TENTATIVE AGENDA
STATE WATER CONTROL BOARD MEETING

WEDNESDAY, DECEMBER 4, 2024

IN PERSON ONLY – General Assembly Building, House Room B, 2nd floor
201 North 9th Street, Richmond, VA 23219

Meeting will be Live-Streamed. Go to: www.deq.virginia.gov
Any Updates To Details/Final Arrangements To Be Announced On Virginia Regulatory Town Hall

Convene – 10:00 A.M

Agenda Item	Presenter	Tab	
Minutes (September 16, 2024)	Porterfield	A	pg 4
Proposed Regulations			
Proposed reissuance of Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (9VAC25-110)	Sherman	B	pg 18
Proposed reissuance of Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Seafood Processing Facilities (9VAC25-115)	Bilalagic	C	pg 77
Petition for Rulemaking			
New Regulatory Rulemaking on Ocean-class Passenger Cruise Ships	Bryan	D	pg 165
Other Business			
FY 2025 Virginia Clean Water Revolving Loan Fund Final Authorizations	Ward	E	pg 220
Report to the Board Regarding Controversial Permits- • AdvanSix Resins and Chemicals LLC - Hopewell Virginia; Virginia Pollutant Discharge Elimination System Permit - VA0005291 • Surface Water Withdrawal Permit issuance, Caroline County VWP No. 20-0514	Morris		
Mountain Valley Pipeline - Update	Davenport		
Future Meeting date- to be determined	Porterfield		
Public Forum *(time not to exceed 45 minutes- no public comment on agenda items or pending regulatory actions during public forum)*			

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 on the latest status of the agenda should be directed to Melissa S. Porterfield at (804) 698-4238.

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 made by the Department of Environmental Quality (Department). These procedures establish the times for the public to provide appropriate comment to the Board for regulatory action and the Department for case decisions for 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 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 (e.g., issuance and amendment of permits and enforcement orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. (Note: as of July 1, 2022, the Department takes final action on all case decisions.) As a general rule, public comment is accepted on a draft permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may be an additional comment period during which a public hearing is held, usually 45 days.

In light of these established procedures, the Board accepts public comment on regulatory actions 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. Also, public comment will be accepted for certain final exempt actions where there has been no public comment period. Persons are allowed up to 3 minutes to address the Board on the emergency regulation and final exempt actions under consideration.

POOLING MINUTES ON REGULATORY ACTIONS: 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 ON A REGULATORY ACTION will not be accepted at the meeting. The Board expects comments and information on a regulatory action 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 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. 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 or pending regulatory actions. Those persons 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. Note, there is no pooling of minutes during the public forum.

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: Melissa S. Porterfield, Policy Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4238, e-mail: Melissa.porterfield@deq.virginia.gov

---

Additional Meeting Information:

- No food or beverages allowed in meeting space.
- Attendees may not erect any signage inside or outside the meeting room or building.
- Attendees are not entitled to be disorderly or disrupt the meeting from proceeding in an orderly, efficient, and effective fashion. Disruptive behavior may result in a recess or removal from the meeting.
- Possession or use of any device that may disrupt the conduct of business is prohibited, including but not limited to: voice-amplification equipment; bullhorns; blow horns; sirens, or other noise-producing devices; as well as signs on sticks, poles or stakes; or helium-filled balloons.
- All attendees are asked to be respectful of all speakers.
- Rules will be enforced fairly and impartially not only to ensure the efficient and effective conduct of business, but also to ensure no interference with the business of the complex, its employees and guests.
- Attendees wishing to record the proceedings are welcome to do so; however, you may not interfere with the business of the meeting, nor impede the view or participation of other meeting attendees and staff.
- No smoking is allowed unless in a designated outside space. This includes tobacco & e-cigarettes.
- No alcohol, fireworks, pyrotechnics, weapons, or any substances/items controlled by law are allowed.
- No firearms are allowed in the State’s contracted spaces except for firearms carried by law-enforcement officers or authorized security personnel.
- All violators may be subject to removal from the meeting facility.
- Anyone removed from the facility may not reenter.
- Anyone who fails to comply with removal may be charged with trespass.

TAB A

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

MEMORANDUM

To: Members of the State Water Control Board

From : Melissa S. Porterfield

Date: November 8, 2024

Subject: Minutes

Attached are the minutes from your meeting on September 16, 2024. Staff will seek your approval of the minutes at your next meeting.

If you have any questions, please contact me at (804) 698-4238 or melissa.porterfield@deq.virginia.gov.

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

STATE WATER CONTROL BOARD MEETING

General Assembly Building, Senate Room C,
201 North 9th Street, Richmond, VA 23219

MONDAY SEPTEMBER 16, 2024

Board Members Present:
Lou Ann Jessee-Wallace, Chair
Scott Cameron, Vice-chair
Tommy Branin
Robert Dunn
Michelle Johnson
Steve Yob

Board Members Absent:
Jerry Kilgore

Department of Environmental Quality:
Michael Rolband, Director
Melissa Porterfield

Office of the Attorney General:
Ross Phillips, Assistant Attorney General/Chief

1. The attached minutes summarize activities that took place at this Board Meeting.

2. The meeting convened 10:04 a.m. and adjourned at 10:33 a.m.

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 16, 2024

Minute No. 1- Approval of Agenda

The Board unanimously approved the agenda for the meeting.

Melissa S. Porterfield

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 16, 2024

Minute No. 2- Approval of Minutes

The Board approved the minutes of the meeting held June 25, 2024, by a vote of (6-0).

Melissa S. Porterfield

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 16, 2024

Minute No. 3- Final Exempt- 2024 - Regulatory Update to Title 40, Part 136 Code of Federal Regulations (40 CFR Part 136) / Methods Update Rule

The State Water Control Board (Board) was presented with amendments to the following regulations as part of this regulatory action:

- Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31)
- Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (9VAC25-110)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Seafood Processing Facilities (9VAC25-115)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges from Groundwater Remediation of Contaminated Sites, Dewatering Activities of Contaminated Sites, and Hydrostatic Tests (9VAC25-120)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity (9VAC25-151)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining (9VAC25-190)
- Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management (9VAC25-192)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Concrete Products Facilities (9VAC25-193)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Vehicle Wash Facilities and Laundry Facilities (9VAC25-194)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less (9VAC25-196)
- Virginia Water Protection Permit Program Regulation (9VAC25-210)
- Groundwater Withdrawal Regulations (9VAC25-610)
- Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management (9VAC25-630)
- Virginia Water Protection General Permit for Impacts Less Than One-Half Acre (9VAC25-660)

- Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities (9VAC25-670)
- Virginia Water Protection General Permit for Linear Transportation Projects (9VAC25-680)
- Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities (9VAC25-690)
- Sewage Collection and Treatment Regulations (9VAC25-790)
- Virginia Pollution Discharge Elimination System (VPDES) General Permit Regulation for Discharges Resulting from the Application of Pesticides to Surface Waters (9VAC25-800)
- General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9VAC25-820)
- Virginia Pollutant Discharge Elimination System General Permit Regulation for Potable Water Treatment Plants (9VAC25-860)
- Virginia Erosion and Stormwater Management Regulation (9VAC25-875)
- General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880)
- Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s) (9VAC25-890)

Prior to the meeting the Board was provided materials showing the proposed amendments to the regulations. William K. Norris, Regulatory Analyst Team Lead for the Water Division, presented a summary of the proposed changes to the regulation. Mr. Norris conveyed to the Board that the amendments are exempt from the requirements of Article 2 of the Administrative Process Act pursuant to VA Code §§ 2.2-4006(A)(3) and 2.2-4006(A)(4)(a).

Board member Michelle Johnson submitted to DEQ staff a signed transactional disclosure statement pursuant to the Virginia State and Local Government Conflict of Interests Act before participating on this agenda item. She indicated she has a personal interest affected by the transactions being considered because of her employment as County Administrator of Charles City County.

Charles City County, like other Virginia localities, holds Virginia Pollutant Discharge Elimination System and groundwater withdrawal permits, administers a Virginia Stormwater Management Program (VSMP), a Virginia Erosion and Sediment Control Program (VESCP), and is subject to the Virginia Pollution Abatement Regulations, Chesapeake Bay Preservation Act, Sewage Collection and Treatment Regulations and permits for activities related to the Virginia Water Protection program. She stated she was able to participate in the transaction fairly, objectively, and in the public interest.

Board member Steven Yob submitted to DEQ staff a signed transactional disclosure statement pursuant to the Virginia State and Local Government Conflict of Interests Act before participating on this agenda item. He indicated he has a personal interest affected by the transactions being considered because of his employment as Deputy County Manager for Community Operations by Henrico County.

Henrico County, like other Virginia localities, holds a Virginia Pollutant Discharge Elimination System and groundwater withdrawal permits, administers a Virginia Stormwater Management Program (VSMP), a Virginia Erosion and Sediment Control Program (VESCP), and is subject to the Virginia Pollution Abatement Regulations, Chesapeake Bay Preservation Act, Sewage Collection and Treatment Regulations and permits for activities related to the Virginia Water Protection program.

Board Decision:
Based on the Board Book briefing material and the staff presentation, the Board voted unanimously (6-0, Branin, Cameron, Dunn, Johnson, Wallace, Yob) to adopt the revisions to the regulations to update regulatory references to Title 40, Part 136 Code of Federal Regulations (40 CFR Part 136) / Methods Update Rule as final regulations and to affirm that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Scott Morris
Director, Water Division

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 16, 2024

Minute No. 4- Final Exempt- Virginia Erosion and Stormwater Management Regulation (9VAC25-875)- Amendment to the Virginia Erosion and Stormwater Management Regulation (9VAC25-875 et seq.) in response to changes to 40 CFR Part 122

Prior to the meeting the Board was provided materials showing the proposed amendments to the regulation. Meghan Mayfield, Director, Division of Water Permitting, presented a summary of the proposed changes to the regulation. Ms. Mayfield conveyed to the Board that the amendments are exempt from the requirements of Article 2 of the Administrative Process Act pursuant to VA Code § 2.2-4006(A)(4)(c).

Board member Michelle Johnson submitted to DEQ staff a signed transactional disclosure statement pursuant to the Virginia State and Local Government Conflict of Interests Act before participating on this agenda item. She indicated she has a personal interest affected by the transactions being considered because of her employment as County Administrator of Charles City County.

Charles City County, like other Virginia localities, holds Virginia Pollutant Discharge Elimination System and groundwater withdrawal permits, administers a Virginia Stormwater Management Program

(VSMP), a Virginia Erosion and Sediment Control Program (VESCP), and is subject to the Virginia Pollution Abatement Regulations, Chesapeake Bay Preservation Act, Sewage Collection and Treatment Regulations and permits for activities related to the Virginia Water Protection program. She stated she was able to participate in the transaction fairly, objectively, and in the public interest.

Board member Steven Yob submitted to DEQ staff a signed transactional disclosure statement pursuant to the Virginia State and Local Government Conflict of Interests Act before participating on this agenda item. He indicated he has a personal interest affected by the transactions being considered because of his employment as Deputy County Manager for Community Operations by Henrico County.

Henrico County, like other Virginia localities, holds a Virginia Pollutant Discharge Elimination System and groundwater withdrawal permits, administers a Virginia Stormwater Management Program (VSMP), a Virginia Erosion and Sediment Control Program (VESCP), and is subject to the Virginia Pollution Abatement Regulations, Chesapeake Bay Preservation Act, Sewage Collection

and Treatment Regulations and permits for activities related to the Virginia Water Protection program.

Board Decision:
Based on the Board Book briefing material and the staff presentation, the Board voted unanimously (6-0, Branin, Cameron, Dunn, Johnson, Wallace, Yob) to adopt the revisions to 9VAC25-875-970 & 9VAC25-875-980 as final regulations and to affirm that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Meghan Mayfield
Director, Division of Water Permitting

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 16, 2024

Minute No. 5- Report to the Board Regarding Controversial Permits - AdvanSix Resins and Chemicals LLC - Hopewell Virginia; Virginia Pollutant Discharge Elimination System Permit - VA0005291 and Surface Water Withdrawal Permit issuance, Caroline County VWP No. 20-0514

In accordance with § 10.1-1184.1.B of the Code of Virginia, Dr. Scott Morris provided the Controversial Permit Report to the Board. The report included each permit number, actions taken prior to the board meeting, location of the facilities, intakes, outfalls, summary of comments received since last update, actions taken by the Department, and the schedule for the final action to be taken by the Department. The Board was provided the opportunity to respond to the Department's presentation and provide commentary regarding the permits.

Scott Morris
Director, Water Division

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 16, 2024

Minute No. 6: Mountain Valley Pipeline – Update

Ms. Davenport presented an update on the status of the project and noted that since the pipeline was placed in service on June 14, 2024, all ongoing activity involves regrading the right-of-way, stabilization and removing temporary access roads and bridges. She also provided an overview of the compliance activities and stipulated penalties for the period of March 11, 2024 through September 11, 2024.

Melanie D. Davenport

Melanie D. Davenport

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 16, 2024

Minute No. 7- Future Meeting Date

A future meeting date of December 4, 2024 was confirmed for the Board at this meeting.

Melissa S. Porterfield

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 16, 2024

Minute No. 8- Public Forum

There were no speakers during the public forum.

Melissa S. Porterfield

TAB B

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

October 22, 2024

MEMORANDUM

TO: Board Members

FROM: Meghan Mayfield, Director, Office of Water Permitting

SUBJECT: Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (VAG 40); Amendments to 9VAC25-110 and Reissuance of General Permit

The current VPDES General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day will expire on July 31, 2026, and the regulation establishing this general permit is being amended to reissue this general permit for another five-year term. The Virginia Department of Environmental Quality (DEQ) staff is bringing this proposed regulation amendment before the State Water Control Board (SWCB or Board) to request authorization to hold a public comment period and a public hearing for this action. Draft amendments showing proposed changes to the current regulation and the Agency Town Hall background document, which includes a summary, are attached. The proposed regulation takes into consideration the recommendations of a technical advisory committee formed for this regulatory action. The technical advisory committee consisted of representatives of state government, local government, industry, and DEQ staff.

A Notice of Intended Regulatory Action (NOIRA) for the amendment was issued on April 8, 2024. Comments on the NOIRA were considered during the development of the proposed regulation and responses to individual comments have been included in the agency background document.

The Office of the Attorney General is currently reviewing the proposed regulation for certification of statutory authority. The U.S. Environmental Protection Agency will also need to review and approve the general permit prior to final adoption

The SWCB adopted final amendments to the regulation during the Aug 25, 2022, meeting to conform to changes in Virginia statutory law (Chapter 365 of the 2022 Acts of Assembly). In this action, sections of the general permit/regulation that were not amended in 2022 will change the term "board" to "department" where the context relates to any action except the adoption of regulations. Substantive changes that were proposed and subject to public comment are:

09VAC25-110

Section 10 – *Definitions.* In the definition of "Combined application," changed the existing reference to "State Water Control Board" to now reference the "Virginia Department of Environmental Quality."

Section 10 – *Definitions.* In the definition of "Individual single family dwelling," deleted the word "only" at the end of the first sentence. Not needed.

Section 15 – ***Applicability of incorporated references based on the dates that they became effective***. Changed the referenced date for the Code of Federal Regulations to July 1, 2024. This change ensures the most recent effective federal regulations are referenced in the permit.

Section 20 – *Purpose; effective date of permit.* Updated the general permit term. Revised the effective date to be August 1, 2026, and expiration date to be July 31, 2031. VPDES permits are limited to terms of five years. This will allow the permit to remain available.

Section 70 – *Registration Statement.* Revised the existing language to specify that, consistent with permit conditions, registration statements will need to be submitted electronically and that combined applications will not need to be submitted electronically but will continue to be submitted by either postal or electronic mail. This approach is based on several factors. Under DEQ and Virginia Department of Health (VDH) regulations there are two different permit application forms used under this general permit. This is unique among VPDES general permits and presents technical challenges for nForm. VDH requires that individual single family dwellings submit the Combined Application, however, VDH does not have a system in place for permittees to submit these applications electronically. In addition, DEQ's CEDS system is structured to be compatible with the information specified in the registration statement.

Section 80 – *General permit*. Revised the term of the general permit: Effective Date: August 1, 2026; Expiration Date: July 31, 3031.

Section 80 – *General permit*. In Part I A 2 (maintenance and submission of monitoring results), revised to clarify that monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings, which are submitted to DEQ on a discharge monitoring report (DMR), are subject to the electronic submission requirements specified in Part II C 1. Also adjusted the annual monitoring period and DMR submittal date to be consistent with the new permit term.

Section 80 – *General permit.* In Part I B 2 (maintenance and submission of monitoring results), added language that indicates that monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings, which must be submitted to DEQ on a DMR, are subject to the electronic submission requirements specified in Part II C 1. This seeks to clarify electronic reporting requirements for discharge monitoring data. Also adjusted the annual monitoring period and DMR submittal date to be consistent with the new permit term.

Section 80 – *General permit.* In Part I C 2 (maintenance and submission of monitoring results), added language that indicates that monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings are subject to the electronic submission requirements specified in Part II C 1. This seeks to clarify electronic reporting requirements for discharge monitoring data.

Section 80 – *General permit.* In Part II C 1 (reporting monitoring results), revised language to clarify that the electronic submission requirement only applies to DMRs submitted to DEQ. This approach is based on the fact that the general permit requires monitoring data for individual single family dwellings to be submitted to VDH in accordance with 12VAC5-640, under established practice the use of a DMR is not required for these facilities, and VDH does not have in place a system of electronic reporting of monitoring data that is consistent with federal e-reporting requirements.

Section 80 – *General permit.* In Part II I 3 (reports of noncompliance), revised language such that permittees make 24-hour report to the applicable DEQ regional office. Specified that for reports out of normal working hours permittees use the online portal and included the updated link. Provided an updated contact phone number for emergencies.

Section 80 – *General permit.* In Part II M 2 a and b, Duty to reapply, updated the effective date for this reissuance of the general permit from August 2, 2021, to August 1, 2026.

Section 80 – *General permit.* Made minor edits to language to improve clarity and consistency. Edits in Part II: K 1, N, O, and W.

Attachments: General Permit
Agency Background Document (Townhall)
Fact Sheet.

TAC MEMBERS FOR THE DOMESTIC SEWAGE DISCHARGES OF LESS THAN OR EQUAL TO 1,000 GPD GENERAL PERMIT REGULATION

Nathan Thompson	Jame River Association
Ivy Ozomon	Water Res. Planner, Hampton Roads Planning Dist. Comm.
Allie Wagner	Water Resources Planner, N. Va. Reg. Comm.
Lance Gregory	Dir., Div. of Onsite Water & Wastewater Services, VDH
Mark Inboden	CEO Inboden Environmental Services
John Burleson	Burleson Engineering
Erica Duncan	Manager, Office of VPDES Permits
Peter Sherman	DEQ CO VPDES Permits

townhall.virginia.gov

Exempt Action: Proposed Regulation
Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-110
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day
Action title	CH110- 2026 Amendment and Reissuance of the Existing Regulation
Date this document prepared	October 22, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code.*

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

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

Mandate and Impetus

Identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The impetus of this regulatory change is § 62.1-44.15 (5a) of the Code of Virginia which states, "All certificates issued by the Board under this chapter shall have fixed terms. The term of a Virginia Pollutant Discharge Elimination System permit shall not exceed five years." This general permit expires on July 31, 2026, and must be reissued to make coverage available for discharges of treated domestic sewage from treatment works with a design discharge flow of less than or equal to 1,000 (GPD) that discharge to surface waters after July 31, 2026.

The periodic review of this regulation is mandated by the ORM procedures and § 2.2-4007.1 of the Code of Virginia.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

7Q10: the lowest flow averaged over a period of seven consecutive days that can be statistically expected to occur once every 10 years
Board: State Water Control Board
CFR: Code of Federal Regulations
Department or DEQ: Virginia Department of Environmental Quality
DMR: Discharge Monitoring Report
DSD: Domestic Sewage Discharges
FR: Federal Register
NOIRA: Notice of Intended Regulatory Action
GPD: Gallons Per Day
MGD: Million Gallons Per Day
NPDES: National Pollutant Discharge Elimination System
U.S. EPA: United States Environmental Protection Agency
USC: United States Code
VAC: Virginia Administrative Code
VDH: Virginia Department of Health
VPDES: Virginia Pollutant Discharge Elimination System

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

The basis for this regulation is the State Water Control Law, § 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 §1342) 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 VPDES General Permit Program.

40 CFR Parts 122, 123 and 124 implement the NPDES permit program under § 402. These provisions cover basic U.S. EPA permitting requirements, what a state must do to obtain approval to operate its program in lieu of a federal program and minimum requirements for administering the approved state program, and procedures for the U.S. EPA to process permit applications and appeals. Section 122.2 provides the specific authority for regulating “treatment works treating domestic sewage” where a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under § 405(d) of the Clean Water Act (33 USC §1345).

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (§ 2.2-4006 A 8 of the Code of Virginia).

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

This proposed regulatory action is needed to establish permitting requirements for discharges of treated domestic sewage from treatment works with a design discharge flow of less than or equal to 1,000 GPD to surface waters to protect the health, safety and welfare of citizens. The existing general permit expires on July 31, 2026, and must be reissued to cover existing and new domestic sewage discharges from treatment works with a design discharge flow of less than or equal to 1,000 GPD.

The goal of the proposed regulation is to continue to make available the general permit, which establishes standard language for control of these point source discharges through effluent limitations, monitoring requirements and special conditions to ensure protection of the environment and public health, safety and welfare.

There is no fee required to obtain coverage under this general permit. Thus, the general permit is the less intrusive and less costly alternative for small businesses and other in-scope entities. General permits also require fewer DEQ staff resources to issue.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

Proposed changes to the general permit regulation include:

- Revising the term of the general permit to August 1, 2026, through July 31, 2031.
- Updating the date of CFR incorporated by reference.
- Removing the word "only" at the end of the first sentence in the definition of "individual single family dwelling."
- Revising language in the general permit to be consistent with Chapter 356 of the 2022 Acts of Assembly (SB657, changing "Board" to "Department" where the context relates to any action except the adoption of regulations).
- Adjusting the annual monitoring period to match the new permit term.
- Revising the electronic reporting language addressing permit applications to clarify that registration statements are subject to electronic submittal requirements once specified conditions are met.
- Revising electronic reporting language addressing discharge monitoring reporting to clarify that discharge monitoring reports (DMRs) for buildings or dwellings other than individual single family dwellings submitted to DEQ are subject to electronic submittal requirements once specified conditions are met.
- Revising the Policy for the Potomac River Embayment monitoring requirements to clarify that monitoring results for buildings or dwellings other than individual single family dwellings are subject to electronic submission requirements.
- Revising the 24-hour non-compliance reporting requirements to specify online reporting.

Issues

Please identify the issues associated with the regulatory change, 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 there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The advantages to the public, permittees and the agency of reissuing this general permit are that a VPDES General Permit for domestic sewage discharges will continue to be available to facilities with eligible discharges, enabling them to discharge to surface waters in a manner that is protective of those waters. In addition, the continued availability of this general permit avoids the increased cost and more complicated application process for permittees associated with issuing an individual VPDES permit and makes permit administration more reasonable for DEQ given the very large number of permittees (approx. 3,000). There are no known disadvantages.

The advantage of (eventual) electronic submission of registration statements and DMRs is that this approach complies with U.S. EPA program requirements for electronic reporting. Once in place, this system will also allow for greater efficiency in the submittal, management, and transfer of program data.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:
There are no state agencies particularly affected by the proposed regulation as the regulation applies statewide and does not alter existing VDH requirements for onsite discharging systems.

Localities Particularly Affected:
There are no localities particularly affected by the proposed regulation as the regulation applies statewide and does not alter existing VDH requirements for onsite discharging systems.

Other Entities Particularly Affected:
There are no other entities particularly affected by the proposed regulation as the regulation applies statewide and does not alter existing VDH requirements for onsite discharging systems.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

This general permit does not predominantly apply to small businesses, rather, it applies predominantly (80%) to domestic sewage discharges from numerous individual single family dwellings, as well as to many buildings or dwellings other than individual single family dwellings (20%). Some buildings other than individual single family dwellings are small businesses. Nevertheless, the reissuance of this VPDES General Permit for domestic sewage discharges accomplishes the objectives of applicable law and minimizes the application burden and permit implementation costs to affected small business owners.

Without the general permit, a small business owner would be required to obtain an individual permit, which would significantly increase the cost and complexity of a permit application, and potentially increase implementation and compliance costs.

Public Comment Received

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

Three comments were submitted during the public comment period through Virginia Regulatory Town Hall.

Commenter	Comment	Agency response
W.C. Oyote Comment ID 222517	Please elevate consideration of fees sufficient to fund inspection and verification of compliance with discharge limits. General permit fees should be sufficient for DEQ or VDH to recover cost of resources required to review applications, issue and periodically confirm compliance prior to renewal. Absent user fees for general permits, the general fund carries expense of monitoring compliance, thus these duties have been unfulfilled Small businesses including operators/ inspectors also merit consideration in drafting regulations which assure compliance. These discharging systems require maintenance to ensure effective treatment. Historically the Commonwealth has failed to protect surface water from residential sewage contamination, both permitted and scofflaw "straightpipe" installations. This notice of intent, and technical advisory committee seems ignorant of the risk to public health and water quality at risk due to non-compliance. Waters of the US, and vested rights of downstream users are under continuous threat absent monitoring, and publishing of compliance reports. Absent stringent standards landowners are likely to violate pollutant limits.	DEQ does not impose a fee for coverage under the VPDES general permit for domestic sewage discharges (DSD) in order to promote permit adoption, implementation, and compliance to the greatest extent possible. This general permit is unique in that it is applicable to a large number of households and to a potential universe of permittees that are often rurally located and in many instances of limited economic means. These permittees already face the cost of installing and operating the discharging treatment works system. DEQ does not want a permit fee to function as a disincentive to environmental compliance. Rather, DEQ uses existing agency funding to cover implementation and compliance activities. Inspection and compliance responsibilities are shared with VDH, which oversees single family dwellings. DEQ has considered operators/ inspectors in developing this general permit. The permit requires the use of a licensed operator to ensure proper operation and maintenance. DEQ is well aware of the risk to water quality posed by the disposal of untreated domestic sewage, and this general permit requires treatment for systems not connected to a publicly owned treatment works and not amenable to use of a septic system. DEQ and VDH also conduct compliance monitoring and inspections that implement permit requirements. For example, available compliance data (numeric values only) for non-single family homes for 8/2021-5/2024 where greater than 1,000 total records exist indicate the following compliance rates: TSS (total suspended solids) – 90%; BOD5 (5-day biological oxygen demand) – 94.6%; and pH – 99.8%. In addition, the median values for E coli, Enterococci and fecal coliform are below permit limits.

Commenter	Comment	Agency response
Joe Public Comment ID 222626	Public concerns over the administration of discharging sewage treatment system design, operation, inspection & maintenance are not addressed by current regulatory roles at either agency. VDH has failed to sustain rigorous inspection or monitoring and reporting regimen, DEQ has stood aside from concerns over sister agency inaction and lack of accountability. Suitability for use of certain technologies has not kept up with technological advancements. systems utilizing electrical controls and pump works, may be alarmed and under management by responsible entity &/or active telemetry. Water quality issues resulting from failure to operate systems are a public health threat. Revised standards should include duty of notice, monitoring sufficient to protect interests of downstream landowners, recreational users, or citizens utilizing surface water, and sufficient fees or funding that agencies prioritized their duties of regulation. At minimum we recommend renewable operating permits under charge of private rme, regulations which recognize role of licensed operators in meeting water quality permit limits, and public notice & inventory of systems which are under jurisdiction of agency accountable for determining compliance with permit limits.	Under the existing VPDES General Permit for DSD the treatment works design must be capable of meeting permit discharge limits and operation and maintenance responsibilities for both owners and licensed operators are specified. In addition, both DEQ and VDH conduct inspections consistent with their respective compliance monitoring programs. Technical innovation is used in these treatment works consistent with applicable standards for alternative discharging systems. Permitted system owners are responsible for properly operating and maintaining their systems and DEQ and VDH have enforcement protocols for failure to meet permit requirements. The existing general permit includes discharge monitoring and reporting requirements. DEQ does not impose a fee for coverage under the DSD general permit in order to promote permit adoption, implementation, and compliance to the greatest extent possible (see response above). The existing VPDES General Permit for DSD is a renewable operating permit. Owners are required to engage a licensed operator (who functions as a responsible management entity). DEQ maintains records of all permittees and VDH also maintains records of individual single family dwellings covered under the permit.
Anonymous Comment ID 222628	"We all live downstream." May the actions, decisions, and authorities with respect to this regulatory action, take into account a FOIA (Freedom of Information Act) level inventory of State Agencies, with respect to what works and what does not work to safeguard the public's health and safety.	This general permit is based on VPDES program requirements and DEQ's knowledge and experience implementing the VPDES program. The permit functions to protect water quality through imposing operation and maintenance requirements as well as effluent limits and monitoring and reporting requirements. It also reflects VDH requirements to protect public health.

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 and the impacts of the regulated community.

In addition to any other comments, DEQ is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. DEQ is also 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 for the public comment file may do so by mail or email to Jeanette Ruiz, P.O. Box 1105, Richmond, Virginia 23218, jeanette.ruiz@deq.virginia.gov, phone (804) 494-9636. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at (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 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Please include citations to the specific section(s) of the regulation that are changing.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-110-10 Definitions		Definition of "Combined application"	Change existing reference to "State Water Control Board" to new reference, "Virginia Department of Environmental Quality," to implement 2022 Acts of Assembly Chapter 356 (SB657). Also changed reference from the "board" to the "department" here and in select provisions throughout the general permit (Sections 60, 70, 80). Provides clarity by making the reference(s) consistent with changes required by 2022 Acts of Assembly Chapter 356.
9VAC25110-10 Definitions		Definition of "Individual single family dwelling."	Deleted the word "only" at the end of the first sentence. Removing the term provides greater clarity in the definition.
9VAC25-110-15 Applicability of Incorporated references		Reference to regulations in 40 CFR is dated July 1, 2021.	Changed the referenced date for 40 CFR to July 1, 2024. This change ensures the most recent effective federal regulations are referenced in the permit.
9VAC25-110-20 Purpose; effective date		B. Provides that the general permit is effective August 2, 2021, and expires July 31, 2026.	B. Revised the effective date to be August 1, 2026, and expiration date to be July 31, 2031. VPDES permits are limited to terms of five years. This will allow the permit to remain available.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-110-70 Registration statement		D. Requires submittal of registration statement or combined applications. Includes a conditional requirement for electronic submission of these applications.	D. Revised the language to specify that the registration statement will need to be submitted electronically and that combined applications will not need to be submitted electronically but will continue to be submitted by either postal or electronic mail. This approach is needed because there are two different permit application forms used under this general permit. This is unique among VPDES general permits and presents technical challenges for nForm and CEDS. VDH requires that individual single family dwellings submit the Combined Application, however, VDH does not have a system in place for permittees to submit these applications electronically.
9VAC25-110-80 General permit		Effective Date: August 2, 2021. Expiration Date: July 31, 2026.	Revised the term of the general permit: Effective Date: August 1, 2026. Expiration Date: July 31, 3031.
9VAC25-110-80 General permit		Part I A 2. 7Q10 less than 0.2 MGD. Requires that monitoring data for buildings other than individual single family dwellings must be submitted to DEQ on a DMR, and that monitoring data for individual single family dwellings must be submitted to VDH in accordance 12VAC5-640.	Part I A 2. Revised language to clarify that monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings, which are submitted to DEQ on a DMR, are subject to the electronic submission requirements specified in Part II C 1.This is not a new requirement. Adjusted the annual monitoring period and DMR submittal date to be consistent with the new permit term. E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR 69189; 11/2/2020) and state regulation (9VAC25-31-1020).
9VAC25-110-80 General permit		Part I B 2. 7Q10 equal to or greater than 0.2 MGD. Requires that monitoring data for buildings other than individual single family dwellings must be submitted to DEQ on a DMR, and that monitoring data for individual single family dwellings must be submitted to VDH in accordance 12VAC5-640.	Part I B 2. Revised language to clarify that monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings, which are submitted to DEQ on a DMR, are subject to the electronic submission requirements specified in Part II C 1. Adjusted the annual monitoring period and DMR submittal date to be consistent with the new permit term. E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR 69189; 11/2/2020) and state regulation (9VAC25-31-1020).
9VAC25-110-80 General permit		Part I C 2. Limits for discharges subject to the Policy for the Potomac Rover Embayments (9VAC25-415). Requires that all monitoring results be submitted to DEQ on a DMR and that that monitoring data for individual single family dwellings must be submitted to VDH in accordance 12VAC5-640.	Part I C 2. Revised language to clarify that monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings are subject to the electronic submission requirements specified in Part II C 1. E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			69189; 11/2/2020) and state regulation (9VAC25-31-1020).
9VAC25-110-80 General permit		Part II C 1. Reporting monitoring results. Requires that monitoring results submitted to DEQ must be submitted on a DMR. Sets a conditional requirement for monitoring reports to be submitted electronically.	Part II C 1. Revised language to clarify that the electronic submission requirement only applies to DMRs submitted to DEQ. E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR 69189; 11/2/2020) and state regulation (9VAC25-31-1020).
9VAC25-110-80 General permit		Part II I 3. Reports of non-compliance. Specifies methods for emergency and 24-hour reports of non-compliance.	Part II I 3. Revised language to clarify that permittees make 24-hour report to the applicable DEQ regional office. Specified that for reports out of normal working hours permittees use the online portal and included the updated link. Provided an updated contact phone number for emergencies. Revised language for consistency and alignment with language used in other general permits.
9VAC25-110-80 General permit		Part II K 1 a. Signatory requirements; registration statements. For corporation. Specifies signatory requirements.	Changed “assure” to “ensure.”
9VAC25-110-80 General permit		Part II M 2 a and b. Duty to reapply. Includes conditions for automatic permit renewal.	Updated the effective date for this reissuance of the general permit from August 2, 2021, to August 1, 2026.
9VAC25-110-80 General permit		Part II N. Effect of permit. Specifies certain limits on effect of permit.	Made single sentence into two sentences to improve clarity.
9VAC25-110-80 General permit		Part II O. State law.	Clarified wording. No substantive change.
9VAC25-110-80 General permit		Part II W. Inspection and entry.	In the last sentence, replaced “herein” with “in this general permit.”

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed 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.

This general permit applies to domestic discharges from individual single family dwellings, as well as to many buildings or dwellings other than individual single family dwellings. Its availability allows for these homes and buildings to operate as residences for families while protecting surface waters in a manner consistent with state law. Such residences are a vital resource that support families and contribute to economic self-sufficiency. This general permit has been designed to minimize burden while achieving a level of water quality protection that is consistent with state and federal requirements.

Project 7822 - Exempt Proposed

State Water Control Board

CH110- 2026 Amendment and Reissuance of Existing Regulation

Chapter 110

Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day

9VAC25-110-10. Definitions.

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

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

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

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

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

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

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

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

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

"VDH" means the Virginia Department of Health.

9VAC25-110-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated in this chapter, that regulation shall be as it exists and has been published as of July 1, ~~2021~~ 2024; however, references to 40 CFR Part 136 are incorporated as published in the July 1, 2024, update.

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

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

B. This general VPDES permit will become effective on ~~August 2, 2021~~ August 1, 2026, and it expires on ~~July 31, 2026~~ July 31, 2031. With respect to a particular dwelling, building, or site served, this general permit shall become effective upon the dwelling, building, or site served owner's compliance with the provisions of 9VAC25-110-60.

9VAC25-110-60. Authorization to discharge.

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

1. The owner submits a registration statement, if required to do so, in accordance with 9VAC25-110-70 and that registration statement is accepted by the ~~board~~ department. For an individual single family dwelling, the owner shall submit a combined application in place of a registration statement;

2. The owner complies with the effluent limitations and other requirements of 9VAC25-110-80; and

3. The ~~board~~ department has not notified the owner, in accordance with subsection B of this section, that the discharge is not eligible for coverage under this permit.

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

1. The owner is required to obtain an individual VPDES permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;

2. The owner is proposing to discharge to surface waters specifically named in other board regulations that prohibit such discharges;

3. The owner is proposing to discharge to surface waters in an area where there are central sewage facilities reasonably available, as determined by the ~~board~~ department;

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

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

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

C. Compliance with this general permit constitutes compliance, for purposes of enforcement, with the federal Clean Water Act §§ 301, 302, 306, 307, 318, 403, and 405 (a) through (b), and the State Water Control Law, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit

Regulation. Approval for coverage under this general VPDES permit does not relieve any owner of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation, including, for owners of sewage treatment works that serve individual single family dwellings, the Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings (12VAC5-640) of the Virginia Department of Health adopted pursuant to §§ 32.1-12, 32.1-163, and 32.1-164 of the Code of Virginia and, for owners of sewage treatment works that serve buildings or dwellings other than individual single family dwellings, the Sewage Collection and Treatment Regulations (9VAC25-790) adopted by the State Water Control Board pursuant to § 62.1-44.19 of the Code of Virginia.

D. Continuation of permit coverage.

1. Permit coverage shall expire at the end of the applicable permit term. However, expiring permit coverages are continued if the owner has submitted a complete registration statement or, for an individual single family dwelling, a combined application, at least 60 days prior to the expiration date of the permit, or a later submittal date established by the ~~board~~ department, which cannot extend beyond the expiration date of the permit. Where the expiring permit coverage was originally based on automatic renewal as found in 9VAC25-110-70 A 2 b, such coverage is continued provided the owner continues to meet the automatic renewal criteria. The permittee is authorized to continue to discharge until such time as the ~~board~~ department either:

a. Issues coverage to the owner under this general permit; or

b. Notifies the owner that the discharge is not eligible for coverage under this general permit.

