

SECTION III

ISSUANCE AND REISSUANCE PROCEDURES

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A. Permit Drafting

The issuance/reissuance of VPDES permits is an action that is normally performed at the Regional Office. To assist with increasing workloads, the permit writer from the Office of VPDES permits may assist with permit reissuances. Headquarters support groups such as the Office of VPDES Permits are available for consultation on permitting technical and procedural issues, but their concurrence on permit actions is neither expected nor required for the permits issued/reissued by RO. However, several areas of permit processing may have headquarters involvement. These include involvement of the Office of VPDES Permits as EPA liaison and mailing list coordination, Office of Water Quality Standards assistance on water quality variances, and Division of Policy and Legislation assistance in the public hearing process.

Permit writers should check on the applicability of VPDES general permits before drafting an individual permit for a facility. General permits currently in effect are for:

- Stormwater from Industrial Activity; Regulation: [9VAC25-151](#)
- Cooling Water Discharges; Regulation: [9VAC25-196](#)
- Vehicle Wash and Laundry; Regulation: [9VAC25-194](#)
- Seafood Processors; Regulation: [9VAC25-115](#)
- Single Family Homes (sewage discharges less than 1000 gpd); Regulation: [9VAC25-110](#)
- Nonmetallic mineral mining; Regulation: [9VAC25-190](#)
- Concrete Products Facilities; Regulation: [9VAC25-193](#)
- Petroleum Contaminated Sites; Regulation: [9VAC 25-120](#)
- Potable Water Treatment Plants; Regulation [9VAC25-860](#)
- Pesticide Application to Surface Waters; Regulation [9VAC25-800](#)
- Nutrient Discharges to the Chesapeake Bay; Regulation [9VAC25-820](#)
- Stormwater from Construction Activity [9VAC25-880](#)
- Stormwater from Small Municipal Separate Storm Sewer Systems [9VAC25-890](#)

If any of these general permits could apply consult the associated general permit regulation listed above and its implementation guidance for exact qualification requirements and the procedure for providing coverage under the general permit.

1. Permit Processing Times ([§62.1-44.16](#), [§62.1-44.17](#), and [§62.1-44.19](#))

- a. In order to maintain consistency among permit processes, the department has set **4 months** as the standard for completion of permit processing for new discharges of industrial waste, sewage and other wastes (see PEEP IP Workflow Date Guide). The **4-month** period that the department has to issue or deny a new permit begins upon determination that the application is complete. Document in the staff comments section of the Fact Sheet any explanations if the permit was not issued in 120 days.
- b. Reissuances of existing permits should be completed before expiration of the existing permit. Document in the Fact Sheet any explanations if the permit was not reissued prior to expiration.
- c. Permit processing should allow time for internal reviews (e.g. peer review and water permit manager review) of the final permit package prior to the issuance or reissuance deadline.
- d. Inform the applicant of the application complete status by sending an Application Complete Letter (refer to [DEQnet](#) for an example).

- e. Problems noted anytime during the permitting process that seriously contradict the application may be the cause to return the application to the owner.

2. Identify Major Permits

In order to process the permit correctly, the RO must determine if the facility will be permitted as a minor or a major facility. In compliance with the Memorandum of Agreement between DEQ and EPA regarding permit programs, EPA receives major facility draft permits and minor facility draft permits that have a TMDL (excludes minor facility draft permits with bacteria TMDLs), Fact Sheets, and applications for review and concurrence. Additionally, on February 2, 2023, EPA withdrew its waiver of permit review for the NPDES minor industrial categories in 40 CFR Part 122 Appendix A that was originally allowed by the 1975 Memorandum of Understanding Regarding Permit and Enforcement Programs between the State Water Control Board and the Regional Administrator, Region III Environmental Protection Agency (MOU). Per the amended MOU, minor industrial permits that fall under industrial categories specified in 40 CFR Part 122 Appendix A are also required to be sent to EPA for review.

- a. **Municipal facilities:** Any facility having a design flow of 1.0 MGD or greater is considered a major facility. Permits which include future limits for expansion flows of ≥ 1.0 MGD are also considered major permits. The “major” designation is based on the highest expansion flow tier versus the current CTO authorized flows.
- b. **Industrial facilities:** Any facility that scores 80 or more points on the NPDES Permit Rating Worksheet is considered a major. The Rating Worksheet was developed by EPA and is used to classify permits as minor or major based on the discharge and receiving water characteristics. Complete the NPDES Permit Rating Worksheet for all industrial facilities. See [Section IN-1](#) for additional information on the Rating Worksheet
- c. Treat changes to the permit status as follows:

(1) Municipal

For previous majors being downgraded to minors: If the permit has a TMDL (excludes minor facility draft permits with bacteria TMDLs) submit the application, draft permit and Fact Sheet to the EPA Region 3 contact, Ruan Shuart, and indicate the change in status and flow in the transmittal letter. EPA does not need to see the draft minor permit or be notified of the status change if it has no TMDL or a bacteria TMDL. However, when the (now) minor permit is **final** send a transmittal explaining the change in status and flow to Ryan Shuart so he can notify EPA headquarters to reclassify the permit as minor.

