

## SECTION V

### MODIFICATION and TERMINATION PROCEDURES

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## A. Initiation of Modifications

The authority of the State Water Control Board to modify VPDES permits is clearly stated in the State Water Control Law ([§ 62.1-44.15\(5b\)](#)) and the VPDES Permit Regulation ([9VAC25-31-370](#)).

If a permit is modified, only the part of the permit being modified is subject to change or public comment.

### 1. Causes for Modification

The modification of a VPDES permit may be initiated by the permittee, interested persons, or the Department's staff. **Another option to consider is to revoke and reissue if the modification request falls within 15 months of permit expiration.** In this case, the RO may send a Reissuance in Lieu of Modification letter (see [DEQnet](#)). Determination of the need for a revocation and reissuance versus a modification is generally done on a case-by-case basis. Note that the current fee regulation requires a new application fee for a revoke and reissue. Procedures for Revocation and Reissuance are presented in [Section III](#).

The VPDES Permit Regulation at [9VAC25-31-390.A](#) specifies that a permit may be modified only when any of the following occur:

- a. There are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice) which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
- b. The Department has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For VPDES general permits this cause includes any information indicating that cumulative effects on the environment are unacceptable. For new source or new discharger VPDES permits this cause shall include any significant information derived from effluent testing required on the permit application after issuance of the permit.
- c. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:
  - (1) For promulgation of amended standards or regulations, when:
    - a) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the Secondary Treatment Regulations incorporated by reference in 9VAC25-31-30; and
    - b) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a state action with regard to a water quality standard on which the permit condition was based; and

- c) A permittee requests modification in accordance with this regulation within ninety (90) days after Federal Register notice of the action on which the request is based
  - (2) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with this regulation within ninety (90) days of judicial remand; or
  - (3) For changes based upon modified state certifications of VPDES permits.
- d. The Department determines if good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case may a VPDES compliance schedule be modified to extend beyond an applicable CWA statutory deadline.
- e. When the permittee has filed a request for a variance pursuant to 9VAC25-31-100 L or M within the time specified in this regulation.
- f. When required to incorporate an applicable CWA Section 307(a) toxic effluent standard or prohibition.
- g. When required by the reopener conditions in a permit which are established under 9VAC25-31-220 B or C or 9VAC25-31-800 E.
- h. Upon request of a permittee who qualifies for effluent limitations on a net basis under 9 VAC 25-31-230 G or when a discharger is no longer eligible for net limitations.
- i. As necessary under 9VAC25-31-800 E for a pretreatment program.
- j. Upon failure to notify another state whose waters may be affected by a discharge.
- k. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee.
- l. To establish a notification level as provided in 9VAC25-31-220 F.
- m. To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW which has received a grant under Section 202(a)(3) of CWA for 100% of the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202(a)(2) of CWA. In no case shall the compliance schedule be modified to extend beyond an applicable CWA statutory deadline for compliance.
- n. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.
- o. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under the Law and Section 402(a)(1) of the CWA and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline).

- p. When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.

## 2. Modification Requests

- a. A permittee or an interested person may request the modification of a permit by submitting a written request to the appropriate RO. See [DEQnet](#) for a sample modification request. A modification request contains the following information:
  - (1) A statement of present permit conditions in question.
  - (2) A statement of the proposed changes being sought.
  - (3) Reasons and justification for the changes or a revised application if the request involves modification or substantial increase in flow, loading, or outfall location.
  - (4) Application forms or revised plans/documents, as necessary.
- b. Upon receipt of a modification request from a permittee or interested person, staff may determine if there are additional modifications needed. If additional modifications are needed, notify the permittee and make all the modifications at the same time.
- c. If the modification requires the submittal of a new application due to substantial changes to the operation or discharges, process the application following the procedures in Section II. This includes the statutory requirements for notification of local governments and riparian landowners ([§ 62.1-44.15:4 D](#)).
- d. Along with the modification request/application, the permittee must also submit the Public Notice Billing Authorization Form. If this form is not submitted, the permit writer shall not send a letter stating that the modification request is complete. This form requests an authorized signature and billing contact information that the permit writer will need when they contact the newspaper to set up the public notice. [9VAC25-31-100.E](#). allows the department to request "any supplemental information...completed to its satisfaction" along with the application. This form should not be considered a permittee's concurrence with the draft modification. If this signed form is not received with the modification request, the permit writer shall not send the application complete notice.

## 3. Permit Fees

For modifications initiated by the permittee, collection of the appropriate permit fee is required before the application or modification request can be deemed complete. Permit fees are not required for DEQ or third party-initiated modifications. Fee forms and fees should be sent by the permittee to DEQ, Receipts Control, P.O. Box 1104, Richmond, VA 23218 and not retained by the regional office.

