imposed) contains a waste load allocation (WLA) for the facility, unless this general permit specifically addresses the TMDL pollutant of concern and the permit limits are at least as stringent as those required by the TMDL WLA.

Section 70 - Registration Statement

- Added a provision that allows owners of treatment works that were authorized under the expiring general permit, and who intend to continue coverage under this general permit, to be automatically covered without requiring the owner to submit a new Registration Statement, provided : (1) the ownership of the treatment works has not changed since the registration statement for coverage under the 2006 general permit was submitted, or, if the ownership has changed, a new registration statement or VPDES Change of Ownership form was submitted to the Department at the time of the title transfer; and (2) there has been no change in the design and/or operation of the treatment works since the registration statement for coverage under the 2006 general permit was submitted; and (3) for treatment works serving individual single family dwellings, the VDH has no objection to the automatic permit coverage renewal for this treatment works based on system performance issues, enforcement issues, or other issues sufficient to the department. If the VDH objects to the automatic renewal for this treatment works, the owner will be notified by the Department in writing; and (4) for treatment works serving non-single family dwellings, the Department has no objection to the automatic permit coverage renewal for this treatment works based on system performance issues, or enforcement issues. If the Department objects to the automatic renewal for this treatment works, the owner will be notified in writing.
- Maintenance Contract - clarified that maintenance contracts are required for treatment works serving individual single family dwellings.

Section 80 - General Permit

<u>Part I - Effluent Limitations and Monitoring Requirements</u>

- Identified the two effluent limitation sections/tables as: Part I.A (Receiving waters where the 7Q10 flows are < 0.2 MGD); and Part I.B (Receiving waters where the 7Q10 flows are >= 0.2 MGD), and changed the Special Conditions section to Part I.C.
- Modified the bacteria effluent limits to address the recent changes to the Virginia Water Quality Standards (9 VAC 25-260).
- Added clarifications to the effluent limits table footnotes explaining where to find the classes of water and boundary designations in the Virginia Water Quality Standards, and the description of what are "shellfish waters".
- Special Conditions:
  - 2. Schedule of Compliance - Deleted this condition as it is no longer used/needed.
  - 2. (old #3) Maintenance Contract - Added requirements for treatment works serving individual single family dwellings (maintenance contracts are required for these treatment works); modified the previous permit special condition to clarify that it applies to treatment works serving non-single family dwellings.
  - 3. (old #4) Operation and Maintenance Plan - Clarified that this requirement applies to treatment works serving non-single family dwellings. Added a requirement that the results of all testing and sampling must be kept with the maintenance log.

- 4. (new) Compliance Recordkeeping - Added this special condition containing compliance recordkeeping instructions for the permittee regarding quantification levels (QLs) and significant digits.
- 5. (new) Water Quality Standards - Added this special condition requiring discharges authorized by this permit to meet water quality standards. While it is not expected that these facilities will discharge parameters other than those that are limited in the permit, it is a good reminder to the permittee that other pollutants should not be discharged.

Part II - Conditions Applicable To All VPDES Permits

- M. Duty to Reapply - Modified this section to indicate that permittees that are required to submit a new registration statement to reapply for permit coverage must submit the new registration statement at least 60 days prior to the expiration date of the permit. Also added clarification explaining automatic permit coverage renewal and how a facility qualifies.
- Y. Transfer of Permits - Clarified that the automatic transfer provision applies when the current permittee notifies the Department within 30 days of the transfer of property title (previously it was 30 days prior to transfer of property title).

GROUNDWATER WITHDRAWAL REGULATIONS- 9 VAC 25-610-10 ET SEQ.: At the June 20th meeting of the State Water Control Board, the department will request the board to adopt Groundwater Withdrawal Regulations as proposed regulations. These regulations impact all localities included in the Eastern Virginia and Eastern Shore Groundwater Management Areas. A separate regulatory proposal is being proposed concurrently with this proposed regulation to expand the Eastern Virginia Groundwater Management Area to include the remaining undesignated portion of the coastal plain.

The regulations are being amended to be more consistent with current administrative practices of other water permit program regulations. This is needed since the regulations have not been revised in many years. The application requirements for different types of permits and situations have been separated into different regulatory sections to provide more clarity concerning the requirements for complete applications. New sections have been added to address surface water and groundwater conjunctive use permits and supplemental drought relief permits. Revisions have been made to the water conservation and management plan section to specify the conservation measures and requirements that must be met, depending on the use of the groundwater. The regulations also now identify information to be provided to ensure that the need for the groundwater has been documented, and that alternatives to using groundwater have been investigated and considered. These changes will provide more certainty to the applicant concerning information to be submitted to and evaluated by the agency.

Detail of proposed changes to existing regulations:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
Throughout regulations			The term "ground water" is being changed to the term "groundwater" to be consistent with terminology established by USGS.
10		Definitions	Additional definitions were added to the regulations, including definitions of "agricultural use", "human consumption",

			"practicable", and "supplemental drought relief well". These additional definitions were added for clarity. Definitions being added are based on either federal definitions, definitions contained in other DEQ regulations, or state statute.
80		Declaration of groundwater management area	Citations included in this section are being revised to current references to state statute.
	85	Preapplication meeting	This section establishes a requirement for a preapplication meeting to occur prior to an application being submitted for a groundwater withdrawal. It also outlines the purpose of the meeting and issues to be discussed.
90		Application for a permit	This section has been amended to exclusively address historical withdrawals in a groundwater management area withdrawing prior to July 1, 1992. Previously multiple types of permits were described in this section. Each type of permit now has its own section of the regulation where application requirements are discussed. A detailed list of items needed for an application to be complete is identified in the section. The board also has the ability to not require submission of information if it has access to substantially identical information that remains accurate and relevant to the permit application.
	92	Application for a permit by existing users when a groundwater management area is declared or expanded on or after July 1, 1992.	This section has been added to address existing users when a groundwater management area is declared or expanded on or after July 1, 1992. A detailed list of items needed for an application to be complete is identified in the section. The board also has the ability to not require submission of information if it has access to substantially identical information that remains accurate and relevant to the permit application.
	94	Application for a new permit, expansion of an existing withdrawal or reapplication for a current permitted withdrawal.	This section has been added to address new permits, expansion of an existing withdrawal or reapplication for a current permitted withdrawal. A detailed list of items needed for an application to be complete is identified in the section. The board also has the ability to not require submission of information if it has access to substantially identical information that remains accurate and relevant to the permit application.
	96	Duty to reapply for a permit	These requirements were previously found in Section 90, however with the reorganization of the regulations, the duty to reapply requirements were moved to a

			stand alone section. Additionally a requirement has been added to allow for information submitted as part of a previous application that continues to be accurate to be referenced as part of the permit application. Language has also been added to allow for permits to be administratively continued if a complete application is filed in a timely manner.
	98	Incomplete or inaccurate applications	This section allows the board to return an incomplete application to an applicant and suspend processing of the application 180 days after an applicant is notified of a deficiency and fails to correct the deficiency.
100		Water conservation and management plans	The regulations now specify requirements for water conservation and management plans depending on the water use. This section provides more details to applicants concerning the specific items to be addressed in water conservation and management plans. Water Conservation and Management plans are an enforceable part of the permit.
	102	Evaluation of need for withdrawal and alternatives.	The regulations now identify specific information to be provided with the application to demonstrate the need for the groundwater requested and also requires alternative water supplies to be discussed.
	104	Surface water and groundwater conjunctive use systems	This section addresses the use of groundwater to supplement surface water supplies. It includes specific requirements for public water supplies and non-public water supplies to assist with demonstrating the amount of groundwater needed to supplement surface water sources during seasonal variations and demand changes.
	106	Supplemental drought relief wells	Applicants requiring groundwater during periods of drought may request a permit to withdraw groundwater to meet human consumption needs. This section details all of the information needed as part of a complete application and the permit requirements that the withdrawal will be subject to, as well as the evaluation that will be conducted in conjunction with evaluating the requested withdrawal.
	108	Estimating area of impact for qualifying groundwater withdrawals	This section streamlines the permit process for smaller withdrawals in cases where the agency estimates the area of impact to be less than 12 square miles. The applicant may accept the estimated area of impact or may choose to conduct a geophysical evaluation to determine the

			area of impact. The area of impact is used to determine the area in which the applicant is responsible for mitigating impacts to other users.
110		Evaluation criteria for permit applications	Citations have been updated in this section. The section now clarifies the reason pumps are required to be placed no lower than the top of the uppermost confined aquifer that a well utilizes as a groundwater source or lower than the bottom of an unconfined aquifer that a well utilizes as a groundwater source. The 80% drawdown criteria has been modified to be consistent with current agency guidance which removes the evaluation occurring at the point that is halfway between the proposed withdrawal site and the predicted one foot drawdown contour. Human consumption is also specified as the highest priority use for groundwater withdrawals.
120		Public water supplies	Citations have been updated in this section
130		Conditions applicable to all groundwater permits	This section has been updated to be consistent with the requirements placed on other types of water permits. These conditions are now consistent with other water regulations.
140		Establishing applicable standards, limitations or other permit conditions	The permit conditions have been updated to clarify the requirements of the permit. Screened intervals of the wells authorized for use by the permit are to be specified and the permit shall prohibit withdrawals from wells not authorized in the permit. The section also reiterates as a permit condition that pumps are required to be placed no lower than the top of the uppermost confined aquifer that a well utilizes as a groundwater source or lower than the bottom of an unconfined aquifer that a well utilizes as a groundwater source. Permits may require implementation of water conservation and management plans.
150		Signatory requirements	This section has been updated to be consistent with the requirements placed on other types of water permits.
160		Draft permit	This section has been updated to clarify that a decision is made to deny a permit, not an application.
170		Application for a special exception.	The section is being modified to allow the board to return an incomplete application for a special exception to the applicant. This same ability is provided to the board for applications for a withdrawal in a previous section.
220		Establishing applicable	Citations have been updated in this