For previous minors being upgraded to majors: Process the permit as major from that point forward. This includes submission of the application, draft permit, and Fact Sheet (including attachments) to EPA. Indicate the change in status and flow to EPA in the draft permit transmittal letter. When the **final** major permit package is sent to Ryan Shuart make sure the transmittal letter indicates the change in status and flow so he can notify EPA headquarters to reclassify the permit as a major.

(2) Industrial

For previous majors which the worksheet now indicates as minors (<80 points): If the permit has a TMDL (excludes minor facility draft permits with bacteria TMDLs) or if falls under industrial categories listed in 40 CFR Part 122 Appendix A, submit the application, draft permit, and Fact Sheet (including attachments) to the EPA Region 3 contact in Section L. Include a copy of the rating worksheet in the draft permit package. Indicate the status change in the draft permit transmittal letter. EPA does not need to see the draft minor permit or be notified of the status change if it has no TMDL or a

bacteria TMDL. However, when the (now) minor permit is **final**, send a transmittal explaining the change in status and permit rating worksheet to Ryan Stuart so he can notify EPA headquarters to reclassify the permit as minor. *This must be done for all majors to minor status changes (regardless of the presence or type of TMDL).*

For previous minors which the worksheet now indicates as majors (≥ 80 points): Process the permit as major from that point forward. This includes submission of the application, draft permit, and Fact Sheet to EPA. Indicate the change in status to EPA in the draft permit transmittal letter and include a copy of the rating worksheet and copies of the last 3 months of DMRs and the last inspection report in the draft permit package. When the **final** major permit package is sent to Ryan Stuart make sure the transmittal letter indicates the change and include the rating worksheet so she can notify EPA headquarters to reclassify the permit as a major.

(3) **All**

Copy the Office of VPDES Permits and the CO PCS Coordinator with any new major classifications or with any reclassification of major/minor status. See the latest agency guidance on permit fees for procedures to follow when facilities change from major to minor after application receipt. **No facility that appears on the current Quarterly Non-Compliance Report may be downgraded from a major to a minor until the non-compliance status is resolved.**

3. Fact Sheet Preparation ([9VAC25-31-280](#))

Prepare a Fact Sheet (FS) for all permits, providing the rationale for all effluent limits and special conditions. Provide in the FS the documentation of and justification for any regional deviations from this manual. These may include but are not limited to changes in procedures, permit language, and effluent testing requirements. For FS format and language see the OneDEQ templates that can be found on DEQnet. These examples follow the FS content requirements of 9VAC25-31-280 B.

4. Permit Special Conditions

a. Standard Special Conditions

9VAC25-31-190, 200, and 220 require all permits to contain some standard special conditions. Include in a special condition any specific reporting which may be required. See the OneDEQ templates for municipal and industrial special conditions. Additionally, [Section IN-3](#) contains additional special conditions for standard industrial permits. Part II of every permit is a "boilerplate" compilation of regulatory requirements applicable to all VPDES permits. The language of Part II should not be modified for individual permits without careful consideration of the regulatory implications. Consult the Office of VPDES Permits before modifying the language of Part II.

b. Whole Effluent Toxicity Testing (WET)

If a permit requires WET testing, develop the special condition according to the latest guidance and with the assistance of the regional WET coordinator. (See [Guidance Memo 00-2012, Toxics Management Program Implementation Guidance](#))

c. POTW Pretreatment Requirements

The DEQ Regional Office is responsible for determining which POTW(s) need to develop a pretreatment program and inserting special conditions into the VPDES permit to initiate the process.

In general, POTWs are required to develop pretreatment programs when the following

conditions apply (9VAC25-31-800.A):

(1) A POTW (or combination of POTWs operated by the same authority) has a total design flow greater than 5 million gallons per day (MGD) **and** receives from Industrial Users pollutants which:

- Pass through or interfere with the operation of the POTW **or**
- Are otherwise subject to Pretreatment Standards unless the Director exercises his or her option to assume local responsibilities.

The Director (DEQ) may require that a POTW with a *design flow of 5 MGD or less* develop a POTW Pretreatment Program if it is found that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, violations of water quality standards, or other circumstances warrant in order to prevent interference with the POTW or pass through.

It is recommended that POTWs with design flows greater than or equal to 40,000 gpd conduct an Industrial User survey and be evaluated for Pretreatment programs. The 40,000 gpd flow figure has been a standard in Agency practice to be consistent with the increased oversight provided by VDH at this flow, as established in the Sewage Collection and Treatment Regulations (SCAT Regulations 9VAC25-790).