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

a. Initiate enforcement action based upon the general permit coverage that has been continued;

b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the administratively continued coverage or be subject to enforcement action for operating without a permit;

c. Issue an individual permit with appropriate conditions; or

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

9VAC25-110-70. Registration statement.

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

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

2. Existing treatment works.

a. Any owner of an existing treatment works covered by an VPDES individual permit who is proposing to be covered by this general permit shall submit a complete

registration statement, or for an individual single family dwelling a combined application, at least 240 days prior to the expiration date of the individual VPDES permit or a later submittal date established by the ~~board~~ department.

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

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

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

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

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

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

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

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

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

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

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

b. If the owner is not or will not be the occupant of the dwelling or building, provide an alternate contact name, mailing address, email address (where available), and telephone number of the dwelling or building, if available.

3. Name of the water body receiving the discharge. Outfall latitude and longitude. Indicate if the discharge point is on a stream that usually flows during dry weather.

4. The amount of discharge from the treatment works, in gallons per day, on a monthly average, and the design flow of the treatment works, in gallons per day.

5. A description of any pollutants, other than domestic sewage, to be discharged.

6. For a proposed treatment works, indicate if there are central sewage facilities available to serve the building or site.

7. If the treatment works currently has a VPDES permit, provide the permit number. Indicate if the treatment works has been built and begun discharging.

8. For the owner of any proposed treatment works or any treatment works that has not previously been issued a VPDES permit:

a. A 7.5 minute U.S. Geological Survey (USGS) topographic map or equivalent (e.g., a computer generated map) that indicates the discharge point, the location of the property to be served by the treatment works, and the location of any wells, springs, other water bodies, and any residences within 1/2 mile downstream from the discharge point;

b. A site diagram of the existing or proposed treatment works; to include the property boundaries, the location of the dwelling, building, or site served, the individual sewage treatment units, the receiving water body, and the discharge line location; and

c. A copy of the notification from the Virginia Department of Health that an onsite sewage disposal system permit was applied for and that the Virginia Department of Health has determined that an onsite system cannot be constructed to serve that parcel of land.

9. Operation and maintenance.

a. For the owner of a treatment works serving an individual single family dwelling, operation and maintenance requirements are specified in VDH regulations at 12VAC5-640;

b. For the owner of a treatment works serving a building or dwelling other than an individual single family dwelling, operation and maintenance must be consistent with Part I D 2 b, which requires that such owners engage a licensed operator.

10. State Corporation Commission entity identification number for dwellings other than individual single family dwellings if the facility is required to obtain an entity identification number by law.

11. The following certification: "I hereby grant to duly authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property where the treatment works is located for the purpose of determining compliance with or the suitability of coverage under the General Permit. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for

submitting false information including the possibility of fine and imprisonment for knowing violations."

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

D. The registration statement or combined application shall be delivered to the department's regional office serving the area where the treatment facility is located by either postal or electronic mail. Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements ~~or combined applications~~), as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms must be submitted electronically.

9VAC25-110-80. General permit.

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

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

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

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

In compliance with the provisions of the Clean Water Act (33 USC § 1251 et seq.), as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of treatment works with domestic sewage discharges of a design flow of less than or equal to 1,000 gallons per day on a monthly average are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in board regulations that prohibit such discharges.

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

Part I
Effluent Limitations, Monitoring Requirements and Special Conditions

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

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

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)[1]	NA	NL	1/year	Estimate
BOD_5	NA	30 mg/l	1/year	Grab
Total Suspended Solids	NA	30 mg/l	1/year	Grab
Total Residual Chlorine[2]				
After contact tank	1.0 mg/l	NA	1/year	Grab
Final effluent	NA	0.016 mg/l[6]	1/year	Grab
E. coli[3]	NA	126 CFU/100 ml	1/year	Grab
enterococci[4]	NA	35 CFU/100 ml	1/year	Grab
Fecal Coliform Bacteria[5]	NA	200 CFU/100 ml	1/year	Grab
pH (standard units)	6.0	9.0	1/year	Grab
Dissolved Oxygen	5.0 mg/l[6]	NA	1/year	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

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

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

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

[4]Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

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

maintain this effluent limit.

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

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

3. The 30-day average percent removal for BOD_5 and total suspended solids shall not be less than 85%.

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

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

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)(1)	NA	NL	1/year	Estimate
BOD_5	NA	30 mg/l	1/year	Grab
Total Suspended Solids	NA	30 mg/l	1/year	Grab
Total Residual Chlorine(2)				
After contact tank	1.0 mg/l	NA	1/year	Grab
Final effluent	NA	2.0 mg/l	1/year	Grab
E. coli(3)	NA	126 CFU/100 ml	1/year	Grab
enterococci(4)	NA	35 CFU/100 ml	1/year	Grab
Fecal Coliform	NA	200 CFU/100	1/year	Grab

Bacteria[5]		ml		
pH (standard units)	6.0	9.0	1/year	Grab
NL = No Limitation, monitoring required NA = Not Applicable				
[1]The design flow of this treatment works is less than or equal to 1,000 gallons per day.				
[2]Applies only when chlorine is used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).				
[3]Applies only when methods other than chlorine are used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.				
[4]Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.				
[5]Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.				

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

3. The 30-day average percent removal for BOD_5 and total suspended solids shall not be less than 85%.

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

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

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS	MONITORING REQUIREMENTS

	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD) [2]	NA	NL	1/3 months	Estimate
pH (standard units)	6.0	9.0	1/3 months	Grab
$cBOD_5$	NA	5 mg/l	1/3 months	Grab
Total Suspended Solids	NA	6.0 mg/l	1/3 months	Grab
Ammonia as N (Apr 1 - Oct 31)	NA	1.0 mg/l	1/3 months	Grab
Ammonia as N (Nov 1 - Mar 31)	NA	3.1 mg/l	1/3 months	Grab
Dissolved Oxygen	6.0 mg/l	NA	1/3 months	Grab
E. coli [4]	NA	126 CFU/100 ml	1/3 months	Grab
enterococci [5]	NA	35 CFU/100 ml	1/3 months	Grab
Total Phosphorus	NA	0.18 mg/l	1/3 months	Grab
Total Residual Chlorine [3]				
After contact tank	1.0 mg/l	NA	1/3 months	Grab
Final effluent	NA	0.016 mg/l	1/3 months	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

[1]Note conditional exemptions in 9VAC25-415-30.

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

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

[4]Applies only when methods other than chlorine are used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the treatment works is

discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

(5)Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

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

3. The 30-day average percent removal for BOD_5 and total suspended solids shall not be less than 85%.

D. Special conditions.

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

2. Operation and maintenance.

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

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

(1) To ensure the treatment works is operated, maintained, monitored, and reported properly, the permittee shall engage a licensed operator as defined in subdivision D 3 of this section.

(2) The permittee shall:

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

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

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

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

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

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

(3) The licensed operator has the following responsibilities:

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

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

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

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

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

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

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

(iv) Corrective or repair activities performed;

(v) Recommended repair or replacement items;

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

(vii) Sludge or solids removal; and

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

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

individual is directly supervised by and under the direction of a licensed operator who remains responsible for such maintenance.

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

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

	Effluent Parameter	Quantification Level
	BOD_5	2 mg/l
	$cBOD_5$	2 mg/l
	Ammonia as N	0.20 mg/l
	Total Phosphorus	0.10 mg/l
	TSS	1.0 mg/l
	Chlorine	0.10 mg/l

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

b. Recording results. Any concentration data below the QL used in the analysis shall be recorded as "<QL" if it is less than the QL in subdivision 4 a of this subsection. Otherwise the numerical value shall be recorded.

c. Monitoring results shall be recorded using the same number of significant digits as listed in the permit. Regardless of the rounding convention used by the permittee (e.g., 5 always rounding up or to the nearest even number), the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

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

Part II
Conditions Applicable to All VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

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

B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individuals who performed the sampling or measurements;

c. The dates and times analyses were performed;

d. The individuals who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report, or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the ~~board~~ department.

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

1. Monitoring results submitted to the department shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically. This electronic submission requirement only applies to DMRs submitted to the department.

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

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

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

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

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

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

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, to animal or aquatic life, to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee that discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F, or that discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate, and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

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

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;

2. Breakdown of processing or accessory equipment;

3. Failure or taking out of service some or all of the treatment works; and

4. Flooding or other acts of nature.

I. Reports of noncompliance.

1. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

a. ~~An oral~~ A report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

(1) Any unanticipated bypass; and

(2) Any upset that causes a discharge to surface waters.

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

(1) A description of the noncompliance and its cause;

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

(3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

3. The immediate (within 24 hours) reports required in Part II G, H, and I ~~may~~ shall be made to the department's regional office. Reports may be made by telephone, or online at https://www.deq.virginia.gov/our-programs/pollution-response (online reporting is preferred). For reports outside normal working hours, ~~a message may be left and this shall fulfill the immediate reporting requirement~~ the online portal shall be used. For emergencies, call the Virginia Department of Emergency ~~Management~~ Management's Emergency Operations Center ~~maintains a 24-hour telephone service~~ at 1-800-468-8892.

4. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information.

J. Notice of planned changes

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

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

(1) After promulgation of standards of performance under § 306 of the Clean Water Act (33 USC § 1251 et seq.) that are applicable to such source; or

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

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

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or of disposal sites not reported during

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

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

K. Signatory requirements.

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

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

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

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

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

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

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

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

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

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

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

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

M. Duty to reapply.

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

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

a. The ownership of the treatment works has not changed since this general permit went into effect on ~~August 2, 2021~~ August 1, 2026, or, if the ownership has changed, (i) a new registration statement or for an individual single family dwelling a combined application or (ii) a VPDES Change of Ownership form was submitted to the department by the new owner at the time of the title transfer;

b. There has been no change in the design or operation, or both, of the treatment works since this general permit went into effect on ~~August 2, 2021~~ August 1, 2026;

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

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

objects to the automatic renewal for this treatment works, the permittee will be notified by the ~~board~~ department in writing.

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

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

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

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

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

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

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

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

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

2. Notice.

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

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

3. Prohibition of bypass.

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

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

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

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

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

V. Upset.

1. An upset, defined in 9VAC25-31-10, constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

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

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

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

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

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

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

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

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

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

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

1. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property, unless permission for a later date has been granted by the ~~board~~ department;

2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

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

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

FORMS (9VAC25-110)

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

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

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

Office of Regulatory Management

Economic Review Form

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC 25-110
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges Less Than or Equal to 1,000 gallons per day (GPD)
Action title	CH110- 2026 Amendment and Reissuance of the Existing Regulation
Date this document prepared	October 22, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Proposed

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	**Background:** General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity.

	VPDES general permit regulations expire every 5 years and must be re-issued in order for permit coverage to be available to new permittees and existing permittees that do not submit a registration statement in a timely manner. If the general permit is not re-issued, the regulated community will need to obtain an individual permit to conduct the regulated activity. This general permit expires on July 31, 2026, and must be reissued to make coverage available for discharges of treated domestic sewage from treatment works with a design discharge flow of less than or equal to 1,000 GPD that discharge to surface waters after July 31, 2026. Presently there are 3,032 regulated entities covered by this general permit (2,462 individual single family dwellings and 570 buildings or dwellings other than individual single family dwellings). Reissuance of this general permit allows owners of currently permitted treatment works and new entities to be able to maintain or obtain coverage for conducting this regulated activity. The proposed regulatory changes are necessary to issue the general permit for a new 5-year term. **Direct Costs:** The fee for filing a registration statement for coverage under 9VAC25-110 (General VPDES Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 GPD) is $0. 9VAC25-20-130. Chapter 20, the Fee Regulation, is not being amended in this action so the fee for the general permit, $0, will not change. Annual compliance costs for disinfection, sampling, analysis, and inspection are estimated to be $1,075 per permittee (total of $3,259,400/ year for 3,032 permittees). This is based on anecdotal data provided by Technical Advisory Committee (TAC) members during the 2021 reissuance and adjusted for inflation (these estimates were reaffirmed by the 2026 TAC). Changes to the general permit regulation are limited to revisions that ensure consistency with other recently issued VPDES general permit regulations and do not include any new requirements. As a result, there are no new or additional direct costs associated with reissuing this general permit. **Indirect Costs:** None identified. **Direct Benefits:** Reissuing this general permit provides the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity, the discharge of treated domestic sewage to surface waters from treatment works with a design discharge flow of less than or equal to 1,000 GPD, while continuing to be protective of human health and the environment.

	Indirect Benefits: The reissuance of the general permit may indirectly benefit economic development because it allows for the issuance of a general permit that is protective of human health and the environment that is less burdensome on the regulated community than an Individual VPDES permit. Regulating discharges into state waters benefits tourism and the seafood industry. Cleaner waters may also increase tourism related to recreational uses of state waters.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See above regarding direct costs. No indirect costs or benefits are expected due to the limited extent and nature of changes being made to the general permit regulation.	(b) See above regarding direct and indirect benefits. No indirect benefits are expected due to the limited extent of changes being made to the general permit regulation.
(3) Net Monetized Benefit	None	
(4) Other Costs & Benefits (Non-Monetized)	None	
(5) Information Sources	Technical Advisory Committee members, 9VAC25-110.	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	**Direct Costs:** The fee for filing a registration statement for coverage under 9VAC25-110 (General VPDES Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 GPD) is $0. 9VAC25-20-130. Annual compliance costs for disinfection, sampling, analysis, and inspection are estimated to be $1,075 per permittee (total of $3,259,400/ year for 3032 permittees). This is based on anecdotal data provided by TAC members during the 2021 reissuance and adjusted for inflation (these estimates were reaffirmed by the 2026 TAC). **Indirect Costs:** None identified. **Direct Benefits:** None, the general permit will expire on June 30, 2026, and permit holders will need to seek coverage for discharges under an individual VPDES permit. See Table 1 c.

	Indirect Benefits: See Table 1c.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See above regarding direct costs.	(b) Unknown
(3) Net Monetized Benefit	None	
(4) Other Costs & Benefits (Non-Monetized)	None	
(5) Information Sources	Compliance costs are based on anecdotal data provided by TAC members during the 2021 permit reissuance and adjusted for inflation.	

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	Point source discharges of pollutants including domestic wastewater must be authorized by a VPDES permit under the federal Clean Water Act and State Water Control Law. Thus, no non-regulatory options were determined to be available. Regulating activities through the issuance of general permit regulations is an alternative streamlined approach that is used to regulate a category of entities that conduct similar activities. A benefit of this general permit is its lower cost to permittees relative to the cost of obtaining an individual VPDES permit. The permit fee for operators to obtain coverage under this general permit is $0 and no permit maintenance fee is imposed under this general permit. If this general permit were not available these operators would be required to obtain an individual VPDES permit. The initial application fee would be $2,000 (assumes municipal minor, 1,000 GPD or less). An annual permit maintenance fee of $656 would also apply in years two through five of the permit term. Thus, individual permit application costs for 3032 facilities would cost permittees $6,064,000 in year one. Maintenance costs for years 2-5 would be $7,955,968 (for a permit term total of $14,019,968). Compliance costs are the would be the same under an individual permit and a general permit ($1075 per permittee per year). This does not account for the longer lead time to obtain an individual permit and the increased burden on DEQ staff resources that would result.

	Direct Costs: Over a five-year permit term the total for the alternative approach of issuing individual permits would be $14,019,968 (excluding compliance costs, which are the same under an individual permit and a general permit). With compliance costs, individual permits for 3032 permittees would cost $30,316,968 over 5 years. For electronic submission of registration statement and Discharge Monitoring Reports (DMRs), no regulatory alternatives were considered during this phase of general permit reissuance. This is because the electronic submission of these items is required under federal and state regulations (9VAC25-31-1020). EPA developed cost and benefit estimates for electronic reporting. Upon full implementation, EPA estimates that the net savings for authorized NPDES programs will be $22.6 million, and $0.5 million for regulated entities. EPA acknowledges that there will be up-front costs and predicts the break-even point in the fourth year. EPA economic analysis documents do not provide analysis at the level of this general permit. Indirect Costs: None identified. Direct Benefits: See Table 1 a. Indirect Benefits: See Table 1 a.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $30,316,968 (total over permit term; includes compliance costs).	(b) Unknown
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources	DEQ Water Fee Form. 9VAC25-20-142. Permit maintenance fees. Economic Analysis of the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Final Rule, Enforcement Targeting and Data Division, Office of Compliance, Office of Enforcement and Compliance Assurance, U.S. EPA, DCN 0197, September 14, 2015, Page ES xii, Docket No. EPA-HQ-OECA-2009-0274.	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	No cost or benefit impacts on local partners are expected due to the limited extent of changes being made to the general permit regulation. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity. Without this general permit regulation, an individual permit would be required to conduct the regulated activity.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Other Costs & Benefits (Non-Monetized)		
(4) Assistance		
(5) Information Sources		

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	No direct costs or benefit impacts on families are expected due to the limited extent of changes being made to the general permit regulation.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See table 1a.	(b) These benefits are unable to be monetized but are positive for families.

(3) Other Costs & Benefits (Non-Monetized)	Families could potentially benefit from industry's use of general permits. Under this general permit 2462 of the permittees are individual single family homes. This general permit accommodates housing where septic systems cannot be used and no centralized waste treatment is available. No quantification of these benefits at the appropriate level have been identified.
(4) Information Sources	DEQ CEDS data system.

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	No direct costs or benefit impacts on small businesses are expected due to the limited extent of changes being made to the general permit regulation. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity. Without this general permit regulation, an individual permit would be required to conduct the regulated activity.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See table 1a.	(b) These benefits are unable to be monetized but are positive for small businesses.
(3) Other Costs & Benefits (Non-Monetized)	Under this general permit 570 permittees are categorized as buildings or dwellings other than individual single family dwellings. A subset of this group includes small businesses. This general permit allows for the development of non-single family dwellings including small businesses where septic systems cannot be used and no centralized waste treatment is available. No quantification of these benefits at the appropriate level have been identified.	
(4) Alternatives		
(5) Information Sources	DEQ CEDS data system.	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC 25-110-10 Definitions	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**0**	0	0	0
	(D/R):	**0**	0	0	0
9VAC 25-110-15 Incorp. Ref.	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**0**	0	0	0
	(D/R):	**0**	0	0	0
9VAC 25-110-20 Purpose; Effective date	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**0**	0	0	0
	(D/R):	**0**	0	0	0
9VAC 25-110-60 Auth. To discharge	**(M/A):**	**1**	0	0	0
	(D/A):	**1**	0	0	0
	(M/R):	**3**	0	0	0
	(D/R):	**0**	0	0	0
9VAC 25-110-70 Reg. Statement	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**4**	0	0	0
	(D/R):	**0**	0	0	0
9VAC 25-110-80 General Permit	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**36**	3	0	+3
	(D/R):	**3**	0	2	-2
					(M/A): 0
					(D/A): 0

	Grand Total of Changes in Requirements:	**(M/R): +3[1]** **(D/R): -2**

Key:
Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:
(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself
(D/A): Discretionary requirements affecting agency itself
(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies
(D/R): Discretionary requirements affecting external parties, including other agencies

[1] The two changes from discretionary requirements (DR) to mandatory requirements (MR) in 9VAC25-110-80 – General Permits Part II I 3 were made to align regulatory language for e-reporting and make it consistent with the VPDES regulation (9VAC25-31-1020) and other general permits (i.e. the industrial stormwater general permit, 9VAC25-151-70 Part II C). The one, new mandatory requirement is for emergency calls, outside of normal working hours, to be made to the Management Emergency Operations Center.

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	**Description of Regulatory Requirement**	**Initial Cost**	**New Cost**	**Overall Cost Savings/Increases**
9VAC25-110 Entire chapter- see Table 1a for further explanation	This is the reissuance of a general permit. If the general permit regulation did not exist, individual permits would be required to be obtained for these regulated activities.	$4624 per permittee for 5-years of coverage under an individual permit (includes permit application fee and permit maintenance fees).	$0 per permittee for 5-year general permit coverage (includes application fee; no maintenance fee is applicable).	Currently 3032 regulated entities are covered by this general permit. Costs savings of $4624 per permittee covered by the general permit. Cost savings to the regulated community is $14,019,968 over 5 year permit term which represents a 100% cost savings

				over the cost of an individual permit.
9VAC25-110-80	Estimated compliance costs under general permit for disinfection, sampling and analysis and inspection.	$1075 per permittee.	$1075 per permittee.	Costs savings of $0 per permittee covered by the general permit. Compliance costs are the same under the general permit and under individual permits.
9VAC25-110 Entire chapter	Reissuance of the general permit reduces the time required to obtain permit coverage.	Average amount of time to issue an individual permit (FY2021 data*) - 322 days	Average amount of time to issue general permit coverage (FY2021 data*) – 79 days	Permittee obtains permit coverage on average 243 days sooner under the general permit. This represents a 75% reduction in the time required to obtain permit coverage

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	**Description of Regulatory Change**	**Overview of How It Reduces or Increases Regulatory Burden**
NA	NA	

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	**Original Word Count**	**New Word Count**	**Net Change in Word Count**
NA			

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).

COMMONWEALTH OF VIRGINIA
STATE WATER CONTROL BOARD

FACT SHEET

REISSUANCE OF A GENERAL VPDES PERMIT TO DISCHARGE TO STATE WATERS AND STATE CERTIFICATION UNDER THE STATE WATER CONTROL LAW

Effective Date of Permit August 1, 2026

The State Water Control Board (Board) has under consideration the reissuance of a general VPDES permit for point source discharges from domestic sewage treatment works with a design flow of less than or equal to 1,000 gallons per day on a monthly average basis.

Permit Number:	VAG40
Name of Permittee:	Any owner of a domestic sewage treatment works with a design flow of less than or equal to 1,000 gallons per day on a monthly average basis in the Commonwealth of Virginia that seek and obtain coverage under the terms of this general permit.
Facility Location:	Commonwealth of Virginia
Receiving Waters:	All surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in other Board regulations which prohibit such discharges.
Restrictions:	An owner is not eligible to discharge under this general permit if the owner is required to obtain an individual permit; if the owner is proposing to discharge to surface waters specifically named in Board regulations which prohibit such discharges; if the owner is proposing to discharge to surface waters in an area where there are central sewage facilities reasonably available, as determined by the Department; if the owner has applied to the Virginia Department of Health (VDH) for an onsite sewage disposal system permit, and the VDH has determined that an onsite system is available to serve that parcel of land; if the discharge would violate the Virginia Water Quality Standards antidegradation policy; or if the discharge is not consistent with the assumptions and requirements of an approved Total Maximum Daily Load (TMDL).

On the basis of preliminary review and application of lawful standards and regulations, the Board proposes to reissue the general permit subject to certain conditions and has prepared a draft permit. The Board has determined that this category of discharges is appropriately controlled under a general permit. The category of discharges to be included involves facilities with the same or similar types of operations and which discharge the same or similar types of wastewater. The draft general permit requires that all covered facilities meet standardized effluent limitations, permit conditions and monitoring requirements. This permit will maintain the water quality standards adopted by the Board. This general permit will replace general permit VAG40, which expires on July 31, 2026.

All pertinent information is on file and may be inspected, and arrangements made for copying, by contacting Peter Sherman at:

Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, Virginia 23218
Telephone: (804) 659-2666
Email: mailto: peter.sherman@deq.virginia.gov

Activities Covered by this Permit

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

Individual single family dwellings covered under this permit are also subject to the Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings (12VAC5-640) of the Virginia Department of Health (VDH).

Buildings or dwellings other than individual single family dwellings that are covered under this permit are also subject to the Sewage Collection and Treatment Regulations (9VAC25-790) adopted by the State Water Control Board.

Summary of Significant Changes From the 2021 General Permit

This general permit replaces the 2021 Domestic Sewage Discharges General Permit, which was issued for a five-year term on August 2, 2021. Following is a list of significant changes included in the general permit regulation as compared to the 2021 regulation:

Section 10 - Definitions.

- In the definition of "Combined application," changed the existing reference to "State Water Control Board" to now reference the "Virginia Department of Environmental Quality" to implement SB657 (2022). [Note: Select revisions required under Senate Bill 657 (regarding SWCB authority) were made "exempt final" during the August 25, 2022 Board meeting. In this reissuance, in the balance of the general permit/regulation the term "board" is changed to "department" where the reference is to any action except the adoption of regulations.]

- In the definition of "Individual single family dwelling," deleted the word "only" at the end of the first sentence.

Section 15 – Applicability of incorporated references based on the dates that they became effective.

- Changed the referenced date for the NOPC to July 1, 2024. This will be adjusted again at the time of final issuance. This change ensures the most recent effective federal regulations are referenced in the permit.

Section 20 – Purpose; delegation of authority; effective date of permit.

-- Updated the general permit term. Revised the effective date to be August 1, 2026, and expiration date to be July 31, 2031. VPDES permits are limited to terms of five years.

Section 70 - Registration Statement

- Adjusted the existing language to specify that, consistent with permit conditions, registration statements will need to be submitted electronically. Combined applications will not need to be submitted electronically but will continue to be submitted by either postal or electronic mail. This approach is based on several factors. Under DEQ and VDH regulations there are two different permit application forms used under this general permit. This is unique among VPDES general permits and presents technical challenges for nForm and CEDS. VDH requires that individual single family dwellings submit the Combined Application, however, VDH does not have a system in place for permittees to submit these applications electronically. In addition, DEQ's CEDS system is structured to be compatible with the information specified in the registration statement.

Section 80 - General Permit

Part I – Effluent Limitations, Monitoring Requirements and Special Conditions

- Revised the term of the general permit. Revised the term of the general permit: Effective Date: August 1, 2026; Expiration Date: July 31, 3031.

- Revised the annual monitoring period (now August 1 to July 31) and DMR submittal date (now August 10) in I A 2 and I B 2 to reflect the new permit term.

- In I A 2 (maintenance and submission of monitoring results), added language that indicates that monitoring results for treatment works serving buildings or dwellings other than individual single-family dwellings, which must be submitted to DEQ on a DMR, are subject to the electronic submission requirements specified in Part II C 1.

- In I B 2 (maintenance and submission of monitoring results), added language that indicates that monitoring results for treatment works serving buildings or dwellings other than individual single-family dwellings, which must be submitted to DEQ on a DMR, are subject to the electronic submission requirements specified in Part II C 1.

- In I C 2 (maintenance and submission of monitoring results), added language that indicates that monitoring results for treatment works serving buildings or dwellings other than individual single-family dwellings are subject to the electronic submission requirements specified in Part II C 1.

Part II – Conditions Application to All VPDES Permits

- In Part II C 1 (reporting monitoring results), added language that clarifies that the electronic submission requirement only applies to DMRs submitted to DEQ. This approach is based on the fact that the general permit requires monitoring data for individual single family dwellings to be submitted to VDH in accordance with 12VAC5-640, under established practice the use of a DMR is not required for these facilities, and VDH does not have in place a system of electronic reporting of monitoring data that is consistent with federal e-reporting requirements.

- In Part II I 3 (reports of noncompliance), revised language such that 24-hour report must be made to the applicable DEQ regional office. Specified that reports out of normal working hours must be made using the online portal and included the updated link. Provided an updated contact phone number for emergencies.

- In Part II M 2 a and b, Duty to reapply, updated the effective date for this reissuance of the general permit from August 2, 2021, to August 1, 2026.

- Made minor edits to language to improve clarity and consistency. Edits in Part II: K 1, N, O, and W.

Effluent Limitations and Monitoring Requirements (all apply to final effluent unless indicated otherwise)

Subcategory I - Discharges to receiving waters where the 7-day/10-year low flows (7Q10 flows) are less than 0.2 million gallons per day (MGD)

Parameter	Limitation
Flow (MGD)[1]	No limitation, monitoring required
BOD_5	30 mg/l - maximum
Total Suspended Solids	30 mg/l - maximum
pH (standard units)	6.0 -minimum to 9.0 maximum
Dissolved Oxygen [6]	5.0 mg/l - minimum
Total Residual Chlorine [2]	
After contact tank	1.0 mg/l - minimum
Final effluent [6]	0.016 mg/l - maximum
E. coli [3]	126 CFU/100 ml - maximum
enterococci [4]	35 CFU/100 ml - maximum
Fecal Coliform Bacteria [5]	200/100 ml - maximum

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

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

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

[4] Applies only when the discharge is into saltwater or the transition zone, regardless of the disinfection methods (see 9VAC25-260-140.C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

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

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

Subcategory II - Discharges to receiving waters where the 7Q10 flows are equal to or greater than 0.2 MGD.

Parameter	Limitation
Flow (MGD)[1]	No limitation, monitoring required

BOD_5	30 mg/l - maximum
Total Suspended Solids	30 mg/l - maximum
pH (standard units)	6.0 -minimum to 9.0 maximum
Total Residual Chlorine [2]	
After contact tank	1.0 mg/l - minimum
Final effluent	2.0 mg/l - maximum
E. coli [3]	126 CFU/100 ml - maximum
enterococci [4]	35 CFU/100 ml - maximum
Fecal Coliform Bacteria [5]	200/100 ml - maximum

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

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

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

[4] Applies only when the discharge is into saltwater or the transition zone, regardless of the disinfection methods (see 9VAC25-260-140.C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

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

Subcategory III - Discharges to receiving waters subject to the Policy for the Potomac River Embayments (9VAC25-415).[1]

Parameter	Limitation
Flow (MGD)[2]	No limitation, monitoring required
pH (standard units)	6.0 -minimum to 9.0 maximum
$cBOD_5$	5 mg/l - maximum
Total Suspended Solids	6.0 mg/l - maximum
Ammonia as N (Apr 1 – Oct 31)	1.0 mg/l - maximum
Ammonia as N (Nov 1 – Mar 31)	3.1 mg/l - maximum
Dissolved Oxygen	6.0 mg/l - minimum
E. coli [4]	126 CFU/100 ml - maximum
enterococci [5]	35 CFU/100 ml - maximum
Total Phosphorus	0.18 mg/l - maximum

Total Residual Chlorine [3]	
After contact tank	1.0 mg/l - minimum
Final effluent	0.016 mg/l - maximum

[1] Note conditional exemptions in 9VAC25-415-30.

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

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

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

[5] Applies only when the discharge is into saltwater or the transition zone, regardless of the disinfection methods (see 9VAC25-260-140.C for the classes of waters and boundary designations). When the treatment works is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

For subcategory I and II monitoring is required annually by grab sample. Monitoring results for treatment works serving buildings and dwellings other than individual single family dwellings must be submitted to DEQ on a DMR by the 10th of August following the monitoring period. The monitoring period is now August 1 through July 31. A copy of the maintenance log required by the permit Part I D 2 b (2)(e) must be submitted along with the DMR.

For subcategory III monitoring is required quarterly by grab sample. Monitoring results must be submitted to DEQ on a DMR by the 10th day of the month following the monitoring period. The quarterly monitoring periods are January through March, April through June, July through September, and October through December. A copy of the maintenance log required by the permit Part I D 2 b (2)(e) must be submitted along with the DMR.

For subcategories I, II, and III, monitoring results for treatment works serving individual single family dwellings are submitted to the VDH in accordance with 12VAC5-640.

Basis for Effluent Limitations and Monitoring Requirements

Flow must be estimated each time effluent samples are taken. The design flow of the treatment works must be less than or equal to 1,000 gallons per day on a monthly average basis.

The general permit recognizes three subcategories within this discharge category. Subcategory I includes discharges to receiving waters where the 7Q10 flows are less than 0.2 MGD. The 7Q10 flow is the lowest mean stream flow averaged over 7 consecutive days which, on a statistical basis, can be expected to occur once every 10 years. These receiving waters provide low to moderate dilution of effluent discharges. Subcategory II includes discharges to waters where the 7Q10 flows are equal to or greater than 0.2 MGD. Discharges in this subcategory receive ample dilution. Subcategory III includes discharges to receiving waters subject to the Policy for the Potomac River Embayments (PPRE) (9VAC25-415). This includes all embayments and their tidal and nontidal tributaries, including their headwaters, of the Potomac River, from the fall line at Chain Bridge in Arlington County to the Route 301 Bridge in King George County. The Occoquan River watershed, upstream of the fall line at the Occoquan Dam, is not subject to these requirements, since those waters are governed by the Occoquan Policy (9VAC25-410-10 et seq.).

The effluent limitations for BOD_5, TSS, and pH in subcategories I and II are based on federal requirements for secondary treatment (40 CFR Part 133). BOD_5 and TSS concentrations of 30 mg/l are listed as 30-day averages in the federal regulation, but because of the annual sampling frequency here proposed, they are applied as instantaneous maximums in the general permit. These effluent concentrations are consistently achievable through proper operation and maintenance of treatment works typically installed to treat very small domestic sewage flows. The treatment works installed by the owners whose discharges are covered under this general permit are also required to attain no less than 85 percent removal of the 30-day average influent BOD_5 and total suspended solids as specified by the federal requirements for secondary treatment (40 CFR Part 133).

The effluent limitations for $cBOD_5$, TSS, Total Phosphorus, and NH_3 (Apr 1 – Oct 31) in subcategory III are based on the effluent limitations given in the PPRE, and on similar individual permits in the Potomac Embayments area. The concentrations for these parameters are all listed as monthly averages in the PPRE, but because of the quarterly sampling frequency here proposed, they are applied as instantaneous maximums in the general permit.

The discharges from these treatment works are usually intermittent and vary according to the water use pattern in the home or business being served. The flow of 1,000 gallons per day is less than 1 gallon per minute on a continuous basis. When it stops and starts it roughly equates to a 5-gallon bucket of water every 7 minutes or a large trash can (45 gallons) every hour. Most treatment works of this type actually discharge in the range of 300 to 600 gallons per day. When they discharge, the effluent may infiltrate into the soil immediately below the discharge point, or it may persist in the receiving water course for a very short distance, typically less than 100 yards, except during wet weather. The validity of modeling the water quality impacts of discharges under these conditions is very suspect. The basic assumptions under which the economically feasible water quality models were formulated cannot be applied to these discharges. Steady state models are not applicable to a situation where the stream or the discharge is intermittent. When the receiving stream is of sufficient size to make water quality modeling a reasonable undertaking, a 1,000 gallon per day discharge is diluted by the stream to the point that meaningful results for parameters like BOD_5 are difficult to measure. It is rare that fish kills, water quality standards violations, pollution events or other significant environmental harm is caused by small (≤1,000 gpd) individual dischargers. Therefore, for subcategories I and II the general permit is drafted with secondary treatment limits for BOD_5 and TSS which are believed to provide adequate water quality protection. In the low to moderate dilution situations of Subcategory I, a minimum dissolved oxygen limitation of 5.0 mg/l is also included to reduce the potential for oxygen depletion in the receiving waters. However, when the receiving stream is an ephemeral stream there is no oxygen to deplete in the receiving waters, so the minimum dissolved oxygen limitation does not apply.

The general permit also imposes limitations to assure adequate disinfection of the wastewater prior to discharge. The draft permit requires sampling to be conducted annually for subcategories I and II, and quarterly for subcategory III. However, the Water Quality Standards require that a minimum of four weekly bacteria samples be collected in a calendar month in order to calculate a geometric mean. Water quality standards that became effective in October 2019 provide that in freshwater, E. coli bacteria shall not exceed a geometric mean of 126 counts/100 ml and shall not have greater than a 10 percent excursion frequency of a statistical threshold value of 410 counts/100 ml, both in an assessment period of up to 90 days. In transition and salt water, Enterococci bacteria shall not exceed a geometric mean of 35 counts /100 ml and shall not have greater than a 10 percent excursion frequency of a STV of 130 counts/100ml, also in an assessment period of up to 90 days.[1] To be conservative, these bacteria values from the Water Quality Standards are proposed for the permit limit as a single sample maximum limit for both E. coli

[1] Because all surface water are classified for primary recreation and given that this is a general permit and applies to a broad range of receiving waters, the most stringent use standards (primary recreation) are being applied.

(126 CFU/100 ml) and enterococci (35 CFU/100 ml). Since these are maximum values, it is believed that this approach will be more protective of water quality, since any and all bacteria samples taken will need to meet the limit, and averaging of multiple samples will not be allowed to let the discharge meet the limit.

The chlorine limitations in the permit vary according to subcategory. For discharges in Subcategory I, there will be limited to moderate dilution of the wastewater from the treatment works and the limitations that deal with disinfection for human health protection are more stringent as a result. When chlorine is used for disinfection and the discharge is in freshwater, the total residual chlorine limitation for final effluents is 0.016 mg/l, which was derived in accordance with the guidance on the development of limits for toxic pollutants (Guidance Memo #00-2011, dated August 24, 2000). A printout of the STATS program output is included at the end of this document. In order to assure adequate disinfection, the permit requires a minimum 1.0 mg/l chlorine residual at the end of the chlorine contact tank. This chlorine residual level is expected to reduce E. coli bacteria to at least an order of magnitude below the standard. Note that for discharges to ephemeral streams, the final effluent total residual chlorine limitation of 0.016 mg/l does not apply.

For discharges in Subcategory II, the chlorine limits are less stringent. The discharge of up to 1,000 gallons per day into a 7Q10 flow of 0.2 MGD (200,000 gallons per day) receiving stream represents at least a 200:1 dilution ratio. It is unlikely that residual chlorine from a small domestic sewage treatment works would be detectable after the stream flow and wastewater discharge mix. Even if the wastewater discharge contained the maximum chlorine limit of 2.0 mg/l, it would be diluted to 0.01 mg/l of chlorine under this scenario, well below the quantification level of 0.1 mg/l. In these cases, the general permit would not require dechlorination of the effluent. The dissolved oxygen limitation is unnecessary in this subcategory because any oxygen demand exerted by such a small wastewater discharge on a stream of 0.2 MGD or greater is un-measurable.