		standards, limitations or other special exception conditions	section
240		Draft special exception	This section has been updated to clarify that a decision is made to deny a special exception, not an application.
250		Public notice of permit or special exception action and public comment period	The section has been updated to be consistent with the requirements placed on other types of water permits.
260		Public access to information	This section has been updated to be consistent with the requirements placed on other types of water permits.
270		Public comments and public hearing	This section has been updated to be consistent with the requirements placed on other types of water permits and public notice requirements.
280		Public notice of hearing	This section has been updated to be consistent with the requirements placed on other types of water permits and public notice requirements. The costs of public notice of the hearing shall be paid by the applicant.
Part IV		Permit and Special Exception Modification, Revocation and Denial	Throughout this part the terms "amend," "amended" and "amendment" have been replaced with the terms "modify", "modified" and "modification" which are terms commonly utilized in other water permit regulations.
300		Causes for revocation	The section has been modified to remove the requirement for a holder of a permit or special exception to agree to or request the revocation. The board has the authority to revoke a permit or special exception after public notice occurs.
330		Minor modification	A requirement for the agreement between the current and future permit holder to be notarized has been added. This provides certainty that both parties are aware of the pending transfer of the permit. The section also clarifies that the transfer notice must specify which party will be liable for compliance with the permit. The actual transfer date must be provided to the agency after the transfer occurs.
340		Denial of a permit or special exception	Specific reasons for denying a permit or special exception have been added to the regulations. This provides the applicant more certainty concerning reasons why the application may be denied. More details concerning the legal rights of the applicant are provided in this section.
400		Evaluation of regulation	This section is being repealed since it is no longer applicable. Evaluations of regulations are conducted as specified by governor's executive orders.

EASTERN VIRGINIA GROUNDWATER MANAGEMENT AREA REGULATIONS - 9VAC25-600-10 ET SEQ.: At the June 20th meeting of the State Water Control Board, the department will request the board to adopt Eastern Virginia Groundwater Management Area Regulations as proposed regulations.

The following localities are currently included in the Eastern Virginia Groundwater Management area: the counties of Charles City, Isle of Wight, James City, King William, New Kent, Prince George, Southampton, Surry, Sussex, and York; the areas of Chesterfield, Hanover, and Henrico, counties east of Interstate 95; and the cities of Chesapeake, Franklin, Hampton, Hopewell, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. Groundwater levels in the undesignated portion of Virginia's coastal plain are continuing to decline. Impacts from groundwater withdrawals are propagating along the fall line into the undesignated portion of Virginia's coastal plain and have the potential to interfere with wells in these areas without assigned mitigation responsibilities. The proposed regulation being presented to the State Water Control Board will add the following additional localities to the Eastern Virginia Groundwater Management Area: the counties of Essex, Gloucester, King George, King and Queen, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland, and the areas of Arlington, Caroline, Fairfax, Prince William, Spotsylvania, and Stafford counties east of Interstate 95. This will allow the entire coastal plain aquifer system to be managed to maintain a sustainable future supply of groundwater.

CONSIDERATION TO DESIGNATE A PORTION OF THE DAN RIVER AS A PUBLIC WATER SUPPLY: Staff intends to ask the Board at their June 21, 2010 meeting for approval to publish for public comment amendments to the Water Quality Standards regulation to designate a 1.34 mile segment of the Dan River as a Public Water Supply (PWS). At their July 23, 2009 meeting, the State Water Control Board directed staff to initiate a rulemaking to consider designating a 1.34 mile segment of the Dan River as a public water supply (PWS) in response to a petition from the City of Roxboro, NC. A raw water intake intended to serve Roxboro and the NC counties of Person and Caswell is proposed for the Dan River near the town of Milton, NC approximately 13 miles downriver from Danville, VA. North Carolina water quality standards require public water supply protections to extend 10 miles upriver from the intake. For approximately nine river miles above the intake, the Dan River flows through North Carolina. Virginia standards call for public water supply protections 5 miles upriver from the intake. Roxboro is requesting PWS protection in accordance with Virginia's water quality standards regulation for the 1.34 mile of the Dan River and sufficient length of its tributaries in Virginia to complete the ten mile run of the river as measured from the proposed intake. The intake was originally planned for 30 million gallons/day (MGD) but in 2002 the City of Danville, VA expressed concern to the NC Department of Environment and Natural Resources and Roxboro that 30 MGD was excessive. The proposed withdrawal was reduced to 10 MGD. The need for the proposed intake was prompted due to the City of Roxboro's concerns of extreme drought similar to that of 2002 and the Homeland Security Act which encourages localities to develop alternative water supply sources and inter-local connections for emergency use. The need for the intake considers the possibility that the proposed Dan River intake may be the sole source supply for the two counties and their municipalities should existing wells or reservoirs be damaged or depleted. In addition, Roxboro indicates that existing water supply may be inadequate if one or more bulk water customers locate in either of the counties. A Notice Of Intended Regulatory Action (NOIRA) was published in the Virginia Register on December 21, 2009 and the comment period ended February 15, 2010. Comment was received from the City of Danville and from Mr. Larry Lawson. In general, opposing comment received from localities is directed towards the necessity of the proposed intake, additional restrictions for upstream wastewater treatment facility (WWTF) discharges, the proposed amount of water to be withdrawn, and/or the location of the waters return. Comment received from Danville's Division of Water & Wastewater Treatment stated their strong opposition to the manner/location in which the water is returned to the Dan River. The proposed intake is near Milton, NC. Danville comment states that the existing wastewater treatment facility discharge that would

accommodate the removed water returns it to a tributary to the Dan River approximately 30 miles downriver. They maintain that interbasin transfer of water will result in a significant loss of a natural resource to communities in the Dan River watershed. There are also concerns of future increases in the amount of withdrawal from 10 MGD to 30 MGD as it is their understanding the raw water line is designed to accommodate up to 30 MGD. Another issue of concern is the possibility of degraded water quality during periods of extreme low flow in the river segment between the point of water removal and return. Should this happen they believe the City of Danville could be targeted to treat wastewater to a higher degree. Comment was received from Mr. Larry Lawson. He states his agreement that a PWS designation may be desirable to North Carolina and designation may be an appropriate action by the State Water Control Board (SWCB) but the SWCB would not benefit from this action. He states that if the modification to the Water Quality Standards results in a requirement that the Danville sewage treatment plant or any other discharger must be upgraded to produce a higher quality effluent that will result in negative financial impacts to the dischargers and the Commonwealth. Mr. Lawson believes NC should be willing to provide some incentive to the SWCB by their being agreeable to provide the monies to any wastewater discharger(s) in Virginia that are required to upgrade their wastewater facilities and provide for the continuing costs to maintain and operate these upgraded facilities. He states that designating the Dan River below Danville to the VA/NC line as a PWS has been an issue of differing opinions since the 1970s and during his time with the SWCB, the Board was opposed to the idea of designating this section of the river as a PWS. Staff recognizes the comments received address issues directly related to designating a portion of the Dan River in Virginia as a public water supply as well as issues not directly related to the designation. These other issues deal with how and where the water removed from the Dan River would be returned to the river within North Carolina and the impact that would have on uses of the river within the Commonwealth. The staff first investigated the potential impact of the public water supply designation on Virginia dischargers to the Dan River. DEQ water permits staff were consulted regarding possible impact to VPDES permitted facilities should a 1.34 mile segment of the Dan River in Virginia be designated PWS. Permitted facilities within the reach are Goodyear - Danville (VA0001201) on Hogans Creek and Blue Ridge Fiberboard (VAR050210) on the Dan. Goodyear is an individual permit with several stormwater discharges while Blue Ridge Fiberboard is a Stormwater Industrial General Permit. Permits staff is not aware of any impacts the designation would have on these facilities. The City of Danville North Side WWTF discharge point (with a diffuser) to the Dan is a little over one tenth of a mile upstream of the terminus of the petitioned PWS segment. When permit limits are calculated, low flow conditions are utilized at the point of discharge. A downstream water withdrawal would not affect calculation of permit limits for Danville's discharge. Based on the use of a diffuser at the WWTF, the effluent should be well mixed and so there should not be a concern for any downstream withdrawal. General water quality problems due to low flow (drought) would affect the WWTF regardless of the downstream withdrawal and there is little chance that the withdrawal itself will result in stricter limits for the discharges upstream of the intake. The other issues raised by the comments deal with how and where the water removed from the Dan River would be returned to the river within North Carolina. The withdrawal may be more likely to affect downstream dischargers because critical flows could be reduced for the Dan River below the intake which may be deducted from historical low flow conditions. This could reduce assimilative capacity at downstream discharge points. The closest significant discharger in VA downriver from the proposed intake is South Boston WWTF which is approximately 30 miles down river. According to the engineering consultant for the City of Roxboro, a portion of the intake water would be returned to the Dan River via the Yanceyville, NC WWTF discharge (permit No. NC004011; design flow 0.6 MGD) to County Line Creek which joins the Dan River just downriver of the proposed Milton intake and is approximately 25 miles upriver from the Town of South Boston. Another portion of the intake water would be discharged to Marlowe Creek by the Roxboro, NC WWTF discharge (permit No. NC0021024; design flow 5.0 MGD). This water is ultimately returned to the Dan River via the Hyco River approximately 10 miles downriver of South Boston**.** DEQ staff recognizes the concerns expressed in the comments from those Virginia communities downstream of the proposed water intake are not directly related to the issue of the public water supply designation. Staff also understands that issues dealing with water resources within the Roanoke River basin have been a

subject of discussion for years via the Roanoke River Bi-State Commission. In the interest of maintaining the on-going interstate cooperation, staff expects that North Carolina officials would indicate their commitment to taking similar action in their state if Virginia would ever need additional protection of a public water supply within the Commonwealth. Staff will keep the Board informed of comment received from North Carolina officials on this issue. Staff recommends the Board approve publication for public comment the following amendments to the Water Quality Standards regulation to designate a 1.34 mile segment of the Dan River as a Public Water Supply:

9VAC25-260-450. Roanoke River Basin.