The program is initiated by including appropriate Special Conditions into the VPDES permit. Provide a rationale for these conditions in the Fact Sheet. See the Pretreatment Program Implementation Guidance in [Guidance Memo 01-2026](#) and updates.

d. Instream Monitoring

Instream monitoring is a means of providing support for reopening the permit for reevaluation at a later date, when current information is insufficient to validate the basis of new effluent limits or permit conditions. Monitoring of the receiving stream may be considered for any facility if conditions such as the following exist:

- (1) insufficient receiving stream water quality data
- (2) site inspections/test results provoke suspicion of a water quality violation
- (3) significant change in stream flow frequency data (i.e. 7Q10 value)
- (4) modeling controversy regarding relationship and/or effects of TKN and NH₃-N

e. Groundwater

The purpose of this condition is to protect state waters in accordance with the groundwater standards in 9VAC25-280. Groundwater monitoring may be necessary at industrial or municipal facilities and is dependent on-site specific characteristics. Sites with lagoons that are unlined, that show evidence of animal burrows or that were not specifically included in the facility's plans and specifications approval are examples of potential candidates for ground water monitoring. Sites that have industrial activities that over time may have contaminated soils and thus contributed pollutants to the ground water should also be considered. Where potential groundwater impacts are suspected, the permit writer should require the permittee to submit a groundwater quality monitoring plan through a permit special condition. This condition is incorporated into Part I of the permit. Decisions on the need for remedial action can be made after the groundwater monitoring data are submitted. See the VPDES Permits with Groundwater Monitoring Requirements Guidance in [Guidance Memo 18-2013](#) for additional information.

f. Sludge

The purpose of this condition is to meet the requirements of Part VI of the VPDES Permit Regulation, 9 VAC 25-31-420 et seq. This condition only applies to POTWs and other treatment works treating domestic sewage. If the facility manages its own sewage sludge and disposes of the sludge or land applies the sludge, specific requirements under Part VI of the VPDES Permit Regulation will apply. The degree of complexity of the permit conditions depends on the type of sludge disposal. Incineration of sludge is not included in this section because it is governed by regulations of the Air Pollution Control Board.

g. Water Quality Criteria Monitoring

The purpose of this condition is to assess compliance with the pollutant specific parameters listed in the Water Quality Standards in 9VAC25-260. The monitoring data is used in developing water quality-based limitations or monitoring requirements. Monitoring data that is submitted as part of an application may be used to satisfy this monitoring requirement.

A reporting form that goes with the special condition is available in OneDEQ permit templates. The permit writer, as an option, may require submittal of the monitoring data on this reporting form with application submittal. In this case, include the form in the list of required forms in the reissuance reminder letter.

h. Stormwater

The EPA Stormwater Regulations (Phase 1 - 11/90, Phase 2 - 12/99) established permitting requirements for stormwater discharges associated with industrial activity and for stormwater discharges from municipal separate storm sewer systems (MS4s).

1) **Under Phase 1, five types** of stormwater discharges are required to be permitted.

- a) Discharges which were issued a permit associated entirely with stormwater prior to February 4, 1987;
- b) Discharges associated with industrial activity;
- c) Discharges from municipal separate storm sewer systems serving a population of 250,000 or more;
- d) Discharges from municipal separate storm sewer systems serving a population of 100,000, but less than 250,000; and
- e) Discharges that contribute to a violation of water quality standards.

2) **Under Phase 2:** EPA added the requirement to permit small MS4s located in urbanized areas, and small construction sites (sites disturbing 1 to 5 acres). Phase 2 also authorized industrial facilities to be exempted from stormwater permitting requirements by way of a "No Exposure" certification.

DEQ first incorporated EPA's stormwater regulations into the VPDES Permit Regulation (9 VAC 25-31) in the mid-'90s. DEQ has been issuing industrial activity stormwater permits (including construction site permits) since 1993, and MS4 permits since 1996.

The primary [SIC code](#) of a facility, or the specific industrial activities occurring at a facility determine whether or not a facility is required to be permitted under the Industrial Stormwater General Permit regulation. If an industrial facility has a landfill (open or closed) or a steam electric power generating facility, it must obtain a permit for these activities regardless of the facility's SIC code.

All permits that authorize the discharge of stormwater associated with industrial activity must contain the requirement for the development and implementation of a Stormwater Pollution Prevention Plan (SWPPP). On an industry sector-specific basis, these

permits may also be required to contain technology-based effluent limitations and/or stormwater monitoring for pollutants of concern. **Detailed guidance on developing stormwater management conditions for municipal and industrial permits can be found in [Sections IN-2](#) and [MN-1](#).** Permit writers may wish to review the regulation and fact sheet for the General VPDES Permit for Discharges of Storm Water Associated with Industrial Activity (9 VAC 25-151). The requirements for individual industrial activity stormwater discharges should be similar to those applicable under the general permit.

- 3) Selected Definitions - The VPDES Permit Regulation at [9VAC25-31-10](#), defines "stormwater", and "stormwater discharge associated with industrial activity" and "industrial activity" as follows:

"Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

"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 by-products 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 areas (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, by-product or waste product. 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 include those that are federally, state, or municipally owned or operated that meet the description of the facilities listed in the "industrial activity" definition. The term also includes those facilities designated under the provisions of 9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.