## 4. Denial of Requests for Modification

- a. See Section II for a discussion of reasons for denial.
- b. Prepare a written response to the requestor giving reasons for the denial. Include a statement that denials may be appealed to the Director.
- c. Denials of modification requests do not require public notice.

## 5. Modifications Not Requiring Public Notice ([9VAC25-31-400](#))

The following permit modifications are considered minor modifications and do not require public notice and opportunity for hearing unless they would render the applicable standards and limitations in the permit less stringent, or unless contested by the permittee. Minor modifications may only:

- a. Correct typographical errors;
- b. Require more frequent monitoring or reporting by the permittee;
- c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
- d. Allow for a change in ownership or operational control of a facility where the department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Department;

*[NOTE: A reasonable interpretation of d. above is to allow for a name change of a facility via a minor modification as this is a legal change similar to an ownership change. This can be requested via letter using the change of name agreement form in Section L.]*

- e. Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge.
- f. Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits; or
- g. Incorporate conditions of an approved POTW pretreatment program (or a modification thereto that has been approved in accordance with the procedures in this regulation) as enforceable conditions of the POTW's permits.

The modifications in b - g above require an amendment to the Fact Sheet and a modification date on the permit cover page. Include all information applicable to the minor modification in the Fact Sheet amendment.

A complete permit should be transmitted to the owner for all modifications. However, if the region elects to only transmit the modified pages to the owner, ensure that the transmittal letter contains a summary of the pages being replaced.

## B. Modification Procedures

### 1. Review the Modification Request/Application

- a. Review the modification request/application within 14 days of receipt of the request. The RO is responsible for consistent review of applications and correct determinations regarding incomplete applications and the need for application deficiency letters. The modification request must include the PN Billing Authorization Form for the request to be deemed complete.
- b. For all modifications other than minor modifications forward a copy of the modification request/application to the VDH Office of Drinking Water Field Office. Forward a copy of the modification request/ application to the VDH-DSS, VMRC, DWR, DCR, USFWS, and NOAA where appropriate (see [Section II](#)).
- c. The **120-day** time period to modify the permit starts upon determination that the modification request/application is complete.
- d. If the modification requires the submittal of a new application due to substantial changes to the operation or discharges, process the application following the procedures in Section II. This includes the statutory requirements for notification of local governments and riparian landowners (§ [62.1-44.15:4 D](#)).

### 2. Office of VPDES Permits Model Review

Regional modeling packages do not require Office of VPDES Permits review. Send other models to the Office of VPDES Permits for review prior to including results into the modified draft permit. Changes to effluent parameters (flow and pollutant concentrations) in a previously approved model do not require Office of VPDES Permits review. Send any other changes in an approved model to the Office of VPDES Permits for review.

### 3. Fact Sheet and Draft Permit Preparation

- a. Fact Sheets are required for all permit modifications that require public noticing. Clearly identify in the FS why the permit is being modified and what specific changes or additions are being made. See Section MN or Section IN for Fact Sheet preparation guidance.
- b. Prepare a draft of the permit pages containing the proposed modification. See [Section III](#) for additional guidance on preparing draft permit pages.
- c. If the modification could impact a TMDL Waste Load Allocation applicable to the receiving stream, see the procedures outlined in [Section III.A.6.g](#).

### 4. Public Notice Preparation

Every modification, except those that qualify as minor modifications ([9VAC25-31-400](#)), must receive public notice. Restrict the details on effluent limits and land application sites in the public notice to the items being modified. Follow the format available on [DEQnet](#) when developing the public notice for the newspaper.

## C. 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 [on the public file share site https://public.deq.virginia.gov/](https://public.deq.virginia.gov/) 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).** When forwarding the information to individuals (e.g. draft permits to owners, EPA, VDH, etc.) using the public file share reference the link in an email. Suggested transmittal letters available on [DEQnet](#) 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.
- b. Regional Planning Review. 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 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. 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, 316a, 316b, pretreatment, stormwater, groundwater, etc.) need review. Consult OWP&CA staff for additional guidance as needed.

### 3. VDH Review

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

#### 4. EPA Review ([40 CFR 123.44](#); [9VAC25-31-50.C](#))

Send any changes in a major facility permit, except minor modifications, to the EPA Region 3 via [EPA's PRMTS portal](#). Send any changes in a minor facility permit with an applicable EPA approved TMDL where the permit contains an effluent limit based on the TMDL and the change is related to the TMDL to EPA for review (draft modifications related to bacteria TMDLs do not need to be reviewed by EPA nor do draft modifications unrelated to the TMDL for facilities not included in 40 CFR Part 122 Appendix A), industrial facilities included in 40 CFR Part 122 Appendix A, facilities with 316(b) requirements regardless of major, minor or TMDL status (must also copy EPA HQ), facilities that are listed on the Chesapeake Bay Significant Dischargers List (SDL).