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
3	III		Dan River and its tributaries from the Virginia-North Carolina state line just east of the Pittsylvania-Halifax County line upstream to the state line just east of Draper, N. C., unless otherwise designated in this chapter.
	III	PWS	Dan River and its tributaries from the Virginia-North Carolina state line just south of Danville to points 1.34 miles upstream and the first unnamed tributary to Hogans Creek from the Virginia-North Carolina state line to a point 0.45 mile upstream.

TOWN OF BROOKNEAL -FALLING RIVER LAGOON STAUNTON RIVER LAGOON - ORDER BY CONSENT - ISSUANCE: The Town's Falling River Lagoon facility has incurred Permit violations since June 2008, consisting of E. coli effluent limit exceedances, reporting deficiencies, failure to submit verification of the facility's Operation and Maintenance (O & M) Manual, failure to submit the Significant Waste Discharger Survey, and failure to submit requested documentation based on a facility inspection conducted April 13, 2009. The Town's Staunton River Lagoon facility has incurred Permit violations since March 2008, consisting of an unpermitted discharge; BOD_5, Cl_2, E. coli, and TSS effluent limit exceedances, reporting and monitoring deficiencies, failure to submit verification of the facility's O & M Manual, and failure to submit the Significant Waste Discharger Survey. The Department met with Town staff on November 5, 2009, to discuss the noncompliance issues at both facility's and corrective action required. The Town Manager informed the Department that the Town was planning to upgrade the lagoons, replacing the aeration systems with fine bubble diffusers and installing ultraviolet (UV) disinfection systems to replace the chlorine feed systems currently in use. The proposed enforcement action contains a Schedule of Compliance which gives the Town the opportunity to complete the construction of improvements to the Falling River Lagoon and Staunton River Lagoon treatment facilities, with reporting deliverables and a final construction deadline of June 21, 2011. The Order contains interim BOD_5 and TSS effluent limits, based on the 95^{th} percentile of effluent monitoring data, in order to allow the Town the opportunity to complete construction activities as proposed. The Town has submitted plans and specifications for the proposed upgrades that should improve overall treatment and removal efficiencies for both facilities. The installation of the UV systems will eliminate the need for chlorine and sodium bisulfite additions to the effluent. Overall reliability should be improved with the proposed additions.

FERRUM WATER AND SEWER AUTHORITY - CONSENT SPECIAL ORDER W/ CIVIL CHARGES: Ferrum Water and Sewer Authority ("FWSA") owns and operates the Town of Ferrum Sewage Treatment Plant ("Plant"). The Plant is operated under VPDES Permit No. VA0029254, which was most recently reissued on January 26, 2009. The permit allows FWSA to discharge treated sewage and other municipal wastes from the Plant, to Storey Creek, in strict compliance with the terms and conditions of the permit. The permit required FWSA to monitor for Nickel and Zinc and develop a plan to achieve compliance with the VPDES effluent limits no later than February 2008. Beginning in March 2007, FWSA began actively working to achieve compliance with the Nickel and Zinc limits which would become enforceable limits in February 2008. Despite these efforts, FWSA failed to comply with the Zinc and Nickel effluent limits once they became effective in February 2008. In submitting its DMRs as required by the permit, FWSA has indicated that it exceeded the Nickel and Zinc effluent limitations of Part I.A.1 of the permit for the following months: Zinc – February, April, June through August, November and December 2008 as well as January through March, April and August through November 2009 and January 2010; Nickel – July through December 2008 and January and February 2009. In addition FWSA indicated that it exceeded the Copper effluent limitations of Part I.A.1 of the permit during: November 2008, January, 2009, February 2009, August 2009, October 21009, November 2009, and January 2010; the Ammonia, Biochemical Oxygen Demand ("BOD") and Total Suspended Solids ("TSS") effluent limitations of Part I.A.1 of the Permit for the following months: Ammonia – April 2008, January through April 2009, and January 2010, BOD – January and November 2009, and TSS - November 2009. Per Department policy, Warning Letters ("WL") and Notices of Violations ("NOV") were issued to FWSA for the effluent violations. FWSA responded, as required by the WLs and NOVs and worked proactively with the Department to find an appropriate resolution of the compliance issues at the Plant. The Order before the Board includes a civil penalty of $2,200 for the violations listed above. The injunctive relief requires FWSA to develop a plan of action to address the periodic influent fluctuations that occur at the Plant and verify/certify that the in-stream gauge located at the Plant accurately measures the flow of the stream. FWSA will be required to conduct daily stream flow monitoring, conduct upstream sampling of Storey Creek, conduct a technical review of the supporting documentation used in the permit process, investigate the feasibility of reducing the permitted capacity of the plant in order to achieve compliance, and submit a plan of action to achieve compliance with the permit effluent limits. FWSA may treat the backwash water from the water treatment plant, a recently identified source of Nickel and Zinc in the system. Civil Charge: $2,200.

FALLING CREEK WATER FILTRATION PLANT/WESTERN VIRGINIA WATER AUTHORITY - CONSENT SPECIAL ORDER WITH CIVIL CHARGE – ISSUANCE: The Western Virginia Water Authority ("WVWA") owns and operates the Falling Creek Water Filtration Plant ("Plant") in Bedford County. The Plant has a VPDES Permit for discharging backwash water. For the past several years, the Plant has had difficulty meeting copper effluent limits. The WVWA adds copper sulfate to its drinking water reservoir as needed to control the algae population. Algae control is necessary to limit odor in the treated drinking water. The Department re-issued the Permit on August 28, 2004. The Permit included a schedule to meet a final effluent limit for copper of 3.6 µg/l. The Authority has attempted to meet the copper limit primarily by investigating alternatives to adding copper sulfate to the reservoir. In 2007, the WVWA operated a "Solar Bee" reservoir circulating system that was intended to disrupt the diurnal growth cycle of the algae. This system was not successful. In 2007-2008, the WVWA evaluated the feasibility of an UV/hydrogen peroxide feed system to control odor. That system

was not adopted because it was determined that it would not be cost effective. The Department received a complete application for re-issuance of the Permit on February 27, 2009. In the spring and summer of 2009, DEQ Permit staff and WVWA representatives discussed the appropriate copper limit for the impending permit re-issuance. Several studies have been considered that may affect the final limit for copper, including a study to determine whether the receiving stream should be classified as intermittent or perennial (which would determine the appropriate water quality standards which may subsequently affect copper limits in the Permit) and a water effects ratio study ("WER"). On July 17, 2009, WVWA requested an extension of the Permit. The Department administratively continued the Permit on August 7, 2009 in order to allow the WVWA to complete the WER. Instead of trying to modify the copper limit in the Permit by completing the WER, the WVWA has decided to eliminate the wastewater discharge from the Plant. In a letter dated January 12, 2010, the Virginia Department of Health ("VDH") conditionally approved a Preliminary Engineering Report ("PER") submitted by WVWA for eliminating the discharge from the Plant by returning backwash to the Plant headworks. The Order before the Board includes requirements that, not later than October 10, 2010, the WVWA shall: i) complete construction of the modifications necessary to return backwash to the headworks structure of the water treatment plant in accordance with the PER approved by VDH above; ii) cease discharging wastewater from the Plant; iii) submit a report to DEQ documenting completion of the above requirements; and iv) submit a permit termination form to DEQ for termination of the Permit. The Order also acknowledges that, while it continues to operate, the Plant experience additional violations of the total recoverable copper limit and accordingly requires that pending completion of the corrective action, WVWA shall operate the Plant in a manner that produces the best quality effluent of which it is capable, in order to minimize such additional violations and minimize potential impacts to water quality. Civil Charge: $3,500.

U.S. ARMY AND ALLIANT TECHSYSTEMS, INC. -CONSENT SPECIAL ORDER W/ CIVIL CHARGES: The Radford Army Ammunition Plant is owned by the federal government and administered by the United States Army and is operated by Alliant Techsystems, Inc ("The Parties"). In submitting the Discharge Monitoring Report ("DMR") for April 2009, the Parties indicated that they had exceeded the discharge limitation for Outfall 005, for pH, Quality or Concentration, Minimum and Maximum. In submitting the DMR for August 2009, the Parties indicated that they had exceeded the discharge limitation for Outfall 007, for pH, Quality or Concentration, Minimum. In submitting the DMR for September 2009, the Parties indicated that they had exceeded the discharge limitation for Outfall 006, for pH, Quality or Concentration, Minimum. In a transmittal letter dated October 9, 2009 that accompanied the DMR for September 2009, the Parties indicated that they believed the exceedance was related to a spill of sulfuric acid inside the Nitric/Sulfuric Acid Concentrator ("NAC/SAC") building. On November 10, 2009, the Department issued a Notice of Violation ("NOV") to the Parties for the pH effluent violation at Outfall 006, reported in the September 2009 DMR. The Order before the Board includes a civil charge of $3,300 for the violations listed above. The injunctive relief requires the Parties to review the operation and maintenance documents related to the NAC/SAC process, focusing on the policies and procedures associated with spill prevention and spill control to determine if the current procedures are sufficient to prevent spill and facilitate spill response. The Parties are also required to complete construction and place into service a new NAC/SAC building and to take the current NAC/SAC process building out of service permanently. The replacement of the NAC/SAC building is estimated to cost several million dollars. Civil Charge: $3,300.