"Industrial activity" - the following categories of facilities are considered to be engaging in "industrial activity":

- a) Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category 10 of this definition);
- b) Facilities classified as Standard Industrial Classification (SIC) 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, and 373 (Office of Management and Budget (OMB) SIC Manual, 1987);
- c) Facilities classified as SIC 10 through 14 (mineral industry) (OMB SIC Manual, 1987) including active or inactive mining operations (except for areas of coal mining

operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 USC § 1201 et seq.) authority has been released, or except for areas of noncoal mining operations which have been released from applicable state or federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner or operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

- d) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (42 USC § 6901 et seq.);
- e) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this definition, and debris or wastes from VPDES regulated construction activities or sites) including those that are subject to regulation under Subtitle D of RCRA;
- f) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification Codes 5015 and 5093 (OMB SIC Manual, 1987);
- g) Steam electric power generating facilities, including coal handling sites;
- h) Transportation facilities classified as SIC Codes 40, 41, 42 (except 4221-4225), 43, 44, 45, and 5171 (OMB SIC Manual, 1987) which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operation, airport deicing operation, or which are otherwise identified under categories 1 through 7 or 9 and 10 of this definition are associated with industrial activity;
- i) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that is located within the confines of the facility, with a design flow of 1.0 MGD or more, or required to have an approved publicly owned treatment works (POTW) pretreatment program under 9VAC25-31. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 9VAC25-31-420 through 9VAC25-31-720; and
- j) Facilities under SIC Codes 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-4225 (OMB SIC Manual, 1987).

Exceptions and Clarifications - There are several exceptions and clarifications to discuss relative to the above definitions:

- a) The stormwater discharged from any industrial facility in the definition above must be through a point source to surface waters, through a municipal separate storm sewer system, or through a non-municipal separate storm sewer system. Discharges of "sheet flow" from an industrial facility (i.e., runoff which is not collected in any pipe, ditch, swale, channel, etc.) are exempt from the permitting requirements.
 - b) Discharges from employee parking lots, administrative buildings, and areas at a facility that are not involved with the industrial activity are exempt from the permitting requirements if these discharges are segregated from the industrial activity stormwater discharges.
 - c) Flows which are channeled into basins and have no discharge into State waters are exempt.
 - d) Discharges to a publicly owned treatment works (POTW) or a combined sanitary/storm sewer system are exempt.
 - e) Stormwater discharges to groundwater are exempt from the permitting requirements, unless there is a hydrological connection between the groundwater and a nearby surface waterbody.
- 4) **Permitting Options** - There are three options for satisfying the VPDES permitting requirements for facilities discharging stormwater associated with industrial activity:
- a) **General Permit.** A facility may be covered under a general permit if it qualifies based on the primary SIC code or industrial activity at the facility. Facilities may be covered by a general permit for their stormwater discharges even if they have an individual permit for their non-stormwater discharges. The current industrial general permit, VAR05, became effective on July 1, 2019. To obtain general permit coverage, facilities must file a complete Registration Statement with DEQ, and pay the appropriate application fee. Facilities may use the DEQ registration form developed for this process, or they may submit the information to DEQ in a letter (as long as they include all the information required by the industrial general permit regulation.)
 - b) **Individual Permit.** If a facility does not qualify for a general permit, an individual permit should be issued. If a facility has an existing VPDES permit for their non-storm water discharges, the stormwater requirements should be incorporated into that permit. To obtain coverage, facilities must submit **EPA Forms 1 and 2F**. Form 2F (the stormwater form) requires the facility to sample at least one representative storm event and submit the results with the application (NOTE - the region can waive the Form 2F sampling requirement).
 - c) **"No Exposure" Certification.** A discharger may submit a "No Exposure" Certification and forego permitting altogether. Under this option, industrial facilities that would otherwise be required to have a stormwater permit can be exempted from VPDES permitting if they certify that all their stormwater discharges meet the definition of "no exposure". Facilities should use the [No Exposure Certification Form](#) for this certification, and there is no fee associated with the filing. "No exposure" certifications may be filed at any time by a facility, and must be re-filed every five years with DEQ. If conditions change at the facility and materials or activities become exposed, the discharger must immediately file for a VPDES storm water permit. The only facilities that are not eligible for this exemption are facilities that DEQ decides (on a case-by-case basis) are unacceptable for the exemption.

5) Permit Requirements

Industrial Stormwater - All permits that authorize discharges of stormwater associated with industrial activity must include stormwater management provisions. The various components of these provisions are described briefly below and in more detail in [Section IN-2](#). The permit conditions and requirements in the OneDEQ template are minimum recommendations. Regional offices have the discretion to include additional requirements based on site specific situations, but the [Section IN-2](#) minimum requirements should always be incorporated.

There are eight types of facilities that are subject to stormwater effluent limitations based on federal effluent limitation guidelines (see the list in the IN section). These limits must be included in the permit, and should be placed on the Part I A page for the outfall.