If disinfection is achieved by means other than chlorination, the permit imposes the E. coli limit for discharges into freshwater to assure compliance with the water quality standards. For discharges into saltwater and the transition zone, the permit imposes the enterococci limit, regardless of the methods of disinfection used. For discharges into shellfish waters, in addition to the appropriate chlorine, E. coli or enterococci limits, the general permit will continue to limit fecal coliform with an effluent limit of 200/100 ml. Although the Water Quality Standards have been amended to remove the reference to this criteria in shellfish waters, the Virginia Department of Health, Bureau of Shellfish Sanitation still uses fecal coliform as an indicator for determining the quality of shellfish waters, and the limit is necessary to ensure discharges meet this level.

Special Conditions and Their Basis

1. Restriction of discharges containing floating solids or visible foam.

This condition is required to comply with the general water quality standards (9VAC25-260-20).

2. Operation and Maintenance (section I D 2)

For treatment works serving individual single family dwellings, the general permit clarifies that operation and maintenance requirements are specified in the VDH regulations at 12VAC5-640-500.

For treatment works serving buildings or dwellings other than individual single family dwellings, the general permit requires the permittee to engage and have the system operated and maintained by a licensed operator who meets the criteria specified in section I D 3. This approach seeks to promote proper operation and maintenance of treatment works systems, which normally results in such systems meeting applicable effluent limits and protecting water quality. It also is consistent with the regulatory

requirements imposed on individual single family dwellings using these discharging systems by the Virginia Department of Health. The permittee must:

- Have the system operated and maintained by a licensed operator including the responsibilities specified in I D 2 (b) 3 (licensed operator responsibilities);
- Have a licensed operator visit the system at least semi-annually;
- Have a licensed operator collect, analyze and submit to the department any samples required under Part I A, Part I B, or Part I C (effluent limits and monitoring requirements for subcategories 1, 2, and 3, respectively), as appropriate, of this general permit;
- Provide prompt maintenance and repair of the treatment works once notified by the operator that repair or maintenance is necessary. The owner is responsible for all costs associated with the maintenance or repair. Immediately upon receipt of notice that repair or maintenance is required, the owner shall begin emergency pump and haul of all sewage generated from the building or dwelling or otherwise ensure that no discharge occurs if full and complete repairs cannot be accomplished within 48 hours;
- Maintain a copy of the log provided by the operator on the property where the system is located in electronic or hard copy form, make the log available to the department upon request, and make a reasonable effort to transfer the log to any future owner; and
- Follow the treatment works O&M manual (where available) and keep a copy of the O&M manual in electronic or hard copy form on the property where the system is located, make the O&M manual available to the department upon request, and make a reasonable effort to transfer the O&M manual to any future owner.

The licensed operator has the following responsibilities:

- Perform all monitoring required in accordance with either Part I A, Part I B, or Part I C, as appropriate, and periodic (at least semi-annual) inspections of the treatment works. Note: Discharges from the treatment works should, to the maximum extent feasible, be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that treatment works). If this is not feasible, forcing a discharge can be an option provided such a sample will be representative of system performance;
- During visits required by this subsection, fulfill the operator responsibilities specified in this subsection through observing the system and through laboratory or field tests required by this permit or that the operator deems appropriate. In performing a required visit, the operator is responsible for the entire system and, where applicable, shall follow the O&M manual;
- Provide a written or electronic notification to the owner within 24 hours whenever the operator becomes aware that maintenance or repair of the owner's treatment works is necessary;
- Report monitoring results to DEQ as required in I A 2, I B 2, and I C 2 (monitoring data maintenance and submittal for respective subcategories), as applicable, as well as II C (conditions applicable to all VPDES permits, reporting monitoring results), and maintain at the treatment works and provide to the permittee a log of the following items:
    - Results of all tests and sampling;
    - Alarm activation incidents;
    - Maintenance;
    - Corrective or repair activities performed;
    - Recommended repair or replacement items;
    - Copies of all reports prepared by the operator; and
    - Sludge or solids removal;

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

3. Licensed Operator

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

4. Compliance Recordkeeping Under Part I A, Part I B and Part I C

This special condition contains compliance recordkeeping instructions for the permittee regarding quantification levels (QLs) and significant digits. This language is routinely placed in individual permits so that permittees use a QL close to their effluent limit, and treat consistently any results < QL, and the rounding of recorded data. It was determined that would be a good requirement for general permits as well.

5. Water Quality Standards

This special condition is a general requirement for discharges authorized by this permit to meet water quality standards. While it is not expected that these treatment works will discharge water quality 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.

General Permit Coverage

This general permit will have a fixed term of five (5) years. Every authorization to discharge under this general permit will expire at the same time and all authorizations to discharge will be renewed on the same date. However, an owner is allowed to continue to discharge under the terms of their previous permit until the department either issues coverage to the owner under this permit, or notifies the owner that coverage under this permit is denied, provided the owner has submitted a complete registration statement (if the owner is required to submit a registration statement - see below) before the expiration date of the existing permit. This is also known as an administrative continuance.

All persons desiring to be covered by this general permit must either register with the DEQ by submitting a complete registration statement (or for individual single family dwellings a VDH Combined Application), or qualify for automatic permit coverage renewal. Facilities that DO NOT qualify for automatic permit coverage renewal will be notified by the department in writing.

For new facilities, a registration statement (or for individual single family dwellings a VDH Combined Application) must be submitted at least 60 days prior to the date planned for commencing operation of the treatment works unless a later submittal date is established by the department. A notification of permit coverage must be issued prior to any discharges occurring at the treatment works to be covered under the permit.

Any owner of a treatment works covered by an individual permit who wishes to be covered under this general permit may request that the individual permit be terminated and register for coverage under this general permit. Discharges covered by an individual VPDES permit will not be covered under this general permit until the individual permit has expired or has been terminated or revoked. Any owner of an existing treatment works covered by an individual VPDES permit who is proposing to be covered by this general permit must notify the Department and submit a complete registration statement (or for

individual single family dwellings a VDH Combined Application) at least 240 days prior to the expiration date of the individual VPDES permit unless a later submittal date is established by the department.

Any owner of a treatment works that was authorized to discharge under the expiring general permit and who intends to continue coverage under this general permit, is automatically covered under this general permit and is not required to submit a registration statement if:

(1) The ownership of the treatment works has not changed since the registration statement for coverage under the expiring 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;

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

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

Any owner of a treatment works not wishing to be covered or limited by this general permit may make application for an individual VPDES permit in accordance with the VPDES Permit Regulation (9VAC25-31) procedures.

This general permit does not apply to any discharge that will result in significant impacts to state waters. The determination of no significant impact is made in accordance with the department's Antidegradation Policy contained in the Water Quality Standards (9VAC25-260).

All treatment works that the department believes are eligible for coverage under this general permit will be authorized to discharge under the terms and conditions of the permit after a complete registration statement (or for individual single family dwellings a VDH Combined Application) is submitted (if the owner is required to submit a Registration Statement). If this general permit is inappropriate, the applicant will be so notified and the requirement that an individual permit is needed will remain in effect.

STATS Program Output

8/23/04 11:39:37 AM

Facility = Domestic sewage discharges of less than or equal to 1,000 gpd
Chemical = Total Residual Chlorine
Chronic averaging period = 4
WLAa = 0.019
WLAc = 0.011
Q.L. = 0.1
# samples/mo. = 1
# samples/wk. = 1

Summary of Statistics:

observations = 1
Expected Value = .1
Variance = .0036
C.V. = 0.6
97th percentile daily values = .243341
97th percentile 4 day average = .166379
97th percentile 30 day average = .120605
< Q.L. = 0
Model used = BPJ Assumptions, type 2 data

A limit is needed based on Chronic Toxicity
Maximum Daily Limit = 1.60883226245856E-02
Average Weekly limit = 1.60883226245856E-02
Average Monthly Limit = 1.60883226245856E-02

The data are:

0.1

TAB C

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

November 8, 2024

MEMORANDUM

TO: State Water Control Board Members
FROM: Meghan Mayfield, Office of VPDES Permits
SUBJECT: Reissuance of VPDES General Permit Regulation for Seafood Processing Facilities, 9VAC25-115

The current VPDES General Permit for Seafood Processing Facilities (9VAC25-115) will expire on June 30, 2026, and the regulation establishing this general permit is being amended to reissue it for another five-year term. The staff is bringing this proposed regulation amendment before the State Water Control Board (Board) to request authorization to hold a public comment period and a public hearing. The proposed regulation takes into consideration the recommendations of a technical advisory committee (TAC) formed for this regulatory action.

A Notice of Intended Regulatory Action (NOIRA) for the amendment was published April 8, 2024. No comments were received.

The Office of the Attorney General will be sent the proposed regulation for certification of statutory authority. The U.S. Environmental Protection Agency will also need to review and approve the general permit prior to final adoption.

The Board adopted final amendments to the current regulation during the August 25, 2022, meeting to conform to changes in Virginia statutory law (Chapter 365 of the 2022 Acts of Assembly) regarding Board authority. In this proposed regulatory action, sections of the general permit/regulation that were not amended in 2022 will change the term “board” to “department” where the context relates to any action except the adoption of regulations. Proposed amendments to the current regulation, the Agency Background Document, Fact Sheet, and list of the TAC members are attached.

Substantive amendments to the existing regulation are:

- 9VAC25-115-10. Definitions.
  - Added definition for “Director” since this term is referenced in the regulation.
- 9VAC25-115-15. Applicability of incorporated references based on the dates that they became effective.

    - Changed date to indicate that incorporated references are based on the Code of Federal Regulations published as of July 1, 2024.
- 9VAC25-115-20. Purpose; effective date of permit.
    - Changed effective date to July 1, 2026, and expiration date to June 30, 2031.
- 9VAC25-115-50. General permit.
    - Revised permit effective and expiration dates.
- 9VAC25-115-50. Part I
    - Subsection A – Clarified language that defines annual and semi-annual monitoring.
    - Subsections A.2 through A.27 – Reduced sampling frequency from once per quarter to once per six months based on the TAC recommendations and results from discharge monitoring reports (DMR) from the last five years. Seafood processing facilities typically operate on a seasonal basis. DEQ staff evaluated the last five years of DMR data and found that 54% of DMRs were "no-discharge" and that only 2% of DMRs indicated effluent violations. EPA was consulted on the change and did not oppose the revision.
- 9VAC25-115-50. Part II Stormwater Management
    - Subsection A.3.c – Updated conditions so they will be consistent with conditions for authorized nonstormwater discharges that are specified in other VPDES general permits. These include firefighting training activities and external building washdown when they are managed in a manner to avoid an instream impact, as well as adding pavement wash waters (subject to specified conditions).
- 9VAC25-115-50. Part III Conditions Applicable to All VPDES Permits.
    - Subsection I.3 – Updated link to the online Pollution Response Preparedness (PReP) portal and clarified that the online portal shall be used for reports outside of normal working hours.

Attachments:

TAC Membership
Draft General Permit Regulation
Agency Background Document (Town Hall)
Draft Fact Sheet

TECHNICAL ADVISORY COMMITTEE MEMBERSHIP FOR VPDES GENERAL PERMIT REGULATION FOR SEAFOOD PROCESSING FACILITIES (9VAC25-115)

- **Representatives of the Regulated Community**
  - Thomas Gallivan, Shooting Point Oysters
  - N. W. Terry, H M Terry Company Inc.
  - AJ Erskine, Bevins Oysters
  - Kim Huskey, Shellfish Growers of Virginia

- **DEQ Central Staff:**
  - Erica Duncan, Manager Office of VPDES Permits (alternate: Joseph Bryan, VPDES Permit Supervisor)

- **Additional DEQ Staff – Technical Resources**
  - Scott Morris, Director of Water
  - Laura Galli, Guidance and Regulatory Coordinator
  - May Elprince, Tidewater Regional Office, Water Permit Writer
  - Kevin Cline, Tidewater Regional Office, Water Inspector
  - Sandra Poulus, Piedmont Regional Office, Water Permit Writer
  - Vincent Revene, Piedmont Regional Office, Water Permit Writer

townhall.virginia.gov

Exempt Action: Proposed Regulation
Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-115
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Seafood Processing Facilities
Action title	**Ch 115 – 2026 Amend and Reissuance for the Existing Regulation**
Date this document prepared	November 8, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code.*

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This general permit regulation establishes limitations, monitoring requirements and other special conditions for point source discharge of seafood processing wastewater from seafood processing facilities to surface waters to maintain surface water quality. The general permit also regulates stormwater associated with industrial activity from seafood processing sites operating under SIC codes 2091 (Canned and Cured Fish and Seafood) and 2092 (Prepared Fish or Frozen Fish and Seafoods) to maintain surface water quality.

This regulatory action is proposed to amend and reissue the existing general permit which expires on June 30, 2026. The proposed changes to the regulation are being made in response to Technical Advisory Committee suggestions and staff requests to revise, update, and clarify the permit conditions.

In addition, a periodic and small business impact review of this regulation will be conducted as part of this regulatory action.

Mandate and Impetus

Identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The impetus of this regulatory change is § 62.1-44.15(5a) of the Code of Virginia which states, "All certificates issued by the Board under this chapter shall have fixed terms. The term of the Virginia Pollution Discharge Elimination System permit shall not exceed five years." This general permit expires on June 30, 2026, and must be reissued in order to make coverage available for seafood processing facilities that will discharge to surface water after June 30, 2026.

The periodic review of this regulation is mandated by the ORM procedures and § 2.2-4007.1 of the Code of Virginia.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

Board: State Water Control Board
EPA (U.S. EPA): United States Environmental Protection Agency
DEQ (or department): Department of Environmental Quality
ISWGP: Industrial Stormwater General Permit
NOIRA: Notice of Intended Regulatory Action
NPDES: National Pollutant Discharge Elimination System
SIC: Standard Industrial Classification
TMDL: Total Maximum Daily Load
USC: United States Code
VAC: Virginia Administrative Code
VPDES: Virginia Pollutant Discharge Elimination System

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

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 and investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1342) 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 VPDES General Permit Program.

40 CFR parts 122, 123, and 124 implement the NPDES permit program under § 402 of the federal Clean Water Act. These provisions cover basic EPA permitting requirements, what a State must do to obtain approval to operate its program in lieu of a federal program and minimum requirements for administering the approved State program, and procedures for EPA processing of permit applications and appeals. Section 122.1 requires permits for the discharge of “pollutants” from any “point source” into “waters of the United States”. Section 122.3 specifically states that seafood processing facilities are not excluded from NPDES requirements.

The general permit also regulates stormwater associated with industrial activity from seafood processing sites operating under SIC codes 2091 (Canned and Cured Fish and Seafood) and 2092 (Prepared Fish or Frozen Fish and Seafoods) to maintain surface water quality.

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (2.2-4006 A 8).

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

This proposed regulatory action is needed to establish permitting requirements for discharges from seafood processing facilities to protect the health, safety, and welfare of Virginia’s citizens. The existing general permit expires on June 30, 2026, and must be reissued to cover existing and new seafood processing discharges.

Other issues that needed consideration were updating the stormwater management requirements and addressing the frequency of monitoring requirements.

Issuing a general permit as opposed to an individual permit is the less intrusive and less costly alternative for small businesses. General permits also require fewer DEQ staff resources to issue.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

This general permit establishes limitations and monitoring requirements for point source discharge from seafood processing facilities. The effluent limits, special conditions, and stormwater management requirements in the general permit will be reviewed to ensure that the permit is still protective of water quality. The primary issue that needs to be addressed is that the existing general permit expires on June

30, 2026, and must be reissued to continue making it available after this date. Some issues that may need to be addressed include updating the stormwater management requirements and addressing the frequency of monitoring requirements.

Proposed changes to the general permit regulation include:

- Revise the term of the general permit regulation to July 1, 2026 – June 30, 2031.
- Update regulatory language to ensure consistency with changes in Virginia statutory law (Chapter 365 of the 2022 Acts of Assembly) regarding Board authority, clarifying that regulatory actions fall under the State Water Control Board (SWCB), while permitting actions fall under the Department of Environmental Quality (DEQ);
- Define "Director";
- Updated published date of Federal Regulations.
- Clarify language for annual and semi-annual reporting requirements.
- Reduce monitoring frequency from quarterly to semi-annual.
- Align the list of authorized non-stormwater discharges with the ISWGP; and
- Update compliance reporting requirements (Part III, Conditions Applicable to All Permits, I) including revising provisions to address online reporting.

Issues

Please identify the issues associated with the regulatory change, 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 there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The advantages to the public, permittees, and the agency of reissuing this general permit are that a Virginia Pollutant Discharge Elimination System (VPDES) General Permit will continue to be available to facilities with eligible discharges enabling them to discharge to surface waters in a manner that is protective of those waters. In addition, the continued availability of this general permit avoids the increased cost and more complicated application process for permittees associated with issuing an individual permit and makes permit administration more reasonable for DEQ. There are no known disadvantages to the public, agency, or regulated community.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the

regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:
There are no state agencies particularly affected by the proposed regulation.

Localities Particularly Affected:
There are no localities that bear a disproportionate material impact as the general permit is available and applies statewide. The proposed amendments to the regulation apply statewide.

Other Entities Particularly Affected:
In scope operations that conduct seafood processing operations must do so in a manner consistent with this general permit. No other entities are particularly affected by the proposed regulation.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

This general permit applies to seafood processing facilities, most of which are small businesses. The reissuance of this VPDES general permit meets the objectives of applicable law while minimizing implementation costs for affected small business owners. Without this general permit, a small business owner would need to obtain an individual permit, which would increase the complexity of the application process, permit requirements, and compliance costs.

Public Comment Received

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

Public comment period was held from April 8, 2024, through May 8, 2024. No public comments were received.

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 and the impacts of the regulated community.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. The agency/board is also 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 for the public comment file may do so by mail or email to Morgan Emanuel, Regulatory and Guidance Analyst, DEQ Office of Water Planning, P.O. Box 1105, Richmond, Virginia 23218, phone: 804-494-9635 and morgan.emanuel@deq.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at (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 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (http://www.townhall.virginia.gov) and on the Commonwealth Calendar website (https://commonwealthcalendar.virginia.gov/). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Please include citations to the specific section(s) of the regulation that are changing.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-115-10		Definitions.	Minor changes were made to terms throughout this section to ensure consistent use of terminology and improve readability. These minor changes did not alter, narrow, or expand the meaning of terms. A new definition was added as follows for “Director” since this term is referenced in the regulation but not previously defined: "Director" means the Director of the Department of Environmental Quality or an authorized representative.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-115-15		Applicability of incorporated references based on the dates that they became effective.	Revised date of incorporation by reference of 40 CFR from July 1, 2020 to July 1, 2024 to maintain consistency with federal regulations. This section will be updated to the most recent version prior to reissuing the general permit regulation.
9VAC25-115-20		Purpose; effective date of permit.	Revised to reflect the new permit term.
9VAC25-115-30, 9VAC25-115-40, 9VAC25-115-50		Authorization to discharge., Registration statement., General permit.	The term “board” was changed to “department” throughout the regulation in response to Chapter 356 of the 2022 Acts of Assembly.
9VAC25-115-50		General permit.	Revised to reflect the new permit term.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-115-50 General permit. Part I A		Effluent Limitations and Monitoring Requirements Permittees are required to collect samples on a quarterly basis (by March 31st, June 30th, September 30th, and December 31st) and report on the facility's Discharge Monitoring Report (DMR) by the 10th of the month following the monitoring period.	Clarified language throughout Part I A that defines annual and semi-annual monitoring. In addition, in subsections Part I A 2 through Part I A 27 the required sampling frequency was revised from once per quarter to once per six months based on the recommendations of the Technical Advisory Committee (TAC) and results from discharge monitoring reports (DMR) from the last five years. Seafood processing facilities typically operate on a seasonal basis. DMR data indicated that 54% of DMRs were "no-discharge" and that only 2% of DMRs indicated effluent violations. EPA was consulted on the change and did not oppose the revision. ~~I Samples shall be collected by March 31, June 30, September 30, and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR).~~ 1/6 - Months - Samples shall be collected once each semi-annual period with the following schedule: January 1 - June 30, to be reported on the DMR due July 10th following each applicable semi-annual period; July 1 - December 31, to be reported on the DMR due January 10th following each applicable semi-annual period. All calculations shall be submitted with the DMR. The change better reflects the seasonal nature of seafood harvesting and processing and reduces annual monitoring costs for permittees. Semi-annual monitoring continues to provide sufficient information to ensure compliance with effluent

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			limitations in the general permit and protect water quality.
9VAC25-115-50 General permit. Part I B 4		B. Special Conditions Applying to Part I A 1 through Part I A 27. 4. The permittee shall comply with the following solids management plan:	4 The permittee shall comply with the following solids management ~~plan~~ requirement. This change is intended to clarify permit requirements.
9VAC25-115-50 General permit. Part II A 3 c (1)		Nonstormwater Discharges (1) Discharges from emergency firefighting activities;	Part II.A.3.c.1 Discharges from emergency firefighting activities or firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia; This change makes the list of authorized nonstormwater discharges consistent with

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			Virginia law and other VPDES general permits, including the Industrial Stormwater General Permit (ISWGP) 9VAC25-151.
9VAC25-115-50 General permit. Part II A 3 c (8)		Nonstormwater discharges (8) Routine external building washdown that does not use detergents or hazardous cleaning products;	(8) Routine external building washdown ~~that does not use~~ provided no soaps, solvents or detergents ~~or~~ are used, external surfaces do not contain hazardous ~~cleaning products~~ substances, and the wash water is filtered, settled, or similarly treated prior to discharge; Stormwater associated with industrial activity from seafood processing is a subset of activities covered under the U.S. EPA's 2021 multi-sector general permit. This change keeps the Board's regulations for industrial stormwater from seafood processing consistent with federal requirements and makes the list of authorized nonstormwater discharges the same as other VPDES general permits, including the ISWGP.
	9VAC25-115-50 General permit. Part II.A..3.c.(9)	None	Added pavement waste waters as a category of permitted nonstormwater discharges. (9) Pavement wash waters provided no soaps, solvents, detergents or hazardous cleaning products are used, and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled or leaked materials is removed prior to washing), and the wash water is filtered, settled, or similarly treated prior to discharge; This change keeps the Board's regulations for industrial stormwater from seafood processing consistent with federal requirements and makes the list of authorized

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			nonstormwater discharges the same as other VPDES general permits, including the ISWGP.
9VAC25-115-50 General permit. Part II C 2		Stormwater pollution prevention plans (SWPPPs). Establishes requirements for SWPPPs including deadlines, content, signatures, and review and amendment.	Minor changes were made to terms throughout this subsection to ensure consistent use of terminology, correct grammar, and use plain language, consistent with the Registrar's *Form, Style and Procedure Manual for Publication of Virginia Regulations*. These minor changes did not alter, narrow, or expand the meaning or requirements in this section.
9VAC25-115-50 General permit. Part II C 3 b		Signature and SWPP review-Availability Requires the permittee to retain a copy of the current SWPPP at the facility.	Added language to clarify that the copy of the current SWPPP may be a hard copy or an electronic copy. b. Availability. The permittee shall retain a copy of the current SWPPP <u>(hard copy or electronic)</u> required by this permit at the facility, and it shall be immediately available to the department, EPA, or the operator of an MS4 receiving discharges from the site at the time of an on-site inspection or upon request. The change provides clarity and flexibility for permittees. It also makes the existing requirement consistent with other VPDES general permits and the ISWGP.
9VAC25-115-50 General permit. Part III I 1		Reports of noncompliance: The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.	Revised language to clarify reporting requirements by replacing the requirement to provide "an oral" report within 24 hours with "A" to allow the option of electronic reporting. 1.a ~~An oral~~ <u>A report</u> shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			following shall be included as information that shall be reported within 24 hours under this subdivision: Other changes clarify who a permittee reports to, the department's regional office, and how to report outside normal working hours (via the online portal). The changes clarify existing mandatory reporting requirements for permittees and allows electronic reporting. They also make the existing requirements consistent with other VPDES general permits and the ISWGP.
9VAC25-115-50 General permit. Part III I 3		Reports of noncompliance: The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.	Revised language to specify that reports shall be made to the regional office (earlier requirement was to report, but the regulation did not specify to whom to make the report) and, for reports outside of normal working hours, reporting should be done using the online portal (instead of leaving a message). The changes clarify and simplify the reporting requirements. 3. The immediate (within 24 hours) reports required in Part III G, H, and I ~~may~~ shall be made to the department's regional office. Reports may be made by telephone, or online at https://www.deq.virginia.gov/our-programs/pollution-response. For reports outside normal working hours, the online portal shall be used. ~~leave a message and this shall fulfill the immediate reporting requirement.~~ For emergencies, call the Virginia Department of

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			Emergency ~~Management maintains a 24-hour telephone service~~ Management's Emergency Operations Center (24-hours) at 1-800-468-8892.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed 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.

This general permit applies to point source discharges of wastewater from seafood processing facilities and stormwater associated with industrial activity from seafood processing facilities classified under SIC Codes 2091 and 2092 to surface waters and has been designed to minimize burden while achieving a level of water quality protection consistent with state and federal requirements. This regulatory action does not address and will have no direct impact on 1) the authority and rights of parents, 2) economic self-sufficient, self-pride, or assumption of familial responsibilities, 3) marital commitments, or 4) disposable family income.

Project 7823 - Exempt Proposed- for December 4, 2024 State Water Control Board meeting - CH 115- 2026 Amendment and Reissuance of the Existing Regulation

9VAC25-115-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. NAICS Code 311710 – Seafood Product Preparation and Packaging and SIC Code 2091 – Canned and Cured Fish and Seafoods, 2092 – Prepared Fresh or Frozen Fish and Seafoods;

2. NAICS Code 424420 – Packaged Frozen Food Merchant Wholesalers and SIC Code 5142 – Packaged Frozen Foods; and

3. NAICS Code 424460 – Fish and Seafood Merchant Wholesalers and SIC Code 5146 – Fish and Seafoods.

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

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

"Significant materials" includes raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production (except oyster, clam or scallop shells); hazardous substances designated under § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601); any chemical the facility is required to report pursuant to § 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 USC § 11023); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with stormwater discharges.

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

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

"Virginia Environmental Excellence Program" or "VEEP" means a voluntary program established by the department to provide public recognition and regulatory incentives to encourage higher levels of environmental performance for program participants that develop and implement environmental management systems (EMSs). The program is based on the use of EMSs that improve compliance, prevent pollution, and utilize other measures to improve environmental performance.

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

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July

1, ~~2020~~2024; however, references to 40 CFR Part 136 are incorporated as published in the July 1, 2024, update.

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

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

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

9VAC25-115-30. Authorization to discharge.

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

1. The owner files a registration statement, in accordance with 9VAC25-115-40, and that registration statement is accepted by the ~~board~~ department;

2. The owner submits the required permit fee;

3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-115-50; and

4. The owner has not been notified by the ~~board~~ department that the discharge is not eligible for coverage under this permit in accordance with subsection B of this section.

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

1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;

2. The owner is proposing to discharge to state waters specifically named in other board regulations that prohibit such discharges;

3. The owner is proposing to discharge annual mass loadings of total nitrogen in excess of 2,300 pounds per year or of total phosphorus in excess of 300 pounds per year;

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

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

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

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

E. Continuation of permit coverage.

1. Permit coverage shall expire at the end of the applicable permit term. However, expiring permit coverages are automatically continued if the owner has submitted a complete registration statement at least 60 days prior to the expiration date of the permit or a later submittal date established by the ~~board~~ department, which cannot extend beyond the expiration date of the permit. The permittee is authorized to continue to discharge until such time as the ~~board~~ department either:

a. Issues coverage to the owner under this general permit; or

b. Notifies the owner that the discharge is not eligible for coverage under this general permit.

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

a. Initiate enforcement action based upon the general permit coverage that has been continued;

b. Issue a notice of intent to deny coverage under the amended general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the continued general permit coverage or be subject to enforcement action for discharging without a permit;

c. Issue an individual permit with appropriate conditions; or

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

9VAC25-115-40. Registration statement.

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

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

2. Existing facilities.

a. Any owner of an existing seafood processing facility covered by an individual VPDES permit that is proposing to be covered by this general permit shall submit a complete registration statement at least 240 days prior to the expiration date of the individual VPDES permit or a later submittal established by the ~~board~~ department.

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

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

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

B. The registration statement shall contain the following information:

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

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

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

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

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

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

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

8. Facility SIC code or codes;

9. Nature of business at the facility;

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

11. Facility maximum production information;

12. Facility line (water balance) drawing;

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

14. Treatment and solid waste disposal information;

15. Information on use of chemicals at the facility;

16. State Corporation Commission entity identification number if the facility is required to obtain an entity identification number by law; and

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

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

C. The registration statement shall be delivered to the department's regional office where the seafood processing facility is located by either postal or electronic mail. Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements) as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms must be submitted electronically.

9VAC25-115-50. General permit.

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

General Permit No.: VAG52
Effective Date: ~~July 24, 2021~~ July 1, 2026
Expiration Date: ~~June 30, 2026~~ June 30, 2031

GENERAL PERMIT FOR SEAFOOD PROCESSING FACILITIES

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

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of seafood processing facilities, other than mechanized clam processing facilities, are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations that prohibit such discharges.

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from seafood processing not otherwise classified from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional blue crab processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional blue crab processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	0.15	0.30	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	0.45	0.90	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	0.065	0.13	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

~~Samples shall be collected by March 31, June 30, September 30, and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR).~~ 1/6 Months - Samples shall be collected once each semi-annual period with the

following schedule: January 1 - June 30, to be reported on the DMR due July 10th following each applicable semi-annual period; July 1 - December 31, to be reported on the DMR due January 10th following each applicable semi-annual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

4. MECHANIZED BLUE CRAB PROCESSING—ALL EXISTING SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized blue crab processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
TSS	NL	NL	12	36	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	4.2	13	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

5. MECHANIZED BLUE CRAB PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized blue crab processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	2.5	5.0	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	6.3	13	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	1.3	2.6	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from non-breaded shrimp processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

7. NON-BREADED SHRIMP PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from non-breaded shrimp processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	25	63	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	10	25	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	1.6	4.0	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from breaded shrimp processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

9. BREADED SHRIMP PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from breaded shrimp processing, from outfall(s) _____.

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

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

Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	40	100	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	22	55	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	1.5	3.8	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

~~Samples shall be collected by March 31, June 30, September 30, and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR).~~ 1/6 Months - Samples shall be collected once each semi-annual period with the following schedule: January 1 - June 30, to be reported on the DMR due July 10th following each applicable semi-annual period; 2nd half July 1 - December 31, to be reported on the DMR due January 10th following each applicable semi-annual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

10. TUNA PROCESSING—ALL EXISTING SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from tuna processing, from outfall(s) _____.

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

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

pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
TSS	NL	NL	3.3	8.3	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	0.84	2.1	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

11. TUNA PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from tuna processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	8.1	20	NA	1/~~3~~6 Months	Composite

TSS	NL	NL	3.0	7.5	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	0.76	1.9	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional bottom fish processing, from outfall(s) _____.

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

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

Oil and Grease	NL	NL	0.55	1.0	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

13. CONVENTIONAL BOTTOM FISH PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional bottom fish processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	0.71	1.2	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	0.73	1.5	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	0.042	0.077	NA	1/~~3~~6 Months	Grab

Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

14. MECHANIZED BOTTOM FISH PROCESSING—ALL EXISTING SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized bottom fish processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

15. MECHANIZED BOTTOM FISH PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized bottom fish processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	7.5	13	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	2.9	5.3	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	0.47	1.2	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked clam processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

January 10th following each applicable semi-annual period. All calculations shall be submitted with the DMR.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

17. HAND-SHUCKED CLAM PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked clam processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked oyster processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

Raw material = The weight of oyster meat after shucking.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

19. HAND-SHUCKED OYSTER PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked oyster processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

20. STEAMED AND CANNED OYSTER PROCESSING—ALL EXISTING SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized oyster processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day	DISCHARGE LIMITATIONS kg/kkg	Sample Frequency	Sample Type

	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
TSS	NL	NL	190	270	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	1.7	2.3	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

21. STEAMED AND CANNED OYSTER PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized oyster processing, from outfall(s) _____.

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

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

pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	17	67	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	39	56	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	0.42	0.84	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

22. SCALLOP PROCESSING—ALL EXISTING SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from scallop processing, from outfall(s) _____.

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

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

TSS	NL	NL	1.4	5.7	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	0.23	7.3	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

23. SCALLOP PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from scallop processing, from outfall(s) _____.

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

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

Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from farm-raised catfish processing, from outfall(s) _____.

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

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

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

25. FARM-RAISED CATFISH PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from farm-raised catfish processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	2.3	4.6	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	5.7	11	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	0.45	0.90	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

26. HERRING PROCESSING—ALL

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from herring processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
TSS	NL	NL	24	32	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	10	27	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

27. HERRING PROCESSING—ALL NEW SOURCES

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from herring processing, from outfall(s) _____.

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

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/~~3~~6 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/~~3~~6 Months	Grab
BOD_5	NL	NL	15	16	NA	1/~~3~~6 Months	Composite
TSS	NL	NL	5.2	7.0	NA	1/~~3~~6 Months	Composite
Oil and Grease	NL	NL	1.1	2.9	NA	1/~~3~~6 Months	Grab
Production	NA	NL	NA	NA	NA	1/~~3~~6 Months	Measurement

NL = No limitation, monitoring required.

NA = Not applicable.

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

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

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

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

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

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

2. There shall be no chemicals added to the water or waste to be discharged, other than those listed on the owner's accepted registration statement.

3. Wastewater should be reused or recycled to the maximum extent practicable.

4. The permittee shall comply with the following solids management ~~plan~~ requirements:

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

b. All floors, machinery, conveyor belts, dock areas, etc. shall be dry swept or dry brushed prior to washdown.

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

d. All solids resulting from the seafood processes covered under this general permit, other than oyster, clam, or scallop shells, shall be handled, stored, and disposed of so as to prevent a discharge to state waters of such solids or industrial wastes or other wastes from those solids.

e. The permittee shall install and properly maintain wastewater treatment necessary in order to remove organic solids present in the wastewater that may settle and accumulate on the substrate of the receiving waters in other than trace amounts.

f. All employees shall receive training relative to preventive measures to be taken to control the release of solids from the facility into surface waters.

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

6. The permittee shall notify the department as soon as they know or have reason to believe:

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

(1) One hundred micrograms per liter (100 µg/l) of the toxic pollutant;

(2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

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

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

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

(1) Five hundred micrograms per liter (500 µg/l) of the toxic pollutant;

(2) One milligram per liter (1 mg/l) for antimony;

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

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

7. Compliance reporting and recordkeeping under Part I A.

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

	Effluent Parameter	Quantification Level
	BOD	2 mg/l
	TSS	1.0 mg/l
	Oil and Grease	5.0 mg/l

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

b. Recording results. Any concentration below the QL used in the analysis shall be recorded as "<QL" if it is less than the QL used in the analysis (the QL must be less than or equal to the QL in subdivision 7 a of this subsection. Otherwise the numerical value shall be recorded.

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

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

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

10. Notice of termination.

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

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

(2) A new owner has assumed responsibility for the facility. A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted;

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

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

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

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

(2) Facility name and location;

(3) VPDES general permit registration number for the facility; and

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

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

(b) A statement indicating that operations have ceased at the facility, and there are no longer discharges from the facility;

(c) A statement indicating that all discharges have been covered by an individual VPDES permit or an alternative VPDES permit; or

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

(5) The following certification: "I certify under penalty of law that all wastewater and stormwater discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge seafood processing wastewater or, for facilities classified as SIC Code 2091 or 2092, stormwater associated with industrial activity in accordance with the general permit, and that discharging pollutants to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

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

Part II
Stormwater Management

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

A. Monitoring and inspections.

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

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

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

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

d. If no qualifying storm event resulted in discharge from the facility during a monitoring period, or adverse weather conditions create dangerous conditions for personnel during each measurable storm event during a monitoring period, visual monitoring is

exempted provided this is documented in the SWPPP. Acceptable documentation includes dates and times the outfalls were viewed or sampling was attempted, national Climatic Data Center weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data.

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

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

(1) Outfall location;

(2) Monitoring date and time;

(3) Duration of storm event;

(4) Rainfall measurement or estimate (in inches) of the storm event that generated the discharge;

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

(6) Monitoring personnel;

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

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

(9) Probable sources of any observed stormwater contamination;

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

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

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

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

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

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

c. The inspection frequency shall be specified in the SWPPP based upon a consideration of the level of industrial activity at the facility but shall be at a minimum

of once per calendar quarter unless written approval is received from the department for less frequent intervals. Inspections shall be performed during operating hours. At least once each calendar year, the routine facility inspection shall be conducted during a period when a stormwater discharge is occurring.

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

(1) The inspection date;

(2) The names of the inspectors;

(3) Weather information and a description of any discharges occurring at the time of the inspection;

(4) Any previously unidentified discharges of pollutants from the site;

(5) Any control measures needing maintenance or repairs;

(6) Any failed control measures that need replacement;

(7) Any incidents of noncompliance observed; and

(8) Any additional control measures needed to comply with the permit requirements.

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

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

3. Nonstormwater discharges.

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

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

(1) The date of the evaluation;

(2) A description of the evaluation criteria used;

(3) A list of the outfalls or on-site drainage points that were directly observed during the evaluation;

(4) A description of the results of the evaluation for the presence of unauthorized discharges; and

(5) The actions taken to eliminate unauthorized discharges if any were identified.