- a. Forward a copy of the application/mod. request, draft permit, and Fact Sheet utilizing the EPA PRMTS portal. This may be concurrent with the submittal of this information to VDH.
- b. If a proposed permit modification would change the permit status from minor to major, EPA review is required.
- c. EPA can either comment upon and/or object to the draft permit pages in writing within **30 days**. To account for mailing and handling, **one week** in addition to the 30-day comment period is allowed from the date of mailing to EPA. EPA **comments** must be responded to but may not necessitate permit changes (see below). EPA **objections** must be resolved prior to permit modification. A permit cannot be modified with unresolved EPA objections. If EPA fails to comment or object within the above comment period, or requests 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).
- d. 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.
- e. If EPA has further objections to the application or draft modified permit, the Office of VPDES Permits will coordinate efforts to reach an agreement with EPA. Upon notification from EPA of any comments or objections from the EPA, the RO redrafts the modified pages as necessary.
- f. If EPA's comments are not incorporated into the draft modified permit, the RO should either include EPA's comments in the Response to Comments memo and send to EPA or send a separate letter to EPA explaining why their comments were not included. This letter can be included in the final permit package that goes to EPA after the modification is completed.

#### 5. Owner Review

- a. Forward a complete copy of the entire draft permit and Fact Sheet to the owner after receiving EPA concurrence (for major permits). 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, courtesy copies of draft permits may be sent to the owner prior to EPA review as long as they understand the permittee should be informed that EPA comments may result in changes to the draft permit. The owner has 14 days after receipt of a copy of the draft permit to comment and/or object to its provisions.
- b. When public notice is **required**, transmit a copy of the public notice and authorization form with the draft modified permit to the permittee, using the Draft Permit/PN

- Transmittal Letter to Owner when PN Billing Authorization Form Required (available on [DEQnet](#)).
- c. When using the **optional** public notice procedure, transmit the public notice and PN verification form to the permittee using the Draft Permit/Optional PN Transmittal Letter to Owner when PN Authorization Form not Required (Owner Contacts the Newspaper) available on [DEQnet](#).
  - d. The owner is responsible for the payment of the public notice 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 modification package.
  - e. If the permittee refuses to pay for a modification initiated by DEQ or an interested person, contact the Regional Director for approval to pay for the PN. If a proposed modification is initiated by the DEQ staff or an interested person, permittee consent is not required for the public notice.
  - f. See Section VI for public participation procedures, local government notification, and other agency reviews required for permit modification.

**In addition to the general notice, all individuals identified in [9VAC25-31-290.C.1.a, b, c, and d](#) shall be mailed, by electronic or postal delivery, a copy of draft permit, application, and Fact Sheet (if not previously received). Additionally, for proposed sewage discharges to or in near proximity to shellfish growing areas, DEQ must also provide notification to VDH-DSS and VMRC of the public comment period, and provide a copy of the final permit, if issued, to DSS (See [GM07-2009](#)).**

## D. 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 on the public [fileshare](#) site 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).** Forward the information to owners, EPA, VDH etc... using the [fileshare](#) site link via email and reference the link in the email.

### 1. Modified Permit Package

Compile and forward the Modified Permit Package for review and signature upon completion of the public notice period, or upon completion of the public hearing (if one occurred).

- a. Prepare the modified 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.
- b. Prepare the letter transmitting the modified permit to the owner for signature. This letter should be on regional office letterhead. If the DMR changes, 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 modified 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 modified permit package through the RO, up to the person with delegated authority to sign the permit under the DEQ Agency Policy Statement No.-2-09, October 31, 2008, as provided by §§ 2.2-604 and 10.1-1185 of the *Code of Virginia*. All modifications should be approved by the appropriate regional personnel including the Planning representative and Water Permit Manager.
- d. The permit's signature line is titled and signed by the position with delegated authority to sign the permit under the DEQ Agency Policy Statement No.-2-09, October 31, 2008, as provided by §§ 2.2-604 and 10.1-1185 of the *Code of Virginia*. For minor permits, the Regional Water Permit Manager may sign in the absence of the RD. 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

Date the permit cover page to reflect the modification. The modification date appears between the effective and expiration dates. The modification date is the date the modified permit is signed. Effective and expiration dates do not change with modifications.