Facilities in certain industrial sectors require effluent monitoring for their stormwater discharges due to the nature of the industrial activity or materials stored or used on site. Facilities in these sectors have significant potential for contributing pollutants to surface waters from their stormwater discharges. This monitoring is called "analytical monitoring" or "benchmark monitoring" and it also is placed on the Part I A page for the stormwater outfall. If Form 2F data indicate that parameters recommended for analytical monitoring are not present in the discharge at or above the monitoring cutoff levels in the industrial stormwater general permit, VAR05, they can be dropped from the individual permit for this facility.

The applicable stormwater limits and monitoring requirements are to be applied at outfalls that are comprised solely of stormwater or that have stormwater combined with other wastewaters. These requirements are referred to as "storm event" monitoring, to distinguish them from the monitoring requirements for other wastewaters, and will apply only during a measurable storm event. If water quality-based or technology-based limits have already been developed for an outfall, they are effective at all times and must be included on the storm event monitoring page. A separate Discharge Monitoring Report should be developed for the storm event monitoring.

All facilities that have discharges of stormwater associated with industrial activity must develop and implement a stormwater pollution prevention plan (SWPPP). To accomplish this, the permit writer should include a permit special condition section entitled "Stormwater Management". There is generic SWPPP language that applies to all industrial stormwater discharges. In addition, there are some industrial sectors which have specific requirements that are added to the generic SWPPP language. Permit writers must determine if the permitted facility will require sector-specific as well as generic SWPPP language. The text of the generic and sector-specific SWPPP requirements is found in the Industrial Stormwater General Permit Regulation.

Municipal Stormwater - Municipally Owned Facilities having Stormwater Associated with Industrial Activity. Municipally owned industrial facilities may be subject to the stormwater management special condition due to their classification as generating "stormwater associated with industrial activity".

A category of the "industrial activity" definition covers municipally owned sewage treatment plants with a design flow of 1.0 MGD or more, or required to have an approved (i.e., fully approved, not conditional) pretreatment program. Stormwater permit special conditions for these facilities are detailed in [Section MN-1](#).

All other municipally owned industrial facilities should be permitted as described in [Section IN-2](#).

5. Draft Permit Preparation

Upon completion of the Fact Sheet, develop the draft permit using the VPDES permit templates that can be found on DEQnet (9 VAC 25-31-260). **If all activities are controlled by BMPs and there are no discharges, consider issuing a VPA permit instead of a VPDES permit.** All permits will be organized into Part I and Part II. Part II is always the "boilerplate" Conditions Applicable to All VPDES Permits.

- a. **Part I.A:** Label all effluent limitations pages "A. Limitations and Monitoring Requirements". Each Part I A page begins with a narrative paragraph that authorizes discharge from a specific outfall or outfalls from some starting date to an ending date. If there is more than one outfall, label each outfall's effluent limitations page "A". If multiple outfalls have identical requirements, they can be listed together on one Part I.A page. The first page of Part I.A will begin with paragraph number 1. The next Part I.A page will begin with paragraph 2 and so on. All other notations or footnotes on the Part I.A pages should use alphabetic characters or asterisks. See the VPDES permit template located [here](#).

Place all parameters to be monitored for the life of the permit on the Part I.A page(s). Each Part I.A page contains rows of pollutant parameters and columns for different types of limits to be expressed as numeric values for each parameter. If a particular limit column is not applicable to the parameter on that row, insert NA into the space. In some cases, the permit may require monitoring for a parameter without setting a limit. In these cases, use NL instead of a numeric value to indicate that monitoring is still required even though there is no limit on the parameter.

B. Draft Permit Review

Unless otherwise specified or the recipient objects, all information forwarding for draft permit review will be done via placing items in the appropriate regional directory or as attachments to emails. **Please use the permit number and name or abbreviated name of the facility for the file folder containing the permits (e.g. VA0081256HRSDBoatHarbor).** Suggested transmittal letters in Section L may be used in the email sending the information to the individual. Documents with original signatures, handwriting or drawings should be scanned.

1. Regional Review

Each Regional Office shall implement an internal review process for draft permits. The review shall include the application, fact sheet, permit, and public notice. The review should occur before the draft permit is sent to outside organizations and to the applicant for review. The below methods should be used as appropriate.

- a. **Peer Review.** Another permit writer or technical reviewer in the regional office should evaluate the permit package to ensure that the permit limits, conditions, and other requirements are applicable to the discharge, that the limits are technically accurate, that the permit is consistent with current technical and procedural guidance, and that there is continuity between the draft permit and any previous permits issued for this discharge. Regional inspection staff may also be useful in identifying potential problems with implementing the permit.
- b. **Regional Planning Review.** Regional planning staff should provide a statement for the file indicating that the pollutant management activity either conforms or is consistent with applicable Total Maximum Daily Loads, the Water Quality Management Plan Regulation, applicable area or basin-wide water quality control and waste management plans or policies or will be consistent with the applicable planning document during its next revision. Do not issue/reissue any permits which conflict with any Total Maximum Daily Loads, the Water Quality Management Plan Regulation, or area-wide or basin-wide water quality control and waste management plan or policy.
- c. **Water Permit Manager Review.** Water permit management should review the draft permit package for consistency with regional policies and procedures. They should also be the final check for readability and typographical errors.