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

(1) Discharges from emergency firefighting activities or firefighter training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia;

(2) Fire hydrant flushing, managed in a manner to avoid an instream impact;

(3) Potable water, including water line flushing, managed in a manner to avoid an instream impact;

(4) Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;

(5) Irrigation drainage;

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

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

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

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

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

(1~~0~~1) Foundation or footing drains where flows are not contaminated with process materials; and

(1~~1~~2) Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

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

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

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

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

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

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

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

1. Deadlines for SWPPP preparation and compliance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Location and description of all nonstormwater discharges;

(j) Location of any storage piles containing salt;

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

(l) Locations of vents and stacks from cooking, drying, and similar operations; dry product vacuum transfer lines; animal holding pens; spoiled product; and broken product container storage area if exposed to precipitation or runoff.

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

(1) Activities in area. A list of the industrial activities exposed to stormwater;

(2) Pollutants. A list of the pollutants, pollutant constituents, or industrial chemicals associated with each industrial activity that could potentially be exposed to stormwater. The pollutant list shall include all significant materials handled, treated, stored, or disposed that have been exposed to stormwater in the three years ~~prior to~~ before the date the SWPPP was prepared or amended. The list shall include any hazardous substances or oil at the facility.

(3) Spills and leaks. The SWPPP shall clearly identify areas where potential spills and leaks that can contribute pollutants to stormwater discharges can occur and their corresponding outfalls. The SWPPP shall include a list of significant spills and leaks of toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance during the three-year period ~~prior to~~ before the date this SWPPP was prepared or amended. The list shall be updated within 60 days of the incident if significant spills or leaks occur in exposed areas of the facility during the term of the permit.

d. Control measure considerations. Control measures shall be implemented for all the areas identified in Part II C 2 c (Summary of potential pollutant sources) to prevent or

control pollutants in stormwater discharges from the facility. If applicable, regulated stormwater discharges from the facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at the facility. The SWPPP shall describe the type, location, and implementation of all control measures for each area where industrial materials or activities are exposed to stormwater. Selection of control measures shall take into consideration:

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

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

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

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

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

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

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

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

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

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

(b) Sweep or vacuum as feasible;

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

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

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

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

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

(a) Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from potential sources of pollutants;

(b) Locate materials, equipment, and activities so that potential leaks and spills are contained, or able to be contained, or diverted before discharge;

(c) Clean up spills and leaks immediately, upon discovery of the spills or leaks, using dry methods (e.g., absorbents) to prevent the discharge of pollutants;

(d) Store leaking vehicles and equipment indoors, or if stored outdoors, use drip pans and adsorbents;

(e) Utilize appropriate spill or overflow protections equipment;

(f) Perform all vehicle maintenance or equipment cleaning operations indoors, under cover, or in bermed areas that prevent runoff and run-on and also capture any overspray; and

(g) Drain fluids from equipment and vehicles that will be decommissioned, and for any equipment and vehicles that remain unused for extended periods of time, inspect at least monthly for leaks.

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

(a) All control measures that includes a description of the back-up practices that are in place should a runoff event occur while a control measure is off line; and

(b) Testing, maintenance, and repairing of all industrial equipment and systems to avoid situations that could result in leaks, spills, and other releases of pollutants in stormwater discharged from the facility.

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

(a) Preventive measures, such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;

(b) Response procedures, including notification of appropriate facility personnel, emergency agencies, and regulatory agencies and procedures for stopping, containing, and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable the Resource Conservation and Recovery Act regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the pollution prevention team;

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

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

(5) Employee training. The permittee shall implement a stormwater employee training program for the facility. The SWPPP shall include a schedule for all training and shall document all training sessions and the employees who received the training. Training shall be provided at least annually for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors and maintenance personnel). The training shall cover the components and goals of the

SWPPP and include such topics as spill response, good housekeeping, material management practices, BMP operation and maintenance and pest control. The SWPPP shall include a summary of any training performed.

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

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

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

3. Signature and SWPPP review.

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

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

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

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

a. There is construction or a change in design, operation, or maintenance at the facility that has an effect on the discharge, or the potential for the discharge, of pollutants from the facility;

b. Routine inspections or visual monitoring determine that there are deficiencies in the control measures, including BMPs;

c. Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;

d. There is a significant spill, leak or other release at the facility; or

e. There is an unauthorized discharge from the facility.

f. SWPPP modifications shall be made within 60 calendar days after the discovery, observation, or event requiring a SWPPP modification. Implementation of new or modified control measures shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the director. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP.

g. If the SWPPP modification is based on a significant spill, leak, release, or unauthorized discharge, include a description and date of the incident, the circumstances leading to the incident, actions taken in response to the incident, and measures to prevent the recurrence of such releases. Unauthorized discharges are subject to the reporting requirements of Part III G of this permit.

Part III
Conditions Applicable to All VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

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

B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individuals who performed the sampling or measurements;

c. The dates and times analyses were performed;

d. The individuals who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the ~~board~~ department.

C. Reporting monitoring results.

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

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.

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

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

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

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

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

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

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F (Unauthorized discharges); or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify (see Part III I 3) the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

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

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset, should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;

2. Breakdown of processing or accessory equipment;

3. Failure or taking out of service some or all of the treatment works; and

4. Flooding or other acts of nature.

I. Reports of noncompliance.

1. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

a. ~~An oral~~ A report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

(1) Any unanticipated bypass; and

(2) Any upset that causes a discharge to surface waters.

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

(1) A description of the noncompliance and its cause;

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

(3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

3. The immediate (within 24 hours) reports required in Part III G, H, and I ~~may~~ shall be made to the department's regional office. Reports may be made by telephone, or online at https://www.deq.virginia.gov/our-programs/pollution-response.

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

4. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement or in any report to the department, it shall promptly submit such facts or information.

J. Notice of planned changes.

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

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

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

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

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified under Part I B 6; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit registration process or not reported pursuant to an approved land application plan.

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

K. Signatory requirements.

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

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

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

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

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

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

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

U. Bypass.

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

2. Notice.

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

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I (Reports of noncompliance).

3. Prohibition of bypass.

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

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

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

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

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

V. Upset.

1. An upset, defined in 9VAC25-31-10, constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

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

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

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

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

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

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

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the federal Clean Water Act and the State Water Control Law, any substances or parameters at any location.

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

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

Y. Transfer of permit coverage.

1. Permit coverage is not transferable to any person except after notice to the department.

2. Coverage under this permit may be automatically transferred to a new permittee if:

a. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property unless permission for a later date has been granted by the ~~board~~ department;

b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

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

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

Office of Regulatory Management

Economic Review Form

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-115
VAC Chapter title(s)	VPDES General Permit Regulation for Seafood Processing Facilities
Action title	CH 115 - 2026 Amendment and reissuance of the Existing Regulation
Date this document prepared	November 8, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Proposed

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Background

This general permit regulation establishes effluent limitations, monitoring requirements, and other special conditions for point source discharge of wastewater from seafood processing facilities to surface waters to maintain surface water quality. The general permit also regulates stormwater associated with industrial activity from seafood processing facilities operating under SIC codes 2091 (Canned and Cured Fish and Seafood) and 2092 (Prepared Fish or Frozen Fish and Seafoods) to maintain surface water quality.

This regulatory action is proposed to amend and reissue the existing general permit which expires on June 30, 2026. VPDES general permit regulations expire every 5 years and must be re-issued in order for permit coverage to be available to existing facilities to continue coverage and new entities to be able to obtain coverage for conducting this regulated activity. If the general permit is not re-issued, each member of the regulated community will need to obtain an individual VPDES permit to conduct the regulated activity. For this reason, the costs associated with obtaining an individual permit are compared with the costs associated with general permit coverage. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	Presently there are 42 regulated entities covered by this general permit. Reissuance of this general permit allows existing facilities to continue coverage and new entities to be able to obtain coverage for conducting this regulated activity. The proposed amendments update the permit term, clarify the reporting requirements, and reduce monitoring frequency for the majority of facilities. They do not add requirements or increase burdens on the regulated community. **Direct Costs:** The proposed changes are not expected to result in any additional direct costs to the regulated community since they do not add requirements or impose any additional burdens on them. **Indirect Costs:** The proposed changes are not expected to result in any additional indirect costs for the regulated community since they do not add requirements or impose any additional burdens on them. **Direct Benefits:** The reissuance of this general permit provides the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity while continuing to be protective of human health and the environment. It also lowers compliance monitoring costs for the majority of seafood processing facilities. A member of the Technical Advisory Committee provided the following costs for their facility to collect and have quarterly samples analyzed for their seafood processing facility's permit required effluent monitoring: • Sampling and travel for pH testing: $136.00 • Universal Lab charges: $2,202.36 • Travel milage at government rate: $412.72 • Tolls: $160.00 • Man-hours based on $15/hr. $420.00

	• Totaling: annual cost $3,331.08 The proposed amendments reduce monitoring frequency from quarterly to semiannually which will reduce the facility's costs by 50%: • Divided by 2 would equal annual savings $1,665.54 Information provided by a separate TAC member estimated that they incur a cost of approximately $1,000 per sampling period, resulting in an annual average of $4,000. Reduced sampling frequency would then result in a savings of $2,000 annually at their facility. **Indirect Benefits:** The reissuance of the regulation will indirectly benefit economic development because it enables seafood processors to conduct activities under a general permit that is protective of human health and the environment and is less burdensome than having to apply for and maintain an individual VPDES permit. Regulating discharges also benefits tourism and the seafood industry by protecting water quality, aquatic habitat, and recreational use of state waters.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See above regarding direct costs. No indirect costs are expected due to the limited extent of the changes being made to the general permit regulation.	(b) See above regarding direct and indirect benefits.
(3) Net Monetized Benefit	Reducing the reporting requirement from quarterly to semi-annual is expected to result in an annual savings of between $1,665 and $2,000 per facility. Across all permittees this would result in an estimated annual savings of between $63,000 and $84,000.	
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources	Members of the Technical Advisory Committee reported their typical compliance monitoring costs.	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs &	None. The general permit regulation expires on June 30, 2026, ending coverage for all currently regulated seafood processing facilities. As

Benefits (Monetized)	noted in Table 1a, after June 30, 2026, each facility would need coverage under an individual VPDES permit to continue any operation that resulted in a discharge to state waters. Available general cost and benefit data is provided in Table 1a. Given the general character of this data, it would also be applicable to the general permit under the status quo (i.e., no change to the regulation.).	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See information in Table 1a.	(b) See information in Table 1a.
(3) Net Monetized Benefit	None. Continuing under the status quo would not reduce the monitoring requirement for the regulated community. This would prevent the regulated community from seeing any savings from a reduced monitoring frequency.	
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources	See Table 1a.	

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	Under the Clean Water Act and State Water Control Law, point source discharges of seafood processing wastewater from seafood processing facilities to surface waters must be authorized by a VPDES permit. Thus, no non-regulatory options were determined to be available. Regulating activities through the issuance of general permit regulations is an alternative streamlined approach that is used to regulate entities that conduct similar activities. A benefit of this general permit is its lower cost to permittees relative to the cost of obtaining an individual VPDES permit. The permit fee for operators to obtain coverage under this general permit is $600. Thus, the applicable fee total for five years of coverage for 42 facilities is $25,200. If this general permit were not available, these facilities would be required to obtain an individual VPDES permit, and the initial application fee would be $3,300 (industrial minor, standard limits). An annual permit maintenance of approximately $1,969 would also apply (the application and maintenance fee total would be $11,176 per permittee/5-year permit term). Thus, individual permits for 42 facilities would cost $469,392 over five years ($444,192 more than the general permit). This does not account for the longer lead time to

	obtain an individual permit and the increased burden on DEQ staff resources that would result. For electronic submission of registration statement and DMRs, no regulatory alternatives were considered during this phase of general permit reissuance. This is because the electronic submission of these items is required under federal and state regulations (9VAC25-31-1020). EPA developed cost and benefit estimates for electronic reporting. Upon full implementation, EPA estimates that the net savings for authorized NPDES programs will be $22.6 million, $0.5 million for regulated entities. (Economic Analysis of the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Final Rule, Enforcement Targeting and Data Division, Office of Compliance, Office of Enforcement and Compliance Assurance, U.S. EPA, DCN 0197, September 14, 2015, Page ES xii, Docket No. EPA-HQ-OECA-2009-0274). EPA acknowledges that there will be up-front costs and predicts the break-even point in the fourth year.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See above for an analysis of the direct cost of an individual permit	(b) See above for an analysis of the direct cost of an individual permit
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources	Economic Analysis of the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Final Rule, Enforcement Targeting and Data Division, Office of Compliance, Office of Enforcement and Compliance Assurance, U.S. EPA, DCN 0197, September 14, 2015, Page xii, Docket No. EPA-HQ-OECA-2009-0274. https://www.epa.gov/sites/default/files/2015-09/documents/npdesea.pdf Cost Analysis for the U.S. Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES) 2021 Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity, U.S. EPA, January 2021. 9VAC25-20-110. Fee schedules for individual VPDES and VPA new permit issuance, and individual VWP, SWW, and GWW new permit issuance and existing permit reissuance.	

	9VAC25-20-130. Fees for filing registration statements or applications for general permits issued by the board. 9VAC25-20-142. Permit maintenance fees.

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	No local governments conduct an activity that would be regulated by the general permit. However, there is the potential for the proposed changes to have direct and indirect benefits to the economies of local communities where the regulated facilities are located.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None	(b) None
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Assistance	N/A	
(5) Information Sources	N/A	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs &	The proposed changes are not expected to result in any additional direct costs to families as the proposed changes are not adding any additional requirements or burdens being placed on them. As several of permittees

Benefits (Monetized)	are family-owned businesses, families will directly benefit from the savings from a reduced monitoring frequency. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity. Without this general permit regulation, an individual permit would be required to conduct the regulated activity.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None	(b) See Table 1a

(3) Other Costs & Benefits (Non-Monetized)	Families could potentially benefit from industry's use of general permits. If this general permit did not exist, individual permits would be required for these activities, and the additional costs would likely be passed on to consumers, which would potentially include families.
(4) Information Sources	See Table 1a

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	The proposed changes are not expected to result in any direct costs to small businesses as there are no additional requirements or burdens being placed on them. Small businesses will directly benefit from a reduced monitoring frequency. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity. Without this general permit regulation, an individual permit would be required to conduct the regulated activity.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None	(b) See Table 1a

(3) Other Costs & Benefits (Non-Monetized)	No costs or benefit impact on small businesses are expected due to the limited extent of changes being made to the general permit regulation. If this general permit did not exist, individual permits and their associated fees and application process would be required for these activities.

(4) Alternatives	
(5) Information Sources	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC15-115-10	**(M/A):**	**0**	**0**	**0**	**0**
	(D/A):	**0**	**0**	**0**	**0**
	(M/R):	**0**	**0**	**0**	**0**
	(D/R):	**0**	**0**	**0**	**0**
9VAC25-115-15	**(M/A):**	1	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
9VAC25-115-20	**(M/A):**	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
9VAC25-115-30	**(M/A):**	1	0	0	0
	(D/A):	1	0	0	0

	(M/R):	2	0	0	0
	(D/R):	1	0	0	0
9VAC25-115-40	**(M/A):**	1	0	0	0
	(D/A)	0	0	0	0
	(M/R):	4	0	0	0
	(D/R):	0	0	0	0
9VAC25-115-50	**(M/A):**	3	0	0	0
	(D/A):	9	0	0	0
	(M/R):	174	2[A]	-1	+1
	(D/R):	6	0	-1	-1
				Grand Total of Changes in Requirements:	**(M/A): 0**
					(D/A): 0
					(M/R): +1
					(D/R): -1

Key:

[A] Changed reporting requirements when there is noncompliance (9VAC25-115-50 Part III I). The proposed amendments specify that reports shall be made to the regional office (earlier requirement was to report, but the regulation did not specify to whom to make the report) and, for reports outside of normal working hours, reporting should be done using the online portal (instead of leaving a message). The changes clarify and simplify the reporting requirements.

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:
(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself.
(D/A): Discretionary requirements affecting agency itself.
(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies.
(D/R): Discretionary requirements affecting external parties, including other agencies.

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
9VAC25-115-entire chapter-see Table 1c for further explanation	This is the reissuance of a general permit. If the general permit regulation did not exist, each seafood processing facility would need an individual permit to conduct regulated activities.	$11,176 per permittee, 5-year permit term for an individual permit	$600 for the 5-year general permit coverage	Currently there are 42 regulated entities covered by this general permit. Cost savings of $10,576 per permittee covered by the general permit. Cost savings to the regulated community- $444,192 over 5-year permit term which represents a 95% cost savings over the cost of an individual permit.
9VAC25-115-entire chapter	Reissuance of the general permit reduces the time required to obtain permit coverage	Average amount of time to issue individual permit (FY2021 data*) - 322 days	Average amount of time to issue general permit coverage (FY2021 data*) – 79 days	Permittee obtains permit coverage on average 243 days sooner under the general permit. This represents a 75% reduction in the time required to obtain permit coverage.
9VAC25-115-50-General Permit	The proposed amendments to the general permit reduce monitoring frequency from a quarterly requirement to semi-annual	Members of the Technical Advisory Committee reported an average cost of between $832 and $1,000 per sampling period, resulting in an annual cost of	At an average cost of between $832 and $1,000 per sampling period, the reduced monitoring frequency would result in an annual cost of between	Currently there are 42 regulated entities covered by this general permit. This would result in an estimated annual saving of between $1,665 and $2,000 per regulated facility. Across all permittees this

		between $3,331 and $4,000.	$1,665 and $2,000.	would result in an estimated annual savings of between $63,000 and $84,000.

*Processing time data obtained from General Assembly Report RD848 - Permit Fee Program Evaluation – January 2022

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	**Description of Regulatory Change**	**Overview of How It Reduces or Increases Regulatory Burden**
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	**Original Length**	**New Length**	**Net Change in Length**
N/A			

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).

FACT SHEET
REISSUANCE OF A VPDES GENERAL PERMIT FOR SEAFOOD PROCESSING FACILITIES

Reissuance Year: 2026

The Virginia State Water Control Board (Board) has under consideration the reissuance of a VPDES general permit for point source discharges from seafood processing facilities.

Permit Number: VAG52

Name of Permittee: Any owner of a qualifying seafood processing facility with point source discharges agreeing to be regulated under the terms of this general permit.

Facility Locations: Commonwealth of Virginia

Receiving Waters: Surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in Board regulations which prohibit such discharges. Discharge to surface waters may be through a municipal separate storm sewer system.

Restrictions: The Department of Environmental Quality (Department) will deny authorization to discharge under this general permit if the owner is required to obtain an individual permit, if the owner is proposing to discharge to surface waters specifically named in Board regulation which prohibit such discharges, when the owner is proposing to discharge annual mass loadings of total nitrogen in excess of 2300 pounds per year or total phosphorus over 300 pounds per year, if the discharge would violate the Virginia Water Quality Standards antidegradation policy or if the discharge is not consistent with the assumption and requirements of an approved Total Maximum Daily Load (TMDL)

On the basis of preliminary review and application of lawful standards and regulations, the Board proposes to reissue the general permit subject to certain conditions and has prepared a draft permit. The Board has determined that this category of discharges is appropriately controlled under a general permit. The category of discharges to be included involves facilities with the same or similar types of operations and the facilities discharge the same or similar types of wastes. The draft general permit requires that all covered facilities meet standardized effluent limitations, conditions and monitoring requirements and that certain covered facilities develop a stormwater pollution prevention plan. This permit will maintain the Water Quality Standards adopted by the Board. This general permit will replace the general permit VAG52 which expires on June 30, 2026. Owners covered under the expiring general permit who wish to continue to discharge under a general permit must register for coverage under the new permit.

All pertinent information is on file and may be inspected, and arrangements made for copying by contacting:

Azra Bilalagic
Virginia Department of Environmental Quality
Office of VPDES Permits
P.O. Box 1105
Richmond, VA 23218
Phone: 804-584-6674
Email: azra.bilalagic@deq.virginia.gov

Administrative

The general permit will have a fixed term of five (5) years effective, upon Board approval, July 1, 2026. Every authorization to discharge under this general permit will expire at the same time and all authorizations to discharge will be renewed on the same date. However, an owner is allowed to continue to discharge under the terms of their previous permit provided they have submitted a complete registration statement before the expiration date of the existing permit. This is also known as an administrative continuance.

All persons desiring to be covered by this general permit must register with the Department by filing a registration statement and applicable fees. The majority of registrations will come from existing operations. Existing operations covered under the previous general permit seeking to retain coverage under the reissued general permit must file a new registration statement at least 60 days prior to expiration (prior to April 30, 2026). Any owner of an existing seafood processing facility adding a new process after coverage under the general permit is obtained shall submit an amended registration statement to the Department at least 60 days prior to commencing operation of the new process.

For all new seafood processing facilities that will begin activities after the effective date of this permit, the registration statement must be filed at least 60 days prior to the commencement of operation.

Existing operations with individual VPDES permits that wish to seek coverage under the general permit must notify the Department 240 days prior to expiration. This time period is set so that the regional office has 30 days to determine if the facility is authorized for coverage and if coverage is not allowed, the permittee has 30 days to submit an individual permit application and still meet their 180 days prior to expiration deadline for the individual permit. This general permit does not cover activities or discharges covered by an individual VPDES permit until the individual permit has expired or has been terminated. Any person conducting an activity covered by an individual permit which could be covered by this general permit may request that the individual permit be terminated and register for coverage under this general permit. Antibacksliding will be considered prior to granting coverage under this general permit.

Any owner or operator not wishing to be covered or limited by this general permit may make application for an individual VPDES permit in accordance with VPDES procedures.

All facilities that the Department believes are eligible for coverage under this general permit will be authorized to discharge under the terms and conditions of the permit after a complete registration statement is submitted, the applicable permit fee is paid, and the Department sends a copy of the general permit to the applicant. If this general permit is inappropriate, the applicant will be so notified and the requirement that an individual permit or alternate general permit is needed will remain in effect.

Activities Covered by This Permit

Other than mechanized clam processing operations and aquaculture facilities, which are excluded from coverage under this permit, seafood processing facilities for the purpose of this permit will be those classified in the following North American Industry Classification System (NAICS) and Standard Industrial Classification (SIC) codes:

NAICS
31170 – Seafood Product Preparation and Packaging
424420 – Packaged Frozen Food Merchant Wholesalers
424460 – Fish and Seafood Merchant Wholesalers; and

SIC
2091 – Canned and Cured Fish and Seafoods
2092 – Prepared Fresh or Frozen Fish and Seafoods
5142 – Packaged Frozen Seafood – wholesale
5146 – Fish and Seafood – wholesale distribution but not packaging of fresh, cured or frozen (not canned or packaged frozen)

This general permit covers process wastewater and stormwater point source discharges from seafood processing facilities as defined by the aforementioned SIC codes. It does not include aquaculture facilities (including hatcheries) classified under SIC Code 0272 or 0921 and NAICS Code 112512. Typical facilities found in Virginia that are covered are crab picking and oyster shucking operations, and fish, clam, scallop, and shrimp processing operations. Process wastewater is generated by cleaning, cooking and processing of seafood and the cleaning of the facility. Treatment or control of process wastewater usually consists of basic screening and sedimentation traps.

Summary of Substantive Changes from the 2021 Seafood General Permit

This general permit replaces the 2021 Seafood GP which was issued for a five-year term on July 1, 2021. The following is a list of substantive changes included in the 2026 permit as compared to 2021 permit:

- Section 10 – Definitions – Added definition for “Director” since this term is referenced in the regulation.
- Section 15 – Applicability of Incorporated References – Changed date to indicate that incorporated references are based on the Code of Federal Regulations published as of July 1, 2024.
- Section 20 – Purpose; Effective Date of the Permit – Changed effective date to July 1, 2026, and expiration date to June 30, 2031.
- Section 50 – General Permit – Revised permit effective and expiration dates.
- Section 50 – Effluent Limitations and Monitoring Requirements, Part I.A – Clarified language that defines annual and semi-annual monitoring.
- Section 50 – Effluent Limitations and Monitoring Requirements, Part I.A – Reduced sampling frequency from once per quarter to once per six months based on the TAC recommendations.
- Section 50 – Stormwater Management, Part II.A.3.c – Updated to include firefighting training activities managed in a manner to avoid an instream impact as an authorized non-stormwater discharge in accordance with § 9.1-207.1 of the Code of Virginia. Clarified that routine external building washdown must be managed in a manner to avoid instream impact. Added pavement wash waters as an authorized non-stormwater discharge to align with the 2024 Industrial Stormwater General Permit Regulation.
- Section 50 – Conditions Applicable to All Permits, Part III.I.3 - Updated link to the online Pollution Response Preparedness (PReP) portal and clarified that the online portal shall be used for reports outside of normal working hours.

Basis For Part I.A Effluent Limitations And Monitoring Requirements

With the exception noted below (Seafood Processes Not Limited by Federal Guidelines), the parameters to be limited are based on Federal Regulations at 40 CFR Part 408. They are best practical control technology currently available (BPT), best conventional pollution control technology (BCT) when more stringent than BPT, or standards of performance (for new sources). These guidelines provide limits for twenty-six different seafood processes that may be found in Virginia. The parameters and actual limits vary depending on the process. The copy of the general permit transmitted to the owner will contain only those Part I.A. pages which are appropriate for

that facility. The permit differentiates permit limits for new and existing sources. A new source is defined by the VPDES permit regulation (9VAC25-31-10) as "… any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced [after promulgation of the effluent guidelines that apply to it]." Federal effluent guidelines for seafood processing (40 CFR Part 408) were promulgated in 1974 and 1975. An existing source is defined by the VPDES regulation as "any source that is not a new source or a new discharger."

Seafood Processes Limited by Federal Effluent Guidelines

Parameter	Effluent Limitation	Monitoring
Flow	No Limit	Report Daily Maximum Quarterly
pH	In the range of 6.0 to 9.0 S.U.	Semi-annual Grab Sample
Total Suspended Solids	Limits in the General Permit are those established in 40 CFR Part 408.	Semi-annual Composite Sample for Monthly Average and Daily Maximum
BOD5	Limits in the General Permit are those established in 40 CFR Part 408.	Semi-annual Composite Sample for Monthly Average and Daily Maximum
Oil and Grease	Limits in the General Permit are those established in 40 CFR Part 408.	Semi-annual Composite Sample for Monthly Average and Daily Maximum
Production	No Limit	Report Daily Maximum Quarterly

Seafood Processes Not Limited by Federal Effluent Guidelines

Parameter	Effluent Limitation	Monitoring
Flow	No Limit	Report Daily Maximum Annually
pH	In the range of 6.0 to 9.0 S.U.	Annual Grab Sample
Total Suspended Solids	No Limit	Annual Composite Sample for Monthly Average and Daily Maximum
Oil and Grease	No Limit	Annual Grab Sample for Monthly Average and Daily Maximum
Production	No Limit	Report Daily Maximum Quarterly

The Federal Guidelines for the "Canned and Preserved Seafood Processing Point Source Category" are included in the Code of Federal Regulations at 40 CFR Part 408. These guidelines provide the following basis for establishing the effluent limits:

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy

requirements and costs) which can affect the industry subcategorization and effluent levels established.

The effluent limitations represent the degree of effluent reduction attainable by the application of the best practical control technology currently available, best conventional pollutant control technology and standards of performance for new sources.

Review of performance under the currently existing general permit indicates no major problems with compliance. There were 49 reported instances of effluent limitation exceedances (40 from currently permitted facilities) involving pH, BOD, TSS, and oil and grease. Additionally, there were instances of incomplete or not submitted Discharge Monitoring Reports (DMRs). However, the conclusions of the water quality study conducted for this general permit (An Evaluation of Wastewater Discharges from Seafood Processing Facilities, February 22, 1995) remain valid in that impacts to water quality from the seafood processing discharges are negligible. Therefore the 40 CFR Part 408 based effluent limitations from the current general permit have been retained in this reissuance.

A nutrient sampling study was conducted by DEQ under an EPA grant in 2013-2017 to determine total nitrogen, phosphorus and TSS impacts from discharges of various seafood processes. The sampling was conducted at 14 facilities and the calculated loads for the seafood sector were just a fraction of the loads included in the Chesapeake TMDL. There are currently 42 seafood processing general permits that occasionally operate year-round but, in most cases, operate seasonally or sporadically depending on product availability.

The Chesapeake Bay watershed general permit for nutrients established in accordance State Water Control Law Article 4.02 § 62.1-44.19:12 – 19 addresses new or expanding industrial facilities with the potential to discharge annual loads of 2300 pounds of total nitrogen or 300 pounds of total phosphorus. The existing seafood facilities covered by the general permit do not approach this level of nutrient loading according to the nutrient sampling study conducted in 2013-2017 mentioned above. New or expanding facilities with the potential to exceed these load limits must register for coverage under the Watershed General VPDES Permit for Nutrient Discharges to the Chesapeake Bay (9VAC25-820) in addition to applying for an individual permit.

Mechanized clam processing operations are included in the 40 CFR 408 effluent guidelines and were considered for coverage under the initial general permit. However, all mechanized clam plants that were individually permitted in the state in the past were required to meet effluent limits more stringent than effluent guidelines due to higher flows associated with high organic loads and resulting water quality impacts. It was determined that these types of facilities are best regulated under individual permits.

Aquaculture facilities, including hatcheries, (SIC Code 0272 or 0921 and NAICS Code 112512) are not covered under this general permit. While aquaculture facilities could be covered under an individual permit by Concentrated Aquatic Animal Production Facilities (CAAP) (9VAC25-31-140), the agency has thus far not designated any aquaculture facility as a CAAP facility under the factors listed in 9VAC25-31-140.

The monitoring frequency for seafood processes limited by Federal Effluent Guidelines has been reduced from quarterly to semi-annual (1 per 6 months) for this reissuance. This reduced monitoring was established after taking into consideration the negligible potential environmental risks and impacts from facilities with these types of discharge and the typical seasonality of operations as described above. Further, an analysis of existing discharge monitoring data submitted for the period of August 01, 2019 through August 01, 2024, indicated that 54% of submitted DMRs were “No Discharge” DMRs and less than 2% of submitted DMRs (22 out of 1115) had effluent limitation violations. Semi-annual monitoring and reporting will be sufficient to

assess compliance with the Federal Effluent Guideline provisions of this general permit moving forward.

The monitoring frequency for seafood processes *not* limited by Federal Effluent Guidelines remains annual for this reissuance.

Basis For Part I.B Special Conditions

These special conditions apply to every seafood processing activity in the general permit.

- Special condition number one prohibits any sewage discharges not covered by another VPDES permit. This general permit is not intended to cover sewage discharges.
- Special condition number two prohibits the addition of non-approved chemicals to the discharge. This language was added to prevent harmful or nutrient enriching substances from being added to the wastewater.
- Special condition three states that wastewater should be reused or recycled to the maximum extent practicable. This language was included in keeping with the Department's pollution prevention program.
- Special condition number 4 contains solids management requirements. This condition represents accepted and proven best management practices. The treatment required by this condition is based on performance.
- Special condition number five defines specifically what plant production figure is to be reported and used in calculating effluent levels in terms of kilograms per thousand kilograms of production. This definition is paraphrased from 40 CFR Part 408 to accompany the effluent limits from this source. A spreadsheet to calculate these limits is available from the contact person above or the regional office permit writer for this permit.
- Special condition number six is a safeguard requirement that mandates notification of any toxic discharges and is a boilerplate condition from 9VAC25-31-200 of the VPDES permit regulation and 40 CFR 122.41 of the NPDES federal permit regulation for existing manufacturing, commercial, mining and silvicultural dischargers.
- Special condition number seven contains compliance reporting and recordkeeping instructions (quantification levels and significant digits). This is language routinely placed in permits so permittees use a QL close to their limit and treat results < QL and rounding consistently.
- Special condition eight is a general requirement to meet water quality standards. While it is not expected for these facilities to discharge other water quality parameters besides those that are limited in the permit, it is a good reminder to the permittee that other pollutants should not be discharged.
- Special condition nine informs the permittee they must submit an updated registration statement at least 60 days prior to operation of the new process. This requirement is in the regulation 9VAC25-115-40 (Registration Statement) and repeated in the permit pages special conditions so the permit itself . the permittee what to do (the permittee may not have the entire regulation). Special condition ten describes the steps the permittee must follow to terminate coverage. This condition is found in other general permits.

Basis For Part II Requirements For Stormwater Management

The draft general permit requires that permittees covered by SIC Codes 2091 and 2092 (processors) comply with stormwater management requirements. Facilities classified under 5142 and 5146 (seafood process product handlers) are not subject to these requirements.

Stormwater management requirements include quarterly visual monitoring, quarterly routine facility inspections, annual outfall inspection for unauthorized discharges, and a stormwater pollution prevention plan (SWPPP). The SWPPP is intended to identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges and to describe and ensure the implementation of practices which will be used to reduce the pollutants in stormwater discharges.

Part II.A.1 - Quarterly Visual Monitoring

Requires that grab samples of stormwater discharges be taken and examined visually for the presence of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. No analytical tests are required to be performed on these samples. The grab samples must be taken within the first 30 minutes or a soon as practicable after the occurrence of an actual discharge from the site and 72 hours from the previous measurable storm event (measurable means it resulted in a discharge from the site). Whenever the visual assessment shows evidence of stormwater pollution, corrective action procedures must be initiated per Part II.B. Visual monitoring also requires permittees to document the results of their visual assessments in a report that includes the outfall location, date and time, duration of storm event, rainfall estimate (inches), duration between the storm event sampled and the end of the previous measurable storm event, monitoring personnel, nature of the discharge (i.e., runoff or snowmelt), results of the observations (visual quality), and probable sources of any observed stormwater contamination, why it was not possible to sample within the first 30 minutes (if applicable) and documentation to support substantially identical outfalls (if applicable). The visual examination reports must be maintained onsite with the SWPPP.

There are exceptions for visual monitoring. If no qualifying storm event occurred during the quarter or if adverse weather conditions have created dangerous conditions for personnel during each measurable storm event during that quarter. These exceptions must be maintained in the SWPPP.

Operators with two or more essentially identical outfalls may also elect to conduct a visual assessment at just one representative outfall each quarter. If stormwater contamination is identified through visual monitoring performed at a substantially identical outfall, the operator must assess and modify the control measures as appropriate for each outfall represented by the monitored outfall. This approach ensures that operators will assess discharges from the entire site over the term of the permit, and will address any identified problems at all substantially identical outfalls where the problem may be occurring.

This is a requirement consistent with all other stormwater regulated industries in Virginia which are written to be consistent with the Industrial Stormwater General Permit 9VAC25-151-70. It is also required by the 2021 NPDES Multi-Sector General Permit (EPA). Furthermore, quarterly visual assessments of stormwater discharges provide a useful and inexpensive means for permittees to evaluate the effectiveness of their control measures. Although the visual examination cannot assess the chemical properties of the stormwater discharged from the site, the examination will provide meaningful information upon which the permittee may act quickly (do corrective action). For example, should an oil sheen be observed, facility personnel (preferably members of the pollution prevention team) must conduct an inspection of the area of the site draining to the examined discharge to look for sources of spilled oil, leaks, etc. If a source can be

located, then this information would necessitate that the permittee conducts corrective action such as immediately cleaning up the pollutant source or revising control measures to minimize the contaminant source.

Part II.A.2 - Quarterly Routine Facility Inspections

Requires quarterly inspections to be conducted by personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and can also evaluate the effectiveness of control measures. The inspections are required to be conducted in all areas where industrial materials or activities are exposed to stormwater. Specific areas to be inspected are provided in the permit (see Part II.A.3.a) if the areas are present at the site (the permittee should make a note in the SWPPP if these areas are not present). Documentation for each routine inspection is required to be maintained with the SWPPP.

Any deficiencies shall be corrected as soon as practical but within 60 days (or later date if approved by DEQ). Any corrective action required as a result of a routine facility inspection must be performed consistent with Part II.B.

This is a requirement consistent with all other stormwater regulated industries in Virginia which are written to be consistent with the Industrial Stormwater General Permit 9VAC25-151-80. It is also required by the 2021 NPDES Multi-Sector General Permit (EPA).

Part II.A.3 Nonstormwater discharges

Discharges of certain sources of nonstormwater are allowed (do not require a permit) and are listed in Part II.A.3.c.

Annual inspections are required to be documented and included in the SWPPP. Documentation required is listed in Part II.A.3.b.

This is a requirement consistent with all other stormwater regulated industries in Virginia which are written to be consistent with the Industrial Stormwater General Permit 9VAC25-151-70 and 9VAC25-151-80. It is also is required by the 2015 NPDES Multi-Sector General Permit (EPA).

Part II.B Corrective Actions

Corrective Actions are required when routine facility inspections, visual monitoring, inspections by local, state or federal officials or any other process, observation or event shows that modification to stormwater control measures are necessary.

This is a requirement consistent with all other stormwater regulated industries in Virginia which are written to be consistent with the Industrial Stormwater General Permit 9VAC25-151-70. It is also required by the 2021 NPDES Multi-Sector General Permit (EPA).

Part II.C Stormwater Pollution Prevention Plans (SWPPP)

A SWPPP must be developed and implemented for each facility that has industrial stormwater discharges and falls under the SIC codes 2091 and 2092, unless the facility receives an No Exposure Certificate (NEC). If a facility has an industrial stormwater outfall, it is required to comply with stormwater management requirements specified in the permit or obtain an No Exposure Certificate. The purpose of the SWPPP is to document the selection, design, and installation of control measures, including best management practices, to minimize the pollutants in all stormwater discharges from the facility and to meet water quality standards.

If a facility falls under SIC codes 2091 and 2092 and only has process water outfalls, then an No Exposure Certificate (NEC) is not necessary as there is no point source discharge of stormwater associated with industrial activity (i.e., no industrial stormwater outfall), and the facility will not be subject to stormwater management requirements. If the facility has a stormwater outfall, but it

does not discharge stormwater associated with industrial activity, then an NEC is not necessary and the facility is not required to comply with stormwater management requirements.

