



## Exempt Action Proposed Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC25-194 9VAC25-810
<b>Regulation title</b>	General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Vehicle Wash Facilities and Laundry Facilities General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Coin-Operated Laundries
<b>Action title</b>	Amend and Reissue Existing Regulation (9VAC25-194) Repeal Existing Regulation (9VAC25-810)
<b>Document preparation date</b>	August 18, 2011

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This rulemaking proposes to replace and update VAG75 (the VPDES car wash general permit) which expires October 16, 2012 and combine into this permit VAG72 (the VPDES coin-operated laundry general permit) which expires February 8, 2016. A secondary action associated with this rulemaking is the repeal of the VPDES coin-operated laundry general permit since the requirements of that permit (VAG72) are being incorporated into VAG75.

The general permit will establish limitations and monitoring requirements for point source discharge of treated wastewaters from vehicle wash facilities and laundry facilities to surface waters. The general permit regulation is being reissued in order to continue making it available as a permitting option for these types of facilities.

This general permit covers vehicle wash wastewater generated from the fixed manual, automatic, or self-service washing of vehicles where the exterior washing of vehicles is conducted. During this rulemaking those allowed coverage under the regulation was expanded to include more types of vehicle washing activities, but also includes cars, vans and pick-up trucks designated by SIC 7542. This was done because most vehicle washing produces similar quality effluent and permittees and DEQ staff have requested expanded coverage.

This general permit also covers laundry facility wastewater from any self service facility where the washing of clothes is conducted, as designated by Standard Industrial Classification Code 7215. However, it does not include facilities that engage in dry-cleaning.

Substantive changes proposed are: added three reasons authorization to discharge cannot be granted (if the discharge violates the antidegradation policy in the Water Quality Standards at 9VAC25-260-30, if an approved TMDL contains a WLA for the facility or if central wastewater treatment facilities are reasonably available), added language to allow for 'administrative continuances' of coverage, added effluent limits pages for laundries and combined laundry and vehicle wash facilities and added five new special conditions. These changes were made to make this general permit similar to other general permits issued recently and in response to staff requests to clarify and update permit limits and conditions.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program, §62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.16 specifies the Board's authority to regulate discharges of industrial wastes, § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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This rulemaking is proposed in order to amend and reissue the existing car wash general permit which expires on October 16, 2012 and to incorporate the existing coin-operated laundry general permit requirements. The goal of the regulatory action is to continue the existence of the general permit that establishes limitations and monitoring requirements for point source discharges from vehicle wash facilities and laundry facilities and ensures protection of the environment.

The secondary rulemaking to repeal the existing coin-operated laundry general permit is necessary to avoid duplicate regulations.

**Substance**

*Please briefly identify and explain the new substantive provisions (for new regulations), the substantive changes to existing sections, or both where appropriate.*

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The general permit will establish limitations and monitoring requirements for point source discharges from vehicle wash facilities and laundry facilities. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharges. The primary issue that needs to be addressed is that the existing car wash general permit expires on October 16, 2012 and must be reissued in order to continue making it available after that date. Substantive revisions to existing sections include: added three reasons authorization to discharge cannot be granted, added language to allow for 'administrative continuances' of coverage, added effluent limits pages for laundries and combined laundry and vehicle wash facilities and added five new special conditions.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*  
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*  
3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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The advantages to the public and the agency are that a Virginia Pollutant Discharge Elimination System general permit will continue to be available to vehicle wash facilities and laundry facilities to enable them to discharge safely to surface waters. The regulatory action poses no disadvantages to the public or the Commonwealth.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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There are no applicable federal requirements or no requirements that exceed applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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No locality is particularly affected by the proposed regulation.