2. Office of VPDES Permits Review

The staff of the Office of VPDES Permits is available for technical and procedural review of applications, draft permits, and FS. If review is desired, submit the package to the Office of VPDES Permits for review and indicate which program areas (technical, WET, 316b, 316a, pretreatment, stormwater, groundwater, etc.) need review.

3. VDH Review

VDH review of draft permits is not required unless the Office of Drinking Water Field Office specifically requests it.

4. EPA Review

- a. In accordance with the Memorandum of Agreement (MOU) and pursuant to 40 CFR § 123.24(a), using [EPA's PRMTS portal](#), submit to EPA a copy of the application, draft permit, Fact Sheet and Fact Sheet Attachments for all:

- 1) Major facilities;
- 2) Minors discharging to waters with an EPA approved TMDL if the permit contains an effluent limit based on the TMDL (except for bacteria TMDLs);
- 3) Industrial facilities included in [40 CFR Part 122 Appendix A](#);
- 4) Facilities with 316(b) requirements regardless of major, minor or TMDL status;
- 5) Facilities with discharges that may affect the waters of another State;
- 6) Facilities with daily average discharges exceeding 0.5 MGD, except discharges of non-process wastewater;
- 7) Facilities with discharges to the territorial sea or contiguous zone; and
- 8) Facilities that are listed on the Chesapeake Bay Significant Dischargers List (SDL).

This may be concurrent with the submittal of this information to VDH. The Office of VPDES Permits will still be the main point of contact for EPA, but it is not necessary to send a copy of the EPA draft transmittal package to Office of VPDES Permits. The region will submit the final permit to EPA (see Section III.D.3). EPA will review the permit to ensure that the effluent limits comply with the CWA requirements and that proper procedures were followed in drafting the permit. For the TMDL minors, EPA will only review the TMDL issues.

In order to maintain statewide consistency, aside from routine draft permit review final permit submittals, contact with EPA should be coordinated between the Office of VPDES Permits and the Regional Office. The liaison role for the Office of VPDES Permits is intended to ensure that the agency speaks consistently about our regulations and procedures. In cases involving EPA, it is appropriate for the Office of VPDES Permits to be directly engaged in discussions with EPA. However, in a few circumstances (e.g. a specific permit) it may be more effective for regional staff to talk directly with EPA. Appropriate Office of VPDES Permits staff should be notified in advance and either participate in the discussion or be kept apprised of the discussion. The Office of VPDES Permits will process requests for EPA assistance quickly and they will communicate information from EPA to the regional offices in a full and timely way.

- b. EPA can either comment upon and/or object to any of the documents in writing within **30 days**. EPA **comments** must be responded to but may not necessitate permit changes. EPA **objections** must be resolved prior to permit issuance. A permit cannot be issued/reissued with unresolved EPA objections. If EPA fails to comment or object within the comment period, or fails to request an extension of time in which to comment, the RO may email a reminder to the EPA Region 3 contact in Section L (copy CO).
- c. Any responses to EPA's suggested changes or objections should be coordinated with CO. The RO compiles any additional information requested by EPA and changes to draft permits and fact sheets.
- d. If EPA has further objections, the Office of VPDES Permits will coordinate efforts with the RO to reach agreement with EPA. Upon notification from the Office of VPDES Permits of any additional comments or objections by EPA, the RO redrafts the permit as necessary to satisfy EPA.
- e. All EPA comments and DEQ responses should be in the Fact Sheet.

5. Owner Review

- a. Forward a complete copy of the entire draft permit and Fact Sheet to the owner. The RO may elect to send the draft permit package to EPA prior to owner review. If the draft permit package is provided to the owner prior to EPA's review, the permittee should be informed that EPA comments may result in changes to the draft permit.
- b. Transmit the draft permit package, including the fact sheet and the public notice requirements, to the owner (this may be done electronically). The owner is responsible for the payment of the public notice publishing cost and acknowledges that they must pay the cost by completing the Public Notice Billing Authorization Form. Receipt of the form is required with the submittal of the application/modification package. See the procedure in 5.c below if the owner did not submit the Public Notice Billing Authorization Form. There is also an optional procedure for owners that do the newspaper publication (see C.2 below) and no Public Notice Billing Authorization Form is needed. The sample transmittal letters are available on [DEQnet](#) for all the situations described (Public Notice Billing Authorization Form submitted, Form not submitted, and the optional procedure).
- c. The owner has **14 days** after receipt of a copy of the draft permit to comment and/or object to its provisions. During this period, the owner may request a meeting to discuss the proposed permit conditions or may elect to withdraw the application and thereby discontinue permit processing. If the owner did not submit the Billing Authorization Form with the application, send it with the draft. A sample transmittal letter is available on [DEQnet](#). The owner should be made aware that in the case of a reissuance, the new permit must be issued prior to the expiration of the current permit and that the current permit cannot be administratively continued if the owner is the cause of the delay.