9VAC25-115-30.C. states “Conditional exclusion for no exposure to stormwater. Any owner covered by this permit that becomes eligible for a no exposure exclusion from stormwater permitting under 9VAC25-31-120 E may file a no exposure certification. Upon submission and acceptance by the board of a complete and accurate no exposure certification, the permit requirements for stormwater no longer apply. A no exposure certification must be submitted to the board once every five years.”

9VAC25-31-120.E states “Conditional exclusion for no exposure of industrial activities and materials to stormwater. Discharges composed entirely of stormwater are not stormwater discharges associated with industrial activity if there is no exposure of industrial materials and activities to rain, snow, snowmelt or run-off and the discharger satisfies the conditions in subdivisions 1 through 4 of this subsection. No exposure means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and run-off. Industrial materials or activities include material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

1. To qualify for this exclusion, the operator of the discharge must:

a. Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and run-off;

b. Complete and sign (according to 9VAC25-31-110) a certification that there are no discharges of stormwater contaminated by exposure to industrial materials and activities from the entire facility, except as provided in subdivision 2 of this subsection;

c. Submit the signed certification to the department once every five years. As of the start date in Table 1 of 9VAC25-31-1020, all certifications submitted in compliance with this section shall be submitted electronically by the owner or operator to the department in compliance with this section and 40 CFR Part 3 (including, in all cases, 40 CFR Part 3 Subpart D), 9VAC25-31-110, and Part XI (9VAC25-31-950 et seq.) of this chapter. Part XI of this chapter is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part XI of this chapter, owners or operators may be required to report electronically if specified by a particular permit;

d. Allow the department to inspect the facility to determine compliance with the no exposure conditions;

e. Allow the department to make any no exposure inspection reports available to the public upon request; and

f. For facilities that discharge through an MS4, upon request, submit a copy of the certification of no exposure to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.”

Existing and new facilities and facilities that have changed owners must update and implement SWPPP revisions within 60 days of coverage or ownership change.

The requirement for a SWPPP maintains the flexibility for a site-specific plan to be developed and implemented. SWPPP components (Part II.C.2) include the formation of a pollution prevention team, a description of the site and pollutant sources (including potential spills and leaks), control measure considerations, control measures (such as good housekeeping). The permittee must maintain and update the SWPPP within 60 days of visual monitoring or routine inspections indicating contaminated stormwater, something changes at the facility that has an effect on the

stormwater discharge (construction, operations, etc…), state, local or federal officials determine modifications to the SWPPP are necessary, there is a significant spill, leak or other release at the facility or there is an unauthorized discharge from the facility. Any needed changes to control measures must begin before the next storm event if possible, but no later than 60 days after discovery. The schedule or amount of time taken to modify or implement additional control measures must be noted in the SWPPP. If there is a significant spill, leak, release or unauthorized discharge, this must also be described (circumstances leading to the incident, responses taken, measures to prevent the recurrence and dates associated with the incident). Also see Part III.G of the permit (Reports of Unauthorized Discharges).

These requirements for stormwater management are consistent with all other stormwater regulated industries in Virginia which are written to be consistent with the Industrial Stormwater General Permit 9VAC25-151-80. It is also required by the 2021 NPDES Multi-Sector General Permit (EPA).

Basis For Part III Requirements For Conditions Applicable To All VPDES Permits

This general permit is a VPDES permit. As such, it is necessary to include certain conditions required by the VPDES Permit Regulation, 9VAC25-31. These conditions are included in all VPDES permits. With a few minor exceptions, the language is not modified to reflect their use in the general permit. Conditions in this section of the permit may not have direct application at all covered facilities.

The requirements are generally consistent with 9VAC25-31-190 of the permit regulation and 40 CFR122.41 of the federal NPDES permit regulation.

Environmental Justice and Climate Change

DEQ is in the process of addressing these concerns at a much higher level than specific permit requirements related to environmental justice and climate change. The Commonwealth of Virginia has proactively worked on the topics of environmental justice and climate resiliency within and outside the permitting process.

In 2020, the Commonwealth enacted the Virginia Environmental Justice Act (Act), codified at §§ 2.2-234 and 2.2-235 of the Code of Virginia, which states that it is Virginia's policy "to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice and fence line communities." Further, DEQ's enabling statute, § 10.1-1183 of the Code of Virginia, was amended to include in its statement of policy that DEQ's purpose, among others, is "[t]o ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, faith, disability, or income with respect to the administration of environmental laws, regulations, and policies." The policy statement was also amended to include a statement affirming that agency would "further environmental justice and enhance public participation in the regulatory and permitting processes." A detailed overview of ongoing activities is available on DEQ's Environmental Justice webpage. DEQ has recently released draft guidance, Environmental Justice in the Permitting Process for public comment. Once finalized in accordance with Virginia's Administration Process Act, this guidance document will serve as the guidepost for ensuring environmental justice is included in the permitting process.

The Commonwealth of Virginia has established the Chief Resilience Officer as the primary coordinator of resilience and adaptation initiatives in Virginia pursuant to § 2.2-220.5 of the Code of Virginia. As such they are the primary point of contact regarding recurrent flooding, all flooding related pre-disaster hazard mitigation, and adaptation. The Secretary of Natural and Historic Resources, Travis A. Voyles, is the Chief Resilience Officer for the Commonwealth of Virginia, a Cabinet level position for the Commonwealth of Virginia. One of the primary responsibilities of the Chief Resilience Office is to create and oversee the implementation of a Virginia Flood Protection

Master Plan and a Virginia Coastal Resilience Master Plan in accordance with § 10.1602 of the Code of Virginia to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment. The Commonwealth of Virginia's Chief Resilience Officer coordinates these activities through the Department of Conservation and Recreation, specifically the Department of Conservation and Recreation's Office of Resilience Planning.

TAB D

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219
P.O. Box 1105, Richmond, Virginia 23218
(800) 592-5482
www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

MEMORANDUM

TO: State Water Control Board Members

FROM: Meghan Mayfield, Director, Division of Water Permitting

SUBJECT: Petition for New Regulatory Rulemaking on Ocean-Class Passenger Cruise Ships

DATE: November 20, 2024

I. Executive Summary

At the upcoming meeting of the State Water Control Board (Board), the Board will act on a petition for a new regulatory rulemaking on ocean-class passenger cruise ships. Pursuant to § 2.2-4007 of the Code of Virginia the Board must either grant or deny the petitioner's request to initiate a rulemaking to develop a new regulation or amend an existing regulation to address the discharge of pollutants from ocean-class passenger cruise ships in Virginia waters. After reviewing relevant state, federal, and international laws, regulations, and conventions; public comments; and the State Water Control Law, §§ 62.1-44.2 et seq. of the Code of Virginia, which establishes the Board's authority over the discharge of pollutants to state waters, Virginia Department of Environmental Quality (DEQ) staff recommend the Board deny the petition. This memorandum provides a brief summary of the petition, a summary of the comments received during the public comment period, an overview of relevant laws and regulations, an analysis of relevant issues, and DEQ's recommendation.

II. Background

By a request emailed to DEQ dated September 30, 2024, and received September 30, 2024, Dr. Robert Hodson, in collaboration with Protect-Virginia.org, submitted a petition to DEQ requesting the agency to develop new regulations to protect Virginia waters from air and water pollution from ocean-class passenger cruise ships. The basis for the petition is § 2.2-4007 of the Code of Virginia and the State Water Control Board's Public Participation Guidelines, 9VAC25-11-60.

Dr. Hodson's petition states that DEQ should initiate a new regulatory rulemaking on ocean-class passenger cruise ships and requests that DEQ and the Commonwealth develop new regulations for cruise ships in Virginia waters as follows:

(1) Mandate the use of low-sulphur fuel,
(2) Ban the use of Exhaust Gas Cleaning Systems (open-loop scrubbers),
(3) Require the use of shore power,
(4) Restrict the dumping of graywater, blackwater, and other environmentally detrimental waste products, and
(5) Require incident reporting and independent monitoring to ensure compliance.

In accordance with § 2.2-4007 of the Code of Virginia, DEQ announced a 21-day public comment period on the petition in the October 21, 2024 issue of the *Virginia Register of Regulations*. Public comments could be submitted in writing directly to DEQ or through the Virginia Regulatory Town Hall website between October 21, 2024 and November 11, 2024.

III. Summary of Comments Received on the Petition

A. Comments in Support:

A total of 388 comments were submitted with an additional submission of 7,039 signatures in support of the petition for a total of 7,427 total comments and signatures in support of the petition. Sixty-eight (68) of these comments were submitted via the Virginia Regulatory Town Hall website public comment forum and 319 comments, along with an additional submission of 7,039 signatures, were received via email. One (1) letter was received via postal mail.

Of those comments and signatures, 7,335 were submitted on behalf of the following organizations: Friends of the Earth (submitted 7,224 comments/signatures) and members of the Sierra Club (submitted 111 comments).

The main issues in support of the petition that are directly related to the ocean-class passenger cruise ship industry in Virginia are summarized below:

(1) General agreement with petitioner that cruise ships need additional regulation.
(2) Ecological impacts on wildlife, local waterways, and the Chesapeake Bay.
(3) Current federal regulations are outdated and inadequately enforced.
(4) Impacts of pollution caused by cruise ship traffic on public health, coastal ecosystems, and Virginia's seafood industry.

Many comments in support of this petition reference general opposition to cruise ship operations in Virginia's coastal environments and/or support for additional regulation for large cruise ships in Virginia waters.

B. Comments in Opposition:

Nine (9) comments were submitted in opposition to the petition. All comments were received via the Virginia Regulatory Town Hall website public comment forum. However, several organizations followed up by submitting a duplicate of their comments via email directly to the DEQ point of contact.

Of those comments, four (4) were submitted on behalf of organizations: the Virginia Tourism Corporation, the Virginia Pilot Association, the Virginia Maritime Association, and the Cruise Lines International Association.

The main issues in opposition to the petition are summarized below:

(1) Cruise ships are some of the least polluting ships and employ anti-polluting systems and recycling efforts.
(2) Cruise ships are already regulated by state and federal law.
(3) There are broad economic benefits for cruise ships to access Yorktown, Williamsburg, and Jamestown.

Many comments in opposition to this petition reference general support for the cruise ship industry.

Attachment 2 contains a summary of all the public comments that DEQ received.

IV. Legal Authority to Regulate Discharges from Boats

A. Scope of the Board's Authority with Respect to the Petition

The first and third requests in the petition (mandate low-sulphur fuel and require the use of shore power) are outside the regulatory authority of the Board, and as such, will not be addressed in this analysis. The State Air Pollution Control Board considered these aspects of the petition when it met on November 21, 2024.

Item 2 of the petition requests promulgation of a regulation to ban the use of Exhaust Gas Cleaning Systems (open-loop scrubbers). Banning an air treatment device is outside the purview of the Board; however, wastewater discharges resulting from the operation of such systems falls under the purview of this Board.

Item 4 of the petition requests promulgation of a regulation to restrict the dumping of graywater, blackwater, and other environmentally detrimental waste products.

Item 5 of this petition requests promulgation of a regulation to require incident reporting and independent monitoring to ensure compliance.

Regulating the discharge of pollutants to waters of the state and requirements to monitor, report, and ensure compliance with the Board's regulations are within the scope of the Board's authority under the State Water Control Law. The issue is whether a particular activity is pre-empted by federal law or regulation, or whether there are reasons that the Board should not grant the petition to initiate a rulemaking at this time.

B. Federal Requirements Related to Commercial Vessel Discharge Standards

Section 312 of the federal Clean Water Act (33 U.S.C. § 1322) sets out the principal framework for domestically regulating sewage discharges from vessels and is implemented jointly by the U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard (USCG). "Sewage" is defined under the Clean Water Act as "human body wastes and the waste from toilets and other receptacles intended to receive or retain body wastes," and includes blackwater discharges from commercial vessels (as defined at 33 U.S.C. § 1322(a)(10)). Under section 312 of the Clean Water Act, vessel sewage is generally controlled in two ways: the EPA regulates the equipment that treats or holds the sewage (marine sanitation devices) and establishes areas in which the discharge of sewage from vessels is not allowed (no discharge zones).

On December 4, 2018, the President signed into law the "Vessel Incidental Discharge Act" (VIDA). The VIDA restructures how EPA and the USCG regulate incidental discharges, primarily from commercial vessels, into waters of the United States and the contiguous zone. Specifically, the VIDA amends Section 312 of the Clean Water Act by adding subsection (p), "Uniform National Standards for Discharges Incidental to Normal Operation of Vessels," which requires EPA to develop new national standards of performance for commercial vessel discharges and the USCG to develop corresponding implementing regulations which would be applicable to greywater and other discharges incidental to the operation of a vessel.

On September 20, 2024, the EPA finalized national standards of performance for incidental discharges from non-recreational, non-Armed Forces vessels 79 feet in length and above, as well as ballast water only from fishing vessels of any size and non-recreational, non-Armed Forces vessels less than 79 feet in length. The EPA's Vessel Incidental Discharge National Standards of Performance final rule was published in the Federal Register on October 9, 2024 (89 FR 82074).

The USCG has two years (i.e., until October 2026), to develop corresponding implementing regulations to ensure, monitor, and enforce compliance with the EPA's standards. Until the USCG's regulations are final, effective, and enforceable, vessels continue to be subject to the existing discharge requirements established in the EPA's 2013 Vessel General Permit (VGP) for Discharges Incidental to the Normal Operation of a Vessel and the USCG's ballast water regulations, as well as any other applicable state and local government requirements, which includes applicable monitoring and reporting requirements as well as being subject to federal enforcement actions for noncompliance.

EPA's 2013 VGP, which specifically addresses cruise vessels, sets effluent limits, analytical monitoring, and other requirements for various vessel discharge categories, includes both graywater and exhaust gas scrubber wastewater discharges. Additionally, EPA provides standards for sewage discharges from vessels (40 CFR Part 140) and the USCG regulates the implementation of those of those standards (33 CFR Part 159, Subparts A-D).

The VIDA largely prohibits states from adopting or enforcing more stringent requirements than established under the VIDA once the USCG implementing regulations are final, effective, and enforceable. Subsection (p)(9) states, "with respect to every discharge incidental to the normal operation of a vessel that is subject to regulation under this subsection are final, effective, and enforceable, no State, political subdivision of a State, or interstate agency may adopt or enforce any law, regulation, or other requirement of the State, political subdivision, or interstate agency with respect to any such discharge." 33 U.S.C. § 1322 (p)(9)(A)(i). However, the VIDA does provide mechanisms for states, subject to a determination by the EPA Administrator, in coordination with the USCG, to seek and obtain more stringent requirements within state waters through the establishment of no discharge zones. 33 U.S.C. § 1322 (p)(10)(D).

C. International Requirements Related to Commercial Vessel Discharge Standards

Additionally, the discharge of sewage from vessels is regulated through international treaties. The Marine Environment Protection Committee is a group of member states within the International Maritime Organization (IMO) that works on the prevention of marine pollution. The global marine environment standards are contained in the International Convention on the Prevention of Pollution from Ships treaty, also known as MARPOL.

Annex IV of MARPOL, Prevention of Pollution by Sewage from Ships (entered into force 27 September 2003), contains requirements to control pollution of the sea by sewage; the discharge of sewage into the sea is prohibited, except when the ship has in operation an approved sewage treatment plant or when the ship is discharging comminuted and disinfected sewage using an approved system at a distance of more than three nautical miles from the nearest land; sewage which is not comminuted or disinfected has to be discharged at a distance of more than 12 nautical miles from the nearest land. Though the United States is not a signatory to Annex IV, the USCG is obligated to ensure international ships from signatory countries are compliant with Annex IV.

D. State Law and Regulations

Virginia's territorial seas are limited to the waters within the belt, three nautical miles wide, that is adjacent to Virginia's coast and seaward of the mean low-water mark. § 28.2-100 of the Code of Virginia. Beyond three miles, U.S. sovereignty extends to 24 nautical miles in an area known as the contiguous zone. The Board's authority to regulate discharges from boats, including ocean-class passenger cruise ships, is established in the Clean Water Act, 33 U.S.C. §§ 1313, 1322, and 1342, and the State Water Control Law, and is limited to state waters.

Under § 62.1-44.33 of the Code of Virginia, the Board is empowered and directed to adopt regulations pertaining to:

- vessels regularly berthed in marinas or other places where vessels are moored, in order to limit or avoid the closing of shellfish grounds; and
- no discharge zones in the Commonwealth pursuant to the requirements in the statute.

The regulations cannot be more restrictive than the regulations applicable under federal law. Existing regulations are contained in 9VAC25-71, Regulations Governing the Discharge of Sewage and Other Wastes from Boats. These regulations mainly address sewage (blackwater) discharges. Relevant sections include:

9VAC25-71-10 (Definitions) contains definitions applicable to this chapter.

9VAC25-71-20 (Federal regulations) incorporates the federal Marine Sanitation Device Standard (40 CFR Part 140) by reference.

9VAC25-71-30 (Penalty) cites § 62.1-44.33 of the Code of Virginia which provides penalties for violations of these regulations.

9VAC25-71-40 (Miscellaneous waste discharges) prohibits discharge of "other wastes" to state waters and does not prohibit "discharges incidental to the normal operation of a vessel."

9VAC25-71-50 (Sewage discharges) addresses sewage discharges from vessels with installed toilets and marine sanitation devices, prohibits the discharge of sewage into state waters from vessels without installed toilets and marine sanitation devices, and requires that sewage and other wastes from self-contained portable toilets or other containment devices be removed at pump-out facilities or carried ashore for treatment in facilities approved by the Virginia Department of Health (i.e., no discharge of any sewage in state waters).

9VAC25-71-60 (No discharge zones) sets requirements for "no discharge zones" within the Commonwealth and specifically prohibits all discharges of sewage, whether treated or not, and other wastes from all vessels into designated into no discharge zones.

9VAC25-71-70 (Listing of designated no discharge zones in the Commonwealth of Virginia) lists five sets of no discharge zones.

Environmentally detrimental waste product discharges are regulated under 9VAC25-71-40 (Miscellaneous waste discharges) which prohibits the discharge of "other wastes" from any vessel into state waters. 9VAC25-71-10 (Definitions) defines "other wastes" as "decayed wood, sawdust, shavings, bark, lime, garbage, refuse, ashes, offal, tar, oil, chemicals, and all other substances, except industrial waste and sewage, which may cause pollution in any state waters."

Graywater and exhaust gas cleaning systems wastewater are discharges incidental to the normal operation of a vessel and are specifically *not* prohibited by 9VAC25-71-40 (Miscellaneous waste discharges). However, the federal regulations, such as the VGP and VIDA mentioned above, provide standards which do cover these incidental discharges.

It is illegal to discharge untreated sewage from vessels or boats in all Virginia waters. In a designated no discharge zone (NDZ), it is also illegal to discharge any treated waste from vessels equipped with Marine Sanitation Devices (MSDs) that grind, treat and discharge human sewage. USCG regulations require all vessels to disable the MSD discharge capability while operating in waters designated as a NDZ. There are currently five areas in the state which have been designated as NDZs for treated blackwater from all vessels, including cruise ships.

Pursuant to the federal Clean Water Act, state law, and state regulation, NDZs must be established on a water-body specific basis, following a specific process considering items such as, but not limited to, the following: severity of the water quality problem; level of community support; and presence of resources of significance (e.g. shellfish waters, endangered species, etc.). The designation of a NDZ requires authorization by the EPA Administrator. The requirements are summarized in Guidance Memo No. 08-2003 Procedure for Designation of Vessel No Discharge Zones.

Application development includes analysis of available marinas, vessel usage of the waterbody, engagement with local governments and planning district commissions, and public meetings. It summarizes all vessel traffic navigating these waters, vessel sewage management needs and sewage pump-out facility options.

V. Department Analysis

Sewage discharges from cruise ships are currently regulated by federal and state regulation under the EPA's VGP, 40 CFR 140, and Regulations Governing the Discharge of Sewage and Other Wastes from Boats (9VAC25-71). These regulations include applicable monitoring and reporting requirements and entities are subject to federal enforcement actions for noncompliance. EPA has adopted additional requirements, effective October 2024, pursuant to VIDA, which when implemented by the USCG will limit the Board's ability to adopt more stringent requirements.

State regulations prohibit the discharge of untreated sewage from vessels with installed toilets and marine sanitation devices and require that sewage and other wastes from self-contained portable toilets or other containment devices be removed at pump-out facilities or treated at Virginia Department of Health-approved facilities. In addition, state regulation prohibits the discharge of "other wastes" from any vessel into state water, as well as designates and sets requirements for NDZs, including five established in the regulation. The USCG, the Virginia Marine Police and the Virginia Department of Wildlife Resources are the state enforcing authorities for Virginia's NDZs however, any law enforcement officer in Virginia has the authority to enforce an NDZ.

At the national level, EPA's VGP, which regulates incidental discharges from cruise ships and other vessels, remains enacted while EPA's superseding VIDA regulations are being developed and will be implemented in two years. For example, EPA sets effluent limits and analytical monitoring for discharge categories, including exhaust gas scrubber wastewater discharges, under the VGP for pollutants such as pH, PAHs, turbidity, oils, nitrates and nitrites, and metals. Additionally, EPA and the USCG regulate the discharge of sewage from vessels.

Furthermore, cruise ships are subject to national and international law and treaty, and changes to pollution controls are continually being pursued through those venues. EPA participates on the United States delegation to the International Maritime Organization (IMO), which is part of the United Nations. The Marine Environment Protection Committee is a group of member states within IMO that works on the prevention of marine pollution.

The Board has limited ability to go beyond these promulgated national and international existing legal requirements apart from applying to EPA for additional NDZs for waters requiring greater environmental protection. MARPOL and EPA's VGP, as well as the forthcoming VIDA regulations, preempt state laws and regulations but provide some provision for a state to apply for NDZs.

The federal Clean Water Act and the State Water Control Law both provide for a process to establish a NDZ if certain criteria are met. However, the State Water Control Law limits the Board's authority to adopt regulations to establish NDZs unless "premised on the improvement of impaired tidal creeks" (Section 62.1-44.33 B of the Code of Virginia).

VI. Staff Recommendation

DEQ staff recommend the Board deny the petition for the reasons set forth above. Discharges from cruise ships are already regulated by international treaty, federal laws and regulations, and will be subject to updated regulations currently under development by the USCG in accordance with VIDA.

Attachments:

Attachment 1 – Petition from Dr. Robert Hodson
Attachment 2 – Summary of Public Comments

Attachment 1
Petition from Dr. Robert Hodson

A petition for

Cruise Ship Environmental Regulations in Virginia

Protect-Virginia.org

Table of Contents

Petition Request

Submitted by:

Dr. Robert F. Hodson
207 Nelson Street
Yorktown, Virginia 23690
(757) 570-9251
Robert.F.Hodson@gmail.com

This petition was developed in collaboration with the members of Protect-Virginia.org.

This petition is submitted under § 2.2-4007 of the Code of Virginia and Office of Regulatory Management Procedures for petitions for new or amended regulations. The petition pertains to Title 9 Environment of the Virginia Administrative Code as it requests new regulations for air and water pollution. The Department of Environmental Quality (DEQ) has regulatory authority for water and air pollution under § 62.1-44.33 and § 10.1-1308. The petitioner has identified the DEQ to address these new regulations based on its policy statement and regulatory authority which includes but is not limited to:

1. To assist in the effective implementation of the Constitution of Virginia by carrying out state policies aimed at conserving the Commonwealth's natural resources and protecting its atmosphere, land, and waters from pollution.
2. To address climate change by developing and implementing policy and regulatory approaches to reducing climate pollution and promoting climate resilience in the Commonwealth and by ensuring that climate impacts and climate resilience are taken into account across all programs and permitting processes.

Statement of Purpose

This petition provides evidence to justify new regulatory rulemaking on ocean-class passenger cruise ships. Specifically, this petition requests that the DEQ and the Commonwealth develop new regulations for cruise ships in Virginia waters as follows: (1) Mandate the use of low-sulphur fuel, (2) Ban the use of Exhaust Gas Cleaning Systems (open-loop scrubbers), (3) Require the use of shore power, (4) Restrict the dumping of graywater, blackwater, and other environmentally detrimental waste products, and (5) Require incident reporting and independent monitoring to ensure compliance.

The EPA has recently posted a new Vessel Incidental Discharge National Standard. According to the EPA website, "The USCG has two years to develop corresponding implementing regulations to ensure, monitor and enforce compliance with the EPA's standards. Until the USCG's regulations are final, effective, and enforceable, vessels continue to be subject to the existing discharge requirements established in the EPA's 2013 Vessel General Permit and the USCG's ballast water regulations, as well as any other applicable state and local government requirements." Unfortunately, both standards fall short and therefore it is left to the states to ensure marine ecosystem and public health are not compromised by cruise ship industry practices. Many states have already acted by augmenting EPA standards. A purpose of this petition is to ensure Virginia is fully aware of the risk this industry poses to the Commonwealth and act appropriately.

These large ships are in a class of their own, essentially floating cities with associated power generation and waste products that directly impact air and water quality on a scale considerably beyond that of other vessels. The waste and pollution generated by large cruise vessels are well documented and there is a worldwide movement to protect the environment and populations from these detrimental effects through regulation. **Virginia is the nation's fourth largest producer of marine products, and a healthy marine ecosystem is vital for its sustainability**. Recently a Princess Cruise Lines lobbyist stated at the public hearing in support of HB1478 that we should "roll out the welcome mat for the cruise industry in Virginia" and just recently wrote in a Daily Press opinion, "we cannot afford not to" welcome cruise ships in Virginia. The industry's plans to expand in Virginia should compel DEQ to examine this issue carefully and to proactively regulate cruise ship impacts, as has been done in port communities, states, and countries.

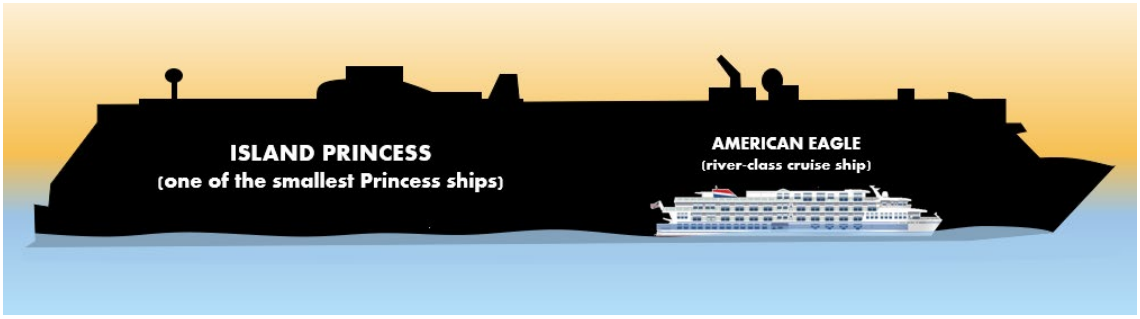
Cruise Industry Background

Carnival Corporation, Royal Caribbean, and Norwegian Cruise Lines own the lion's share of this $25B industry. These three corporations are parent companies to more than 15 subsidiaries. For example, Carnival, the industry leader, is the parent company of Princess Cruises, Holland America, and several others. The sector is projected to see continued growth (estimated to reach $30B this year) through leveraging current markets and finding new ones. This industry generates significant revenue from U.S. markets, yet the ships are registered under foreign flags to avoid taxes. It is very clear that cruise lines are looking to find new ports of call in Virginia. Any cruise ship legislation and regulations should be made with this in mind. Once in a market, the cruise industry will fight vigorously to expand its reach.

An important question when considering regulation of the cruise industry in Virginia is the scale of these ocean-class ships and impacts on the ecosystems they travel through. Their massive size is hard to comprehend from photographs. The smaller ships have over 3,000 people on board (passengers & crew) and the largest one carries over 9,500, with a definitive trend in favor of larger and larger vessels The

Transport & Environment study is projecting this to continue with 345,000 GT ships carrying 10,500 passengers by 2050, with the number of ships also increasing as the industry expands to new markets (i.e. Virginia).

These ships are character-altering at any port they visit. In many small port cities in the U.S., where even one ship can double or triple the population of the port city, multiple ships arrive simultaneously and inundate the port with hundreds of thousands of passengers per year. The ships burn fuel 24 hours a day to generate the power to keep the lights, HVAC, and a multitude of other on-board amenities running. Traditional cruise ships need 10–100 megawatts of power for propulsion, lighting, air conditioning and on-board amenities. The power needed for one ship can be equivalent to power used in 60,000 to 70,000 average homes. Additionally, there is an enormous amount of waste that must be treated and managed.



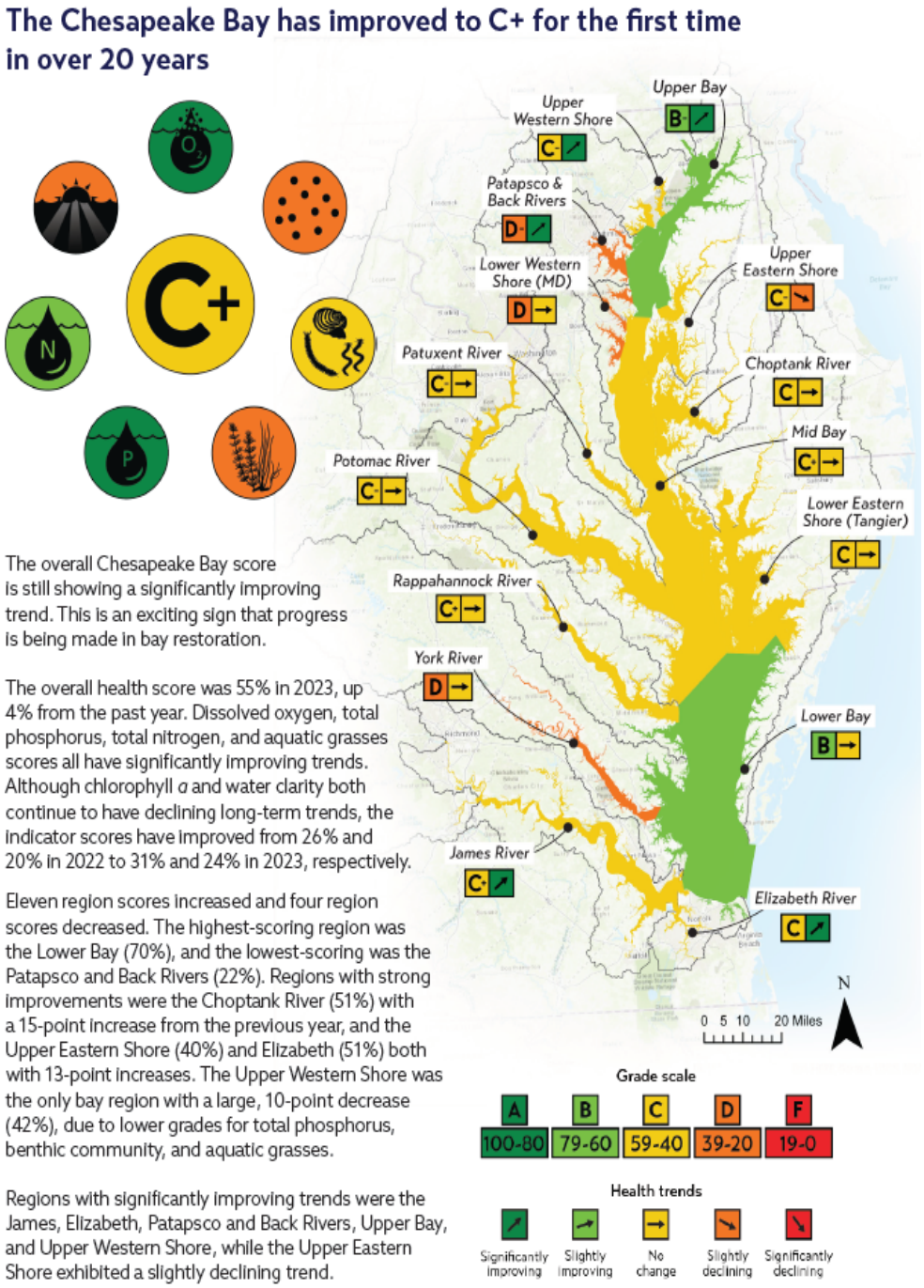
Scale of the Cruise Industry Ships (Island Princess more than 3 football fields long)

It is important to note that this petition is focused on the "mega-class" pleasure cruise ships, not military or merchant ships. Also, there are smaller river-class vessels, with business models that minimize the negative impacts of their ships. For example, the ships of American Cruise Lines, a U.S. based company, burn low sulphur fuels, do not scrub exhaust pollutants into the water, are shore power equipped, and have hull designs to minimize noise. Another example is Uncruise, a cruise ship company with a core value of "Do the right thing" and with accountability as a core responsibility. Yet another is Hurtigruten, that was first to ban Heavy Fuel Oil in 2009 and is working toward Net-Zero-Emissions. There are acceptable approaches to cruise ship tourism that manage environmental and human impacts.

Environmental Impacts

The State of Virginia Waters

The 2023/2024 University of Maryland's Chesapeake Bay & Watershed report card shows some improvement from previous years, but many rivers and estuaries still have failing grades. Pollution from cruise ships could potentially reverse the progress that has been made toward a cleaner Chesapeake Bay.

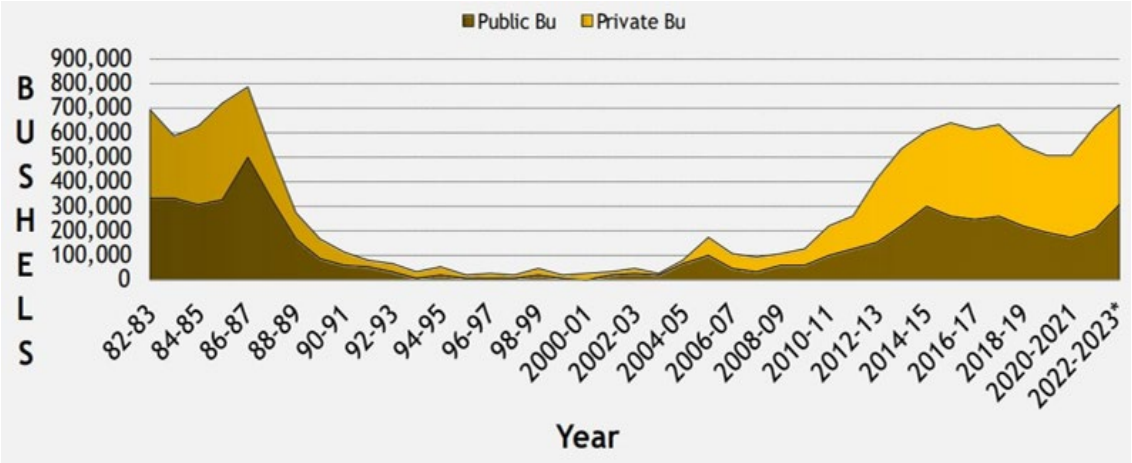


Chesapeake Bay & Watershed Report

Seafood Industry Impacts

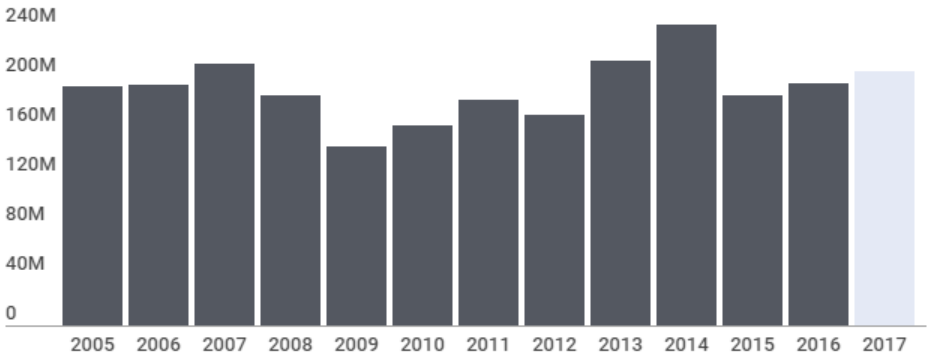
According to VirginiaSeafood.org, "Virginia's watermen harvest 50 commercially valuable species from some 620,000 acres of water. Among these traditional species in order of economic value, are Oysters, Blue Crab, Sea Scallops, Menhaden, Clams, Summer Flounder, Striped Bass, Spot, Black Sea Bass, and Blue Catfish," and "Virginia is the nation's fourth largest producer of marine products with total landings of 321,860,722 pounds in 2020 and is only outpaced by Alaska, Louisiana, and Oregon." The report from the Virginia Cooperative Extension, Economic Contributions of the Virginia Seafood Industry states, "The total economic output effect of the Virginia seafood industry was estimated at $1.1 billion in 2019. The total employment effect of the Virginia seafood industry was estimated to be 7,187 people; with a direct effect of 6,050 jobs, indirect effect of 523 jobs, and induced effect of 614 jobs. In 2019, the Virginia seafood industry generated over $26 million in tax revenue from local, state, and federal taxes." It bears repeating that cruise industry profits will not generate tax revenue since ships typically fly a foreign flag (see Appendix C).

The oyster harvest in Virginia has also improved after years of restoration, according to the Virginia Marine Resources Commission.



Virginia Oyster Production

Additionally, according to VIMS, Virginia not only leads the nation in oyster production but also in hard clams.

