

## SECTION II

## PERMIT APPLICATION PROCEDURES

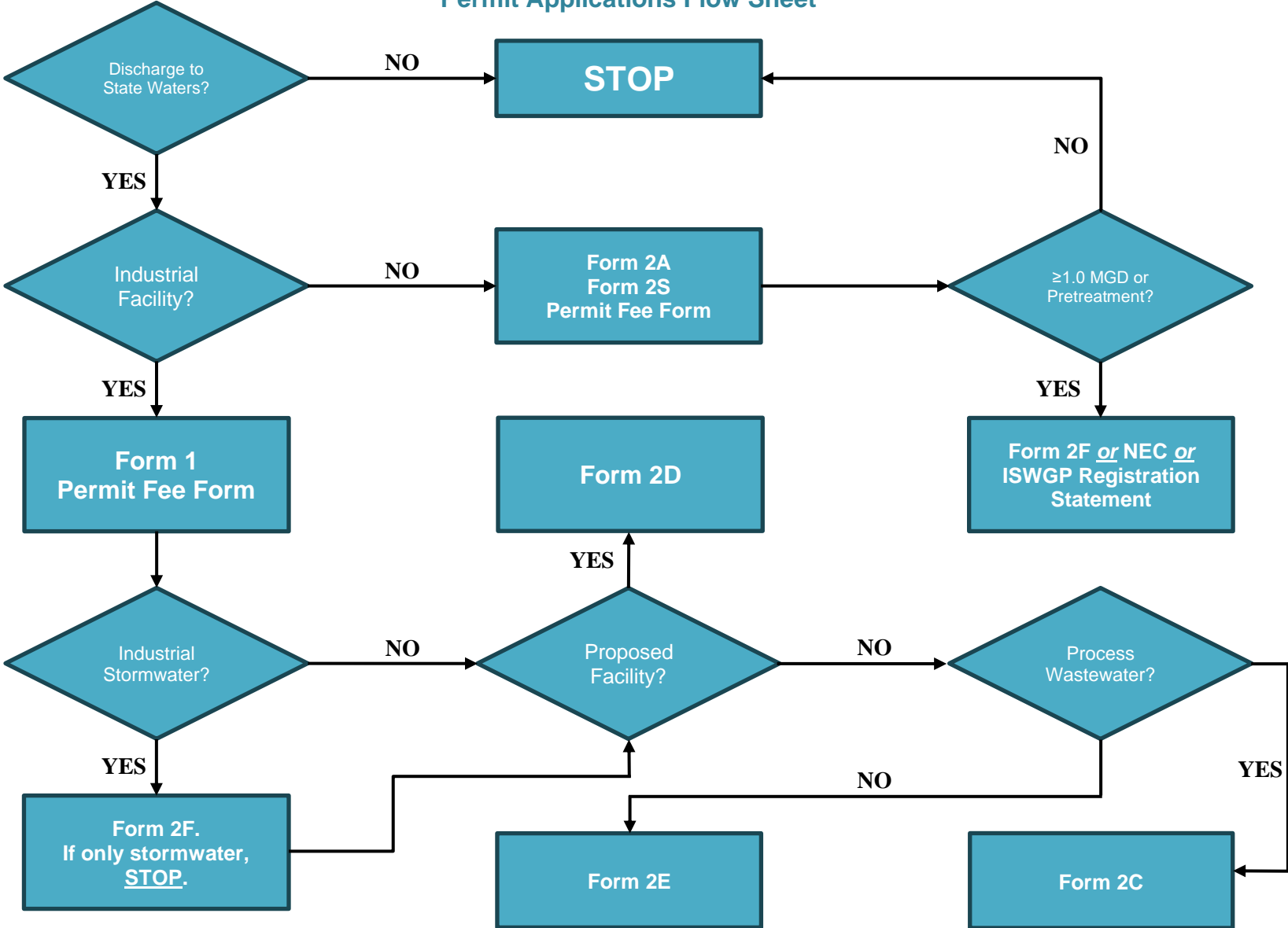
## Table of Contents

|                                                                   |           |
|-------------------------------------------------------------------|-----------|
| <b>PERMIT APPLICATIONS FLOW SHEET .....</b>                       | <b>1</b>  |
| <b>A. APPLICATION PROCESSING .....</b>                            | <b>2</b>  |
| 1. REISSUANCE REMINDER LETTER AND PRE-APPLICATION MEETING .....   | 2         |
| 2. UPDATE CEDS AND INITIATE PEEP WORKFLOW .....                   | 2         |
| 3. VPDES PERMIT APPLICATION FORMS.....                            | 2         |
| 4. APPLICATION PACKAGE ENCLOSURES.....                            | 3         |
| 5. APPLICATION FILING REQUIREMENTS .....                          | 4         |
| 6. TESTING WAIVER PROCEDURES.....                                 | 5         |
| 7. ANALYTICAL METHODS.....                                        | 5         |
| <b>B. MUNICIPAL PERMIT APPLICATION REQUIREMENTS.....</b>          | <b>7</b>  |
| 1. PRIVATELY OWNED TREATMENT WORKS (PVOTW) .....                  | 7         |
| 2. PERMIT APPLICATION REQUIREMENTS FOR POTW AND PVOTW: .....      | 8         |
| <b>C. INDUSTRIAL PERMIT APPLICATION REQUIREMENTS .....</b>        | <b>11</b> |
| 1. FORM 1 .....                                                   | 11        |
| 2. FORM 2B .....                                                  | 11        |
| 3. FISH FARM QUESTIONNAIRE .....                                  | 11        |
| 4. FORM 2C.....                                                   | 11        |
| 5. FORM 2D.....                                                   | 13        |
| 6. FORM 2E .....                                                  | 13        |
| 7. FORM 2F.....                                                   | 14        |
| 8. WATER QUALITY CRITERIA MONITORING FORM (ATTACHMENT A).....     | 15        |
| <b>D. APPLICATION REVIEW .....</b>                                | <b>16</b> |
| 1. RECEIPT OF APPLICATION AND FEE .....                           | 16        |
| 2. APPLICATION REVIEW.....                                        | 17        |
| 3. APPLICATION SIGNATURES .....                                   | 18        |
| 4. LATE OR DEFICIENT APPLICATIONS.....                            | 18        |
| 5. FACILITY SITE VISIT .....                                      | 18        |
| 6. PERMIT NUMBERS.....                                            | 19        |
