

Proposed VWP General Permit WP5 for Minor Water Withdrawals

January 10, 2006

Legal Basis

§ 62.1-44.5. "A. Except in compliance with a certificate issued by the Board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;
2. Excavate in a wetland;
3. Otherwise alter the physical, chemical or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses;"...

§ 62.1-44.15. Duty and Authority of the Board ...

- (5) To issue, revoke or amend certificates under prescribed conditions for: ...
- (b) the alteration otherwise of the physical, chemical or biological properties of state waters; ...



Legal Basis, cont'd

- .§ 62.1-44.15 Virginia Water Protection Permits
 - Establishes parameters and criteria for issuing permits for impacts to wetlands, water-withdrawals, and etc.

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VWP General Permit WP5

- Provides a streamlined permitting option for small withdrawals (i.e., less than 3 MGD)

- WP5 Will:
 - Reduce permitting burden for small withdrawals
 - Ensure water resources are available for all users
 - Protect the environment
 - Allow DEQ to focus resources on individual permits that require special conditions to protect the environment

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Regulation Development

- Notice of Intended Regulatory Action issued August 2, 2004
 - Public information meeting held on September 30, 2004
- Workgroup formed to assist in developing the regulation
 - Five meetings during March – August 2005
 - Reached consensus or general agreement on most provisions of the proposed regulation



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Regulation Development (Cont'd)

- Proposed regulation published October 31, 2005 in Virginia Register (Volume 22, Issue 4)
- Public Hearing held December 5, 2005 in Richmond
- Three informational meetings held in November and December
 - Virginia Agribusiness Council*
 - Farmers on Eastern Shore*
 - Virginia Turfgrass Association and Golf Course Superintendents*
- Public Comment period ends January 13, 2006



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Regulation Development (Cont'd)

- After close of public comment period, comments will be reviewed by DEQ
- Workgroup will meet on **February 13, 2006** to discuss public comments received and to consider requested changes
- Draft of regulation with appropriate revisions will be presented to SWCB for final approval in Spring or Summer 2006

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Overview

- WP5 provides a general permit option for small withdrawals
 - Includes withdrawals taking less than 3 MGD or 2% of the average flow of the stream
 - Currently individual permits (and emergency permits for public water supplies), are the only permitting mechanisms available
- WP5 establishes parameters of operation (e.g., volume, time, velocity, screen size) to ensure all existing uses are protected

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Overview (Cont'd)

Automatically Authorized Activities

- | | |
|---|---|
| 1. Firefighting | 7. All other tidal withdrawals < 2 million gallons per day |
| 2. Water put in portable containers by riparian property owners | 8. Single family uses (gardening, landscape, lawn maintenance) |
| 3. Hydrostatic testing | 9. Surface water withdrawals from ponds collecting diffuse surface water and not situated on a perennial stream |
| 4. Agricultural non-tidal withdrawals < 1 million gallons per month | 10. Non-consumptive use by riparian property owners |
| 5. All other non-tidal withdrawals < 10,000 gallons per day | 11. Withdrawals from quarry pits |
| 6. Agricultural tidal withdrawals < 60 million gallons per month | |

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Summary of Primary Issues

1. Screen size and intake velocity requirements
2. Limits on the withdrawal volume/rate covered by the General Permit
3. Impacts to existing, non-permitted withdrawals
4. Potential for the general permit to prohibit withdrawals for irrigation
5. Ponds for irrigation

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1. Screen Size and Velocity Requirements

- Requires screen size of 1 millimeter maximum opening and 0.5 feet per second maximum through-screen intake velocity
 - Applies only to **permanent** intake structures, not temporary structures for agricultural use
 - 1 mm size recommended by DGIF
 - Concern that much of the agricultural equipment used in Virginia does not meet these requirements
- DEQ will revisit this issue with the Workgroup

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2. Withdrawal Limits for Agriculture

- Some want higher limits for **automatic** authorization
 - currently at 1 million gallons per month
- Some want the general permit to be available for withdrawals of a larger percentage of the stream
 - currently 2% of average flow
- Individual permits are available for those who do not fit within the parameters of the General Permit
- DEQ will revisit this issue with the Workgroup

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3. Impacts to permit exempt withdrawals

- Statute exempts pre-1989 withdrawals from obtaining a permit
 - the draft General Permit regulation does not change this exemption
- Some have requested automatic authorization or permit exemption for *agriculture* withdrawals existing prior to 2006
- DEQ will revisit this issue with the Workgroup

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4. Potential to prohibit withdrawals for irrigation

- Under this GP, withdrawals for some users are prohibited when stream flows fall below 80% monthly exceedance levels
 - This provision **does not apply to agricultural withdrawals and public water supply**
 - Public water supply and agriculture withdrawals **will not** be cut off
- DEQ is developing language to help clarify this section

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5. Withdrawal from Ponds

- Withdrawals from farm ponds, as defined below, **do not require a VWP permit**
 - A **farm pond** is dug to gather and store surface water, and **does not capture the flow of or include the channel of a stream**, and is located on agricultural property
- Impoundments on streams, however, **require a VWP permit**
 - An **impoundment** is a structure to gather and store surface water that captures the flow of, and is **constructed in the channel of a stream**
- DEQ will develop language to help clarify these provisions