**Public Participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal, the potential impacts of the regulation on the regulated community and the impacts of the regulation on farm or forest land preservation.*

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In addition to any other comments, the State Water Control Board is seeking comments on the costs and benefits of the proposal, the potential impacts on the regulated community and on any impacts of the regulation on farm and forest land preservation. Also, the Board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so at the public hearing or by mail, fax or email to Elleanore Daub, P.O. Box 1104, Richmond, VA 23218, (804) 698-4111 (phone), (804) 698-4032 (fax) or [elleanore.daub@deq.virginia.gov](mailto:elleanore.daub@deq.virginia.gov) . Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at [www.townhall.virginia.gov](http://www.townhall.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by DEQ by the close of the comment period.

A public hearing will be held and notice of the public hearing will appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

## Economic impact

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

One additional reason to not allow coverage under the general permit was added. Coverage is not allowed under the general permit if central wastewater treatment facilities are reasonably available, as determined by the board. This requirement was part of the coin-laundry general permit but previously not required of the vehicle wash industry. Since there is a reasonable determination that must be made by the board, it is anticipated that there is no significant additional economic impact from this amendment.

Another additional requirement is that vehicle wash facilities will now be required to submit an operations and maintenance manual; however, DEQ staff is planning on making a template operations and maintenance manual available to the industry so that costs to write the manual will be minimal.

There are currently 103 vehicle wash facilities and one laundry facility in Virginia permitted under the VPDES program.

## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

These discharges are point sources of pollutants and thus are subject to regulation under the VPDES permit program. There are two alternatives for compliance with federal and state requirements to permit discharges. One is to issue individual VPDES permits to each treatment works. The other is to reissue the general VPDES permit to cover this category of discharger. A general VPDES is the least burdensome, intrusive and costly to achieve the purpose of the regulation.

## Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The scope of the proposal has been widened to include many new types of vehicle wash facilities and to include coin-operated laundries. These effluents are of similar quality and quantity and the public and staff requested a wider scope of coverage. This will allow other types of vehicle wash facilities to get coverage under the general permit instead of applying for an individual permit which is more costly and burdensome.

The proposal includes an allowance for continuance of permit coverage in instances where a permittee has submitted a timely registration and is in compliance with their existing permit. This will allow the permittee to legally and safely discharge if the permit is not reissued on time by the Department.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
City of Alexandria	Consider providing coverage for charity car wash fundraising events and provide a framework for cost-effective ways to prohibit discharges to the storm drain.	Staff thinks it would be very difficult to expect charity car washes to monitor, report and meet all the requirements of the permit safely and properly. However, DEQ encourages charity car washes to conduct charity fund raising at permitted car wash facilities or avoid any surface water discharge via best management practices. The fact sheet has been revised to address charity car washes. Localities may provide charity car wash organizations with storm drain covers, vacuums and pumps to divert car wash water away from the storm drain.
City of Alexandria	Consider including mobile car washes for coverage if suitable monitoring is undertaken. In the absence of proper monitoring, all wash water should be contained and not allowed in the storm drain.	A statement is proposed in the regulation that mobile car washes may apply for coverage under this permit provided each discharge location is permitted separately. DEQ consistently advises mobile car operators to apply technologies or best management practices that prevent wash water from entering the storm drain.

<p>City of Alexandria</p>	<p>MS4 communities are tasked with eliminating illicit discharges to the storm drain. A process to ensure that facilities which fit the definition of 'car wash' seek coverage under the general permit should be considered. Some recourse should be incurred for those defined by that do not seek coverage.</p>	<p>DEQ currently would normally identify these operators via citizen complaints and follow up through the DEQ pollution response program. If necessary, illegal discharges are processed through the Board's enforcement program if environmental damage is incurred. Additional recourse for illicit car wash discharges is not practical for the agency.</p>
<p>City of Alexandria</p>	<p>Given the Chesapeake Bay TMDL and the Virginia WIP, Total Phosphorus should be considered and the effluent discharge limit for TSS may need to be revisited.</p>	<p>The revised registration questions will ask for information about phosphorus detergents to gather more information about the use of phosphate detergents in the industry. The TSS limits represent typical limits for the wastewater treatment technologies available to these facilities.</p>

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability, including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulation will have no direct impact on the institution of the family or family stability.