



# Virginia Environmental Regulatory Developments - July 2013

08.08.2013

## STATE AIR POLLUTION CONTROL BOARD

### *A. Final Regulations*

#### **1. General Definitions, 9VAC5-10. (amending 9VAC5-10-20) (Rev. F13).**

**Regulation for General Administration, 9VAC5-170 (amending 9VAC5-170-200) (Rev. F13).**

Statutory Authority: § 10.1-1308 of the Code of Virginia

Effective Date: August 28, 2013.

Summary: *The amendments allow documents and notifications to be delivered through postal or electronic means as required by Chapter 348 of the 2013 Acts of Assembly, which amended § 10.1-1183 of the Code of Virginia.*

**Volume 29, Issue 24 Virginia Register of Regulations 3009 (July 29, 2013)**

#### **2. General Provisions, 9VAC5-20 (amending 9VAC5-20-21) (Rev. E13).**

**Existing Stationary Sources, 9VAC5-40 (amending 9VAC5-40-6250, 9VAC5-40-6260, 9VAC5-40-6270, 9VAC5-40-6370 through 9VAC5-40-6490, 9VAC5-40-6510; adding 9VAC5-40-6520; repealing 9VAC5-40-6280 through 9VAC5-40-6350, 9VAC5-40-6421, 9VAC5-40-6422) (Rev. E13).**

Statutory Authority: § 10.1-1308 of the Code of Virginia; federal Clean Air Act (§§ 110, 111, 123, 129, 171, 172, and 182); 40 CFR Parts 51 and 60.

Effective Date: August 28, 2013

Summary: *Designated pollutants are pollutants for which new source performance standards have been established under § 111(b) of the federal Clean Air Act (Act). A designated facility is an existing facility that emits a designated pollutant and that would be subject to a standard of performance for that pollutant if the facility were new. The Act requires the U.S. Environmental Protection Agency (EPA) to establish procedures for states to submit plans to control facilities that emit designated pollutants. Section 129 of the Act requires that EPA establish performance standards and other requirements pursuant to §§ 111 and 129 of the Act for each category of solid waste incineration units. Such standards include emissions limitations and other requirements applicable to new units and guidelines*

and other requirements applicable to existing units. It also requires states to submit plans for these sources. Subpart B provides that EPA will publish guideline documents for development of state emission standards after promulgation of any standard of performance for designated pollutants. EPA amended its emission guidelines for commercial/industrial solid waste incinerators in the Federal Register on February 7, 2013 (78 FR 9112). In order to implement the emissions guidelines, it is necessary for Virginia to amend its state regulation containing those limits.

**Volume 29, Issue 24 Virginia Register of Regulations 3017 (July 29, 2013)**

**3. New and Modified Stationary Sources, 9VAC5-50 (repealing 9VAC5-50-430 through 9VAC5-50-600).**

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110, 111, 123, 129, 171, 172, and 182 of the Clean Air Act; 40 CFR Parts 51 and 60.

Effective Date: August 28, 2013

Summary: Rule 5-6, Standards of Performance for Regulated Medical Waste Incinerators (Article 6 of 9VAC5-50) was originally adopted in response to a directive from the General Assembly in 1992 (Chapters 773, 774, and 751). Since Article 6 was adopted, a more restrictive U.S. Environmental Protection Agency new source performance standard covering the same type of sources was promulgated and adopted by Virginia. Because there is no longer a need for the original, less-restrictive Virginia regulation, the 2013 General Assembly enacted Chapter 632, which removes the provisions relevant to air quality from Chapters 773, 774, and 751. Article 6 of 9VAC5-50 is being repealed because its underlying state requirement has been removed.

**Volume 29, Issue 24 Virginia Register of Regulations 3039 (July 29, 2013)**

**4. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area, 9VAC5-91 (amending 9VAC5-91-20, 9VAC5-91-30, 9VAC5-91-50, 9VAC5-91-70, 9VAC5-91-330, 9VAC5-91-360, 9VAC5-91-390, 9VAC5-91-410, 9VAC5-91-420, 9VAC5-91-430, 9VAC5-91-440, 9VAC5-91-570, 9VAC5-91-640, 9VAC5-91-650, 9VAC5-91-660, 9VAC5-91-670, 9VAC5-91-680, 9VAC5-91-690, 9VAC5-91-700, 9VAC5-91-710, 9VAC5-91-720; adding 9VAC5-91-665, 9VAC5-91-675; repealing 9VAC5-91-200, 9VAC5-91-450).**

Statutory Authority: § 46.2-1180 of the Code of Virginia; § 182 of the federal Clean Air Act; 40 CFR Part 51, Subpart S.