AQUIA WASTEWATER TREATMENT PLANT - CONSENT SPECIAL ORDER-ISSUANCE: The Aquia Wastewater Treatment Plant (The Plant) is owned by the Stafford County Board of Supervisors, and is operated by Stafford County Utilities (The County). The Plant is located in Stafford County, and is authorized to discharge to an unnamed tributary of Austin Run, which is located in the Potomac River Basin, pursuant to VPDES Permit No. VA00609 (the Permit). The Permit includes the Plant and associated treatment works. This enforcement action resolves several unauthorized discharges that occurred from the Plant and associated treatment works to state waters not in accordance with the Permit. On May 20, 2009, the County reported to DEQ that a contractor installing underground cable for Dominion Virginia Power drilled through the sanitary sewer force main from the Aquia/Bridge Pump Station because a Stafford County representative had marked the utility lines poorly. The County estimated that approximately 22,500 gallons of sewage flowed into Aquia Creek. As a result of this event, the County has disciplined the located responsible for the poor marking, has purchased heavy duty laptops for locators to use in the field, and has developed a wastewater overflow response plan which includes notification protocols. On July 2, 2009, the County reported to DEQ that an unauthorized discharge of digested sludge from the sludge holding tank at the Plant had occurred. The County notified DEQ that the unauthorized discharge was a result of operator error during sludge wasting practices at the Plant, and that approximately 1,000 gallons of sludge washed into the storm drain and into Austin Run Creek. As a result of this event, the County has redirected sludge lines at the Plant, disabled the valves which run to the digester and sludge holding tank with a lock out device to prevent accidental flows from entering and overflowing these tanks, and has trained operators on new wasting and centrifuge feed practices. The Stafford County sanitary sewer collection system experienced two unauthorized discharge events at two separate pump stations on August 22, 2009. The County informed DEQ that both unauthorized discharge events occurred during storm events and were caused when lightening strikes disabled flow transducers at both pump stations. The County estimates that approximately 2.5 millions gallons of sewage was discharge from the Austin Run Pump Station into Austin Run, and 55, 000 gallons of sewage was discharged from the Potomac Hills Pump Station into Aquia Creek. As a result of these events, the County has installed an emergency float at the Austin Run Pump Station in case the transducer fails again, retrained operations personnel and facilities maintenance personnel at the Plant, wired an audio and visual alarm to alert operators when there is a communication failure, and has hired an engineering firm to upgrade the wastewater telemetry system. The Consent Order requires that the Stafford County Board repair and upgrade the telemetry system at the Plant and applicable pump stations. Stafford County has taken several actions in response to the unauthorized discharge events to ensure that similar incidents will not occur in the future. Stafford County has already spent and plans to spend a total of approximately $80,166.00 to fund these efforts. Civil Charge: $43,225. The Stafford County Board has also agreed to perform a Supplemental Environmental Project. $38,902.50 of the total penalty will be donated to the Tri-County/City Soil and Water Conservation District for projects along the Aquia Creek/Austin Run waterway in Stafford County.

EVERGREEN COUNTRY CLUB, INC. FOR THE EVERGREEN COUNTRY CLUB SEWAGE TREATMENT PLANT - CONSENT SPECIAL ORDER WITH CIVIL CHARGE- ISSUANCE: The Evergreen Country Club, Inc. (Evergreen) owns and operates the Evergreen Country Club Sewage Treatment Plant (Plant) in Haymarket, Virginia. The Permit allows Evergreen to discharge treated sewage and other municipal wastes from the Plant, to an unnamed tributary of Chestnut Lick in strict compliance with the terms and conditions of the

VPDES Permit No. VA0087891 issued on June 24, 2008 (Permit). On the Discharge Monitoring Report (DMR) for the May 2009 monitoring period, Evergreen indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for for Total Kjeldahl Nitrogen (TKN), total suspended solids (TSS), and carbonaceous Biochemical Oxygen Demand-5 day (cBOD5), for the months of May and June 2009, for E. coli in June 2009 and failed to meet the minimum requirement for dissolved oxygen (DO) On June 2, 2009, DEQ conducted a compliance inspection and observed sewage sludge in the unnamed tributary receiving stream and Chestnut Lick. On the DMR for June 2009, Evergreen indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for TKN, TSS, $CBOD_5$ and E. coli. Evergreen indicated that it believed the exceedances and the sewage sludge in the stream experienced during the May and June 2009 monitoring periods resulted from high TSS in the STP discharge related to increased flow to the Plant, due to Inflow and Infiltration (I&I) from precipitation and possible increased activity at the country club. This contributed to hydraulic overloading at the facility. In addition, a malfunction of a decanter limit switch, led to one of two Sequencing Batch Reactors (SBR) units being inoperable causing excessive solids to be discharged and leading to poor performance of the tertiary filter. On September 23, 2009, Evergreen, along with the Plant's contract operator Environmental Systems Service, LTD. (ESS), met with DEQ to discuss the violations. At the meeting ESS presented DEQ with a plan of corrective action to address the Permit exceedances, the problems with the tertiary filter and the hydraulic overloading due to I&I occurring at the Plant. The proposed plan is incorporated in Appendix A of the Order. The Order require Evergreen to: (1) conduct a system-wide evaluation of the collection system including the Plant to determine the cause(s) of the I&I, and the hydraulic overloading issues at the Plant; (2) submit a Plan and schedule for the installation of a flow equalization (EQ) tank on the system; and (3) develop and submit plans for the modification or replacement of the tertiary filter. The costs associated with the items included in Appendix A of the Order will cost Evergreen an estimated $150,000 to complete. Civil Charge: $7,500.

GUNSTON ELEMENTARY SCHOOL STP / FAIRFAX COUNTY SCHOOL BOARD - CONSENT SPECIAL ORDER WITH CIVIL CHARGE- ISSUANCE: The Fairfax County School Board (School Board) owns and operates the Gunston Elementary School Sewage Treatment Plant (Plant) in Lorton, Virginia. The Permit allows the School Board to discharge treated sewage from the Plant to South Branch of Massey Creek in strict compliance with the terms and conditions of the VPDES Permit No. VA0023299 issued on June 30 2007 (Permit). As reported on the Discharge Monitor Reports (DMRs) for the February 2007, March 2007, April 2007, May 2007, June 2007, September 2007, November 2007, December 2007, March 2008, May 2008, November 2008, January 2009, and April 2009 monitoring periods, the School Board indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for Total Suspended Solids (TSS), 5 day Biochemical Oxygen Demand (BOD_5), Ammonia as N, Dissolved Oxygen and Chlorine. In addition to discharge limit violations, the School Board violated the Permit requirement to submit an O&M update for DEQ Approval by September 30, 2007. As a result of these violations of the Permit, DEQ issued Notices of Violation (NOVs) to the School Board. To address these violations Environmental Systems Service, Ltd. (ESS) and the School Board conducted repairs and minor upgrades to the Plant between January 2008 and March 2008. This work included: the increased checking of the sludge depth in both the nitrification chamber and CCT to prevent the accumulation of solids and the associated BOD_5, TSS and Ammonia as N violations; the drilling of two drain holes into the inlet pipe to the sand filter rotary distributor to prevent the freezing problems with the distributor; the placement of auxiliary chlorine and de-chlorination feed units in the chlorine contact tank (CCT) and

dechlorination unit; and the installation of a recirculation pump in the CCT to allow for periodic freshening of the chlorinated water standing in the tank. In addition to the upgrades to the Plant, ESS and the School attempted to resolve issues of Inflow and Infiltration (I&I) that arose during March 2008. The cause was thought to be improper grading next to the sand filter. The land was re-graded: however, the problems during rain events remained. Thus, it was determined that the source of the problem was a crack in the piping between the filter inlet and the nitrification tank. The I&I work was completed on-site in September 2008. Since the I&I work was completed on-site, violations continued to occur during the November 2008, January 2009 and April 2009 monitoring periods. It was found that additional I&I work and upgrades to the Plant supplementing the previously completed work would be necessary to achieve compliance with the Permit limits. In order to resolve the violations and to prevent further violations, a Consent Order incorporating an Appendix A to resolve the issues experienced at the Plant was sent to the School Board. The Consent Order was signed by the School Board on February 24, 2010. The Consent Order requires the School Board to: (1) submit a plan for either the repair or modification of the existing STP and (2) complete chosen option within 2 years of DEQ approval. The costs associated with the items included in Appendix A of the Order will cost the Board an estimated $468,650 or $460,200 to complete depending on which of the two options is chosen by the School Board. Civil Charge: $4,850.