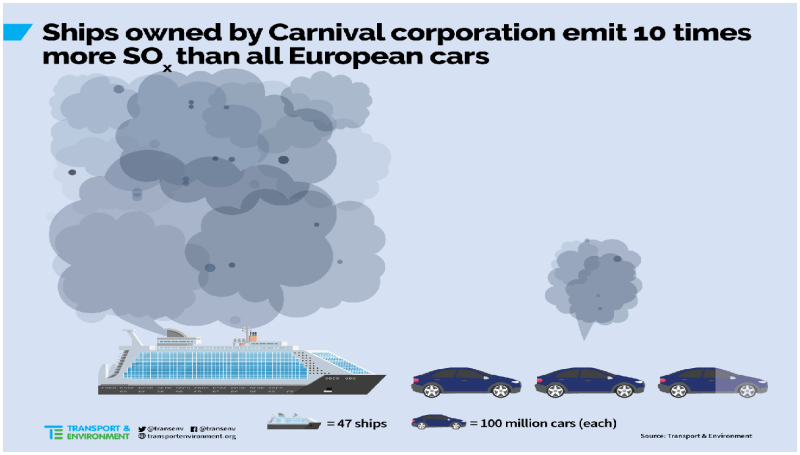


Hard clams sold in Virginia.

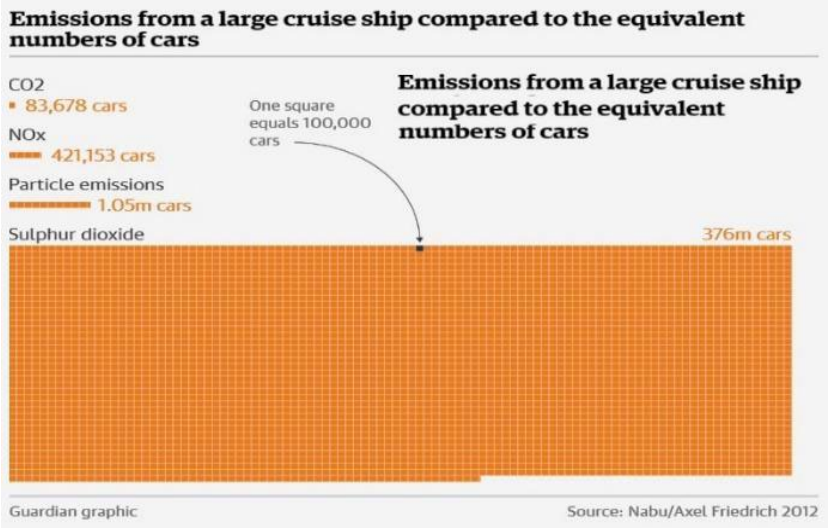
The Virginia seafood industry thrives when our waters are clean and productive. Seafood is a renewable resource, but only if the Commonwealth continues to protect the health of the Bay, rivers, and estuaries. As discussed in the following section, the cruise industry's air and water pollution footprint is significant and can put this industry at risk if not appropriately regulated. Maintaining the seafood industry in a sustainable way is vital for Virginia's economy.

Cruise Ship Pollution

Untreated exhaust from cruise ships produces an inordinate amount of emissions that impact public health, the environment, and the climate. The cruise industry's decision to burn Heavy Fuel Oil (HFO) is the reason for the excessive emissions which do not occur at the same levels with other cleaner fuels used by other vessels (e.g. military vessels). This decision reflects a disregard for public health and the environment in favor of higher profits.



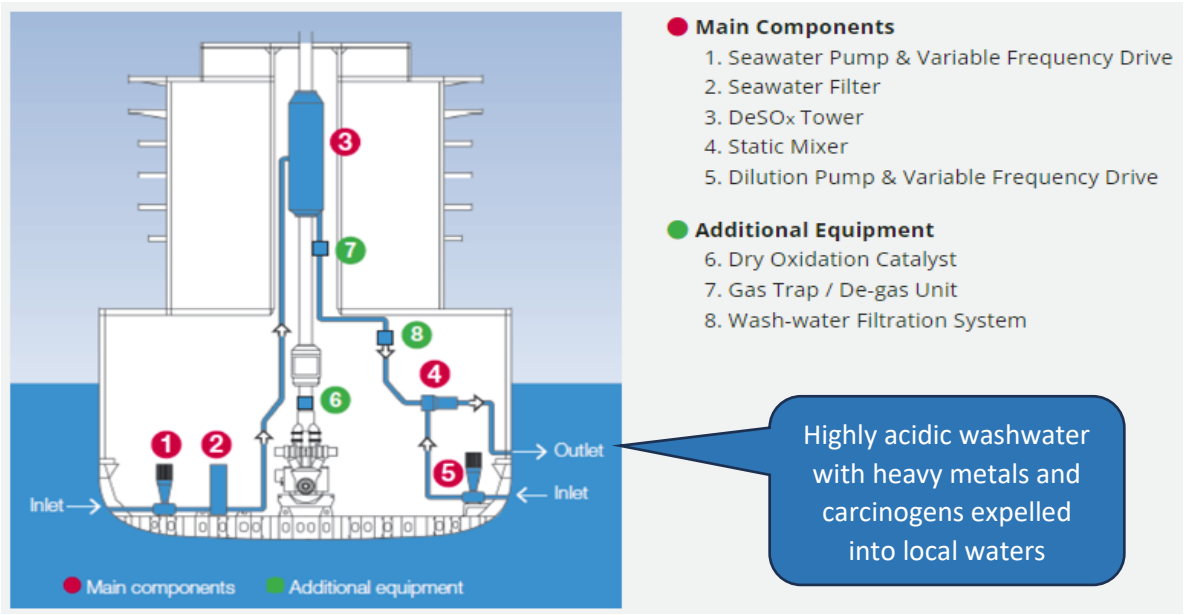
Cruise Ship Sulphur Oxides (SO_x) Emissions



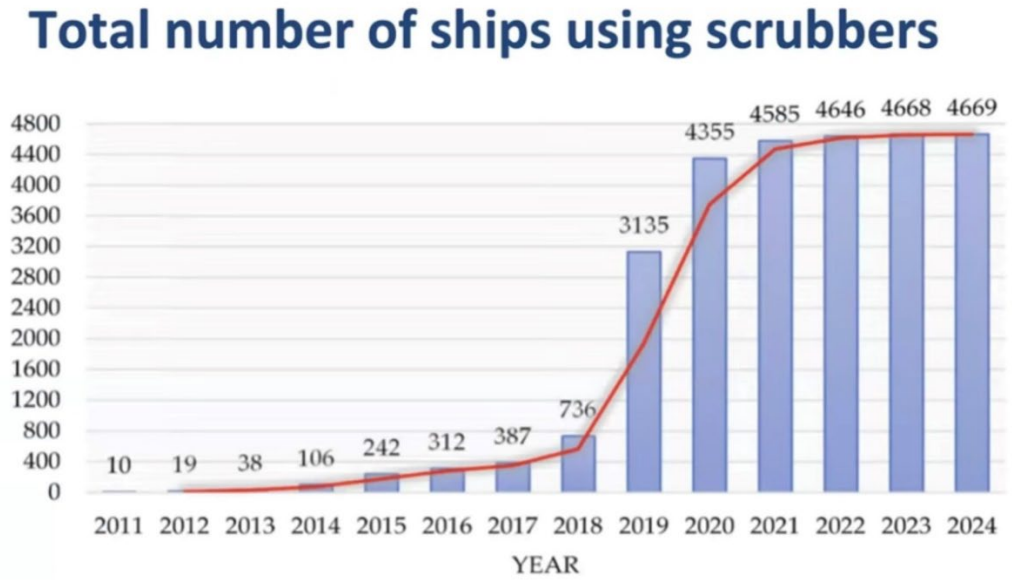
Large Cruise Ship Emissions Comparison to Cars

In 2020, the IMO (International Maritime Organization) set new tougher standards for sulphur emissions, and currently the global shipping fleet is in the process of switching to lighter, cleaner fuels. But the environmental effects of these regulations are offset by increases in ship size, passenger capacity, and by

the loophole allowing vessels to reduce sulphur by using scrubbers, or Exhaust Gas Cleaning Systems. The EPA standards, both current and proposed, do not ban cruise ship scrubbers, thus allowing operation in Virginia waters. The cruise industry has elected to use scrubbers rather than switch to more expensive fuels to "greenwash" the problem while saving money. (see: Shipping's dirty secret: how 'scrubbers' clean the air – while contaminating the sea).



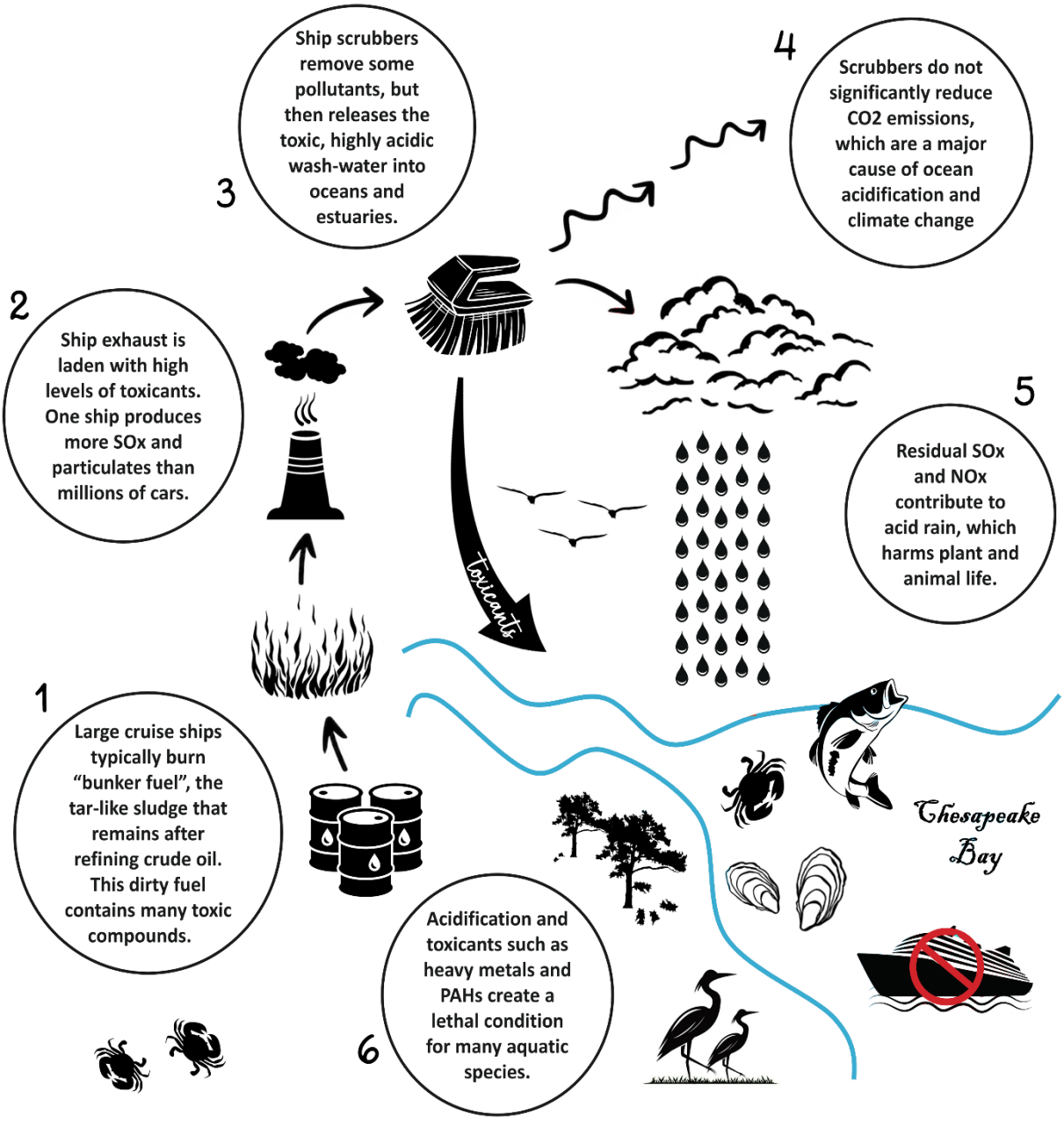
Exhaust Gas Cleaning System, commonly called a Scrubber –Original Source: Carnival



Dramatic increase in ship scrubbers after the IMO's 2020 sulphur regulations

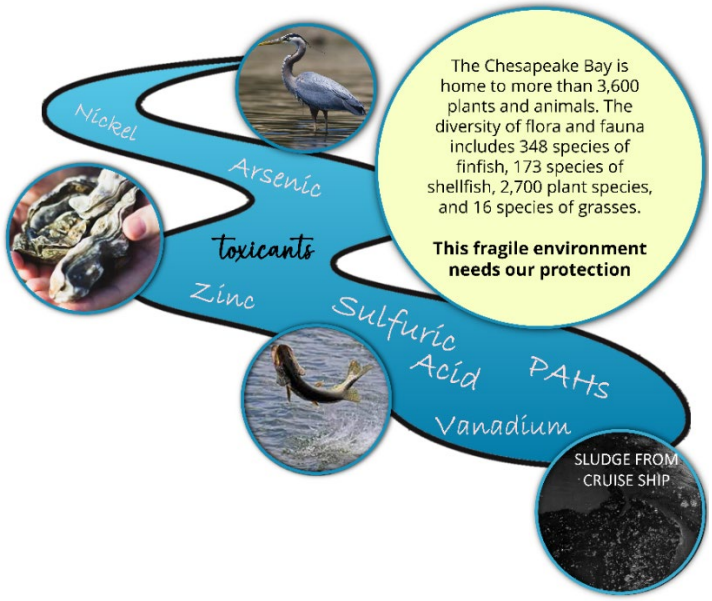
Source: End Scrubbers Use Now Webinar

The types of scrubbers used by 81% of cruise ships are open-loop systems and do not solve the pollution problem. These systems use ambient seawater sprayed into exhaust stacks to remove pollutants, but the highly acidic spray, laden with toxic PAHs and heavy metals, is then flushed back into the water. Scrubbers thereby transfer an air pollution problem into a water pollution problem. Furthermore, scrubbers do not reduce CO_2 or small particulate that is harmful to human health. The International Council on Clean Transportation states that scrubbers are not as effective at reducing total air pollution compared to marine gas oil, and scrubber discharge "contributes to ocean acidification and worsens water quality."



Cruise Ship Pollution from Burning Bunker Fuel

The recent August 2024 Pacific Environment report, Ship Pollution: From air to ocean, summarizes 26 scientific studies that show the harmful impacts of toxic scrubber wastewater – "A growing body of scientific data indicates there is virtually no safe concentration of untreated scrubber effluent and that it negatively affects organisms throughout the marine food chain. The sources referenced found that concentrations of scrubber wastewater as low as 0.0001% have toxic effects on marine life. Scrubber discharges can increase seawater acidity, especially in places with high ship traffic, and discharges contain harmful and persistent substances like polycyclic aromatic hydrocarbons (PAHs), nitrates, nitrites, and heavy metals." Heavy metals can have a devastating effect on zooplankton which menhaden, herring, and other species feed on, and they also bioaccumulate at higher trophic levels. PAHs have been linked to several types of cancers and reproductive dysfunction in marine mammals, including southern resident orca in the north Pacific and beluga whales."



Toxicants released by open-loop scrubbers.

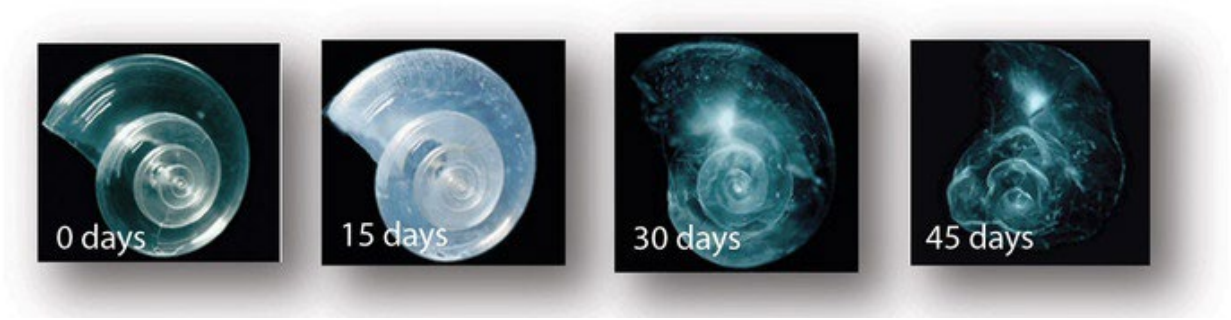
Climate Impacts

CO_2, a greenhouse gas, is also released by cruise ships. As one source states, the CO_2 output from one ship is equivalent to more than from 83,000 cars. Another source states, "just one cruise ship docked for a day at port can emit diesel exhaust equivalent to 34,400 idling trucks." Increasing atmospheric CO_2 is the major cause of global climate change and ocean acidification. Analysis has shown that cruise ship passengers have a carbon footprint eight times more than that of land-based vacationers. Nitrogen Oxide (NO_X), also in cruise ship exhaust, is another important greenhouse gas. One ship can produce more NO_X than 400,000 cars. According to Inside Climate News, NO_X can warm the atmosphere more than 300 times that of CO_2 and damages to the ozone layer.

Climate change is impacting Virginia in multiple ways: increased storm intensity/frequency, heat waves and drought, and sea level rise. Tangier Island may be under water within the next 50 years. Coastal military bases will be impacted. A Military Times article warns, "the Department of Defense says two-thirds of the bases are vulnerable to worsening flooding as the climate warms, and half are vulnerable to increasing drought and wildfires." Homeowners' coastal properties in Virginia are already seeing the impact of extreme weather in their insurance premiums and "climate exceptions" in their policies. Climate

effects will also directly impact the seafood industry. The article Warming water threatens aquatic life in Chesapeake Bay region states that an increase in water temperature by 1.8 degrees would reduce available sturgeon habitat by 65%. In the Bering Sea the impacts to the seafood industry are already being felt by fishermen. An article on the reduction in the crab population by the billions, points to rising water temperatures as the cause.

Ocean and coastal acidification are a global challenge causing harm to marine life, primarily affecting the ability to form shells and skeletons. Coral reefs and shellfish such as oysters are highly susceptible to acidification, and this recent video from a public meeting in Yorktown, Virginia succinctly states the risk to the oyster industry if cruise ships are allowed to expand operations in Virginia waters. This PBS video also demonstrates that the impacts to the shellfish industry are real and present today. The study, Vulnerability and adaptation of US shellfisheries to ocean acidification, cites the Chesapeake Bay as one of the most vulnerable regions to ocean acidification and discusses the "threat to coastal species" and the "emergence of real, economically measurable human impacts." It should also be stressed that potential losses to the Virginia seafood economy are not hyperbole; the study also stated, "Ocean acidification has already cost the oyster industry in the US Pacific Northwest nearly $110 million."



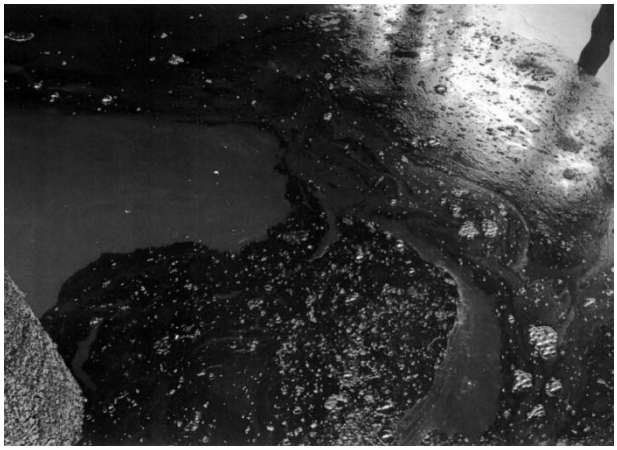
The pteropod's, or "sea butterfly" shell (shown above) dissolves in acidic seawater. Virtually all shellfish (e.g., oysters, scallops, crab, clams, etc.) will be negatively impacted by ocean acidification. Image source: National Geographic

Pollution from waste discharges on cruise ships is also a major problem. A 2008 report by the Congressional Research Service estimated that during an average weeklong cruise, a cruise ship carrying (only) 3,000 passengers and crew can generate 210,000 gallons of raw sewage; 1 million gallons of gray water (from sinks, showers, and washing machines); 130 gallons of hazardous materials; up to 8 tons of solid waste; and 25,000 gallons of oily water. Effluent waste can contain bacterial and viral pathogens and also high nutrient concentrations, which promote algal blooms and cause oxygen-depleted "dead zones." The Bureau of Transportation Statistics' summary of the waste streams can be found here.

Accidents and Violations

The "normal" or operational pollution generated by the cruise industry is significant by any measure and the damage to our environment is still being assessed. In addition, accidents do occur and have significant and direct impacts on local ecosystems and port communities. Many incidents are minor, but serious ones can be devastating. In November 2023 a Carnival cruise ship dumped scrubber sludge into Grand Turk

port waters during a power outage. Another scrubber accident in a port in Ketchikan, Alaska, is shown to the right. Other accidents include fires and damage to pier facilities during bad weather.



Release of Scrubber Sludge [source]

The cruise industry has a history of pollution and felony convictions for violating environmental regulations. In 2016, Princess Cruise Lines paid the largest criminal penalty for deliberate vessel pollution: $40 million dollars. They used a surreptitious "magic pipe" to bypass the oily water separator, which allowed waste liquids to be discharged in contravention of maritime pollution regulations. This violation occurred on multiple ships, pointing to a systemic issue with the industry. Furthermore, even after the large fine, Princess continued to violate regulations six times and received an additional $20M fine in 2022. A history of some of the major cruise ship violations can be found here.

In addition to pollution spills, another all-too-frequent accident is whale strikes. In May 2024 a cruise ship sailed into New York Harbor with a 44-foot dead endangered Sei Whale across its bow. A video of the incident is here. The noise from cruise ships confuses the whales and disrupts their communications. Also this year, eight whales of four species, including the endangered Atlantic Right Whale, washed up in southeastern Virginia and Northeastern North Carolina. Several of these deaths were likely from vessel strikes.

Given this history of criminal violations and accidents, independent monitoring is needed along with incident reporting requirements for ensuring compliance.

Human Health Impacts

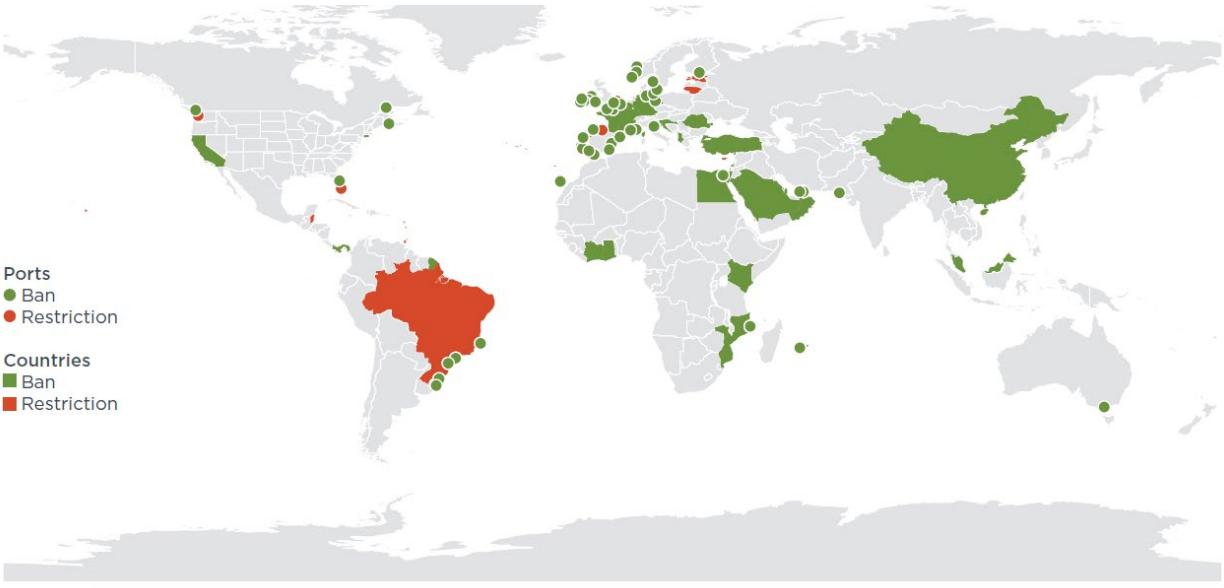
Pollution does not only impact marine life through direct and long-term climate affects; it can also directly impact human health. According to Evirotech, sulphur oxides (SO_x) are notorious for "exacerbating respiratory conditions such as asthma and emphysema." Nanoparticles are fine particulate matter (< 0.1 cubic centimeters) and can enter the bloodstream or brain when inhaled. They can harm the respiratory and circulatory systems, and are especially harmful to children, the elderly, and people with heart or lung issues. One report found ultrafine particles are "200 times higher than would be found in fresh air and 20 times worse than in congested port cities with heavy traffic." According to the EPA, "Breathing air with a high concentration of NO_2 can irritate airways in the human respiratory system. Such exposures over short periods can aggravate respiratory diseases, particularly asthma, leading to respiratory symptoms (such as coughing, wheezing or difficulty breathing), hospital admissions and visits to emergency rooms. Longer exposures to elevated concentrations of NO_2 may contribute to the development of asthma and potentially increase susceptibility to respiratory infections. People with asthma, as well as children and the elderly are generally at greater risk for the health effects of NO_2." A Environmental Health Perspectives Journal article found consistent strong evidence of a relationship between N02 and lung cancer. The report, Importing Harm: U.S. Ports' Impacts on Health and Communities, states that port cities in Southern California are the largest source of SO_x, NO_x, and particulate emissions. "The California Air Resources

Board estimates that there are 3,700 premature deaths per year directly attributed to the ports." The journal publication, Health impact assessments of shipping and port-sourced air pollution on a global scale: A scoping literature review, states, "Globally, ~265,000 premature deaths were projected for 2020 (~0.5% of global mortality) attributable to global shipping-sourced emissions." Large cruises generating megawatts of power by burning fuel in ports will lead to health impacts that are not factored into the economics presented by this industry. And once again this is by choice to maximize profit as cleaner alternatives do exist.

Regulations

The international community now recognizes the damage from cruise ship pollution and has begun to take regulatory action to limit impacts. Existing regulations take many forms: low sulphur fuel requirements, open-loop scrubber bans, shore power requirements, no dumping zones, etc. In addition to these regulations, many port communities are fighting to limit the size and number of ships that visit through passenger limits, pier restrictions, no-cruise-ship-Saturdays, and other methods not addressed in this petition.

The June 2023 International Council on Clean Transportation (ICCT) Policy Update does an excellent job of summarizing scrubber bans and restrictions worldwide. It notes that over 5000 ships use open loop scrubbers to comply with IMO sulphur oxides (SO_x) regulations and projects 81% open-loop (4,097), about 17% hybrid (869), and approximately 1% closed-loop in 2025. The report stated that the number of vessels outfitted with scrubbers is increasing and identifies 93 bans and restrictions across 43 countries in place against scrubbers and associated discharges as of February 2023. Eighty-six percent of the measures are bans rather than more limited restrictions, with most bans focusing on open-loop scrubbers or washwater discharges.

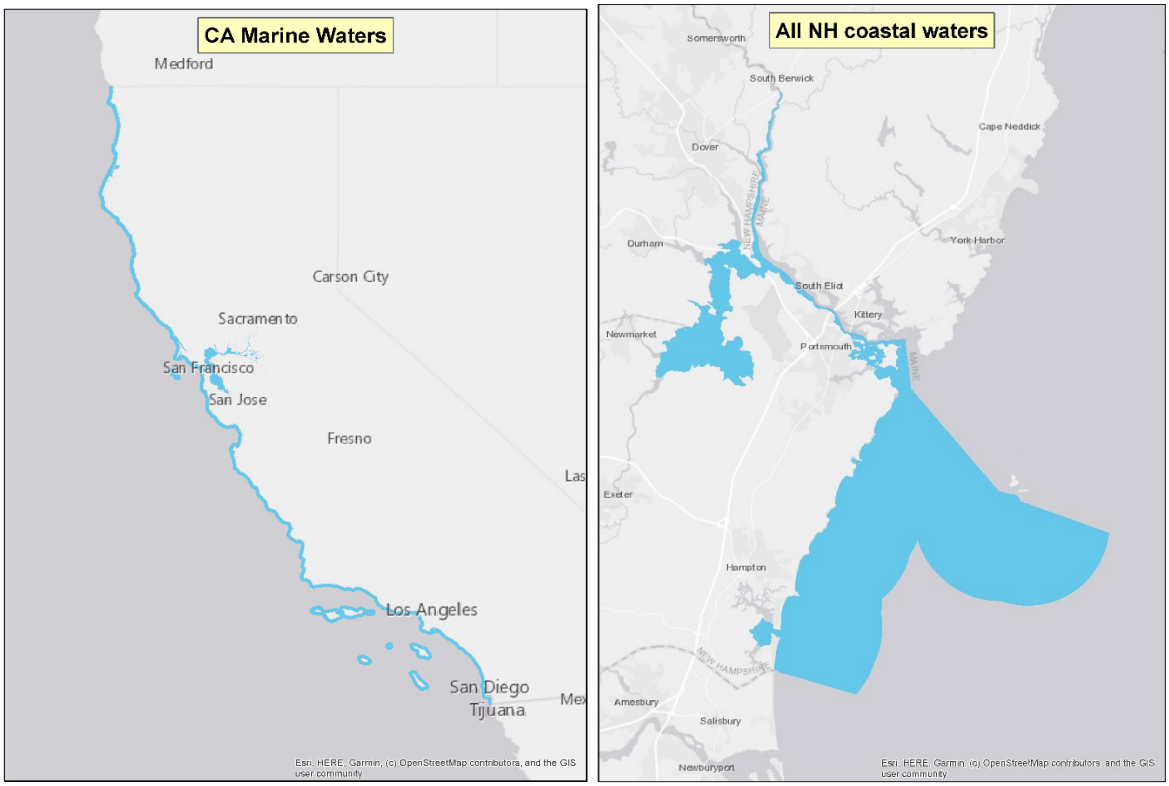


Bans and restrictions on scrubbers by countries and ports.

**This map is presented without prejudice as to the status of or sovereignty over any territory, the delimitation of international frontiers and boundaries, and the name of any territory, city, or area.*

The approaches taken by different countries vary, but all have the same goal of protecting the environment. For example, in Germany, inland waterways are regulated by the Strasburg Waste Convention (CDNI) which classifies scrubber washwater discharges as “hazardous substances” and thus prohibited. China’s Maritime Safety Administration has prohibited washwater discharges from open-loop scrubbers in inland river and coastal port Emission Control Areas (ECAs) since 2019. Egypt bans all scrubber types in its territorial waters and ports.

The U.S. has regulations in five states (Connecticut, California, Florida, Hawaii, and Washington) that target cruise ship pollution. Connecticut has a statewide scrubber ban. Hawaii controls discharge through official license and permitting. Florida and Washington State have port-level measures in place. California has passed a series of statutes limiting vessel discharges. California Senate Bill 771, the Clean Coast Act enacted into law in 2005, prohibited all commercial ships from dumping hazardous waste, sewage sludge, oily bilge water, “gray water” from sinks and showers, and sewage in state waters. The bill also required California to petition the federal government for “No Discharge Zones” to enforce the bill’s anti-dumping provisions, ultimately leading to action by the federal government. California now has 11 No Discharge Zones; the latest in 2012 protects the entire California coastline. New Hampshire has taken a similar approach with 2 No Discharge Zones, one for coastal waters and another for all in-land waterways, thereby protecting the entire state and coastline.



California’s 11th and New Hampshire’s 2nd No Discharge Zones covering coastal waters.

Note that the California law goes beyond scrubber discharges; it also includes sewage and gray water. This is also very important to secure the health of Virginia waters. As pointed out in the pollutions section and reiterated here, effluent waste can contain bacterial and viral pathogens and high nutrient concentrations

which promote algal blooms and cause oxygen-depleted "dead zones," which are especially harmful to sessile organisms like oysters.

Virginia has only four No Discharge Zones to protect against discharge. According to the EPA website they are: Sarah Creek and Perrin River; Smith Mountain Lake; Lynnhaven River; and Broad Creek, Jackson Creek and Fishing Bay. This is a sound practice, but these zones cover only a small fraction of Virginia territorial waters.

Many States augment the EPA's Vessel General Permit (2013 VGP section 6.0) for discharges to protect their waters and the associated ecosystems. Provisions address black and gray water, bilge water, "hazardous wastes which poses a potential threat to human health or the environment," and other types of pollution. Connecticut directly targets scrubbers stating, "Discharge of exhaust gas scrubber washwater into Connecticut waters from any vessel covered under the VGP or sVGP is prohibited." In total, 25 states have augmented the VGP to add protections not found in the 2013 VGP. Many States have been effective at closing gaps in the dated VGP, but Virginia has no additional provisions in the VGP. When the EPA's new standard becomes regulations, the 2013 VGP will be deprecated, but states will still be allowed to enact stricter regulations for their territorial waters.

More information on scrubber bans around the world is presented in Appendix A. Another article by LITECH states that "more than 120 ports worldwide have banned open-loop scrubber discharge," yet Virginia has no such restrictions. A list of ports and countries banning scrubbers can be found in Appendix B.

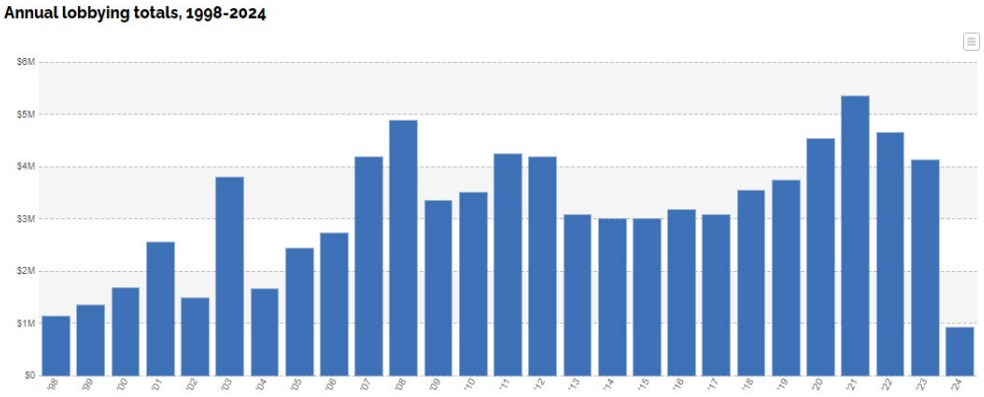
As previously stated, the carbon footprint of large cruise ships is enormous; one ship is approximately equal to 80,000 cars. The industry is growing rapidly. A recent article by The Guardian states, "Cruise ships pumped out 17% more carbon dioxide in 2022 than they did in 2019." The industry also claims their newest ships are green as they transition to Liquid Natural Gas (LNG) but "methane emissions rose 500% over the same time period." According to the documentary, The Cruise Ship Industry: A Floating Grave?, 3% of methane is uncombusted and methane is 25 time more potent than CO_2 as a green house gas.

Infrared capture of methane emission from a cruise ship
Source: The Cruise Ship Industry: A Floating Grave?

This is an ominous trend that will exacerbate climate change and effects like ocean acidification. The cruise industry could have chosen to use cleaner fuel but elected to put profit first. Shore-based power generation is often much cleaner than ship-board generation. For example, Dominion Energy has renewable energy programs for users, in which cruise ships could participate. The Port of Seattle is taking this approach, with a goal to phase out seaport-related emissions by 2050. A shore power connection allows cruise ships to plug into cleaner, land side electrical power and turn off engines, reducing diesel emissions by 80% and CO_2 emissions by 66% on average. New York has also recently proposed a bill "to compel cruise terminal operators to require that cruise ships use shore power." It should be noted that scrubber bans also incentivize the use of shore power by allowing ships to turn off generators in port. Alternatively, they encourage clean fuels which do not require scrubbing to meet IMO sulphur emissions standards.

Cruise Industry Lobbying

There is truly a need for federal legislation protecting the environment from the cruise industry. Unfortunately, this has been thwarted by the cruise industry's powerful lobby, thus making it essential for the Commonwealth to act. According to Open Secrets, the cruise industry currently has 29 registered lobbyists in the U.S. and has been spending millions of dollars per year.



Annual Cruise Industry Funding for Lobbyists

U.S. Congressman Sam Farr tried four times to get federal cruise ship environmental legislation passed, but he never got enough support to get beyond the cruise lobby.

"The lobbying work," Farr said in an interview with Univision News, "has prevented Congress from even considering reviewing a third bill — the Clean Cruise Ship Statute — which seeks to prohibit cruise ships, regardless of their flag or the nationality of their owner company, from dumping wastewater, garbage and other polluting substances into the waters near the coasts of the United States. Preventing all of this is costly, and cruise lines don't want to spend money operating wastewater treatment plants on their ships." The U.S. currently requires ships to be only three miles from shore before dumping raw sewage, whereas UN international regulations (under MARPOL Annex IV, to which the U.S. is not a signatory) sets the limit at twelve miles.

Virginia now has three registered lobbyists working on behalf of Princess Cruise Lines to promote the cruise industry in the Commonwealth. In late 2022 and 2023, they successfully lobbied for legislation to fund a cruise ship pier in Yorktown, Virginia. This was all done behind the scenes and without citizen input. It was only through a petition and a concerted effort from the community, after Princess Cruise Lines had already announced Yorktown as a port of call, that the project was halted and the funding rescinded.

In addition to paid lobbyists, the cruise sector has a powerful trade organization, Cruise Lines International Association (CLIA), which promotes the industry and shapes messaging around "environmental sustainability", highlighting use of liquid natural gas (LNG) and shore power which are barely used by most cruise ships and which are not the panacea CLIA claims them to be. For example, LNG contains methane, a greenhouse gas, which the EPA states "is more than 28 times as potent as carbon dioxide at trapping heat in the atmosphere." According to the International Council on Clean Transportation, methane emissions, or "methane slip," from LNG-fueled ships have more than doubled in recent years. The cautionary topics in this petition are not part of the industry and CLIA's message.