### 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.

- Transmittal Letter
  - Permit
  - DMR (only if unable to use eDMR)
  - Response to Comments (if modification required a public notice)
  - Fact Sheet (for change of ownership where new owner did not see draft permit package or if changes have been made to fact sheet during modification)
- b. EPA (via [EPA's PRMTS Portal](#))
- Transmittal Letter
  - Permit
  - Fact Sheet and Fact Sheet Attachments
- c. RO & Office of VPDES Permits (Upload files to ECM as described in Section III.C.3.c)
- Transmittal Letter and Permit (Combined as one document)
  - Fact Sheet
  - Application/Modification Request
- d. Regional Compliance Auditor
- Transmittal Letter
  - Permit

#### 4. Update CEDS

RO should complete data entry into CEDS to reflect the modification date and check on the accuracy of other entries for this permit. Check DEQNET for most recent CEDS user manual.

## E. Change of Ownership/Facility Name Modifications

A change of ownership can be accomplished either as an automatic transfer under [9VAC25-31-380.B](#) or as a minor modification under [9VAC25-31-400](#). In either case, change of ownership does not require permit fees or public notice if it is the only modification to the permit. A change of ownership requires a written request from the new owner asking for the change and agreeing to abide by all conditions and requirements in the permit. The new owner should also submit documentation of the change of ownership. Proof of sale is acceptable for documentation of change of ownership. In the interest of customer service and for compliance and enforcement purposes, all changes of ownership, including automatic transfers, require a **complete permit and Fact Sheet** (if the new owner did not see the draft permit package) be submitted to the new owner with the final package.

### 1. Automatic Transfer

A permit can be automatically transferred to the new owner if:

- a. The current owner notifies the RO **30 days** in advance of the proposed transfer of the facility or property title, and
- b. The current owner's notification includes a written signed agreement between the existing and proposed new owner containing a specific date of transfer of permit, or responsibility, coverage and liability between them, verification that all his outstanding Annual Fee payments to date are settled or will be settled by the new owner and,
- c. The Director does not, within the 30-day time period, notify the existing owner and the proposed new owner of the department's intent to modify or revoke and reissue the permit.

### 2. Change of Ownership as a Minor Modification

- a. The current owner notifies the RO of the proposed change in ownership. The RO receives a Change of Ownership Agreement Form signed by both the current and new owners. Ensure that the Change of Ownership Agreement Form is signed in accordance with application signature requirements. An example of the Change of Ownership Agreement Form is available on [DEQnet](#). The [CEDS Core Data Change Request Form](#) in addition to the Change of Ownership Agreement Form in (available on [DEQnet](#)) is appropriate when an ownership change has the potential to affect more than one media.
- b. Once the Change of Ownership Agreement Form has been received, change the owner information on the permit cover page, add a modification date between the effective and expiration date, update or amend the permit Fact Sheet and send revised permit and Fact Sheet with the transmittal letter to the permittee via certified mail or email with read receipt. For major facilities, submit the updated Fact Sheet and permit to EPA via EPA's PRMTS Portal. EPA will not review change of ownership requests.
- c. For change of ownership, the **120-day** time period to modify the permit starts with receipt of the Change of Ownership Agreement Form from the current and new owners. If the current owner's signature form is unobtainable (e.g. owner deceased, no forwarding address, etc.), the 120 days start with receipt of the Change of Ownership Agreement Form, signed by the new owner.

## F. Termination of Permits ([§62.1-44.15\(5\)](#) and [9VAC25-31-410](#))

Permits may be terminated either at the request of the permittee, an interested person, or upon staff initiative. Avoid using the word "revoke" to mean "terminate". Termination means the permit will cease to exist. In state and federal regulations, "revoke" is only used in the phrase "revoke and reissue", and it indicates a continuing permit.

The final decision on a contested permit termination may only be made by the State Water Control Board ([§62.1-44.14](#)), however, a procedure for uncontested permit terminations is outlined below. Before any permit can be terminated, the Board must give the permittee notice and an opportunity for a hearing ([§62.1-44.15\(5b\)](#)).

If a permit is close to its expiration date and the owner ceases operations or has stopped the discharge, it may be more expedient to simply allow the permit to expire. This does not require public notice. If the permittee does not want to wait until the permit expiration date, he should submit written notice to the RO advising of the reason for the request for permit termination. Make the appropriate changes to CEDS once the permit has expired.

The termination of municipal facility operations should be conducted in consultation with VDH. This may require initiation of the facility's financial assurance plan, if applicable, or a closure plan and site inspection.