The regional office should make every effort to resolve the issues raised by the owner within the constraints of applicable laws and regulations. If the owner's delay in submitting the Billing Authorization Form for the public notice of a permit reissuance jeopardizes reissuance prior to expiration of the current permit, refer the matter to enforcement or regional management for a decision. At this point, assuming this is a permit reissuance, there are several options to choose from. The region may continue to negotiate with the owner and consider the current permit to be administratively continued until the issues are resolved and the new permit is issued. Coordinate with the Office of VPDES Permits on administratively continued permits that are controversial. The region may decide to stop negotiations since the application is recorded as incomplete without the Billing Authorization Form and return it to the applicant. In this case, the old permit would be allowed to expire, and the owner would face penalties for discharging without a permit. The region may decide to go to public notice on its own initiative and settle the issues at a public hearing or before the Board.

Any changes to a draft major permit due to owner comments require review by EPA. Any significant changes to any draft permit (those not fitting the definition of a minor modification) due to owner comments may require review by other appropriate agencies (as requested).

Once owner concurrence is received, the permit can proceed to public notice. See [Section VI](#) for public participation procedures.

C. Final Permit Processing

Unless otherwise specified or if the recipient objects, all information forwarding for final permit processing will be done via placing items in the appropriate regional directory.

1. Final Permit Package

Compile and forward the Final Permit Package for review and Water Permit Manager's or Deputy Regional Director's/Regional Director's (for majors) signature upon completion of the public notice period or upon completion of the public hearing (if one occurred). For reissuances, the completed final permit may be signed and distributed at any time prior to expiration. **If the permit is for a privately owned sewerage systems that treat sewage generated by private residences and discharge more than 1,000 gpd and less than 40,000 gpd, the permit should not be issued/reissued unless the closure plan, cost estimate and draft financial assurance mechanism have been approved. For reissuance of a permit to an existing facility, the final, approved financial assurance mechanism must be in place.**

- a. Prepare the final permit package (final permit, Fact Sheet, and response to comments) including all changes made as a result of the public notice and comments received. Make any necessary changes to the Fact Sheet to reflect these permit changes. The permit cover page should be on agency letterhead.
- b. Prepare the letter transmitting the final permit to the owner, for signature. This letter should be on DEQ letterhead. Ensure that the first DMR due date referenced in the transmittal letter is the 10th day of the month immediately following the first full month in which the new permit is effective. As required by the State Water Control Law, this letter and the accompanying package must be sent to the permittee via certified mail. See Section L for an example Permit Transmittal Letter.
- c. Route the final permit package through the appropriate regional office staff. All permits should be approved by the appropriate regional personnel including the Planning representative and Water Permit Manager.
- d. The permit's signature line title should be for the position of the person with delegated authority to sign the permit. It is normally signed by the Water Permit Manager. For major permits, the Regional Director or Deputy Regional Director signs the permit. In cases where a public hearing has been held on a proposed permit, the permit is signed after the State Water Control Board has made a final decision to issue the permit.

2. Dating the Permit

- a. For issuances, the effective date is the date the permit is signed.
- b. For reissuances, if the signature date is prior to the expiration date of the previous permit, the effective date of the new permit will be the day after the expiration date of the expiring permit.
- c. If the permit is reissued after the expiration date, the effective date is normally set on the first of the month following the date the permit is signed.
- d. VPDES permits shall be in effect for a fixed term not to exceed five years ([§62.1-44.15\(5a\)](#)). Regions are free to negotiate shorter permit terms with permittees to manage workloads and increase regional efficiencies.

3. Final Package Distribution

Distribute the permit package as follows:

- a. Owner by CERTIFIED MAIL ([§62.1-44.15\(9\)](#)) - either postal certified mail or electronic certified (read receipt request) when agreed to by the permittee (see agreement question in Application Addendum Section L). The permittee must agree to electronic certified final package distribution (use read and delivery receipt).
 - Transmittal Letter
 - Permit
 - Response To Comments (this should be included in the Fact Sheet Attachments)
 - Fact Sheet and Fact Sheet Attachments
- b. EPA¹ (Use [EPA's PRMTS Portal](#))
 - Transmittal Letter
 - Permit
 - Fact Sheet and Fact Sheet Attachments
- c. VDH-DSS - In accordance with [GM07-2009](#), DEQ must provide notification to VDH-DSS and VMRC of the public comment period, and provide a copy of the final permit, if issued, to DSS if the proposed sewage discharge² will result in condemnation of shellfish beds.
- d. ECM
 - Transmittal Letter and Permit (combined as one document)
 - Response To Comments (this should be included in the Fact Sheet Attachments)
 - Fact Sheet and Fact Sheet Attachments
 - Application
 - Permit correspondence file

4. Update CEDS and PEEP Workflows

RO should complete data entry into CEDS to reflect the new issuance and expiration dates and check on the accuracy of other entries for this permit. Check DEQnet for most recent CEDS user manual.