A variety of regulatory approaches have been used in attempts to curb the air and water pollution that is so prevalent in this industry. More and more regions are dealing with these impacts and have taken action. Further study of the right approach for Virginia is warranted, but California's approach seems the most comprehensive, strongly targeting vessel discharges via extensive No Discharge Zones. Preventing the cruise industry's large capacity passenger ships, due to the volume of toxic effluents they produce, from discharging waste in Virginia's territorial waters seems compelling and appropriate. The No Discharge Zone approach should be considered as an effective approach to protect Virginia and our marine-based economy.

Conclusion

The large capacity ships used by the cruise industry hold thousands of passengers, burn HFO, generate megawatts of power, exhaust an unhealthy mixture (SO_x, N_x, CO_2, particulates) into the air and toxicants (Zinc, PAHs, Arsenic, Nickel, etc.) into the water on a scale unparalleled by other vessels. Their practices and scale put them in a class by themselves, requiring stringent regulatory controls.

The seafood industry significantly contributes to the Commonwealth's economy creating jobs and revenue. The cruise industry has clearly stated and demonstrated that it wants to expand in Virginia, and if poorly regulated, this expansion will have detrimental impacts on Virginia waters and our marine resources, while also significantly contributing to climate change and associated ocean acidification on a global scale. The dismal record of cruise ship pollution is clear, and countries and ports around the world have acted to limit the environmental impacts of these massive ships. The large volumes of pollutant discharges and the known climate, acidification, and oxygen-depleted "dead zone" impacts make a strong case for DEQ regulations. I respectfully request that you consider this petition for new cruise industry regulations.

Thank you for your consideration.

Protect Virginia Steering Committee: Robert Hodson, Theresa Hodson, Jacques van Montfrans, Elizabeth Wilkins, Mary Jo O'Bryan, Angier Brock, Alyssa Adams, Barbara Luck, Betsy Taylor, Bill Taylor, Carolyn Weekley, David Douglas, Lyn Douglas, Tom Des Lauriers, George Bennett, Maureen Moss, Herb Moss, George Handley, Susan Handley, Lea Gryk, Jose Longoria

Info@Proect-Virginia.org

Appendix A: Current Global Bans and Restrictions Against Scrubbers

Source: [June 2023 International Council on Clean Transportation (ICCT) Policy Update]

EUROPEAN UNION, UNITED KINGDOM, AND NORWAY

There is some kind of restriction or ban on scrubbers in seventeen EU countries, the United Kingdom, and Norway (Figure 5). Eight of these countries ban or restrict scrubbers in their territorial waters and/or port areas, and four countries have bans in their territorial waters and have further measures implemented by local ports with stricter targets (e.g., France and Norway in the fjord area). In the case of Germany, inland waterways are regulated by the Strasburg Waste Convention (CDNI) which classifies scrubber washwater discharges as "hazardous substances."[7] According to another regulation, the SeeUmwVerhV, this classification also applies to the maritime sector and the ban would therefore also apply to seas and oceans.[8] Thus, vessels in Germany are only allowed to use closed-loop scrubbers and washwater discharges are prohibited. In the remaining seven countries, the bans are implemented at the port level. One example is the Port of Gothenburg in Sweden; in its regulation, updated in 2022, the port prohibits washwater discharges and only allows the use of closed-loop mode in the port area.[9]

In the case of restrictions in this region, these usually require that vessels get authorization before entering the port or the territorial area (e.g., Estonia and Port of Bilbao), require the use of closed-loop scrubbers only (e.g., Port of Felixstowe), or require proof that the discharged water will not harm the environment and that the pH of the discharged water be below 8.0 (e.g., Lithuania).[10]

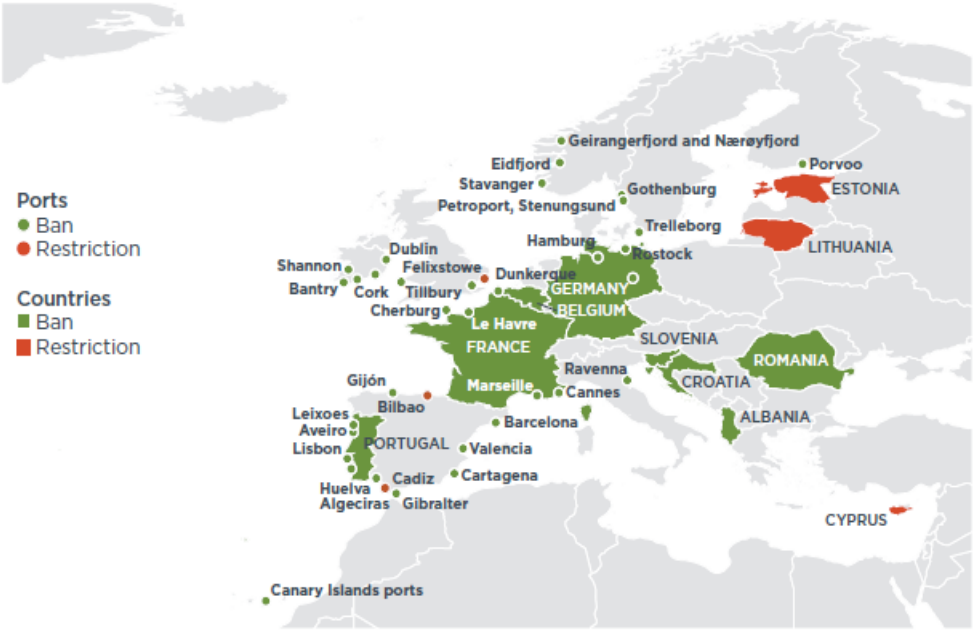


Figure 5. Bans and restrictions on scrubbers in Europe.

**This map is presented without prejudice as to the status of or sovereignty over any territory, the delimitation of international frontiers and boundaries, and the name of any territory, city, or area.*

ASIA

Bans against open-loop washwater discharges have been adopted in China, Malaysia, and Singapore (Figure 6). In Malaysia, the ban applies to territorial waters and in Singapore, the ban was published by the Port Authority of Singapore and applies only to the port area.

Since 2019, China's Maritime Safety Administration has prohibited washwater discharges from open-loop scrubbers in inland river ECAs, waters of the ports in coastal ECAs, and in the Bohai water area. Before entering these areas, ships are to switch to low-sulfur fuels and record information about the fuels used before and after the switch, as well as the time it took to make the switch. In Hong Kong, there is a restriction on scrubber use and authorities need to be "satisfied" with the effectiveness of the sulfur abatement technologies in use on the vessel before they grant access to territorial waters.

Figure 6. Countries and ports that have a ban or restriction on scrubbers in Asia.

**This map is presented without prejudice as to the status of or sovereignty over any territory, the delimitation of international frontiers and boundaries, and the name of any territory, city, or area.*

AMERICAS

In the United States, measures against scrubbers are applied in five states (Figure 7). California bans scrubbers within 24 nm of its coast.[11] According to the Vessel General Permit for Discharges Incidental to the Normal Operation of Vessels (VGP), in Connecticut, the washwater from any vessel included is prohibited.[12] In Hawaii, discharging is allowed if ship owners obtained an official license or permit when entering territorial waters. In Florida and Washington State, port-level measures are in place. The Port of Seattle in Washington does not allow washwater discharges from cruise ships and the Port of Canaveral in Florida prohibits washwater discharges.[13]

In Canada, the Vancouver Fraser Port Authority amended its port information guide in 2021 to promote safer and more efficient navigation in its area.[14] One of the amendments states that discharges from fuel combustion machinery into the environment are not permitted while a vessel is at anchorage or at berth, and this applies to water from both open-loop and closed-loop scrubbers. Also, ships fitted with hybrid scrubbers should switch as soon as possible to closed-loop mode and operate the scrubber in zero-discharge mode. Bleed-off water from closed-loop scrubbers is prohibited and should be disposed of in an adequate facility; if not, vessels must switch to compliant fuel or shore power. Lastly, vessels outfitted with scrubbers are required to submit a pre-arrival declaration to the port.

There are limits on the use of scrubbers in five countries in Central and South America (Figure 7). (Argentina previously had a ban on washwater in its territorial waters and ports, but it was suspended due to COVID-19, and thus is not counted). Bermuda bans washwater and residues from scrubbers in its territorial waters and Panama bans them at the Panama Canal. Trinidad & Tobago allows the discharge of washwater, but only with prior approval. In Belize, washwater cannot be discharged into territorial waters and or at ports. A national regulation in Brazil requires that scrubbers have an approved compliance plan and documentation, and additional measures against washwater discharges from scrubbers are taken at the port level. For example, at Vale S.A. ports, within 24 nm of the coastline ships should use only low-sulfur fuel and not discharge any washwater into the ocean. Also, the ports of Rio Grande, Pelotas, and Porto Alegre ban any discharges or bleed-off water, from both open-loop and closed-loop scrubbers, within the polygon of the Ports of Rio Grande do Sol, Lake Guaíba, and Lagoa dos Patos waterway.

Figure 7. Bans and restrictions on scrubbers in the Americas.

**This map is presented without prejudice as to the status of or sovereignty over any territory, the delimitation of international frontiers and boundaries, and the name of any territory, city, or area.*

OCEANIA

The Port of Hastings in Australia is the only place in Oceania that applies any measure on scrubbers (Figure 8). It prohibits the discharge of any offensive and contaminated liquid or waste matter from every vessel type in its port area.[15] This would include discharges from scrubbers.

In 2021, New Zealand's Ministry of Environment released guidelines for the use of scrubbers in territorial waters and they are "discouraged." Ships outfitted with scrubbers should avoid discharges when possible and carry compliant fuels onboard.

Furthermore, they are encouraged to use closed-loop scrubbers in zero-discharge mode and retain the sludge until it can be disposed of in a port facility. Because this is not a formal ban or restriction, it was not counted in our study.

Figure 8. Bans and restrictions on scrubbers in Oceania.

**This map is presented without prejudice as to the status of or sovereignty over any territory, the delimitation of international frontiers and boundaries, and the name of any territory, city, or area.*

AFRICA AND THE MIDDLE EAST

There are bans on open-loop scrubber operations in four African countries (Figure 9). Egypt bans all scrubber types in its territorial waters and ports, and the Suez Canal bans them in the port area. Kenya applies the ban to open-loop scrubbers in all ports and the port of Mombasa in Kenya applies further rules and requires that ships switch to compliant fuels or use closed-loop mode for hybrid scrubbers.

Mozambique allows open-loop scrubbers in its territorial waters if they work properly and follow the regulations; ships must use compliant fuels instead of open-loop scrubbers within ports, bays, and estuaries. Additionally, open-loop scrubbers are banned in all port areas in Mozambique. The Port of Nacala is the only port in Mozambique that has further requirements, and it bans all scrubber discharges in its area.

In the Middle East, Bahrain has a Marine Notice that encourages the use of closed-loop scrubbers in its territorial waters and exclusive economic zone and allows discharges from open-loop scrubbers only if vessel operators can prove that the discharges will not bring any harm to the marine ecosystem. Additionally, open-loop discharges are prohibited in the port of Bahrain and at anchor. In six other countries, ports ban the discharge of washwater from open-loop scrubbers and instead recommend the use of closed-loop scrubbers or compliant fuels. In the ports under the jurisdiction of the Ports, Customs and Free Zone Corporation in the United Arab Emirates, all scrubber use is banned in territorial waters and in Oman, scrubber use is banned in territorial waters only.

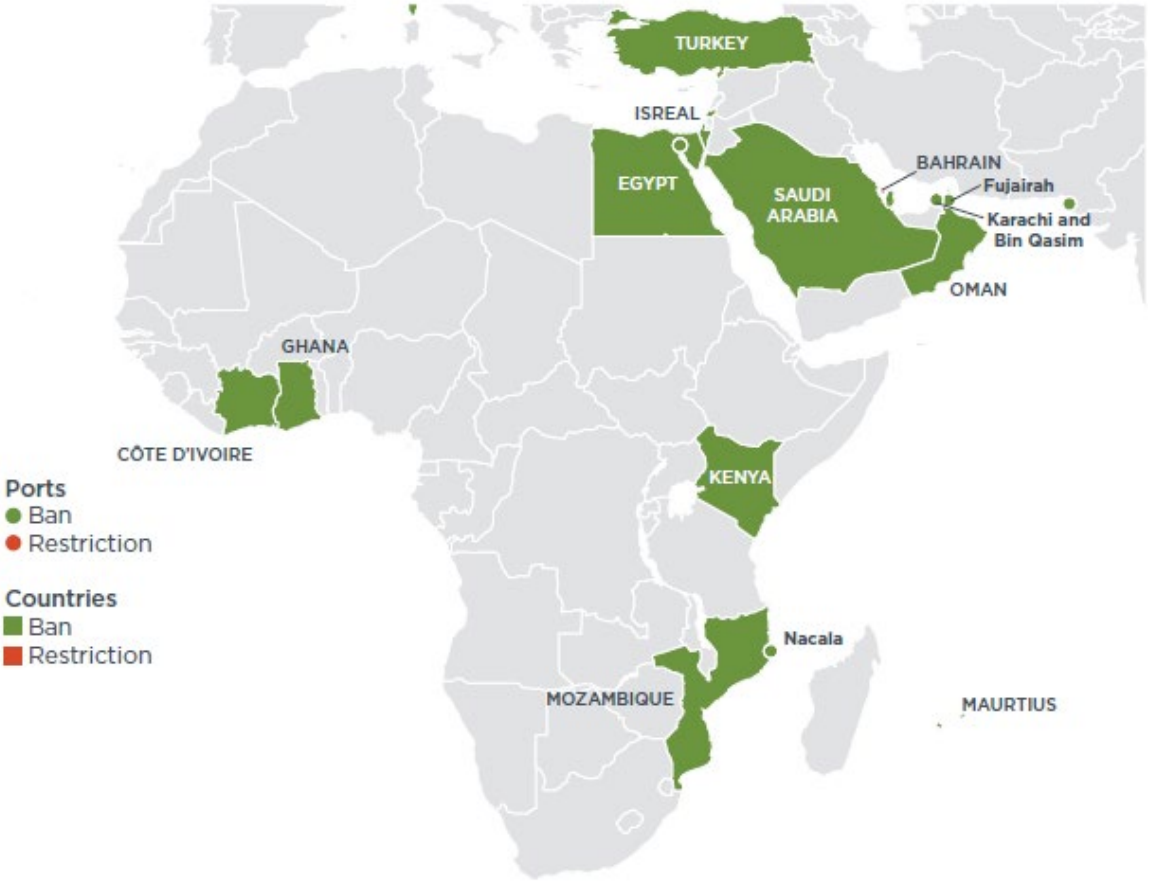


Figure 9. Bans and restrictions on scrubbers in Africa and the Middle East.

**This map is presented without prejudice as to the status of or sovereignty over any territory, the delimitation of international frontiers and boundaries, and the name of any territory, city, or area.*

7 CDNI, "The CDNI Convention - Convention on the Collection, Deposit and Reception of Waste Generated during Navigation on the Rhine and Other Inland Waterways," 2018, https://www.cdni-iwt.org/the-cdni-convention/?lang=en.

8 Federal Ministry of Transport and Digital Infrastructure and the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety in agreement with the Federal Ministry of Finance, "SeeUmwVerhV - Verordnung Über Das Umweltgerechte Verhalten in Der Seeschifffahrt," accessed March 30, 2023, https://www.gesetze-im-internet.de/seeumwverhv/BJNR137110014.html.

9 "Permits and Regulations," Port of Gothenburg, 2022, accessed March 10, 2023, https://www.portofgothenburg.com/maritime/permits-and-regulations/.

10 "Shipmasters Information and Emergency Procedure Guide," Port of Felixstowe, July 2020, https://www.portoffelixstowe.co.uk/files/8015/9351/1985/Shipmasters_information_booklet_July_2020.pdf.

11 "Ocean-Going Vessel Fuel Regulation," California Air Resources Board, accessed March 29, 2023, https://ww2.arb.ca.gov/our-work/programs/ocean-going-vessel-fuel-regulation.

12 U.S. Environmental Protection Agency, "Vessel General Permit for Discharges Incidental to the Normal Operation of Vessels (VGP)," 2013, https://www3.epa.gov/npdes/pubs/vgp_permit2013.pdf.

13 Port of Seattle, "Terminal Tariff No. 5: Rates, Charges, Rules and Regulations for Services Performed by and at the Port of Seattle and at Terminals of Participants," effective January 1, 2023, https://www.portseattle.org/sites/default/files/2022-12/Terminals%20Tariff%205%2001.01.23.pdf; Canaveral Port Authority, "Tariff No. 16: Governing Rates, Rules & Regulations of Marine and Port Services Provided by the Canaveral Port Authority," effective October 1, 2020, https://www.portcanaveral.com/Cargo/Port-Tariff/CPA-Tariff-16-FY21-FINAL-(1).aspx.

14 Vancouver Fraser Port Authority, "Notice of Amendment: Port Information Guide."

15 Port of Hastings, "Port Operating Book," 2017, https://static1.squarespace.com/static/592f5720f5e2317ce97cec2c/t/59559f78d1758e3b9a29aa6d/1498783617943/POH-OPR-PRO-001+Port+of+Hastings+Operating+Handbook_Rev0.pdf.

Appendix B: Regulatory Details of Worldwide Scrubber Bans

The table below summarizes the positions taken by ports that have prohibited the use of scrubbers.

Source: NorthStandard, published June 7, 2024

Country	Comments
American Samoa	In February 2024, a club member shared advice they had received, informing that open loop EGCS operation was not permitted in Pago Pago.
Bahrain	MARINE NOTICE: PMA/03/2019 states that open loop operation not allowed in port or at anchor Open loop operation is allowed in Bahraini territorial waters and exclusive economic zone (EEZ) as long as it can be proved that the discharge of washwater complies with MEPC.259(68) and there is no negative impact on marine ecosystems. The Clean Shipping Alliance advise: Vessels must obtain a permit from the Marine Safety & Environment Protection Directorate before discharging washwater anywhere in Bahrain waters.
Belgium	Belgian federal law states discharge only allowed in coastal and open seawaters when at least 3nm off coast. Discharges must not imperil EU Water Framework Directive objectives. Flemish regional law also confirms discharge not allowed in ports or inland waters.
Belize	The Clean Shipping Alliance advise: Discharge of Exhaust Gas Cleaning Wash Water prohibited in territorial waters and port areas (Marine Circular 01/2018 – BPA/MS/23-1/2018(98) dated 12/12/2018).
Bermuda	Ships equipped with Exhaust Gas Cleaning Systems (EGCS) shall seek the prior approval of the Environmental Authority before its use in Bermuda's territorial waters. Washwater and residue from the EGCS shall be not disposed of in Bermuda or discharged into Bermuda's waters but shall be stored on board the ship until outside of Bermuda's waters. See Government of Bermuda's Environmental Policy for Ships at https://www.gov.bm/environmental-policy-ships.
Canada	The Vancouver Fraser Port Authority's (VFPA) will prohibit the discharge of washwater from exhaust gas cleaning systems when vessels are anchored in the port or moored at a berth from 1 March 2022. The VFPA have indicated that the VFPA's Harbour Patrol crew will be responsible for enforcement activities through random checks on vessels.

China (P.R.)	China MSA guidance prohibits the discharge of water washings from open-loop scrubbers in certain areas. The prohibited areas are: Inland river Emission Control Areas (ECAs); Port areas within coastal ECAs; and Bohai Sea – the sea area within lines connecting the junction point of shorelines of Dandong, Dalian and shorelines of Yantai, Weihai. The guidelines also prohibit the incineration of the water washing residues from any type of exhaust gas scrubber. Ships are required to keep accurate records of the stowage and disposal of the washing washings. If a vessel is not able to store the washing water it is required to switch to low sulphur fuel (not exceeding 0.5%) prior to entering the above areas. The guidelines also state that under certain circumstances a vessel may apply for an exemption if it uses fuel that does not meet the MSA's requirements. A copy of the MSA's guidelines for ships operating within the ECAs, including enforcement details can be found here.
Croatia	The Clean Shipping Alliance advise that the Ministry of the Sea, Transport and Infrastructure Notice from 27/10/2017 states that only loop operation is allowed.
Denmark	In April 2024, the government has reached an agreement on a ban on the discharge of scrubber water into Danish territorial waters 12 nautical miles from coast). The ban will take effect on July 1, 2025. Under the agreement, ships must switch to either compliant fuel or closed-loop scrubbers. It is expected that the ban will extend to cover closed scrubbers from July 1, 2029.
Egypt	Suez Canal: Suez Canal Authority has issued Circular 08/2019. Clarification on this circular is provided here. The authority puts no conditions or restrictions on marine fuels until Egypt ratifies MARPOL Annex VI – as such, sulphur cap is not in force. Washwater from open-loop scrubbers is not permitted to be discharged during transit of the canal.
Finland	The Clean Shipping Alliance advise: Open loop discharge not permitted in harbor area of port of Porvoo. Ministry of Transport and Communications informs: Under Finnish legislation, the discharge of wash waters from open-loop scrubbers is allowed in Finnish ports and territorial waters. However, some ports have restricted the discharge in the port area under their own competence.
France	In July 2021, the French authorities issued Proposed Amendments to Division 213 – Pollution Prevention – Prohibition of the discharge of open loop scrubbers from the limit of 3 nautical miles.

	The Budd Group advises that the prohibition took effect on 1 January 2022, and applies to all French and foreign commercial vessels with open loop scrubbers. To comply, the ships concerned must, during their operations in the coastal area and in the port enclosures, stop using their scrubbers and use fuel with a sulphur content that complies with the regulatory ceilings. Compliance with the measure will be monitored by ship safety inspectors. The penalties applicable in the event of an infringement may start at 4,000 euros for the Master of the vessel and go up to 7 years' imprisonment and a fine of 10.5 million euros depending on the vessel concerned.
Germany	EGCS discharge is not permitted according to the convention on the collection, deposit and reception of waste generated during navigation on the Rhine and other inland waterways (CDNI Convention). Restrictions apply to all inland waterways intended for general traffic except for the German part of Lake Constance and the stretch of the Rhine upstream of Rheinfelden.https://www.cdni-iwt.org/presentation-of-cdni/?lang=en.
Ghana	The Clean Shipping Alliance advises: Ghana Maritime Authority informed the CSA that the Administration does not allow the operation of open-loop scrubbers in Ghanaian waters.
Gibraltar	Closed loop scrubbers are permitted in Gibraltar waters. Hybrid scrubbers operating in closed loop mode are also permitted. Open loop scrubbers are temporarily not permitted as a precautionary measure until the Gibraltar Government arrives at a definitive policy decision with regards to (solely) open loop scrubbers.
Ireland	Dublin: Refer to Port of Dublin's NOTICE TO MARINERS No. 37 of 2018 Prohibition on the Discharge of Exhaust Gas Scrubber Wash Water http://www.dublinport.ie/wp-content/uploads/2018/06/37-2018-Prohibition-on-the-Discharge-of-Exhaust-Gas-Scrubber-Wash-Water.pdf. Waterford: Port of Waterford weblink http://www.portofwaterford.com/news/marine-notices-prohibition-on-the-discharge-of-exhaust-gas-scrubber-wash-wa. The Clean Shipping Alliance advise: Cork: Notice to Mariners 15/2018 dated 12/01/2018 "Prohibition on the Discharge of Exhaust Gas Scrubber Wash Water" can be read here.
Israel	Official notice MP27 dated 11 January 2023 issued by the State of Israel Ministry of Transport regarding the new fuel sulphur regulations states that discharging of washwater from open loop mode EGCS (scrubber) is prohibited when ship is berthing alongside in any Israeli port, including ports anchorage area. Read the notice here.
Ivory Coast	No formal documentation sighted or referenced, but Abidjan agents have advised open loop operation is prohibited in territorial waters.

Kenya	The Clean Shipping Alliance advises: Kenya's National Guidelines for Implementation of IMO 2020 December 2019 include: 7.1. The discharge of washwater from open-loop scrubbers is prohibited in the Kenyan Ports limits. This is to maintain the standard of Kenya marine water quality. 7.2 While in the port of Mombasa, ships fitted with hybrid type of scrubbers shall switch to the closed- loop mode of operation. Ships fitted with open-loop scrubbers shall switch over to compliant fuel oil.
Malaysia	Malaysia shipping notice MSN 07/2019 prohibits the use of open loop scrubbers within 12 nautical miles from land. Vessels calling at Malaysian ports must operate in closed loop mode or change over to compliant fuel before arrival.MSN072019 (2).pdf.
Mauritius	The Clean Shipping Alliance advise: Merchant Shipping Notice 2 of 2019 includes: 3.9 …except in the case of innocent passage, ships proceeding to Mauritius or other islands forming part of the territory of Mauritius that use high sulphur fuel oil (HSFO) in combination with open-loop scrubber shall changeover from HSFO to compliant fuel oil whenever they enter the territorial waters of Mauritius i.e. within 12 nautical miles from the shore. Environmental legislation presently in force in Mauritius prohibits the discharge of wash water from open loop scrubbers.
Mozambique	The Clean Shipping Alliance advise: As per Decree 45/2006, the COO of the Nacala Port stated in March 2021 that the discharge of washwater is not allowed in the Nacala Port. Harbor Master for the Port of Maputo informs in March 2021 that: a) Open loop scrubbers are allowed in the Mozambique territorial waters as long as they are working properly and following all the regulations. b) Within ports, estuaries or bays where the water salinity values fall from the standard ones considered for salt water (1,025 or more), open loop scrubbers are not allowed and the ships must operate using compliant fuel.
Norway	The World Heritage Fjords sea areas of Geirangerfjord and Nærøyfjord restrict the use of open loop scrubbers, but not closed loop. Section 14b of the relevant Norwegian Maritime Authority's regulation can be accessed at: https://www.sdir.no/en/shipping/legislation/directives/amendments-to-the-regulations-on-environmental-safety-for-ships-and-mobile-offshore-units/. Eidfjord – closed loop operation only: https://www.cruise-norway.no/viewfile.aspx?id=5697
Oman	Open-loop scrubber discharge is not permitted in Oman territorial waters The Clean Shipping Alliance advise: Marine Notice No. 09/2020 includes:

	1. Ships that use open loop ship exhaust gas cleaning systems are prohibited from discharging washing water into Omani ports and territorial waters. 2. Ships that use hybrid exhaust gas cleaning systems must switch from the open loop mode to the closed loop mode when they reach the territorial waters and keep the washing residues on board and dispose of them in the designated facilities at the port. 3. Ships using closed loop exhaust gas cleaning systems must keep the washing residues onboard when they reach territorial water and dispose of it at designated facilities at the port.
Pakistan	The Government of Pakistan Ministry of Maritime Affairs (Ports and Shipping) Circular 001/2020 (Click Here) prohibits the discharge of washwater from open loop scrubbers. If closed loop scrubbers are not in use then compliant fuel should be used and changed over before arriving in port waters.
Panama	NT NOTICE TO SHIPPING No. N-1-2020 "Vessel Requirements", Section 31 states the following and can be accessed here. The use of open loop scrubbers or hybrid scrubbers in open loop mode is prohibited in Panama Canal waters. Vessels opting to use closed loop scrubbers or hybrid scrubbers in closed/ zero discharge mode shall submit documents to the panama-canal authority as detailed in section 31 E. Additionally, Section 28 (5) of the same document states: "Residues from the Exhaust Gas Cleaning System (EGCS) washwater are to be collected on board. Discharging these residues into the water bodies under the responsibility of the Panama Canal or incinerating them on board is not permitted."
Papua New Guinea	7 June 2024 – Ministry of Mines and Geology (MMG) representative and appointed surveyor's conduct are less flexible when performing mandatory draft surveys on board vessels loading bauxite. MMG will not hesitate to withhold outward clearance from any vessel which refused to align its and/or their surveyor's draft figures with their own. To mitigate this risk,the recommendation for vessels loading bauxite in Guinea's ports (Conakry, Kamsar, Boffa, Boke etc) is to appoint a surveyor to carry out initial and final draft surveys. The surveyor's presence for the survey to be joint may facilitate communication with the MGM survey to prevent and/or mitigate any figures discrepancies. The Master may also seek assistance for a local surveyor on issuing letters of protest and clausing of the MMG draft results which the vessel will be asked to sign. This can be part of the loading survey which are regularly arranged on board vessels loading bauxite. Precautions need to be taken when discharging ballast water in all Guinean ports, Guinea which ratified the MARPOL Convention. Local authorities prohibit the discharge of harmful substances into the water, and ballasting operations are only allowed subject to verification by the Harbor master's office or the competent authorities. In the event of breaches, Members incur the risk to see fines equivalent to 150% of the vessel's disbursement account being imposed, which can needless to say reach very high amounts. Ballasting and de-ballasting without permission have previously resulted in the imposition of fines by the authorities. Therefore, a

	special permission must be obtained from local authorities if the operation is considered.
Portugal	Use of open loop scrubbers are not allowed in ports of Aveiro, Leixoes, Lisbon and Sines from entry of the ship into the port, along the port channel and at berth (moored), until the ship leaves the port. Only closed loop operation is allowed. The Clean Shipping Alliance advises: Although the Decree-Law no. 170/B/2014 allows the use of the open loop scrubbers as an alternative option to the compliant fuel, the ports' administrations can go beyond the federal regulation and apply additional restrictions. Use of open loop scrubbers are not allowed from entry of the ship into the port, along the port channel and at berth (moored), until the ship leaves the port. Only closed loop operation is allowed.
Qatar	The Clean Shipping Alliance advises: Qatar Petroleum MIC [Mesaieed Industrial City] Port Information and Regulations Guide – January 2020 states: "Also, as per Qatari Environmental Law, wash water originated from the open loop scrubbers, containing chemicals and /or metals are PROHIBITED to be discharged in Qatari waters."
Romania	The Clean Shipping Alliance advises: Information from Romanian Naval Authority dated 30/03/2021 states there is no restriction of using open-loop EGCS into Romanian territorial waters but use is forbidden within port limits.
Saudi Arabia	As detailed in Circular 55-2020, Saudi Port Authorities have banned exhaust wash water discharges from open loop EGCS systems in Saudi ports until an environmental standard is issued in this regard. The Circular also states that Saudi GAMEP authority prevents discharge in territorial waters.
Singapore	Maritime and Port Authority of Singapore (MPA) ban on the use of open loop scrubbers took effect on 1 January 2020. See https://www.mpa.gov.sg/web/portal/home/singapore-registry-of-ships/about-srs-and-what-new/IMO-2020-Fuel-Oil-Sulphur-Limit. The Clean Shipping Alliance advises: This ban does not apply to ships transiting the Traffic Separation Scheme (TSS) without calling into the Port of Singapore.
Slovenia	The Clean Shipping Alliance advises: Information from the Slovenian Maritime Authority dated 23/03/2021 refers to "Water Act" (Official gaz. no. 67/02) in detail: the Article 66, paragraph 4. The discharge of washwater of open-loop EGCS is prohibited, furthermore even the

	use of an open loop EGCS in Slovenian waters is prohibited (only closed loop EGCS is allowed). Article 66 (navigational practices related to water pollution): (4) Waste water generated on vessels shall be prohibited from being discharged into waters directly from vessels, except for unpolluted cooling. water.
Spain	Correspondents advise to check with each particular Harbour Master and Port Authority. They further advise that the use of open loop scrubbers is prohibited at the Spanish ports of Algeciras, Cartagena, Valencia and Huelva. The Clean Shipping Alliance advises in ports of Bilbao and Cadiz the use of EGCS is restricted within port limits. Documentation must be submitted and approved by the harbor master before EGCS can be used in port.
Sweden	While there is no nationwide ban in Swedish waters on the use of open loop scrubbers, some ports have placed local restrictions: Stockholm – North's correspondents advise that there is an open loop scrubber ban in Stockholm. Trelleborg – Chalmers University in Gothenburg advise of ban of open loop scrubbers in port of Trelleborg. See section 29 of the Swedish language version of the Trelleborg port regulations (https://www.trelleborgshamn.se/wp-content/uploads/2020/01/Hamnordning-G%C3%A4llande-fr%C3%A5n-1-januari-2020.pdf). Gothenburg: The Clean Shipping Alliance advise port regulation item 8.10: It is not permitted to discharge contaminated water within the port area. Scrubbers used for exhaust gas cleaning are only permitted if operated in close loop mode. (Click Here). Petroport, Stenungsund – See section 12 of harbor regulations which state "Vessels calling at the Port are not allowed to use Open-loop System for scrubbers". See http://www.petroport.se/wp-content/uploads/2019/11/PetroPort-Harbour-Regulations-2016_v8-nov-2019-1.pdf.
Turkey	Vitsan Mümessillik ve Müşavirlik A.Ş advise that the Ministry of Environment and Urbanization of Turkey announced on 6 April 2021 that washwater discharge of open-loop scrubbers is prohibited in Turkish waters. Vessels operating with open-loop scrubber must switch sulphur-compliant fuels when entering / sailing in Turkish waters. Turkish authorities may impose a pollution fine on vessels that do not comply with the regulation. Vitsan circular regarding the scrubber usage in Turkey can be read here. The Turkish Chamber of Shipping Circular on the subject can be read here.
United Kingdom – England	The PLA allows the use of both open and closed loop scrubbers in the tidal Thames until further evidence is presented. However, open loop scrubbers are not permitted at any berths operated by the Port of Tilbury. Other individual berth operators may have their own restrictions on the use of scrubbers, agents/owners are therefore advised to contact any berth operators directly for

	advice. http://www.pla.co.uk/assets/nabso15of2020-exhaustgascleaningsystems.pdf. Permitted at APB Port of Southampton https://www.southamptonvts.co.uk/Port_Information/Regulations/Environment_Guidance_for_Commercial_Vessels_/. Permitted at Port of Felixstowe – however hybrid systems should operate in closed loop mode https://www.portoffelixstowe.co.uk/company-information/marine-information/
United Kingdom – Scotland	Forth Ports Circular No 45 of 2019 states: "Forth Ports and Port of Dundee Byelaw 59 specifically prohibits the discharge of materials into the Forth and Tay. This applies to discharge water from an "Open Loop" scrubber. Therefore, as a precaution the use of "Open Loop" scrubbers on the Forth and Tay is prohibited until further notice." See: https://www.forthports.co.uk/wp-content/uploads/2019/12/Notice-to-Mariners-No-45-of-2019-Use-of-Scubbers.pdf.
United Kingdom – Wales	Notice to Mariners No.127 of 2019 – Policy on the Use of Open-Loop Exhaust Scrubbers states: MARINERS ARE HEREBY ADVISED that, this Notice to Mariners is to communicate Milford Haven Port Authority's (MHPA) policy on the prohibition of discharge of exhaust gas scrubber wash water. This Notice applies to all vessels within the MHPA jurisdiction as set out in the Milford Haven Conservancy Act 1983 and subsequent legislation.
United States – California	The Californian ARB OGV regulations stipulate only distillate fuels can be used to comply with the 0.1% sulphur limit. Changeover to compliant distillate fuel (MGO or MDO) prior to entering Californian waters.
United States – Connecticut	Discharge of exhaust gas scrubber washwater into Connecticut waters from any vessel is prohibited. VGP 2013: 6.5.9 Discharge of exhaust gas scrubber washwater into Connecticut waters from any vessel covered under the VGP or sVGP is prohibited. This condition is necessary for compliance with CGS section 22a-427, Standards No.1, 2, 9, 12, 14, 15, and 24 of the CT WQS.
United States – Washington State	The Clean Shipping Alliance advises: Port of Seattle Terminals Tariff No. 5, Item 4001 states that passenger cruise ships will not discharge graywater, blackwater, or exhaust gas cleaning system wash water, whether treated or not while at berth in Port Terminals.
United States – Hawaii	Additional requirements under VGP 2013 Section 6.6. The State of Hawaii (Clean Water Branch) issued 'Blanket Section 401' Water Quality Criteria (WQC). This covers 27 categories of effluent discharge from an applicable vessel (EGCS washwater being one) that have received the best control or treatment into waters of the State of Hawaii incidental to the normal operation of the applicable vessels.

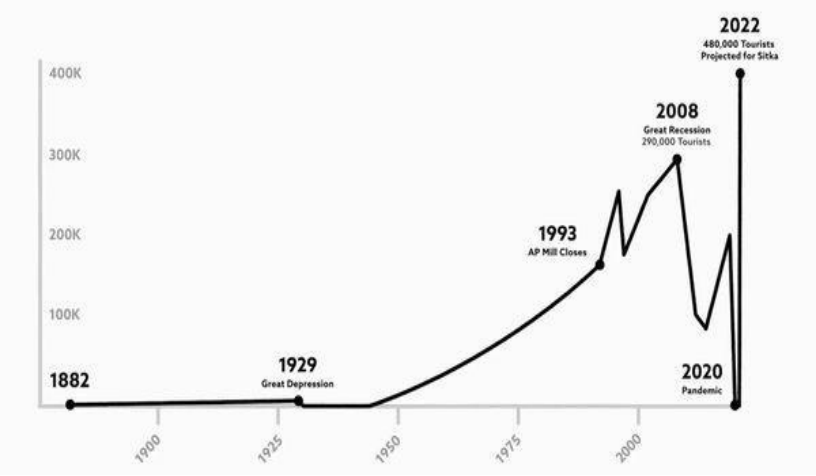
United Arab Emirates – Fujairah	Notice to Mariners No. 252 from Port Fujairah prohibits use of open loop scrubbers in its waters.
United Arab Emirates – Dubai	The Clean Shipping Alliance advises: Guidelines for Vessels Calling to Dubai Territorial Waters states that the use of EGCS is prohibited within Dubai territorial waters.