| 7. APPLICATION COMPLETE.....                                      | 19        |
| <b>E. APPLICATION REVIEW BY OTHER AGENCIES .....</b>              | <b>20</b> |
| 1. VIRGINIA DEPARTMENT OF HEALTH (VDH).....                       | 20        |
| 2. VIRGINIA MARINE RESOURCES COMMISSION (VMRC).....               | 21        |
| 3. NOTIFICATION OF LOCAL GOVERNMENTS AND RIPARIAN LANDOWNERS..... | 21        |
| 5. THREATENED AND ENDANGERED SPECIES COORDINATION.....            | 22        |
| 6. NEW MUNICIPAL SOLID WASTE LANDFILLS.....                       | 26        |
| 7. VDOT NOTIFICATION FOR NEW ISSUANCES.....                       | 26        |
| <b>F. CONTINUATION OF EXPIRING PERMITS.....</b>                   | <b>27</b> |

**G. APPLICATION DENIAL ..... 28**

- 1. REASONS FOR NEW PERMIT DENIAL ..... 28
- 2. REVIEW APPLICATION/NOTIFICATION OF APPLICANT ..... 29
- 3. PUBLIC NOTICE OF THE INTENT TO DENY ..... 29
- 4. PUBLIC HEARING..... 30
- 5. PREPARE THE DENIAL PACKAGE ..... 30
- 6. PROCESS THE DENIAL PACKAGE..... 30
- 7. APPLICANT PETITION PROCEDURES..... 31
- 8. DENIAL OF A PERMIT REISSUANCE..... 31

Permit Applications Flow Sheet



## A. Application Processing

Due to changes in the Code of Virginia at § 10.1-1183 by HB 2089 during the 2013 General Assembly session and changes made to the permit regulation in 9VAC25-31-290 C 1, E and G2, section 360 D, section 830 B 1 and 850 J 1, some additional electronic transmittals from DEQ to the permittees, public and other agencies are allowed. Generally, anything sent by DEQ previously by hard copy mail to outside parties may be sent via email. This includes notices and permit related information (e.g. draft permit, fact sheet and application) to the applicant, interested parties, local government, other state agencies and riparian owners. According to [Agency Policy Statement 3-2020](#) (Computer Internet Policy), any outbound email sent using a DEQ email account is to be considered as equivalent to a message sent on Agency letterhead, therefore the content and tone of any such message must reflect the official responsibilities of the author. Therefore, you may transmit applicable letters (available on [DEQnet](#)) in the body of an email or as a letterhead attachment to an email. Transmittal of the final permit (issuances and reissuances), modifications, denials or terminations via certified mail have additional procedures described in section III D before it can be emailed. If any parties prefer postal mail, we should honor that request.