¹ All final permit packages (permit and Fact Sheet) for majors are submitted to EPA via PRMTS Portal. In addition, all final major permits and minor permits that were approved by EPA (minors with applicable EPA approved TMDLs), and industrial minors that fall under 40 CFR Part 122 industries also go to EPA. This excludes minor permits with bacteria TMDLs which no longer go to EPA. If a permit changes from a major to a minor, inform Ryan Shuart at EPA Region 3 and Joanne Lam (ICIS Coordinator) at DEQ CO that it's not a major anymore. In order to have the facility downgraded to a minor in ICIS, you must include the EPA Rating Work Sheet in any correspondence to Ryan Shuart.

² Proposed discharges will be considered to be new individual VPDES permit applications, new general permit registration statements, or modification requests or reissuance applications that propose an increase in discharge flow. Sewage discharges will be considered to include all municipal discharges, industrial discharges containing 10% or more sewage, and discharges for which general permit coverage is being sought under the "Domestic Sewage Discharges of Less Than or Equal To 1,000 Gallons Per Day" general permit.

D. Revocation and Reissuance Procedures ([9VAC25-31-370](#))

Permits may be revoked and reissued at the request of any interested person, the permittee, or upon staff initiative. A revocation and reissuance is a bilateral action, i.e. it cannot occur unless both the DEQ and the permittee agree to it.

1. Causes for Revocation and Reissuance ([9VAC25-31-390](#))

- a. A permit revocation and reissuance is justified for any of the reasons specified as "Causes for Modification" in [9VAC25-31-390.A](#).
- b. The staff may initiate a permit revocation and reissuance when cause exists for termination but continued operation is acceptable until a new application can be processed and a new permit issued. See Section V for a list of the causes for termination.

When a modification request falls within **15 months** of a permit expiration date, a Reissuance in Lieu of Modification letter may be sent (see [DEQnet](#)). Determination of the need for a revocation and reissuance versus a modification is generally done on a case specific basis. Contact Office of VPDES Permits for further assistance, if needed.

2. Permittee or Interested Party Requested Revocation

- a. To begin the process, the permittee or interested party sends a letter to the RO containing the facts and reasons supporting the request.
- b. When a third party requests a revocation and reissuance, the RO must notify the permittee and obtain the permittee's concurrence.
- c. Document the permittee's agreement to the revocation by sending a Permit Revocation Agreement Form to the permittee to be signed and returned to the RO. See [DEQnet](#), Permit Revocation Agreement Form for Revocation and Reissuance.

3. Staff Initiated Revocation and Reissuance

- a. Notify the permittee by letter of the reasons for the staff proposal and the proposed changes to be included in the new permit and request a new application.
- b. If the proposed revocation and reissuance cannot be mutually agreed upon by the RO and permittee and the staff still wants to change the permit, publish a public notice of the Department's intent to either modify or terminate the permit. A hearing will be scheduled, if required. The permittee receives at least thirty (30) days notice of the time, place, and purpose of the hearing.

4. Processing a Permit Revocation and Reissuance ([9VAC25-31-370.C](#))

A permit revocation and reissuance is processed much the same as a reissuance. A new application is required, a draft permit is prepared, the fee must be paid (as if it were an issuance), the entire permit is open for review/revisions, the permit is reissued for a new five-year term, and the same permit number is used in the reissuance.

- a. The full public notice for the reissuance must contain language that indicates that the new permit will be issued for a full term and that it will supersede any previous permit. Avoid using the term revoke or revocation in the public notice in order to reduce confusion between the revocation and reissuance process and the termination process.

- b. The final permit transmittal letter contains the following language making it clear that the old permit is officially superseded as of the effective date of the new permit: "The attached VPDES permit supersedes the previous VPDES permit VA00XXXXX issued to this facility."
- c. In a revocation and reissuance, the revocation agreement form does not go to the State Water Control Board for action on a letter ballot. Place the completed revocation agreement form in the permit file.
- d. Update CEDS.

5. Denial of Revocation and Reissuance Requests

Denials of requests for permit revocation and reissuance require the RO to send a letter, explaining the reasons for the denial to the requesting party. Denials of requests for revocation and reissuance may be appealed to the Director by the requesting party. This appeal consists of a letter to the Director which sets forth the relevant facts.

Denials of requests for revocation and reissuance are **not** subject to public notice, public comment, or public hearing.

6. Permit Requirements

During the revocation and reissuance proceedings, the permittee must comply with all conditions of the existing permit until the new permit can be issued. If a new permit cannot be issued prior to expiration of the existing permit due to the permittee's actions, refer it to the regional enforcement manager.