### 1. Causes for Permit Termination

The following are causes for terminating a permit during its term, or for denying a permit renewal application:

- a. The permittee has violated any regulation or order of the Board, any provision of the Water Control Law, or any order of a court, where such violation results in a release of harmful substances into the environment or poses a substantial threat of release of harmful substances into the environment or presents a hazard to human health or the violation is representative of a pattern of serious or repeated violations which in the opinion of the Board, demonstrates the permittee's disregard for or inability to comply with applicable laws, regulations or requirements;
- b. Noncompliance by the permittee with any condition of the permit;
- c. The permittee's failure to disclose fully all relevant material facts, or the permittee's misrepresentation of any relevant material facts in applying for a permit, or in any other report or document required under the Water Control Law or the VPDES Permit Regulation;
- d. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit termination;
- e. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit; or
- f. There exists a material change in the basis on which the permit was issued that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit necessary to protect human health or the environment. (Such as plant closure or connection to a POTW).

## 2. Procedure for Uncontested Permit Termination

Permit terminations are uncontested when the permittee is in agreement with the termination because the permit is no longer needed, usually due to one of the following situations:

- Cease of the discharge, operation or activity;
- A change in operations or activity at the site;
- Connection of a discharge to a publicly owned or privately owned treatment works;
- A change to a different type of permit (i.e., individual to general, VPDES to VPA).

The procedure is:

- a. Termination is proposed by the permittee, or by the staff, in response to one of the situations listed above. Verification and documentation that the permit is no longer necessary is made.
- b. The staff must advise the permittee of the right to a hearing by sending the "Intent to Terminate" form letter and "Termination Agreement Form" and ask that the form be signed and returned.
- c. If the termination agreement form is signed and returned indicating the permittee has waived the right to a hearing and certifying that there are no pending state or federal enforcement actions on the permit, the "Uncontested Termination Notification Letter" is sent to the permittee by certified mail informing him that the permit is terminated. **The termination is effective 30 days from this notification.** The notification letter should be signed at the same regional office level as has authority to issue (sign) the type of permit being terminated.
- d. The termination agreement form and correspondence is filed by the regional office EPA Region III should be notified. An email notification of termination to EPA is sufficient.
- e. CEDS is updated.

The above referenced termination documents can be found in Section L of this manual.

## 3. Procedure for Contested Permit Termination

- a. If the permittee does not agree to the termination, does not return the termination agreement form, or if there is a pending enforcement action on the permit, contact the permittee in writing and arrange a meeting to discuss the permittee's situation.
- b. If the permittee does not agree to the termination following a meeting, then DEQ staff should hold an informal fact finding hearing pursuant to [§2.2-4019](#).
- c. If the permittee agrees to the termination following the [§2.2-4019](#) hearing and there are no pending enforcement actions on the permit, obtain the signed termination agreement form and follow the procedure for uncontested permit terminations.
- d. If there is a pending enforcement action, but the permittee agrees to the termination, follow the procedures below for public notice and Department action. No formal hearing is required.
- e. If the DEQ staff and the permittee do not reach agreement on termination and DEQ still intends to terminate the permit, a formal hearing is required before the Department (APA [§2.2-4020](#)). Contact the Office of Regulatory Affairs and Outreach and Office of VPDES Permits for further guidance if a formal hearing is necessary.

- f. If the permittee does not agree to the termination or if there is a pending state or federal enforcement action on the permit, a public notice of intent to terminate must be issued. The format of a public notice of termination is the same as the public notice for permit issuance, except that it states the Department intends to terminate the permit.
- g. Department approval, through the Office of Enforcement, must be obtained after public notice when the permittee agrees to the termination but there is a pending enforcement action. The Department will terminate the permit, if it decides it is appropriate.
- h. If the termination is approved by the hearing officer, the regional office staff notifies the permittee by sending a copy of the decision, and a transmittal letter. This notification to the permittee must be sent by certified mail and signed at the same regional office level as has authority to issue (sign) the type of permit being terminated.
- i. Send copies of termination notifications to EPA Region III
- j. If the Department does not approve termination in any case, the permittee is so notified.
- k. CEDS must be modified to reflect the facility's change in status.

The above referenced termination documents are available on DEQnet.

#### **4. Annual Maintenance Fees**

For any permit termination, an annual maintenance fee is not required for a permit that is terminated prior to April 1 in the year of termination. For "termination by notice" which is the case with uncontested permit terminations, the terminations are effective 30 days after notification, so if the termination notification letter is sent out on or before March 1 maintenance fees do not apply.

#### **G. Denial of Requests for Termination ([9VAC25-31-370.B](#))**

Prepare a letter to the requestor giving reasons for the denial. Denials of requests for termination are not subject to public notice, comment, or hearings.