LOUISA COUNTY WATER AUTHORITY - CONSENT SPECIAL ORDER W/ CIVIL CHARGES: Louisa County Water Authority (LCWA) owns and operates the Zion Crossroads Wastewater Treatment Plant (WWTP) in Louisa County, Virginia. LCWA is authorized to discharge wastewater pursuant to VPDES Permit No. VA0090743 into an impoundment of Camp Creek. LCWA was referred to enforcement for violations of effluent limits for Total Phosphorus (TP) during the November 2008, May 2009, July 2009, and August 2009 monitoring periods; Total Kjeldahl Nitrogen (TKN) during the November 2008, May 2009, July 2009, and August 2009 monitoring periods; Dissolved Oxygen (DO) during the October 2008 and May 2009 monitoring periods; Total Suspended Solids (TSS) during the December 2008, May 2009, June 2009, July 2009, and August 2009 monitoring periods; $cBOD_5$ during the December 2008, July 2009, and August 2009 monitoring periods. In addition to violations of effluent limits, LCWA failed to submit a schedule of compliance for metals limits by the required due date; submitted incomplete discharge and monitoring reports (DMR) on three occasions; failed to provide a written report of non-compliance on two occasions; failed to submit an annual pretreatment report by the date required in the permit; failed to submit an industrial user survey as required by the permit; failed to use proper operations and maintenance procedures at the WWTP, and also failed to properly report E. coli sampling results. With regards to the schedule of compliance for metals limits, LCWA submitted a compliance plan on June 4, 2009 thereby resolving this compliance issue. In addition, LCWA submitted the required annual report on February 25, 2009. DEQ conducted a technical inspection on May 20, 2009, and noted deficiencies in an inspection report dated June 12, 2009. Among the deficiencies noted were accumulated solids in the channel prior to the Parshall Flume; the meters for the ultraviolet radiation (UV) used for disinfection were not functioning properly; and the thermometer for the composite sampler refrigerator was encased in ice. In addition, a review of the files found that the Operations and Maintenance (O&M) manual had not been updated after plant flow and discharge frequency increased. DEQ conducted an additional inspection on June 15, 2009, and again observed solids in both the effluent flow meter channel and the final effluent. The UV intensity meters were not functioning and some UV bulb indicator lights were not lit despite the UV bulbs being operational. LCWA completed repairs to the WWTP's sequencing batch reactor

(SBR) unit on June 2, 2009, and November 11, 2009, and to a detached decant hose on September 25, 2009. In addition, LCWA installed a temporary effluent filtration unit which became operational on December 29, 2009 and also temporary alum addition which became operational on February 27, 2010. The Order requires LCWA to (1) submit a plan of action and schedule for how it proposes to address the violations; (2) submit monthly progress reports of steps taken to achieve compliance; and (3) comply with permit requirements for reporting, monitoring, and recordkeeping as well as increased monitoring and sampling frequencies. Civil Charge: $58,050.

PRINCE WILLIAM COUNTY SERVICE AUTHORITY - CONSENT SPECIAL ORDER WITH CIVIL CHARGE - ISSUANCE: The Prince William County Service Authority (PWCSA) operates a sanitary sewer collection system located in Prince William County. The collection system of PWCSA is composed of over 900 miles of pipe, and serves the waste water treatment plants of H.L. Mooney (Prince William County) and UOSA (Fairfax County) in two distinct sections, the West End (UOSA) and the East End (Mooney). On June 13 2008, DEQ issued a Notice of Violation (NOV) to PWCSA. The NOV was in response to unpermitted discharges that occurred in May 2008. On 10 occasions during the dates of May 12-13, 2008, PWCSA pumped out a total of 1,755,500 gallons of raw sewage into the local roadways from the sanitary sewer system. PWSCA staff asserts that they pumped out the areas of the sanitary sewer in order to prevent the back up of raw sewage in the nearby homes during significant rain events. In the Mooney service area there were 5 active pump-outs during these days in May. During this same time there were 5 active pump-outs in the UOSA side of the collection system. PWCSA responded to the NOV with a letter dated June 24, 2008. The response detailed that the staff pumps out portions of the collection system only when the system "has been overwhelmed by the volume of storm water and damage to property or health is imminent." The letter goes on to explain the County's commitment to collection system upgrades and Infiltration and Inflow (I&I) work. In the response letter, the PWCSA also detailed a Capital Improvement Plan (CIP) proposing a list of projects consisting of rehabilitation, upgrades and replacement of certain problem portions of the collection system. The plan demonstrates the expenditure of approximately $26 Million from FY09 to FY13. In addition to the CIP, the Authority has proposed spending approximately $22 Million over the next five years on four large I&I projects including repair, relining and replacement of certain portions of the sewer system, over $3 Million of which has been allocated to work in the Flat Branch area. In addition, although not the subject of an NOV, during the May 2008 Monitoring Period, PWCSA: failed to comply with Permit discharge limitations for Ammonia, Total Suspended Solids and Phosphorus at the H.L. Mooney Plant (Plant); bypassed treatment units at the Plant; discharged untreated sewage from certain pump stations on four occasions; and discharged untreated sewage from a washed out sewer line. PWCSA has also attributed these violations to the above referenced rain events. The Order requires PWCSA to: (1) update the existing Operations and Maintenance (O&M) manual for the H.L. Mooney Plant detailing the manner in which the plant operates in high-flow mode; (2) provide DEQ with increased detail in the reporting of all pump-outs and overflows of the sanitary sewer system; (3) collect grab samples during each specific instance of discharge from an unpermitted discharge point within the sanitary sewer system; (4) submit a public awareness plan including, but not limited to: (a) the wording and schedule for installation of warning signs for waters affected by the pump-outs and overflows and (b) the posting of information regarding the date, location and gallonage of pump-outs and overflows, on the Service Authority's website and local newspapers; (5) submit a schedule for nine planned projects within the collection system, including the cost information for each project and an estimate of the amount by which

surcharging or pump-out of the collection system will be avoided upon completion of these projects. Civil Charge: $25,320. $22,788.00 of the civil charge will be satisfied by completing a Supplemental Environmental Project (SEP). The SEP to be performed by the Service Authority is the contribution of $22,778.00 from PWCSA to the Prince William County Department of Public Works (DPW) towards the stream stabilization and restoration of the severely impacted stream bank of Cow Branch starting at Route 1 and running northwesterly for approximately 1,400 lf to Mellott Road.

MANAKIN WATER & SEWERAGE CORPORATION - CONSENT SPECIAL ORDER - ISSUANCE: Manakin Water and Sewerage Corporation (Manakin Farms) owns and operates the Manakin Farms Lagoon which treats and discharges treated sewage and other domestic wastes, for the residents of Manakin Farms Subdivision in Goochland County, Virginia. The Permit, issued September 30, 2008, and which expires on September 29, 2013, allows Manakin Farms to discharge to an unnamed tributary of the Little River. A review of DMRs submitted for the April 2008 through December 2008 monitoring periods indicated that Manakin Farms exceeded permit discharge limitations for TKN in April, May, June, July, October, and November of 2008. In addition, the DMR submitted for the October 2008 monitoring period was submitted on an outdated form and the data were reported incorrectly as a result. Total cyanide analysis, required to be performed once per month, was not reported on the DMRs for the October 2008 and November 2008 monitoring periods. DMRs received at the DEQ-PRO for the April 2008 through June 2008 monitoring periods (inclusive) did not contain the signature of a Principal Executive Officer or Authorized Agent. The number of excursions reported on the aforementioned DMRs did not correspond to the analytical data recorded on the corresponding bench sheets submitted with the DMRs. The Department issued Notices of Violation on August 26, 2008 and February 12, 2009 for the above violations. A review of DMRs for the January through July 2009 monitoring periods indicated TKN violations in April, May, June, and July 2009. The DMR submitted for January 2009 was on an outdated form causing some of the data to be reported using incorrect units, and there was no seasonal data for $CBOD_5$ and total cyanide. The groundwater monitoring plan, due December 29, 2008, was submitted late on February 4, 2009. The Department issued a Notice of Violation for these violations on September 1, 2009. The Department met with Manakin Farms on June 10, 2008 and February 22, 2010, to review and discuss the compliance issues at the Facility. Manakin Farms has decided to sell the system to Aqua Virginia, Inc.(Aqua) in the Fall of 2010. Aqua is committed to upgrading the system such that it will meet the permitted effluent limits. The Consent Order requires Manakin to submit documentation of the sale by November 15, 2010 and contains interim limits for copper, CBOD, and TKN. If the sale is not completed, Manakin Farms must submit a detailed corrective action plan (CAP) and implementation schedule addressing how it will achieve consistent compliance with Permit effluent limitations, sampling and reporting requirements The cost of the injunctive relief is unknown at this time, however an upgrade to include a flow expansion is needed and could cost as much as $2,000,000 depending on the extent of work needed at the Facility. After the sale of the system, a new Order will be issued to Aqua with an upgrade construction schedule.

TOWN OF SURRY - CONSENT SPECIAL ORDER W/ CIVIL CHARGES: The Town of Surry owns and operates a wastewater treatment system serving the residents and businesses of the Town. Approximately 75% of the flow is domestic sewage from 150 residential homes and 23% is from non-domestic sources. The Department and the Town of Surry entered into a Consent Order on June 29, 2007. The 2007 Consent Order required the Town to connect to the

regional sewer collection system owned by the County of Surry. After analysis of the project, the County determined that it could not accept wastewater flow from the Town. A review of the Town's DMRs for the May 2008 through March 2009 monitoring periods indicate that the Town failed to meet Permit effluent limits for TKN, CBOD, total copper, and chlorine. In addition, the monthly average influent flow to the treatment works exceeded the design flow (0.060 MGD) for more than three (3) consecutive months and the Town failed to submit a plan to DEQ to address high flows as required by the permit. Surry also failed to submit timely DMRs for the May 2008 through February 2009 monitoring periods (all were received on April 10, 2009), and improperly reported total chlorine (parameter 005) on monthly DMRs submitted for the May 2008 through March 2009 (inclusive) monitoring periods. The Department issued a Notice of Violation ("NOV") on May 20, 2009, citing the Town for the above violations. In June 2009 a diesel fuel spill occurred, causing an upset at the plant which resulted in additional effluent violations. On January 4, 2010, the Department issued an NOV for additional effluent violations which were reported on monthly DMRs by the Town for the April 2009 through October 2009 monitoring periods. The Department met with the Town of Surry on June 8, 2009, to review and discuss the NOV. The Town hired a new plant operator on April 1, 2009, who provided a diagnostic evaluation of the plant at the meeting. A Schedule of Compliance to return the Town to compliance is incorporated as Appendix A of the proposed Order. Because the Town cannot connect to the regional sewer collection system, the Order requires that the Town upgrade its plant and adjust its sewer rates to 1.25% of median household income in order to raise money for the upgrade. The Order also contains interim limits for copper, CBOD, and TKN. The cost of the injunctive relief is unknown at this time, however an upgrade to include a flow expansion could cost as much as $3,000,000 depending on the extent of work to alleviate inflow and infiltration. There was no economic benefit to the Town as a result of the noncompliance. Civil Charge: $7,020.