**Electronic submittal of all permit applications and associated application documents via myDEQ Portal should be highly encouraged.**

### 1. Reissuance Reminder Letter and Pre-application Meeting

CEDS contains a master file of all VPDES permits within each region, including permit expiration dates. Reissuance reminder letters should be sent as a courtesy one year in advance of permit expiration for minors and two years in advance for major facilities, informing the permittee that they must file for reissuance of their permit no later than **180 days** prior to the expiration of the permit (9VAC 25-31-100 D). Provide application, permit fee forms, instructions, and other appropriate enclosures with the notification letter. The letters for notifying the permittee of reissuance requirements are linked in Section L of this manual.

To minimize deficiencies in applications, it is recommended that when transmitting application forms to a permit applicant, the permit writer offers to meet with the applicant to discuss application requirements. In this meeting, the applicant can provide an overview of the facility, operation, and discharge, and the permit writer can provide a description of the necessary application forms, the permit administrative process, and provide guidance on application completion and testing requirements. The permit writer may also want to request any additional information outside of the application that would be specifically required to process this permit.

### 2. Update CEDS and Initiate PEEP Workflow

Update CEDS upon transmittal of the reissuance reminder letter and initiate a PEEP workflow upon receipt of the application. PEEP workflows should be updated daily as actions and events occur. See the [PEEP VPDES Permitting User Manual](#) for more information.

### 3. VPDES Permit Application Forms

*(See applicability discussion in Sections II.B and C)*

**Form 1** - All industrial applicants must complete this form and attach to the appropriate form(s) from the list below.

**Permit Fee Form** (for issuances and major permit modifications) - All applications must include this form and the appropriate fee. The form and the fee are not returned to the regional

office with the application rather are returned to DEQ, Receipts Control, P.O. Box 1104, Richmond, VA 23218.

**Public Notice Billing Authorization Form** – All applications must include this form that is signed by an authorized agent. See Section 5 for further information.

**Form 2A** – All POTWs and other TWTDS

**Form 2B** – Animal Feeding Operations (only if they can't qualify for VPA permit)

**Form 2C** – Industrial Process Wastewater Discharges

**Form 2D** – Proposed Industrial Discharges

**Form 2E** – Industrial Nonprocess Wastewater Discharges

**Form 2F** – Stormwater Associated with Industrial Activity

**VPDES Sewage Sludge Application Form for Reissuance (Short form)** – The reissuance form is to be used for reissuance of all VPDES permits that treat municipal wastewater, whether or not there have been/will be any changes in the sludge handling practices. Use of this form ensures that we have up-to-date information about the facility's sludge handling practices, even if they are not land applying. The form covers the scenario where permittees they 1) dispose sludge in a landfill, 2) send sludge to another facility for treatment, storage, or blending, 3) generate Class B biosolids and send to a contractor, 4) generate Class B biosolids and land apply themselves, and 5) generate EQ biosolids and distribute and market under the VPDES permit or send to a third party to distribute and market. If scenario #4 applies (generate and land apply under the VPDES permit), it will be necessary for OLAP staff to review the site books submitted to ensure that they meet all the regulatory requirements and that the agency GIS system is updated.

**VPDES Sewage Sludge Application Form (Long form)** – Is to be used for new facilities only.

**Form 2S** – Use of the EPA Form 2S is not necessary, and exclusive use of the DEQ forms is preferred.

**VPDES Permit Addendum Form** – This form requests information the permit writer will use in processing the permit, which is not included on the standard EPA application forms. It should be sent with all permit application packages. An example addendum form is available on [DEQnet](#). For reclamation and reuse projects the water reclamation and reuse application addendum is needed in addition to the VPDES permit application addendum in most issuances and reissuances. See GM No.10-2001, Revision No. 1 for full guidance on implementation of water reclamation and reuse in conjunction with VPDES permitting.

#### 4. Application Package Enclosures

##### a. Pollution Prevention Flyer

DEQ is emphasizing pollution prevention in all aspects of our regulatory functions. This is a voluntary program designed to improve environmental quality by helping dischargers avoid activities that create pollution. The facility can realize economic benefits as well as environmental benefits.