Appendix C: Other Cruise Industry Considerations

Community Impacts

Key West, Charleston, Venice, Barcelona, Sitka, Juneau, Seattle, Amsterdam, Monterey Bay, Marseille, Bar Harbor, Bergen, and many other cities all tell the same tragic story. The cruise industry has exploited these communities to the breaking point, and yet the citizens in these communities have had little input in the initial decision to bring in large cruise ships. Now they are fighting back.

Sitka, a remote community in Alaska, now has over 560,000 tourists per year (see the following graph). Sitka's story is depicted in the documentary "Cruise Boom", excerpts of which can be found here. The citizens voted down a cruise ship pier and the cruise lines side-stepped the community by helping to finance a business for a privately run pier; this also happened in Key West. In a recent Sitka survey, 63% of respondents said the cruise industry negatively impacted their lives. Despite a clear message from residents, the industry places profits before the will of the people. Bar Harbor, Maine, recently passed a law limiting tourism to 1,000 passengers per day, and it has been fighting costly court challenges. There are growing numbers of such stories worldwide.



Graph of Cruise Industry Over-Tourism in Sitka, Alaska

In Yorktown, Virginia, the cruise industry lobbied local government and legislators outside of the public eye to secure funding for a cruise ship pier on private property (the non-profit Watermen's Museum). After finding out from local media outlets, residents fought back through town educational meetings, a website, and a petition. A resident from Juneau, Alaska read about the effort to stop Princess Cruise Lines from coming to Yorktown and wrote a letter that in part stated,

> *"You are in a critical moment, and I am encouraged to see you organizing so quickly. The industry are colonizers, and they go through stages in their colonization and exploitation. I think you could be in the position to be assertive and in their face and turn them away. If they start coming, they will get locals who sell out and every local who gets money from them will make it harder to stop.*
>
> *"They promise the sun and the moon. They will externalize all costs, make demands that have you giving up what is dear to you, and frame a lot of 'facts' that are not facts."*

A concerned woman from Charleston, North Carolina, shared her experience in a heart-felt letter to the York County Board of Supervisors as well:

> *"Over the years, the cruise ship industry touted economic benefits of cruise traffic, while downplaying the harmful consequences. The boats pollute our air, create effective no-go zones for residents, and tax city infrastructure and public services. All a very sugar-coated, hidden agenda."*

The story in each port city is remarkably similar. The cruise industry's tactic is to work behind the scenes promising economic benefits while downplaying negative impacts. They work to get a foot in the door with local businesses and organizations, asking to start small, maybe with a pilot program. They will lobby local and state officials promoting their agenda, outside of the public eye if possible, and contribute to their campaigns. Once a program is initiated, they make it difficult to back out. Businesses are pitted against citizens, allowing cruise lines to continue to operate and expand. Over time a majority of residents organize and push back but it is costly and difficult to unseat this multibillion-dollar industry once it moves into an area. The cases are well documented in articles and reports. An article from the Business Insider tells the story of these port communities through images.

Foreign-flagged Ships

Most cruise ships are registered outside the United States and fly "flags of convenience." This greatly reduces their U.S. tax burden on gambling profits and their compliance with U.S. labor laws, conferring a competitive advantage over shore-based businesses, including casinos. The article, Economics of Cruise Ships, states: "According to annual report filings, the major cruise lines pay an average tax rate of 0.8%." Thus, the industry exploits U.S. infrastructure but does not give back its fair share (the Federal corporate tax rate is 21%). The various port and permit fees required of cruise lines do not adequately compensate states and localities for use of personnel, infrastructure, or for environmental and cultural impacts.

The Congressional Research Service report warned that the complicated legal structure behind cruise ships and their flags-of-convenience system makes it difficult to enforce international standards to prevent or investigate environmental accidents, due to the poor response in many cases from the countries where the vessels are registered. Although not a cruise ship, the vessel that recently collapsed the Keystone Bridge in Baltimore is a foreign-flagged ship that "follows the regulations enforced by that country despite sailing out of an American port," according to News Nation. The article also states, "the use of a foreign-built ship sailing out of an American port follows a trend in which the U.S. Department of Transportation reported a significant drop in American-built ships being used in international trade."

Cruise Ship Economics

The cruise ship industry talks about economic benefit to the community but that is simply not the case. Research shows the economic benefit to the community is about 5% of what is promised. When detrimental impacts (e.g. pollution) are considered, there is a significant net loss to the community. Cruise ship tourists spend less than virtually all other categories of tourists – even backpacker spend more. This makes perfect sense, remember this industry's sole focus is maximizing profits. Cruise ship tourists typically eat breakfast on-board, are bussed to an excursion, and are back on-board by dinnertime. And even the little spent ashore is minimized by "pay to play" agreements that compel onshore tour operators and retail businesses to pay to do business with the cruise lines.

Appendix D: Letters of Support

Friends of Earth

Friends of the Earth

A Statement on the Cruise Industry in Virginia

Friends of the Earth (FoE) is a non-profit international organization that strives for a healthier and more just world. FoE is a recognized leader for well-reasoned environmental policy analysis and change that describes what needs to be done, rather than what is seen as politically feasible or desirable. Over FoE's 50+ year history, it has supported grassroots efforts, such as Protect-Virginia.org, that are working to affect positive change in their communities that align with sound environmental principles. FoE is a voice to speak uncomfortable truths to policy makers when their decisions have detrimental societal impacts.

We advocate for laws and regulations to stop cruise ships from dumping waste into our oceans and rivers, polluting our beaches, contaminating our coral reefs, and destroying our valuable marine ecology. Cruise ships the size of small cities ply the waters off our coasts, producing and then dumping large amounts of sewage and other wastes into our oceans, polluting our beaches, contaminating our coral reefs, and destroying our valuable marine ecology. Some of that waste is treated prior to dumping; other waste is dumped directly to the ocean without a second thought.

A large cruise ship, in a one-week voyage is estimated to generate 210,000 gallons (or 10 backyard swimming pools) of human sewage and 1 million gallons (40 more swimming pools) of graywater (water from sinks, baths, showers, laundry and galleys). Cruise ships also generate large volumes of oily bilge water, sewage sludge, garbage, and hazardous wastes. In addition, these luxury liners, which allow passengers access to sensitive ecosystems, spew a range of pollutants into the air that can lead to serious public health problems and contribute to global warming. In one week, a cruise ship can produce eight times the CO2 of a land-based vacation.

The rapidly expanding size and number of cruise ships in U.S. waters has triggered a national cruise ship pollution crisis. Environmental laws have not kept pace with growth of the industry. Cruise lines travel the most pristine waters of America, dumping all the way. Current laws are insufficient to prevent environmental damage from this industry.

Due to the global impacts of the cruise industry, FoE has researched this industry and reports on sewage treatment, air pollution, water quality compliance and transparency. Cruise lines currently coming to Virginia include Viking, Princess, Crystal Cruise, Holland America, and Carnival; these lines have pollution ratings of F. D, F, D-, and F respectively.

The Chesapeake Bay, rivers, and estuaries are home to more than 3,000 species of plants and animals. These fragile ecosystems will be further stressed by an industry that has not made substantial changes to address the ecological impacts they incur. Virginia has no regulatory structure in place to protect against the environmental damage this industry will cause. Friends of the Earth strongly opposes cruise industry expansion in Virginia waters and endorses the proposed cruise ship pollution regulations proposed by Protect Viginia.org.

FoE.org

Sierra Club

In Support of Stronger Environmental Regulations
For Large Cruise Ships in Virginia Waters

To Whom it May Concern,

The York River Group, Sierra Club, a grassroots environmental organization of over 900 members located in the Virginia Peninsula area, to include all of Yorktown and the York River, stands in support of Protect Virginia in their Petition for Rulemaking, submitted by Dr. Robert Hodson to the Department of Environmental Quality. This petition requests urgent, more protective regulation of cruise ships in Virginia waters.

The enormous ships, three football fields in length, and carrying thousands of passengers, have a well-known record for contaminating the air and waters. Princess Cruise Lines has a record of illegal discharges of contaminated wastewater, for which they paid the largest ever fines for maritime pollution in 2016, 2019, and 2022. Most ships use bunker fuel, or Heavy Fuel Oil (HFO), a tarry sludge left over from the crude oil refining process. The emissions of toxic nitrogen oxides, sulfur oxides and heavy metals from the burning of HFOs are a threat to human health and to the surrounding marine life. The scrubber process typically used to clean the exhaust merely transfers air pollutants into the water, and emissions of CO_2 contribute to ocean acidification and climate change.

Virginia's coastal waters support a diversity of flora and fauna including 348 species of finfish, 173 species of shellfish, more than 2,700 plant species, and more than 16 species of underwater grasses in the Chesapeake Bay watershed. The cruise ships will generate contaminants that will impact the watermen, sportsmen, and businesses who depend on a healthy marine environment.

Kindly accept these comments for your consideration.

Tyla Matteson
Chair, York River Group
Sierra Club
804-275-6476

Attachment 2
Summary of Public Comments

COMMONWEALTH OF VIRGINIA
STATE WATER CONTROL BOARD
SUMMARY OF PUBLIC COMMENTS

INTRODUCTION

On September 30, 2024, the Department of Environmental Quality (DEQ) received a petition from Dr. Robert F. Hodson to initiate a rulemaking on ocean-class passenger cruise ships. Specifically, this petition requests that DEQ develop new regulations for cruise ships in Virginia waters. The petition requests the following: (1) mandate the use of low-sulfur fuel, (2) ban the use of exhaust gas cleaning systems (open-loop scrubbers), (3) require the use of shore power, (4) restrict the dumping of graywater, blackwater, and other environmentally detrimental waste products, and (5) require incident reporting and independent monitoring to ensure compliance.

As required by law, notice of the opportunity to submit written comments was given to the public on October 21, 2024, in the Virginia Register and the public comment period closed on November 11, 2024. About 397 written comments were received during the public comment period.

A summary of the comments received, grouped by subject matter follows:

1. SUBJECT: General support for the petition

COMMENTER: About 70 commenters

TEXT: Commenters cited a variety of reasons to support the petition:

- These ships are floating cities with attendant waste stream components which have consequential negative effects on aquatic environments.
- The option for using open-loop scrubbers for reducing sulfur oxides in exhaust emissions to comply with 2020 International Maritime Organization regulations was a loophole embraced by the cruise industry to avoid the more costly option of burning low sulfur fuels.
- Open loop scrubbers work by spraying ambient seawater into the ship's smoke stacks to intercept sulfur oxides and soot. The washwater, which is highly acidic and laden with heavy metals, is then shunted back into the aquatic environment.
- Current federal regulations on the cruise ship industry are outdated and inadequately enforced.
- Creating zones where grey and black water effluent discharges are prohibited reduces the input of phosphates and nitrates to the Bay thereby lowering triggers for phytoplankton blooms.
- Independent compliance monitoring will enhance enforcement.
- Cruise ships have an impact on coastal ecosystems, local water quality, the seafood industry,

wildlife, local waterways and the Chesapeake Bay.

- Cruise ships are getting bigger, and the smaller ships are looking for other ways into land via ports that have not been established yet. These smaller ships are older and lack the cleaner set up of the newer ships. These ships are not well maintained and have a history of pollution and accidents.

Commenters also addressed several non-water quality related issues such as use of lower-sulfur fuels, impact on climate change, air pollution, tourism, and economic impacts.

2. SUBJECT: General support for the petition

COMMENTER: About 300 commenters

TEXT: As a Virginia resident, I'm urging DEQ to give utmost consideration to the petition requesting additional regulations for large cruise ships in Virginia waters. Pollution from increasing cruise ship traffic and passenger capacity threatens public health, our coastal ecosystems, and Virginia's seafood industry. These large ships, essentially floating cities carrying thousands of passengers, have an environmental impact far greater than other commercial vessels. Existing federal regulations governing cruise ship operations have proved inadequate to safeguard the vital public resources of the state. The potential for environmental harm from cruise ships is of particular concern for the Chesapeake Bay, its commercial and recreational fisheries, and the fragile ecosystems that support them.

3. SUBJECT: General opposition to the petition

COMMENTER: About five commenters

TEXT: Commenters cited a variety of reasons to oppose the petition:

- Cruise ships are some of the least polluting ships that ply the sea. They have many anti-pollution systems on board and recycling efforts.
- Travel and tourism improve our area.
- Cruise ships are already regulated.
- Cruise ships are clean. There are issues from time to time, but the ability to create safe and clean effluent that can be off loaded before reaching the bay is a reliable process.
- Access to Yorktown, Williamsburg and Jamestown will drive economic prosperity to James City County and York County. There are statewide benefits as well.

4. **SUBJECT:** General support for the petition

COMMENTER: 7,039 petition signatures and multiple letters sponsored by Friends of the Earth

TEXT: The commenters expressed general support for the petition.

5. SUBJECT: Opposition to the petition; economic impacts

COMMENTER: Virginia Tourism Corporation; City of Norfolk, Virginia

TEXT: The City of Norfolk is investing $12 million to expand the cruise industry business. Starting in 2025, year-round service from Norfolk will conservatively generate nearly $19 million annually from Carnival passengers alone. These figures do not account for the numerous jobs supported by the cruise industry, including stevedores, line handlers, CBP (Customs and Border Protection), pilots, and various contracted services. The economic impact of the cruise industry also supports a wide range of local businesses, including hoteliers, restaurants, and small businesses. The proposal could severely hinder our ability to capitalize on this growing market, undermining the significant investments already made by both the public and private sectors. We urge you to consider the broader implications of these regulations on Virginia's tourism industry. We believe that with careful consideration and collaboration, we can find a balanced approach that protects our environment while fostering economic growth.

6. SUBJECT: Opposition to the petition, Duplicative environmental regulations

COMMENTER: Virginia Pilot Association

TEXT: The petition proposes new state environmental regulations to the commercial maritime domain. These proposed regulations would be duplicative as currently the commercial maritime domain is regulated by state and federal regulations and international conventions.

7. **SUBJECT:** Opposition to petition, Water pollution, existing environmental regulations

COMMENTER: Virginia Maritime Association

TEXT: Vessels calling on Virginia's port already use low-sulfur fuels or permitted exhaust gas cleaning systems in compliance with international, federal, and state law. The International Convention for the Prevention of Pollution from ships (MARPOL) Annex VI regulates air pollution

from ships, and the International Maritime Organization (IMO) enforces those rules globally: In accordance with EPA, the U.S. adheres to IMO's ECA standards within 200 nautical miles of the coast, and ships operating in U.S. ECAs must use fuel with a sulfur content not exceeding 0.10% or a permitted exhaust gas cleaning system. Additionally, EPA's Vessel General Permit (VGP) program includes fuel-related provisions focusing on emissions compliance and recordkeeping. Finally, the U.S. Coast Guard enforces compliance with MARPOL standards and conducts inspections to ensure ships meet EPA emission limits and other federal environmental standards.

IMO regulates fuel emissions from ships under MARPOL Annex VI, and under these rules ships can use exhaust gas cleaning systems like open-loop scrubbers to meet sulfur emissions standards if they discharge washwater within allowable parameters. In the U.S., the EPA's VGP requires that vessels using open-loop scrubbers within 3 nautical miles of our shores must meet additional monitoring, effluent limitation, and reporting requirements.

The IMO sets the main standards for overboard discharge for international waters through MARPOL Annex's IV, V, & VI. U.S laws are stricter than international regulations, especially regarding waters within the 200-nautical mile Exclusive Economic Zone (EEZ) and the 3-nautical mile territorial waters:

- Clean Water Act (CWA): Overseen by the EPA, this act regulates the discharge of pollutants into U.S. waters including ballast water, gray water, and bilge water.
- No Discharge Zones (NDZs): In U.S. territorial waters, the EPA and states can designate specific areas as NDZs, where any discharge of treated or untreated sewage is prohibited.
- EPA's Vessel General Permit (VGP): This permit applies to large vessels, including cruise ships, and regulates various discharges, including ballast water, bilge water, and graywater. It includes stringent requirements for the treatment and discharge of wastewater within the EEZ.
- Graywater Discharge: U.S. federal law restricts gray water discharge within 3 miles of the coast, vessels must either treat gray water to meet EPA standards or discharge it farther offshore.
- Scrubber Discharge: Washwater discharge from open-loop scrubbers is regulated under the EPA's VGP.

Virginia does not have unique laws specifically targeting vessel discharges, but several state laws align with federal regulations to protect local waterways:

- Virginia Water Control Law: The Virginia DEQ enforces state water quality standards and works with the EPA to regulate pollution, which includes monitoring and enforcement of federal discharge restrictions within Virginia waters.
- NDZs: There are currently no state-enforced NDZs specifically for cruise ships, Virginia's DEQ has the authority to petition for NDZs in collaboration with the EPA if necessary to

protect sensitive waters. However, as previously established, discharges are already adequately regulated under the EPA's VGP.

The IMO, through various MARPOL Annexes, establishes global reporting standards:

- MARPOL Annex I: Requires the reporting of any oil spill or discharge incidents. Vessels must log these incidents in the Oil Record Book, documenting each discharge and transfer operation involving oil or oily mixtures.
- MARPOL Annex IV: Requires sewage discharge records, which must be logged and available for inspection. This includes details on treated sewage discharge, date, time, location, and volume.
- MARPOL Annex V: Requires vessels to record garbage discharges in a Garbage Record Book, noting type, amount, date, time, and location of disposal.
- MARPOL Annex VI: Governs air emissions, requiring vessels to maintain a log for fuel used, sulfur content, and exhaust gas cleaning systems (e.g., scrubbers) if used. Vessels must also record details of any exhaust gas cleaning system washwater discharge. Emissions records must include data on sulfur oxides (SOx), nitrogen oxides (NOx), and carbon dioxide (CO2) emissions.

These records must be maintained onboard and available for inspection by authorities at any port under IMO signatory countries, including the U.S. Coast Guard.

In U.S. waters, vessels are subject to stringent reporting requirements under federal laws, particularly through the EPA and the U.S. Coast Guard.

8. SUBJECT: Opposition to petition, Federal legal requirements

COMMENTER: Cruise Lines International Association (CLIA)

TEXT: The Virginia statute that allows citizens to petition for the adoption of regulations requires that the petition make "reference to the legal authority of the agency to take the action requested." By ignoring clear federal preemption, the petition does not satisfy this requirement. The U.S. Supreme Court has held that there is "no beginning assumption" that state laws which "bear upon national and international maritime commerce" are a "valid exercise of [the state's] police powers." Whenever states regulate maritime commerce, courts "ask whether the local laws in question are consistent with the federal statutory structure, which has as one of its objectives a uniformity of regulation for maritime commerce."

Absent from the petition is any substantive discussion of the Vessel Incidental Discharge Act (VIDA) which established a new section of the Clean Water Act, Uniform National Standards

for Discharges. This statute was meant to provide for national and uniform regulatory standards, and the federal government has been working for years on issuing such standards. The petition admits that EPA has recently posted a new Vessel Incidental Discharge National Standard and that the U.S. Coast Guard (USCG) has two years to issue final implementing regulations. What the petition does not mention is that, after these USCG regulations are issued, all state regulation of vessel discharges would be subject to an explicit preemption provision: "with respect to every discharge…no State, political subdivision of a State, or interstate agency may adopt or enforce any law, regulation, or other requirement of the State, political subdivision, or interstate agency with respect to any such discharge." The only exceptions are for state regulations identical or less stringent than the federal regulations. In other words, the petition asks Virginia to issue regulations when in less than two years, these regulations will be preempted by the national standard.

The petition asks that Virginia ban the use of open loop scrubbers, mandate the use of low-sulfur fuel, and require the use of shore power. But EPA has specifically rejected these proposals, stating that "EPA has not received information demonstrating that there is sufficient low sulfur fuel (which may be needed to comply with emissions standards if scrubber discharges are not permitted) or that adequate onshore reception facilities are available for disposal of scrubber washwaters and residues that would be generated by the use of other scrubber configurations such as closed- loop or hybrid systems." As of October 2026, this entire subject area will be subject to final, preemptive federal regulations.

Assuming DEQ could promulgate regulations before October 2026, would Virginia have such authority to issue short-lived regulations? Even if the petition were to be interpreted as seeking regulation by DEQ only until October 2026, such regulation would still be preempted. The EPA General Permit "shall remain in force and effect and shall not be modified" until the USCG issues its final VIDA regulations – that is, October 2026. Essentially, the General Permit was used by Congress as a mandatory placeholder until final VIDA regulations could be issued.

The General Permit also expressly permits scrubbers, with limits for "for exhaust gas scrubber effluent that are generally consistent with those established by International Maritime Organization guidelines for this discharge type." The General Permit "contains monitoring requirements for certain larger vessels for ballast water, bilgewater, graywater, and/or exhaust gas scrubber effluent if they discharge into waters subject to the permit." EPA, using guidance from international bodies, has decided not to regulate discharges in the way the petition seeks. So, even if the petition were interpreted as asking for regulations with a validity only until October 2026, the bans and mandates sought by the petition would have the effect of altering the General Permit, which is prohibited by VIDA.

There is no explanation of why Virginia should step into the vessel discharge area, just as years of federal agency work has resulted in the issuance of a national standard, with only one step remaining before that standard is implemented. The petition should be rejected.

9. **SUBJECT:** Support for Petition – Legal Authority

COMMENTER: 1 Commenter

TEXT: Under section 312 (p)(7)(A) of the Clean Water Act, states may "petition the EPA to request changes to standards, regulations, or policy if there exists new information that could reasonably result in a change." Since most of the 2024 Vessel Incidental Discharge Act (VIDA) discharge standards are carried over from circa 2013, before the widespread use of EGCS, or scrubbers, there exists a multitude of new scientific information specifically documenting the harmful impacts of scrubber discharges. Also, under section 312 (p), "If any state determines that the protection and enhancement of the quality of some or all of the waters within the state require greater environmental protection, the governor or designees may submit an application to the (EPA) Administrator to establish a regulation prohibiting one or more discharges, whether treated or untreated, into such waters." Thus, Virginia and other states can continue to expand no-discharge zones to protect vital coastal resources, such as the fragile ecosystems of the Chesapeake Bay.

10. **SUBJECT:** Support for Petition – Economic Benefits Exaggerated – Lack of Existing Regulation

COMMENTER: 1 Commenter

TEXT: The claims of economic benefit forget to mention the cost of infrastructure and maintenance, and the cost of increased security and emergency services. They do not account for the damage to our waters and the impact on the seafood industry, and they do not account for their contribution to or the cost of climate change and the destruction it brings.

A recurring theme in the opposing comments is that the cruise industry is already regulated and that this petition is duplicative. The regulatory requests in this petition have not been fully addressed by MARPOL or the EPA. Furthermore, the petition cites papers, articles, documentaries, and examples of laws in other states that support the need for additional state regulatory action. A claim of redundancy is simply not justified.

TAB E

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219
P.O. Box 1105, Richmond, Virginia 23218
(800) 592-5482 FAX (804) 698-4178
www.deq.virginia.gov

Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

TO: State Water Control Board Members

FROM: Kelly Ward, Clean Water Financing and Assistance Deputy Director Kelly Ward

DATE: October 31, 2024

SUBJECT: FY 2025 Virginia Clean Water Revolving Loan Fund Final Authorizations

Purpose

Title IV of the Clean Water Act requires the annual submission of a Project Priority List and Intended Use Plan in conjunction with Virginia's Clean Water Revolving Loan Fund (VCWRLF) Capitalization Grant application. Section 62.1-229 of Chapter 22, Code of Virginia, authorizes the Board to establish to whom loans are made, the loan amounts, and repayment terms. The next step in this process is for the Board to set the loan terms and authorize the execution of the loan agreements.

Background

On June 10, 2024, Clean Water Financing and Assistance Program (CWFAP) staff solicited applications from the Commonwealth's localities, wastewater authorities and potential land conservation, living shoreline, and brownfield remediation applicants. July 26, 2024, was established as the deadline for receiving applications. DEQ received 18 wastewater improvement applications requesting $327,167,303 (including four (4) Southwest Virginia Pilot Program construction projects) and two (2) emerging contaminants applications requesting $13,319,775. In total, DEQ received 20 applications for $340,487,078.

CWFAP staff reviewed an updated capacity assessment of the VCWRLF to determine the level of authorizations the fund could manage while maintaining the ability to provide funds for requests in future years. Based on this assessment, CWFAP staff determined that all projects could not be funded by the VCWRLF and proceeded to eliminate three (3) projects from the funding list based on previously established project bypass procedures.

Additionally, the Prince William County HL Mooney Advanced Water Reclamation Facility (AWRF) loan request for $100,000,000 was reduced to $50,000,000. By memorandum dated September 26, 2024, the Director of DEQ tentatively approved the list of 17 projects for a total of $180,608,890 in loan assistance from available and anticipated FY 2025 resources and authorized staff to proceed to public comment. A listing of the projects in priority order, a brief description of each, and amount of assistance requested is included in Attachment A. A public meeting was not convened, but notice of the draft funding list was posted on the Virginia Regulatory Town Hall and DEQ's CWFAP website. No comments were received.

Discussion

The staff has finalized the recommended loan amounts, interest rates, and loan terms in accordance with the Board's guidelines. No changes from the tentative approval list previously approved are being recommended.

The loan rates and terms listed in the table below are submitted for Board consideration. In accordance with Board guidelines, a residential user charge impact analysis was conducted for each project. This analysis determines the anticipated user charges as a result of the project relative to the affordable rate as a percentage of the applicant's median household income. Projects involving higher user charges relative to income generally receive lower interest rates than those with relatively lower user charges.

Congress has not finalized the federal State Revolving Fund appropriation for FY 2025. As such, we are unsure as to the amount, if any, that could be made available as principal forgiveness in FY 2025. The staff will analyze the projects with regard to the program's hardship affordability criteria and will be prepared to work with the Director on providing principal forgiveness to some projects as allowed by previous delegations if it is provided for by the federal appropriation.

As in the last several years, we are proposing that the subsidized program rate for wastewater related projects differ depending on the term of the loan, such that 20-year term program rates are set at 1.50% (150 basis points) below market, 25-year term program rates are 1.25% (125 basis points) below market, and 30-year term program rates are 1.00% (100 basis points) below market. Market rates would be based on an evaluation by Virginia Resource Authority (VRA) of the market conditions that exist about a month prior to each loan closing. The program is recommending the interest rate for the Southwest Virginia Pilot Program construction projects be set at 0%, the hardship interest rate be set at 0.5%, and a minimum interest rate of 1% for all other loans.

For projects such as wastewater treatment plants and pump stations that involve significant mechanical equipment, the maximum loan term would be up to 25 years, whereas the term for projects that primarily involve wastewater conveyance piping installation or improvements and projects funded using programmatic financing could be up to 30 years and no longer than the expected useful life of the project.

FY 2023 Proposed Interest Rates and Loan Term Authorizations			
	Applicant	***Loan Amount***	***Rates and Loan Terms***
1	BVU Authority	$5,000,000	PR up to 30 years
2	City of Lynchburg	$54,100,000	0.5%, up to 25 years
3	Russell County Public Service Authority	$5,691,177	PR up to 25 years
4	City of Chesapeake	$17,928,123	PR up to 30 years
5	City of Danville	$15,300,000	PR up to 25 years
6	Town of Pennington Gap	$1,854,200	0%, up to 30 years
7	Town of Honaker	$2,729,900	0%, up to 30 years
8	Lee County Public Service Authority	$739,200	0.5%, up to 30 years
9	Town of Narrows	$1,540,400	PR up to 30 years
10	Town of Abingdon	$3,125,000	PR up to 25 years
11	Maury Service Authority	$4,830,000	PR up to 25 years
12	Prince William County Service Authority	$50,000,000	PR up to 25 years
13	Town of Blacksburg	$12,000,000	PR up to 30 years
14	Town of Gate City - Sanitation Authority	$720,300	0%, up to 30 years
15	Tazewell County Public Service Authority	$505,400	0.5%, up to 20 years
16	Town of Blacksburg	$1,500,000	PR up to 30 years
17	Washington County Service Authority	$3,045,190	PR up to 25 years
	TOTAL	**$180,608,890**	
PR = Program Rate *minimum 1%			

Staff Recommendations

Authorize the execution of loan agreements for the projects, loan amounts, interest rates and terms listed above, and that 20-year term program rates are set at 1.5% (150 basis points) below market, 25-year term program rates are 1.25% (125 basis points) below market, and 30-year term program rates are 1.00% (100 basis points) below market, based on VRA's evaluation of the market conditions that exist about a month prior to each loan closing. The interest rate for Southwest Virginia Pilot Program construction projects will be 0%, the hardship interest rate will be 0.5%, and the minimum interest rate will be 1% for all other loans. Loan closings will be subject to receipt of a favorable financial capability analysis report and supporting recommendation from VRA for each loan recipient.

FY 2025 Applicants	Amount Requested	Staff Recommendation	Project Description	Points	Projected Project Start
Wastewater Projects					
BVU Authority	$5,000,000	$5,000,000	The project consists of the rehabilitation and replacement of approximately 440 VF of manhole structures (35 manholes) and more than 8,000 LF of 30" and smaller diameter gravity sewer main.	435.37	Summer 2026
City of Lynchburg	$54,100,000	$54,100,000	This project includes construction of a new Combined Sewer Overflow (CSO) storage tunnel approximately 70-120 feet below ground; a new upstream diversion structure that diverts excess flow from the Blackwater Creek Interceptor to the tunnel; a new downstream diversion structure that diverts flow from the James River Interceptor to the tunnel pump station shaft; and a tunnel dewatering pump station designed to empty the total volume of the tunnel and shaft in approximately 24 to 36 hours. This project addresses requirements in a consent order and will reduce CSO volumes.	432.34	Winter 2024
Russell County Public Service Authority	$5,691,177	$5,691,177	The Castlewood Sewer Project – Phase IIA will extend public sewer service to the west along Mew Road (Route 65) to the Chiggersville Circle area. The project will begin near the intersection of U.S. Route 58 and Mew Road and extend to the intersection of Mew Road and Chiggersville Circle. The project will include one (1) pump station and two (2) grinder stations with approximately 12,000 linear feet of gravity sewer 3,000 linear feet of force main to provide sanitary sewer service to 110 residential connections.	418.08	Winter 2026
City of Chesapeake	$17,928,123	$17,928,123	The Raleigh Heights gravity sewer system was constructed with vitrified clay pipe & brick manholes & has experienced pipe failures, sewer stoppages & sewer spills. This project includes repair, replacement & relocation of 80-year-old sewer mains, manholes & service lines and reduces I/I as required by USEPA/DOJ consent decree.	412.36	Winter 2025
City of Danville	$15,300,000	$15,300,000	The New Southside Pump Station project will replace the Southside Pump Station (SSPS) and improve the South Interceptor collection line. The South Interceptor is frequently operating under surcharged conditions, placing the system at increased risk of Sanitary Sewer Overflows (SSOs). The existing SSPS facility has reached the end of its service life, and replacement of the SSPS is required to improve reliability, resiliency, and operations.	396.43	Summer 2025
Town of Pennington Gap, VA	$1,854,200	$1,854,200	This project includes replacement of a total of 3,226 feet of 12 inch sanitary sewer interceptor line along with 15 manholes. Project will address I/I issues as well as eliminate the potential for exfiltration. The project addresses inflow and infiltration issues identified in a sanitary sewer evaluation study financed by DEQ as a part of the SW Pilot Program. The repairs identified in the study and resulting PER are the second highest priority repairs needed to address sanitary sewer overflows.	394.06	Spring 2026
Town of Honaker	$2,729,900	$2,729,900	This project includes replacement of approximately 4,537 feet of 8 inch sanitary sewer and 21 manholes. The project addresses inflow and infiltration issues identified in a sanitary sewer evaluation study financed by DEQ as a part of the SW Pilot Program. The repairs identified in the study and resulting PER are the second highest priority repairs needed to address sanitary sewer overflows.	369.08	Spring 2026
Lee County Public Service Authority	$739,200	$739,200	The proposed project includes rehabilitation of the southwestern portion of the Dryden system, downstream of the Dryden pump station and force main portion, where the manholes have seen increased deterioration. The Rose Hill Sewer Shed portion of the proposed project includes rehabilitation of 16 VF of manhole walls through geopolymer liner, replacement of various manhole frames and covers, cleanout repairs and a storm drain/sewer disconnection. Rose Hill was found to have Rainfall Derived I&I (RDII) attributable to direct inflow,and the recommended point-repair rehabilitations will decrease RDII entering the system, and improvethe Rose Hill system's efficiency.The project addresses inflow and infiltration issues identified in a sanitary sewer evaluation study financed by DEQ as a part of the SW Pilot Program. The repairs identified in the study and resulting PER are the highest priority repairs needed to address sanitary sewer overflows.	349.06	Winter 2026

Lee County Public Service Authority	$2,224,413	$0	The Cross Creek to Dryden project will extend the LCPSA wastewater collection system with the construction of approximately 9,800 lf of 4-inch force main sewer line and include a sanitary sewer liftstation located at the existing Cross Creek package treatment facility. The proposed force main will mainly be located along existing public right-of-way and include one (1) crossing of the Powell River. The proposed system will connect to the existing Dryden Sewer System, which transports waste to the Pennington Gap Wastewater Treatment Plant for ultimate treatment. The two (2) existing Dryden Pump stations will be evaluated for potential improvements.	349.06	Winter 2026
Town of Narrows	$1,540,400	$1,540,400	The Town of Narrows WWTP experiences high influent flows due to inflow and infiltration (I&I) in their sanitary sewer collection system. Several manholes and certain gravity sewer lines have been identified as major contributors to the I&I. This application is for funding assistance to assist the Town of Narrows in reducing inflow and infiltration (I&I). Measures to reduce I&I include eliminating inflow at manhole lid pick hole openings, eliminating inflow due to poor fitting and/or deteriorated manhole lid frames and covers, rehabilitating manholes, replacement of cracked, broken and deteriorated pipes, disconnection of roof leaders and basement sump drain discharges.	337.13	Spring 2025
Town of Abingdon	$3,125,000	$3,125,000	This project will replace the UV disinfection system, repair the existing septage receiving station, and replace the electrical system and ventilation system in the anaerobic sludge digester building at the Wolf Creek Water Reclamation Facility.	317.39	Winter 2026
Maury Service Authority	$4,830,000	$4,830,000	This project consists of the replacement of the existing solids holding storage tank, gravity belt thickener, and related appurtenances at the Lexington Rockbridge Regional WQCF. In preparation for emerging contaminant regulation changes, several aspects of the current solids train need to be updated at the plant, this is the first project being implemented to address emerging contaminants.	287.73	Summer 2026
Henry County Public Service Authority	$99,164,000	$0	This project includes significant improvements and upgrades of the Lower Smith River WWTP in order to reactivate the plant and conveyance improvements in the Upper Smith River and Villa Heights service areas.	285.69	Winter 2026
Prince William County Service Authority	$100,000,000	$50,000,000	This project is involves 19 components of the processes at the H.L. Mooney Advanced Water Reclamation Facility and includes upgrades and improvements necessary to address aging infrastructure, process improvements, and operational efficiencies for current and future demand. Specific improvements expected: equalization basin modifications, centralized odor control improvements, UV system improvements, and support facility improvements. Additionally, this project will finance the installation of solar panels and EV charging stations.	275.22	Fall 2023
Upper Occoquan Service Authority	$8,489,775	$0	This project will replace 4.375 million lbs. of granular activated carbon with newer carbon to provide improved GAC contactor operation for more sustainable PFAS removal operations and will improve the underdrain system in our Contract 54 GAC contactors with enhanced nozzle design. The project includes a separate steam generator for the carbon regeneration facility. The project will involve piping improvements to transfer PFAS containing carbon from GAC contactors to its regeneration furnace.	238.10	Summer 2029
Town of Blacksburg	$12,000,000	$12,000,000	This project is Phase 2 of a two-phase project within the Harding Avenue Sewer Shed. This project will replace approximately 5,100 LF of 60-year-old mainline terra cotta sewers and brick manholes that are upstream of the Phase I sewers. The piping will generally be upsized one to two sizes. Together, Phase I and Phase 2 will reduce Infiltration and Inflow (I&I), sewer surcharges, and overflows that occur under wet weather conditions.	220.13	Fall 2023
Town of Gate City - Sanitation Authority	$720,300	$720,300	This project consists of rehabilitation of approximately 2,375 LF of 15 inch sanitary sewer along with 10 manholes. Project will also address I/I issues as well as eliminate the potential for exfiltration. The project addresses inflow and infiltration issues identified in a sanitary sewer evaluation study financed by DEQ as a part of the SW Pilot Program. The repairs identified in the study and resulting PER are the second highest priority repairs needed to address sanitary sewer overflows.	183.61	Spring 2026
Tazewell County Public Service Authority	$505,400	$505,400	Project will replace/repair equipment within the existing collection system and treatment system that has failed due to power surges.	182.27	Winter 2024

Town of Blacksburg	$1,500,000	$1,500,000	The Town of Blacksburg operates an older separate sanitary sewer system that is subject to I&I that consumes sewer capacity, increases maintenance costs, and results in overflows. This project will be a 2nd year (2026) $1.5 million dollar continuation of $1.65 million dollar Find & Fix contract that CHA Consulting is currently preparing for the Town. It will target areas of the Town sewer system that flow monitoring has determined are subject to high rates of I&I.	180.13	Fall 2024
Washington County Service Authority	$3,045,190	$3,045,190	The Exit 13 Phase 2B project will provide public sewer to the last section of Lee Highway from Abingdon to the City of Bristol. This project will provide public sewer to an area where there are many aging septic systems. Project will consist of 6,250 L.F of 8-inch gravity sewer, 3 inch force main and a pump station.	177.39	Winter 2026
Wastewater Projects Subtotal:	$340,487,078	$180,608,890			

Total Requested/Recommended	$340,487,078	$180,608,890