U.S. DEPARTMENT OF THE NAVY, NAVAL AIR STATION OCEANA, DAM NECK ANNEX - CONSENT SPECIAL ORDEr: The United States Department of the Navy ("Navy") operates a training facility at the Naval Air Station Oceana, Dam Neck Annex ("Facility"). Heating and air conditioning to most of the Facility's buildings is provided by a closed-loop system in which heat from the individual geothermal heat pumps in each building is transferred to a heat-exchange medium, which is mostly water, that circulates throughout the closed-loop system. The heat absorbed by the heat-exchange medium is transferred to non-contact cooling water through a series of heat exchangers located in a central operations building operated by a contractor. The entire closed-loop system contains approximately 680,000 gallons of liquid heat-exchange medium. The main pipe that circulates the liquid heat-exchange medium throughout the Facility is located underground, except outside Buildings 508 and 510 where it connects to the heat-exchange pipes that service individual buildings at above-ground risers. A commercial product, BL1821® is injected into the heat-exchange medium at the heat exchangers in order to inhibit bacteria growth in the liquid heat-exchange medium. BL1821®, the active ingredient of which is sodium nitrite, is toxic to aquatic organisms and is moderately harmful to human health through ingestion, inhalation, or direct contact. The system operator maintains a level of sodium nitrite in the liquid heat-exchange medium of approximately 500 parts per million. On August 10, 2009, a Navy representative reported to DEQ the discharge of approximately 240,000 gallons of heat-transfer fluid (containing a total of 1,200 pounds of sodium nitrite) from a broken pipe near Building 508 at the Facility. While some of the fluid soaked into the ground in the vicinity of Building 508, an unknown quantity discharged to State waters (Lake Tecumseh) by way of a storm drain and storm water drainage ditch. The discharge

was reported to have occurred on August 8, 2009, and reported to DEQ more than 24 hours after the discharge. Lake Tecumseh is a very shallow lake owned by the Hampton Roads Sanitation District ("HRSD") that serves as an operational buffer between an HRSD waste water treatment plant and nearby residential neighborhoods. It is used occasionally by members of the public for recreational boating and fishing. The broken pipe was attributed to the failure of a transition flange at the above-ground riser outside Building 508 where the main pipe connects to the pipes that service individual buildings. Analyses of water samples from Lake Tecumseh showed no apparent impact on water chemistry from the discharge and there were no reports of dead fish or other aquatic life. On August 19, 2009, DEQ issued a Notice of Violation ("NOV") to the Navy for the unpermitted discharge to State waters of approximately 240,000 gallons of condensate water/sodium nitrite solution on August 8, 2009, and for failure to report the discharge to DEQ within 24 hours of its occurrence. DEQ staff met with Navy representatives at the Facility on September 15, 2009, and confirmed the repair of the transition flange at the above-ground riser outside Building 508 where the failure had occurred. The Order requires the Navy to prepare a corrective action plan and schedule that examines the root cause of the release of sodium nitrite to State waters and describes actions the Navy will be taking to prevent future releases from the Facility's heat-exchange system. The Order also requires the Navy to submit to DEQ documentation of inspections, repairs and maintenance of the Facility's heat-exchange system for four semi-annual periods with the first submittal due by January 15, 2011.

TOWN OF STANLEY - STANLEY STP - CONSENT SPECIAL ORDER WITH A CIVIL CHARGE: The Town of Stanley ("the Town") owns and operates the Plant and the sewage collection system serving the Town in Page County, Virginia. The Permit allows the Town to discharge treated sewage and other municipal wastes from the Plant to South Fork Shenandoah River, in strict compliance with the terms and conditions of the Permit. Presently, the Town is under a Consent Order that became effective July 5, 2005 ("2005 Order"), to address sludge handling problems at the STP and I&I problems in its collection system. The 2005 Order required the construction of new sludge handling equipment and to conduct certain I&I investigations and repairs. The Town has completed the sludge handling improvements and many of the repairs of the high priority I&I problems identified to date. However, the Town continues to experience significant I&I events. The design capacity of the Plant has been rated and approved as 0.30 MGD. As of March 2007 (March, February and January 2007), the effluent flows from the Plant exceeded design capacity for three consecutive months. The Plant has also experienced maximum daily flows which exceeded 1.0 MGD during certain weather conditions. These exceedances of the design capacity appear to coincide with periods of wet weather. On July 6, 2009, DEQ received a pollution complaint regarding fish kills in two landowners' ponds lying within the drainage of an unnamed tributary of Mill Creek. On July 6, 2009, DEQ staff investigated the complaint and documented an unpermitted discharge of sewage from the area of the Town's Aylor Grubbs Road pump station to the ponds. During the investigation, DEQ determined that the unpermitted discharge of sewage entered an unnamed tributary to Mill Creek and the ponds, causing fish kills in the ponds. On July 7, 2009, the Town reported that a force main break occurred at the Aylor Grubbs Road pump station on June 29, 2009. On July 8, 2009, during DEQ's continuing investigation, staff noted an unknown number of fish were killed on the ponds as a result of the unpermitted discharge of sewage. On July 10, 2009, the Town submitted a letter of explanation for the June 29, 2009 unpermitted discharge at the Aylor Grubbs Road pump station. The Town indicated that a significant leak occurred as the result of a severe break in the force main along Aylor Grubbs Road. In order to make repairs, it was necessary to turn off the pump station which discharges wastewater through the force main. The

wet well of the pump station filled and overflowed before the force main could be placed back into service. The wastewater overflowed into an unnamed tributary of Mill Creek, a tributary of the South Fork of the Shenandoah River. On August 13, 2009, DEQ issued a Notice of Violation to the Town of Stanley for the unpermitted discharge of sewage resulting in a fish kill. The NOV also cited the Town with failing to report the unpermitted discharge in a timely manner. On August 26, 2009, DEQ staff met with representatives of the Town to discuss the NOV. The Town indicated that there have been a number of force main breaks in the first 1000-foot section of the force main near the Aylor Grubbs Road pump station, and it was investigating potential causes of such breaks. DEQ requested that the Town submit a plan and schedule of corrective actions to address the force main problems and I&I corrective actions. By letters dated September 28, 2009, and November 23, 2009, the Town submitted to DEQ plans and schedules of corrective actions to address the force main issues and actions to further address the Town's collection system I&I problems. The Town is to conduct certain I&I corrective actions to address previously identified prioritized collection system deficiencies utilizing stimulus monies obtained through the State of Virginia. The Town may only use those monies to correct specific problems previously identified that were included in the Town's approved funding request proposal. In addition to those actions, the proposed Order requires the Town to continue addressing I&I problems as incorporated into Appendix A of the Order. The proposed Order, signed by the Town on March 5, 2010, requires the Town to repair/replace the first 1000-foot section of the force main associated with the Aylor Grubbs pump station and to conduct additional corrective actions to address the Town's I&I problem. The Order also includes a civil charge. Civil Charge: $12,285.

WAYNESBORO STP/CITY OF WAYNESBORO - CONSENT SPECIAL ORDER AMENDMENT WITH A CIVIL CHARGE: The City of Waynesboro ("the City") owns and operates the Plant ("the Plant") and the sewage collection system serving the City and a portion of Augusta County, Virginia. The Permit allows the City to discharge treated sewage and other municipal wastes from the Plant to the South River, in strict compliance with the terms and conditions of the Permit. Presently, the City is subject to a Consent Order that became effective October 19, 1999, and was amended September 1, 2004, ("2004 Amendment"), to continue to address I&I problems in its collection system. The 2004 Amendment required the City to complete the removal of all private sump pumps and roof leader connections to the sewage collection system and to conduct rehabilitation work on a list of eight (8) prioritized areas needing rehabilitation, and then to evaluate the success of those repairs and to provide a schedule for additional areas needing rehabilitation. The City has completed the requirements contained in Appendix A of the 2004 Amendment. However, the City continues to experience I&I events, including overflows, bypasses and most significantly, discharges of raw wastewater from the City's siphon discharge location. The design capacity of the Plant has been rated and approved as 4.0 MGD. The City is presently constructing an upgraded and expanded sewage treatment plant designed to meet nutrient limits with a design capacity of 6.0 MGD that is scheduled to be brought online by December 31, 2010. This Plant will have the capability to treat wet weather flows up to 18 MGD. The City expects that until the completion of the upgraded and expanded sewage treatment plant, it will not be able to prevent further unpermitted discharges from the siphon discharge location. The City utilizes the Plant's headworks gate to regulate influent flows to prevent Plant flooding and damage during certain high flow rainfall events. When this gate is shut, the influent flows are shunted to the siphon discharge point, thus bypassing all treatment. The City anticipates being able to discontinue the use of the gate control and the siphon discharge with the completion of the Plant upgrade/expansion. On October 6, 2008, November

2, 2008, December 3, 2008, and January 12, 2009, DEQ issued Warning Letters to the City for chlorine concentration minimum and CBOD concentration average violations in August 2008, unauthorized discharges in September 2008, a chlorine concentration minimum violation in October 2008, and a chlorine concentration minimum violation in November 2008. On February 9, 2009, DEQ issued a Notice of Violation to the City for a chlorine concentration minimum effluent limitation violation in December 2008. On February 20, 2009, DEQ staff met with representatives of the City to discuss the NOV and corrective actions needed to address the problems. DEQ requested that the City submit a plan and schedule of corrective actions to address the problems. On August 13, 2009, September 11, 2009 and October 5, 2009, DEQ issued Notices of Violation to the City for failure to survey all of its industrial users as required by the pretreatment provisions of the Permit as noted in DEQ's June 3, 2009 inspection; for an ammonia-N concentration average violation in July 2009; and a pH concentration minimum violation in August 2009. In addition, there were unauthorized discharges in January, April, and December 2009, the late submittal of a semi-annual progress report due April 10, 2009 which was received June 5, 2009, and the late submittal of a TMP report due September 10, 2009, which was received October 29, 2009. These violations were not included in any enforcement documents. By letters dated November 10, 2009 and January 25, 2010, the City submitted to DEQ a plan and schedule of corrective actions to further address the City's collection system I&I problems for incorporation into this Order. The proposed Amendment, signed by the City on March 18, 2010, requires the City to complete construction of the Plant upgrade and expansion and to conduct additional corrective actions to further address the City's I&I problem. The Order also includes a civil charge. Civil Charge: $7,630.