Effective Date: August 28, 2013.

Summary: Amendments are made to conform vehicle inspection regulations to state law as follows:

1. Chapters 216 and 824 of the 2012 Acts of Assembly authorized the Director of the Department of Environmental Quality to enter into an agreement to designate a program coordinator to implement all inspection programs, except those utilizing remote sensing. It also stipulated that the director shall determine the services to be provided by the program coordinator and the amount to be paid to the program coordinator for such services.

2. Chapter 348 of the 2013 Acts of Assembly provides for the electronic transmittal of certain documents.

3. Chapter 634 of the 2013 Acts of the Assembly provides for the exemption from testing for certain hybrid vehicles.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

***A.Final Regulations***

**1. Small Renewable Energy Projects (Combustion) Permit by Rule, 9VAC15-70 (adding 9VAC15-70-10 through 9VAC15-70-140)**

Statutory Authority: § 10.1-1197.6 of the Code of Virginia

Effective Date: August 28, 2013

Summary: *This regulatory action establishes requirements for permits by rule for combustion energy projects with rated capacity not exceeding 20 megawatts, including requirements for potential environmental impacts analyses, mitigation plans, public participation, permit fees, interagency consultations, compliance, and enforcement. Changes since publication of the proposed regulation make technical corrections to 9VAC15-70-120 and 9VAC15-70-130 and delete the listing of documents incorporated by reference.*

**Volume 29, Issue 24 Virginia Register of Regulations 3067 (July 29, 2013)**

**2. Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater Virginia, 9VAC15-20 (amending 9VAC15-20-160).**

**Small Renewable Energy Projects (Wind) Permit by Rule, 9VAC15-40 (amending 9VAC15-40-110).**

**Small Renewable Energy Projects (Solar) Permit by Rule, 9VAC15-60 (amending 9VAC15-60-110).**

**Uniform Environmental Covenants Act Regulation, 9VAC15-90 (amending 9VAC15-90-40).**

Statutory Authority: § 62.1-195.1 of the Code of Virginia (9VAC15-20-160).

§ 10.1-1197.6 of the Code of Virginia (9VAC15-40-110 and 9VAC15-60-110).

§ 10.1-1250 of the Code of Virginia (9VAC15-90-40).

Effective Date: August 14, 2013.

Summary: *The amendments allow for notifications to be delivered through postal or electronic means as required by the statutory change to § 10.1-1183 of the Code of Virginia. Additionally, the amendments update the Department of Environmental Quality mailing address listed in the agency's regulations to the current DEQ address.*

*In accordance with Chapter 348 of the 2013 Acts of Assembly, wherever the term "mail" is used in regulatory provisions that the department administers, it shall mean electronic or postal delivery and the term "certified mail" means electronically certified or postal certified mail, except that this provision shall apply only to the mailing of plan approvals, permits, or certificates issued under the provisions of this chapter and those of the Air Pollution Control Law, the Virginia Waste Management Act, and the State Water Control Law, and only where the recipient has notified the department of his consent to receive plan approvals, permits, or certificates by electronic mail.*

**Volume 29, Issue 23 Virginia Register of Regulations 2800 (July 15, 2013)**

**STATE WATER CONTROL BOARD**

**A. Final Regulations**

**1. Fees for Permits and Certificates; Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation; Virginia Pollution Abatement (VPA) Permit Regulation, 9VAC25, multiple sections**

Statutory Authority: § 62.1-44.15 of the Code of Virginia (9VAC25-31 and 9VAC25-32).

Effective Date: September 1, 2013.

Summary: *The amendments address the regulation of biosolids (treated sewage sludge) in a comprehensive manner that covers land application permitted under the Virginia Pollutant Abatement Permit (VPA) Regulation as well as the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation. The changes address various issues related to the land application of biosolids, including the following major topics: (i) storage requirements, (ii) permit fees, (iii) site access control, (iv) consistency between VPA and VPDES permit requirements, (v) public notice processes, (vi) permit modification procedures, (vii) processes to establish appropriate buffers to address health concerns, (viii) sampling requirements, (ix) nutrient management requirements, (x) animal health issues associated with grazing, (xi) financial assurance procedures, (xii) permitting procedures, (xiii) distribution and marketing of exceptional quality biosolids, (xiv) reclamation of mined and disturbed lands, and (xv) reimbursement of local monitors.*

