



Virginia
Regulatory
Town Hall

**Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	State Water Control Board
VAC Chapter Number:	
Regulation Title:	General VPDES Permit Regulation For Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems
Action Title:	New Regulation
Date:	March 7, 2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose*

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the proposed action is to adopt a VPDES general permit for storm water discharges from small municipal separate storm sewer systems (small MS4's).

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes

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

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

Need*

Please detail the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied

The EPA Phase 2 storm water regulations, published in the Federal Register on December 8, 1999, and incorporated into the VPDES Permit Regulation (9 VAC 25-31-10 et seq.) effective September 27, 2000, require small MS4's in urbanized areas to apply for VPDES permit coverage. Small MS4's include systems owned or operated by municipalities, federal facilities (such as military bases), state facilities (such as VDOT, prisons, large hospitals, etc.), and universities. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

This proposed regulatory action is needed in order to allow regulated small MS4's to apply for permit coverage by the regulatory deadline of March 10, 2003.

Substance*

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed.

This general permit regulation will establish standard language for control of storm water discharges from small MS4's through the development, implementation and enforcement of a storm water management program to reduce the impacts of the storm water discharges on the receiving streams to the maximum extent practicable. The storm water management program will require that the small MS4 identify best management practices (BMP's) to control storm

water discharges, and measurable goals for each identified BMP for each of the following six minimum control measures: (1) public education and outreach on storm water impacts, (2) public involvement/participation, (3) illicit discharge detection and elimination, (4) construction site storm water runoff control, (5) post-construction storm water management in new development and redevelopment, and (6) pollution prevention/good housekeeping for municipal operations.

Alternatives*

Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action, and the reasoning by which the agency has rejected any of the alternatives considered.

There are two alternatives for compliance with the federal and state requirements to permit storm water discharges from small MS4's. One is to issue individual VPDES permits to each regulated small MS4. The other is to adopt a VPDES general permit to cover this category of discharger. Due to the magnitude of small MS4's that are required to be permitted, it is not practical to issue individual permits to each of these facilities. Individual permits will be issued on a case-by-case basis to those small MS4's that specifically request to be covered under an individual permit.

Public Participation*

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a meeting because the agency has authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate where information on the public meeting (i.e., date, time and place) may be found.

The Board is seeking comments on the intended regulatory action, including (i) ideas to assist in the development of a proposal, (ii) the costs and benefits of the alternatives stated in this notice or other alternatives and (iii) impacts of the regulation on farm or forest lands. Anyone wishing to submit written comments for the public comment file may do so by mail, fax, or email to Burt Tuxford, Office of Water Permit Programs; Dept. of Environmental Quality, P.O. Box 10009, Richmond, Va. 23240, telephone 804/698-4086, fax 804/698-4032, email brtuxford@deq.state.va.us. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the close of the comment period.

Following publication of the draft general permit regulation in the Virginia Register, the Board will hold at least one public hearing to provide opportunity for public comment.

Participatory Approach*

Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board is forming a Technical Advisory Committee composed of relevant stakeholders to assist in the development of the general permit. Persons interested in participation on the advisory committee should provide their name, address, telephone number and the name of the organization they represent to the contact person by the close of the comment period.

Family Impact Statement

Please provide a preliminary analysis of 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 regulation will have no direct impact on the institution of the family or family stability.