MR. KURT A. LORENZ - CONSENT SPECIAL ORDER WITH CIVIL CHARGE: Mr. Lorenz owns the 21.18 acre property located at 1949 Centerville Turnpike South, Chesapeake, Virginia. Mr. Lorenz does not have a VWP permit for the property. On January 4, 2008, while on a site visit at an adjacent property, DEQ staff noticed a large amount of land clearing activity on the Lorenz property. On closer inspection, the majority of the property had been cleared, grubbed of stumps and graded, and woody debris piles remained. Upon return from the site visit, a review of U.S. Fish & Wildlife Service National Wetlands Inventory maps depicted the majority of the property as wetlands. On January 17, 2008, DEQ issued Notice of Violation No. W2008-01-T-002 to Mr. Kurt Lorenz for unauthorized impacts to wetlands and discharge of pollutants. U.S. Army Corps of Engineers (USACE) staff visited the property on January 23, 2008 and determined that current on-site and off-site evidence indicated that approximately the area west of the square that fronts Centerville Turnpike was wetlands prior to recent unauthorized land clearing activities. USACE staff submitted to DEQ an aerial view depicting this wetlands boundary for the Property as a draft wetlands determination. On February 10, 2010 Mr. Lorenz submitted to DEQ a Wetland Assessment of the property produced by his consultant. This Wetland Assessment, using GPS points, estimated the wetland impacts on the property at 10.8 acres. On February 11, 2010 USACE sent to Mr. Lorenz a preliminary wetland delineation, which was consistent with the 10.8 acres wetland impacts shown on the USACE prior draft wetlands determination (January 23, 2008 site visit) and the Wetland Assessment provided by the consultant to Mr. Lorenz. The Order requires submittal of an approvable Preservation and Restoration Plan and Implementation Schedule for the 10.8 acres of impacted wetlands on the property, and payment of a civil charge. The Order was executed on January 27, 2010. Civil Charge: $22,750.

BELVEDERE/BELVEDERE STATION LAND TRUST - CONSENT SPECIAL ORDER WITH A CIVIL CHARGE: Belvedere Station Land Trust "BSLT" owns a 206.68 acre mixed commercial and housing development in Albemarle County, Virginia ("Property"). On March 28, 2007, DEQ issued Virginia Water Protection Permit No. WP4-06-2581 to BSLT for the Property, authorizing permanent impacts to approximately 763 linear feet of stream channel, 0.01 acres of palustrine scrub shrub wetland, 0.02 acre of palustrine forested wetlands, and temporary impacts to 0.62 acres of open water, all associated with unnamed tributaries to the South Fork Rivanna River, each of which are considered State waters. On April 3, 2009, DEQ issued a Warning Letter to BSLT for failure to submit the semi-annual Construction Monitoring Report, due October 10, 2008, and failure to have the protective mechanism for the compensation sites recorded and in place by August 21, 2008. On June 1, 2009, DEQ issued a Warning Letter to BSLT for failure to submit the semi-annual Construction Monitoring Report, due October 10, 2008, failure to have the protective mechanism for the compensation sites recorded and in place by August 21, 2008, and failure to submit the semi-annual Construction Monitoring Report due April 10, 2009. On July 29, 2009, DEQ issued a NOV to BSLT for failure to submit the semi-annual Construction Monitoring Report due October 10, 2008, failure to have the protective mechanism for the compensation sites recorded and in place by August 21, 2008, and failure to submit the semi-annual Construction Monitoring Report due April 10, 2009. On October 27, 2009, DEQ staff met with representatives of BSLT to discuss the violations and corrective actions necessary for BSLT to return to compliance. During the October 27, 2009 meeting, DEQ requested that BSLT submit a plan and schedule of corrective actions for returning to compliance. On November 9, 2009, BSLT submitted a written plan and schedule of corrective actions for incorporation into a proposed Consent Order to record the protective mechanism for the compensation sites and to complete the Permit required compensation. Although BSLT started the wetland compensation through a contribution to the James River Mitigation Land Bank as required by the Permit, it did not begin the on-site stream compensation. The proposed Order, signed by BSLT on April 1, 2010, requires BSLT to have an approved mechanism for protection of the compensation area site and to complete the compensation work required by the Permit. The Order also includes a civil charge. Civil Charge: $7,911.

EVERGREEN LAND DEVELOPMENT, LLC MOUNTAIN VALLEY FARM SUBDIVISION - CONSENT SPECIAL ORDER WITH A CIVIL CHARGE: Evergreen Land Development (ELD) owns a 566-acre housing development consisting of single-family-home rural estates known as the Mountain Valley Farm Subdivision (Property) at the Property in Albemarle County, Virginia. On January 30, 2004, DEQ issued Virginia Water Protection Permit No. WP4-03-2610 (Permit I) to ELD for the Property with an expiration date of January 29, 2009. Permit I authorized permanent impacts to approximately 0.33 acres of palustrine, emergent wetlands, 793.75 linear feet of intermittent stream channel, and 362.77 linear feet of perennial stream channel associated with unnamed tributaries to Biscuit Run, each of which are considered State waters. On July 26, 2006, DEQ issued Virginia Water Protection Permit No. WP4-06-1273 (Permit II) to ELD for the Property with an expiration of July 25, 2011. Permit II was to take the place of Permit I, since ELD proposed to impact an additional 127.8 linear feet of perennial stream for construction of a road. Permit II authorized permanent impacts to approximately 0.33 acres of palustrine, emergent wetlands, 793.75 linear feet of intermittent stream channel, and 490.57 linear feet of perennial stream channel associated with unnamed tributaries to Biscuit Run, each of which are considered State waters. On April 2, 2008, DEQ issued Virginia Water Protection Permit No. WP4-08-0177 (Permit III) to ELD for the Property

with an expiration date of April 1, 2015. Permit III was to take the place of WP4-06-1273 since ELD proposed to impact an additional 47 linear feet of perennial stream for the correction of an improperly placed culvert serving a road. Permit III authorized permanent impacts to approximately 0.33 acres of palustrine, emergent wetlands and 1,332 linear feet of stream channel associated with unnamed tributaries to Biscuit Run, each of which are considered State waters. On March 9, 2009, DEQ staff inspected the Property to verify compliance with Permit III. During the inspection, staff observed sediment in the stream below the culvert at an impact area which was attributed to inadequate E&S controls; and that construction of certain cross vanes and weirs was not complete as required by a previously approved corrective action plan to address an incorrectly installed culvert. Prior to the inspection, staff noted that the semi-annual construction monitoring report due December 10, 2008 had not been received. On March 24, 2009, DEQ issued a Warning Letter to ELD for the violations observed during the March 9, 2009 inspection, which included failure to provide the semi-annual construction monitoring report due December 10, 2008 and the failure to provide the compensation monitoring report due November 30, 2008. On April 7, 2009, ELD's engineering consultant submitted a construction monitoring report in response to the Warning Letter. The monitoring report indicated that a vegetative assessment of the original compensation areas for the Project (riparian buffer and wetland enhancement areas) documented that only 594 of the 3,120 trees required by the approved mitigation plan were planted. On April 27, 2009, DEQ issued a NOV to ELD for the late submittal of the semi-annual construction monitoring report due December 10, 2008, failure to follow the approved final mitigation plan's requirements for planting the proper numbers of trees in the riparian buffer enhancement area, presence of sediment in the stream below the culvert at Impact #9, and failure to construct the cross vanes and weirs permitted as a corrective action for an improperly placed culvert. On June 23, 2009, DEQ staff met with representatives of ELD to discuss the violations and corrective actions necessary to return to compliance. During the June 23, 2009 meeting, ELD asserted that its construction contractor is primarily responsible for the majority of the problems on site. DEQ requested that ELD submit a plan and schedule of corrective actions to address the outstanding non-compliance issues. On July 13, 2009, ELD submitted a written Corrective Action Plan for incorporation into a proposed Consent Order to address the outstanding violations. The proposed Order, signed by ELD on October 7, 2009, requires ELD to have an approved mechanism for protection of the compensation area site and to apply and obtain a continuance of the VWP Permit. The Order also includes a civil charge. Civil Charge: $8,236.