*Changes since publication of the proposed regulation (i) add a requirement for a physician's note when an extended setback from an occupied dwelling or property line is requested and (ii) require that notification signs posted at land application sites not be removed for 30 days after land application concludes at permitted sites.*

**Volume 29, Issue 24 Virginia Register of Regulations 3085 (July 29, 2013)**

**2. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9VAC25-31 (amending 9VAC25-31-290, 9VAC25-31-360, 9VAC25-31-830, 9VAC25-31-850).**

**Virginia Pollution Abatement (VPA) Permit Regulation, 9VAC25-32 (amending 9VAC25-32-140).**

**Surface Water Management Area Regulation, 9VAC25-220 (amending 9VAC25-220-50, 9VAC25-220-80, 9VAC25-220-190).**

**Procedural Rule No. 1 - Public and Formal Hearing Procedures, 9VAC25-230 (amending 9VAC25-230-50, 9VAC25-230-90, 9VAC25-230-130, 9VAC25-230-140, 9VAC25-230-170).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act; 40 CFR Parts 122, 123, 124, 403, and 503 (9VAC25-31-290, 9VAC25-31-360, 9VAC25-31-830, 9VAC25-31-850)

§ 62.1-44.15 of the Code of Virginia (9VAC25-32-140, 9VAC25-230-50, 9VAC25-230-90, 9VAC25-230-130, 9VAC25-230-140, 9VAC25-230-170)

§ 62.1-249 of the Code of Virginia (9VAC25-220-50, 9VAC25-220-80, 9VAC25-220-190)

Effective Date: September 1, 2013.

Summary: *This regulatory action conforms the applicable provisions of 9VAC25-31, 9VAC25-32, 9VAC25-220, and 9VAC25-230 to Chapter 348 of the 2013 Acts of Assembly to allow certain notifications to be delivered through postal or electronic means.*

***Volume 29, Issue 24 Virginia Register of Regulations 3085 (July 29, 2013)***

**3. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Potable Water Treatment Plants, 9VAC25-86 (amending 9VAC25-860-10, 9VAC25-860-40, 9VAC25-860-50, 9VAC25-860-60, 9VAC25-860-70; adding 9VAC25-860-15).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act.

Effective Date: December 24, 2013.

Summary: *This regulatory action reissues the existing Virginia Pollutant Discharge Elimination System (VPDES) general permit that expires on December 23, 2013. The general permit contains limitations and monitoring requirements for point source discharge of treated wastewaters from potable water treatment plants to surface waters. This general permit regulation is being reissued so that these plants may continue to discharge. Since publication of the proposed amendments, only minor clarification changes have been made.*

***Volume 29, Issue 23 Virginia Register of Regulations 2908 (July 15, 2013)***

***B. Proposed Regulations***

**1. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity, 9VAC25-151 (amending 9VAC25, multiple sections; adding 9VAC25-151-15; repealing 9VAC25-151-65).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act; 40 CFR Parts 122, 123, and 124.

Effective Date: September 13, 2013.

Summary: *This proposed regulatory action reissues the existing Virginia Pollutant Discharge Elimination System (VPDES) Industrial Activity Storm Water General Permit (VAR05) that expires on June 30, 2014, and is based primarily on the U.S. Environmental Protection Agency's (EPA's) 2008 final Multi-Sector General Permit (MSGP). The general permit establishes permit conditions and monitoring requirements for point source discharges of storm water associated with industrial activity to surface waters. The general permit regulation is reissued to make it available for these facilities to continue to discharge and will be effective for five years beginning July 1, 2014, and expiring June 30, 2019.*

**Volume 29, Issue 23 Virginia Register of Regulations 2803 (July 15, 2013)**

**2. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining, 9VAC25-190 (amending 9VAC25-190-10, 9VAC25-190-20, 9VAC25-190-50, 9VAC25-190-60, 9VAC25-190-70; adding 9VAC25-190-15; repealing 9VAC25-190-65).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act; 40 CFR Parts 122, 123, and 124.

Summary: *The proposed amendments reissue the existing Virginia Pollutant Discharge Elimination System (VPDES) general permit that expires on June 30, 2014. The general permit contains limitations and monitoring requirements for point source discharge of treated wastewaters from nonmetallic mineral mining to surface waters. The general permit regulation is being reissued in order to continue making it available for these facilities to continue to discharge, and it will remain effective for five years beginning July 1, 2014, and expiring June 30, 2019.*

**Volume 29, Issue 23 Virginia Register of Regulations 2886 (July 15, 2013)**

## Related People

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## Related Services

- Environment & Natural Resources