Permit writers should take every opportunity to promote P2 to VPDES permitted facilities. An informational flyer has been developed by the Office of Pollution Prevention for distribution to permittees. The flyer introduces the P2 concept and offers DEQ technical assistance if the recipient wishes to take advantage of the program. One of these flyers

should be included with each permit application, new or reissuance. The flyer is available on [DEQnet](#).

**b. Paperwork Reduction Act Notice**

The Paperwork Reduction Act Notice must accompany every industrial permit application. It estimates the amount of time required to complete each application form. The instructions for Form 2A have this notice paragraph built in. The notice format is available on [DEQnet](#).

**c. Common Application Errors Sheet**

In an effort to help applicants avoid common mistakes on their applications, DEQ has developed a short list of common application errors. Permit writers may modify the list of problems as they see fit. This sheet may be sent with all application packages, at the permit writer's discretion. See [DEQnet](#) for an example.

**d. Local Government Ordinance Form (for new issuances)**

The Local Government Ordinance Form (LGOF) is required by State Water Control Law at §62.1-44.15.3:

- Whenever a new individual VPDES permit is issued for a discharge of sewage, industrial waste or other wastes. The permit application cannot be considered complete without this local government certification. An example LGOF is available on [DEQnet](#). While the applicant can forward the form to the locality via email, the form should be returned as a hard copy with the appropriate signatures.

If the locality does not respond to the applicant's LGOF request within 30 days, the law says the notification requirement is waived. In order to verify that the 30 day time limit has expired, the applicant should send a copy of the LGOF request, which shows the date the request was made, to the regional office with his application.

Since the law (§62.1-44.15.4) also requires the Board to notify local governments when an application is received for a new or modified permit, the regional office may want to advise the locality in the application notice letter that the LGOF was not received (See Section L for template).

**f. Public Notice Billing Authorization Form**

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. 9VAC 25-31-100.F 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 permit. **If this signed form is not received with the application, the permit writer shall not send the application complete notice.**

**5. Application Filing Requirements**

The owner or owner's agent files an original and an electronic version if submitted via email) with the appropriate DEQ regional office. It is acceptable to receive an electronic application via email and use the electronic submittal date as the application received date. However, the electronic application not submitted via myDEQ Portal must be followed up with the original, hard copy signed application in order to make the determination of a totally and technically

complete application. The permit writer should send a copy of the application to the Virginia Department of Health (VDH) Office of Drinking Water Field Office. If the discharge for municipal facilities is below the fall zone (except in the Chowan Basin) a copy of the permit application should also be forwarded to the VDH Division of Shellfish Sanitation. For industrial facilities, if the discharge contains 10% or more sewage and is below the fall zone (except in the Chowan Basin) the permit writer should forward the application form to the VDH Division of Shellfish Sanitation. See further discussion of permits to send to DSS and other agencies under the "Application Review by Other Agencies" heading in this section. Refer to Section L for VDH addresses, emails, and telephone numbers.

## 6. Testing Waiver Procedures

- a. All applicants are to provide all of the information (including sample type and frequency) required by the application form unless a waiver is specifically requested, and the waiver is granted. Otherwise, the application must be considered incomplete. The applicant must submit a written request (this may be in an email) for the waiver. Permit writers may inform applicants of the availability of waivers when sending application forms. Note: We no longer send any type of waiver request to EPA for approval and granting of waivers for municipalities is significantly reduced (see below).
- b. Waivers for all forms. The regional office may grant application testing waivers with the following exceptions:
  - (1) Some application forms have application testing requirements for certain parameters which cannot be waived. See the application instructions for more information.
  - (2) DEQ has established recommended minimum testing requirements for certain discharge classes. See the discussion under the specific application forms later in this section.
- c. Maintain documentation in the permit file of both the waiver request and the granting of the waiver. A testing waiver request shall be submitted with each reissuance. The waiver justification should be documented in the Fact Sheet for each reissuance.
- d. The RO may grant a waiver from the requirement for 24-hour composite samples where the discharge is not continuous over a 24-hour period. The case-by-case sampling requirements developed in lieu of the 24-hour composite must be representative of the average discharge over the discharge period and include a minimum of 4 grab samples.
- e. Waivers may be allowed for municipalities for dissolved vs. total recoverable metals when TSS limits have been met. However, please note that the Water Quality Criteria Monitoring form requires dissolved metals to be sampled.
- f. Waivers for Form 2A cannot be granted for parameters just because there is no corresponding numeric water quality standard. Waivers for parameters or sampling type (grab or composites) on Form 2A for major municipalities should not be provided.
- g. *E. coli* or enterococci may substitute for fecal coliform.

