



Water Board Proposes Amendments to Virginia's Bay Watershed General Permit

01.14.2016

The Virginia State Water Control Board has proposed to reissue and amend the *General VPDES Watershed Permit for Total Nitrogen and Total Phosphorous Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia* (General Permit). The regulation applies to certain facilities that discharge nutrients to the Bay, many of which are publicly-owned treatment works and large industrial facilities. It also applies to certain new or expanding smaller dischargers of nutrients to the Bay.

EPA's Chesapeake Bay Total Maximum Daily Load (Bay TMDL) sets aggregate limits on nutrient (nitrogen and phosphorous) and sediment loadings into the Bay and its tributaries. The General Permit is a key component of Virginia's Watershed Implementation Plan (WIP) to meet the Bay TMDL. The General Permit serves this purpose in two key ways: (i) setting nutrient wasteload allocations for certain facilities discharging into the Bay watershed, and (ii) providing a nutrient trading program option for dischargers to comply with ever-tightening nutrient wasteload allocations and related nutrient discharge limits in their permits.

The proposed amendments to the General Permit reflect the WIP's phase-in of stricter Bay TMDL requirements and other Bay-related water quality program changes for Virginia. However, they also provide clarity and flexibility for demonstrating and achieving compliance. Among other things, the proposed amendments would do the following:

- Reduce the total nitrogen (TN) wasteload allocations for the facilities owned by the Hampton Roads Sanitation District and the total phosphorus (TP) wasteload allocation for all but two of the significant dischargers to the James River Basin. These reductions are deemed necessary to meet the Bay TMDL;
- Set new schedule of compliance deadlines for such discharging facilities to meet the associated lower permit nutrient discharge limits, although the permit registration list will contain individual compliance dates for each facility to meet its reduced wasteload allocation.
- Increase the frequency of compliance monitoring sampling for dischargers with design flows between 5.0 and 19.999 million gallons per day (MGD) and dischargers with design flows between 0.5 and 0.999 MGD, though each group may composite certain samples to reduce laboratory costs;
- Add new maximum quantification level ("QL") requirements for compliance monitoring results to ensure greater clarity and consistency in compliance reporting, but allowing for variances from the new QLs in certain circumstances;
- Allow in certain situations a less than 2:1 trading ratio (but not less than 1:1) when using nonpoint source nutrient credits to offset new or increased point source nutrient loads to enhance existing credit trading options;

- Reduce the cost of TN and TP credits that can be obtained (in certain circumstances) from the Nutrient Offset Fund;
- Reorganize the terms and conditions applicable to all permittees; and
- Reorient many obligations (such as compliance plan submissions) specifically toward the facility *owner*, and remove many express or implied references to compliance by the facility *operator*.

Although this action has been taken now to ensure the General Permit is reissued before the existing permit expires on December 31, 2016, the next “shoe to drop” is the outcome of DEQ’s chlorophyll-a study. The General Permit requires significant dischargers (37 large facilities that discharge to the James River) to meet an aggregate discharged TN wasteload allocation of approximately 9 million lbs./yr. by 2023, down from 13.3 million lbs./yr. discharged now. However, it’s been widely questioned whether that large a TN reduction is required to attain the Bay TMDL’s water quality objectives. The chlorophyll-a study has been undertaken to make that determination. After the results of the study are known and EPA and DEQ make any appropriate adjustments, reduced TN wasteload allocations are expected to be incorporated into the General Permit in 2017. Whether implementing these TN reductions will require a large expense by significant dischargers or will be more manageable than expected remains to be seen.

Comments on the proposed reissued and amended General Permit may be submitted to Virginia DEQ no later than February 12, 2016. A public hearing is scheduled for 2:00 p.m. on January 21, 2016 at DEQ’s Piedmont Regional Office.

[32 Va. Reg. 1353 \(December 14, 2015\).](#)

Related People

- Henry R. "Speaker" Pollard, V – 804.420.6537 – hpollard@williamsmullen.com

Related Services

- Environment & Natural Resources