

COMMONWEALTH OF VIRGINIA

Department of Environmental Quality

Subject: Guidance Memorandum No. 19-2003 - Virginia Water Protection (VWP) Permit and Compliance Manual

To: Regional Directors; Regional VWPP/Water Permit Managers; VWPP Staff; Enforcement Staff

From: Melanie D. Davenport, Director, Water Permitting Division 

Date: October 28, 2019

Copies: Virginia Water Protection Permit Program managers; David Davis, Director, Office of Wetlands and Stream Protection; Scott Kudlas, Director, Office of Water Supply; Angela Jenkins, Director, Policy Division

Summary:

The Virginia Water Protection (VWP) Permit and Compliance Manual (Manual) is a living document that contains information, forms, and instructions for VWP Permit Program staff regarding the review of permit applications; the issuance, modification, termination, transfer, and waiver of VWP permits; and conducting compliance for the program, per State Water Control Law (Chapter 3.1 of § 62.1 of the Code of Virginia) and VWP Permit Program Regulations (9VAC25-210; 9VAC25-660; 9VAC25-670; 9VAC25-680; and 9VAC25-690). The Manual also serves as a tool for process consistency across regional VWP Permit Program offices. A separate manual in the DEQ Office of Water Supply and Planning addresses in more detail the permitting of specific activities related to surface water withdrawals and water supply projects.

This Manual undergoes periodic updates and revisions through a collaborative process. The purpose of this guidance is to update the Manual primarily due to Virginia statutory amendments; changes to associated federal and/or state laws and regulations; and recent decisions made regarding the processing of VWP permits.

This guidance supersedes the following Guidance Memoranda, identified herein for official rescinding, in whole or in part, based on its relevance to current law or regulations pertaining to the VWP Permit Program:

- DEQ Guidance Memorandum GM18-2008 *Virginia Water Protection (VWP) Permit and Compliance Staff Manual* (December 19, 2018).
- DEQ Guidance Memorandum GM09-2004 *Applying Compensatory Mitigation Preferences Provided in the EPA Mitigation Rule to Virginia Water Protection Permitting* (March 19, 2009).
- **(VWP Permit Program portions only)** DEQ Guidance Memorandum GM01-2012 *Siting Storm Water BMPs in Surface Waters and the Application of Temperature Standard to Impoundments* (April 18, 2001).

Electronic Copy:

Once effective, an electronic copy of this guidance will be available on:

- The Virginia Regulatory Town Hall under the Department of Environmental Quality at <http://www.townhall.virginia.gov/L/gdocs.cfm?agencynumber=440>
- The Department's website at <https://www.deq.virginia.gov/Programs/Water/WetlandsStreams/ResourcesLinks.aspx>

Contact Information:

Please contact David Davis, Director, Office of Wetlands and Stream Protection, at (804) 698-4105 or dave.davis@deg.virginia.gov with any questions regarding the application of this guidance.

Certification:

As required by Subsection B of [§ 2.2-4002.1](#) of the APA, the agency certifies that this guidance document conforms to the definition of a guidance document in [§ 2.2-4101](#) of the Code of Virginia.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate or prohibit any particular action not otherwise required or prohibited by law or regulation. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

INTRODUCTION AND PURPOSE

This manual is intended to orient DEQ staff to the VWP Permit Program and to establish standard procedures that will ensure that VWP permit actions are executed in a consistent and legally enforceable manner. Changes to the procedures established in this manual may be necessary on a periodic basis. Final revisions will be completed by Central Office staff, in coordination with the regions and in accordance with any applicable agency guidance.

The various ways in which VWP permits are issued are detailed in Chapters 2 through 6, 8, and 10. Chapters 7 and 9 involve changes to general permit coverage or permits, respectively, once they have been issued. The Office of Water Supply (OWS) issues VWP permits for projects that involve surface water withdrawals. The OWS Water Withdrawal Permitting Manual covers the procedures for permitting and compliance with surface water withdrawal VWP permits.

Chapter 11 provides guidance on permit inspection and compliance procedures. As these aspects will differ from project to project, the guidance in this Chapter outlines the broad issues associated with these post-permitting activities. Coordination of specific inspection and compliance issues with DEQ's other media division staff is recommended, and in some circumstances, coordination may be required.

This manual contains several tools to assist staff in program administration.

1. VWP permit-specific sample letters to be used as *guidelines* for correspondence. The text in **bold font** and [brackets] indicate information that may need to be modified to meet specific project needs. Instructions for completing this information is typically indicated by *[italicized words within brackets]*. VWP staff will delete the instructions, and any non-pertinent information, from the final product. Also, VWP staff may need to further modify existing correspondence, or create new correspondence, when the guides do not fit specific correspondence needs.
2. Checklists are provided in several manual Chapters and/or appendices to help permit writers track the tasks required to process permits and permit modifications, or review documents required by the permit, such as a compensation plan. The appendices include supplemental information to the manual Chapters, such as the laws and regulations pertinent to the VWP Permit Program.
3. Also, the VWPP Library on DEQNet may provide additional program information, including regulatory, policy, and technical resources related to the VWP Permit Program. Manuals are available to instruct VWP staff on entering permit and compliance data into the permit tracking database used by DEQ, the Comprehensive Environmental Data System (CEDS). These manuals can be found on DEQNet at <http://deqnet/documents/index.asp?path=%2Fdocs%2Fwater/CEDS>. Look under the heading, "Virginia Water Protection".

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