SHINE TRANSPORTATION, INC. - CONSENT ORDER - ISSUANCE: Shine Transportation, Inc. (Shine) transports petroleum products to customers via tractor trailer tankers. On January 26, 2009, DEQ received notification of a discharge of diesel/fuel oil in a storm drain in the median of the Dulles Greenway near Shreve Mill Road which directly leads to an unnamed tributary of Sycolin Creek. The notification indicated that on January 26, 2009, a Shine Transportation tanker truck laden with 7,501 gallons of diesel fuel was in an accident when the driver fell asleep at the wheel. The truck rolled and came to rest in the median. The impact caused approximately 5,500 gallons of diesel fuel to drain onto the ground, into a storm drain, and into an unnamed tributary of Sycolin Creek. The diesel fuel impacted approximately 3,400 linear-feet of stream. On March 26, 2009, Shine Transportation, Inc. submitted an Initial Abatement Report (IAR) to the Department. This report provided information regarding the efforts of the consultant, GEC Environmental Contracting Corporation (GEC), to contain the spill and conduct the clean up of the site, including the excavation of the median and a swale going from the storm drain pipe to the tributary waters. On April 9, 2009, Department staff met

with representatives of Shine Transportation to discuss the accident, discharge, emergency response, spill control, clean-up, and future required actions. At the meeting the need for soil and water sampling was discussed, in addition to the need to do a site characterization of the spill site to assess the impact to the groundwater. On August 11, 2009, the cleanup of the site had been completed in compliance with the requirements of Va. Code § 62.1-44.34:18, and by October 1, 2009, the ground water monitoring wells had been installed and sampling had begun. Therefore no further corrective action was included in the final Consent Order (Order). The Order requires Shine to pay a civil charge and investigative costs incurred by the PREP program to investigate and monitor the accident, discharge, and the subsequent cleanup. At the time of signature of the Order by Shine, the cleanup of the site had been completed at a cost of $500,000. Civil Charge: $17,000 and $2,784.09 in investigative costs.

IMPERIAL TRANSPORT OF TENN., INC. - ISSUANCE OF A CONSENT SPECIAL ORDER WITH A CIVIL CHARGE, AND WITH RECOVERY OF COSTS RELATED TO THE INVESTIGATION: Imperial Transport of Tenn., Inc. ("Imperial") operates an oil transportation business located at 663 Londonderry Road, Cumberland Gap, Tennessee, transporting petroleum products to customers via tractor trailer tankers. Imperial is a transport company only; it does not own the fuel it transports. At approximately 9:13 a.m. on August 11, 2009, staff from DEQ's Southwest Regional Office ("SWRO") received notification of a discharge of fuel near Pound, Virginia. The discharge of off-road diesel fuel occurred at the intersection of U.S. Route 23 and State Rt. 671, in Wise County, Virginia. The notification indicated that, at approximately 8:50 a. m. on August 11, 2009, an Imperial tanker truck laden with approximately 7,400 gallons of off-road diesel fuel hydroplaned on wet pavement during a rainstorm and hit a guardrail, rupturing the fuel tanker. Diesel fuel was discharged onto the shoulder of the highway, entered the South Fork Pound River, and ultimately reached the Pound River. DEQ staff investigated the discharge as IR No. IR 2010-S-0051. Abatement and cleanup was coordinated by Enviropro, the consultant/cleanup contractor hired by Imperial. Enviropro contracted with two additional companies, Hepaco and American Environmental, to assist in removal of fuel from the river. Two underflow dams were constructed, containment and absorbent booms installed, and oil skimmers and vacuum trucks utilized to collect and remove product from the river. Total distance of impact was estimated to be approximately 2.5 to 3.0 miles. An additional containment boom was placed approximately 8.0 miles downstream. No product was recovered from that location. No fish were killed. No water supply intakes were affected. On October 1, 2009 and November 16, 2009, Shield Engineering, Inc. submitted written reports of the response, cleanup and monitoring activities to DEQ on behalf of Imperial. A total of approximately 17,045 gallons of water/fuel mix were recovered from the river. Approximately 362.42 tons of impacted soils were removed from the site for disposal. On January 12, 2010, the Department issued Notice of Violation No. NOV-001-0110-WA to Imperial for a discharge of oil to the environment. On January 26, 2010, Department staff met with representatives of Imperial to discuss the discharge, emergency response, spill control and clean-up, and future actions. Civil Charge: $11,1000 and$3,010.20 in investigative costs.

SALT PONDS MARINA RESORT, LLC - CONSENT SPECIAL ORDER WITH A CIVIL CHARGE: Salt Ponds Marina Resort, LLC ("Salt Ponds Marina") owns and operates a marina and resort complex ("Facility") located on Salt Pond in the City of Hampton. As a result of having received from Salt Ponds Marina a report of the release of a small amount (approximately 40 gallons) of diesel fuel from the Facility to State waters on August 13, 2009, DEQ determined from a records review that the USTs at the Facility had not been registered with DEQ as required

by regulation. Consequently, DEQ compliance staff ("staff") conducted a formal inspection of the Facility on September 28, 2009. Staff determined that there were two 10,000-gallon USTs at the Facility (one containing gasoline and the other diesel fuel) that had been installed by the Facility's previous owner in 1987 for the purpose of resale to marina patrons. That inspection revealed the following regulatory deficiencies: the two USTs at the Facility had not been registered with DEQ; the metal components of the underground piping associated with the USTs were not protected from corrosion; there was no working release-detection system installed; release-detection records were not available; the annual tests of the line-leak detectors had not been performed; and the Facility owner had not provided DEQ with evidence of financial responsibility for potential releases from the UST systems. On October 8, 2009, DEQ issued a Notice of Violation ("NOV") advising Salt Ponds Marina of the deficiencies revealed during the Facility inspection conducted on September 28, 2009. A representative of Salt Ponds Marina confirmed by electronic mail on November 24, 2009, that both the gasoline and diesel-fuel lines, including the line-leak detectors, would be replaced; that the metal components thereof would be wrapped to protect them from corrosion; that the automatic tank gauge will be repaired or replaced; and that the Facility owner was negotiating a line of credit with a bank. DEQ was subsequently informed that the bank issued a letter of credit on February 22, 2010. The Order requires Salt Ponds Marina to pay a civil charge within 30 days of the effective date of the Order. To ensure sustained compliance with statutory and regulatory requirements, the proposed Order would also require Salt Ponds Marina to submit to DEQ satisfactory evidence of financial responsibility and a corrective action plan and schedule to bring the UST systems into full compliance with statutory and regulatory requirements, including corrosion protection, release detection, and line-leak detection and, for one year after the effective date of the Order, to quarterly submit copies of all UST system inspections, line-leak detection tests, and records of release-detection conducted during that quarter. As noted above, the evidence of financial responsibility has already been provided. Civil Charge: $13,465.

FY 2010 VIRGINIA CLEAN WATER REVOLVING LOAN FUND GREEN PROJECT RESERVE AUTHORIZATIONS: At its March, 2010 meeting, the Board targeted 17 green reserve projects totaling $10,076,484 in loan assistance from available and anticipated FY 2010 resources and authorized the staff to present the proposed green reserve project funding list for public comment. A public meeting was convened on May 11th. Notices of the meeting were mailed to all loan applicants and advertised in six newspapers across the state. All comments received were in support of the projects on the funding list. The staff has conducted initial meetings with the FY 2010 targeted green reserve recipients and has finalized the associated user charge impact analyses in accordance with the Board's guidelines. Based on discussions at these meetings and comments received during the public review period, one change has been made to the recommended funding list. At their request, the Meadowview Biological Research Station project that was originally authorized by the Board at the December meeting (for $290,000) has been moved over into this green reserve funding list because it now qualifies as a green reserve project and, as such, is eligible to receive principal forgiveness for a portion of the funding. This change results in the 2010 green project reserve funding list increasing to 18 projects being recommended for final authorization at a revised total amount of $10,366,484. As you may recall, when Congress finalized the federal SRF appropriation for FY 2010 it included a requirement for this green project reserve as well as a new requirement that a portion of the federal funds must be provided in the form of principal forgiveness loans (similar to grants). At the December, 2009 meeting, the Board authorized some principal forgiveness loans to conventional hardship projects but retained enough funds such that up to 50% of the required

green reserve project funding could be in the form of principal forgiveness. In accordance with the residential user charge impact analysis conducted for each project, the loan terms listed below are submitted for Board consideration. Projects meeting the Board's hardship criteria received a 0% interest rate while those that did not received the ceiling rate. As you can see, 50% of the funding for 16 of the projects and 40% of the funding for the 2 largest projects are in the form of principal forgiveness. This funding mix satisfies both the green project reserve and principal forgiveness requirements. Once approved, this information will be forwarded to Virginia Resources Authority (VRA) for concurrence and recommendation. The VCWRLF ceiling rate is set at 1% below the current municipal bond market rate. The program successfully sold leverage bonds this year to fund projects and received an all in true interest cost on those bonds of 3.93%. Therefore, the ceiling rate for FY 2010 has been established at 2.93%, the lowest in the history of the program.

FY 2010 Proposed Interest Rates and Loan Authorizations for the Green Reserve Projects

	Locality	Loan Amount	Rate/Loan Term/Principal Forgiveness
1	Albemarle County	$800,000	2.93%/20 years/50%PF
2	Town of Appalachia	$664,984	0%/20 years/50%PF
3	Town of Big Stone Gap	$186,381	0%/20 years/50%PF
4	Town of Herndon	$200,000	2.93%/20 years/50%PF
5	HRSD/Atlantic	$3,000,000	**2.93%/20 years/40%PF**
6	Town of Leesburg	$200,417	2.93%/20 years/50%PF
7	Loudoun Water	$70,000	2.93%/20 years/50%PF
8	Loudoun Water	$100,000	2.93%/20 years/50%PF
9	Loudoun Water	$90,000	2.93%/20 years/50%PF
10	Town of Marion	$500,000	0%/20 years/50%PF
11	Middle Peninsula PDC	$250,000	0%/10 years/50% PF
12	City of Petersburg	$600,000	2.93%/20 years/50%PF
13	City of Richmond	$450,000	0%/20 years/50%PF
14	Town of Rocky Mount	$223,452	2.93%/20 years/50%PF
15	Upper Occoquan Service	$2,000,000	2.93%/20 years/40%PF
16	Town of Warrenton	$201,250	2.93%/20 years/50%PF
17	Town of Wytheville	$540,000	2.93%/20 years/50%PF
18	Meadowview Biological	$290,000	2.93%/20 years/50%PF
	Total Request	**$10,366,484**	**PF= Principal Forgiveness**