## 7. Analytical Methods

Except as specified in subdivision (b) below, a [permit application](#) shall not be considered complete unless all required quantitative data are collected in accordance with sufficiently sensitive analytical methods approved under [40 CFR part 136](#) or required under 40 CFR chapter I, subchapter N (Effluent Guidelines and Standards) or O (Sewage Sludge).

- a. For the purposes of this requirement, a method approved under [40 CFR part 136](#) or required under 40 CFR chapter I, subchapter N or O is “sufficiently sensitive” when:
  - 1) The method [minimum level \(ML\)](#) is at or below the level of the applicable water quality criterion for the measured [pollutant](#) or [pollutant](#) parameter; or
  - 2) The method ML is above the applicable water quality criterion, but the amount of the [pollutant](#) or [pollutant](#) parameter in a [facility's](#) discharge is high enough that the method detects and quantifies the level of the [pollutant](#) or [pollutant](#) parameter in the discharge; or
  - 3) The method has the lowest ML of the analytical methods approved under [40 CFR part 136](#) or required under 40 CFR chapter I, subchapter N or O for the measured [pollutant](#) or [pollutant](#) parameter.
- b. When there is no analytical method that has been approved under [40 CFR part 136](#), required under 40 CFR chapter I, subchapter N or O, and is not otherwise required by the [Director](#), the applicant may use any suitable method but shall provide a description of the method. When selecting a suitable method, other factors such as a method's [precision](#), [accuracy](#), or resolution, may be considered when assessing the performance of the method.

***Note to paragraph 7.a.:***

Consistent with [40 CFR part 136](#), applicants have the option of providing matrix or sample specific [minimum levels](#) rather than the published levels. Further, where an applicant can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of “sufficiently sensitive”, the analytical results are not consistent with the QA/QC specifications for that method, then the [Director](#) may determine that the method is not performing adequately and the applicant should select a different method from the remaining [EPA](#)-approved methods that is sufficiently sensitive consistent with [40 CFR 122.21\(e\)\(3\)\(i\)](#). Where no other [EPA](#)-approved methods exist, the applicant should select a method consistent with [40 CFR 122.21\(e\)\(3\)\(ii\)](#).



## B. Municipal Permit Application Requirements

### 1. Privately Owned Treatment Works (PVOTW)

#### a. State Corporation Commission Registration Requirements

Article 2, § 62.1-44.15:3 of the State Water Control Law states the following in regards to PVOTWs:

"No application for a certificate to discharge sewage into or adjacent to state waters from a privately owned wastewater treatment system serving fifty or more residences shall be considered complete unless the applicant has provided the Executive Director with notification from the State Corporation Commission that the applicant is incorporated in the Commonwealth and is in compliance with all regulations and relevant orders of the State Corporation Commission."

All PVOTWs serving or designed to serve 50 or more residences must be registered with the State Corporation Commission (SCC) when applying for a permit issuance or reissuance. PVOTWs expanding to serve 50 or more residences who apply for modification of an existing permit are also required to provide this notice. Applications for Federal facilities are not required to provide this certification even though they are considered PVOTWs and may fit the "serving 50 residences" criteria.

Verification can be accomplished by having the applicant provide a copy of the SCC Certificate of Incorporation (for Virginia based operations), evidence of status as a Limited Liability Company (LLC) with the SCC or the Certificate of Authority (for operations based out of state or out of the country) with the application. Verification must also be included that they are in compliance with all regulations and relevant orders of the State Corporation Commission. This may be a letter, email, certificate from the SCC or a screenshot from the [SCC database](#) indicating their status. Applications from these facilities cannot be deemed complete unless their registration is verified. SCC information can be found here: <https://www.scc.virginia.gov/pages/Businesses>

#### b. Financial Assurance/Closure Requirements

The Financial Assurance Regulation [9VAC25-650](#) applies to all privately owned sewerage systems that treat sewage generated by private residences and discharge more than 1,000 gpd and less than 40,000 gpd. A private residence is defined by this regulation as "any building, buildings or part of a building owned by a private entity which serves as a permanent residence where sewage is generated. Private residences include, but are not limited to, single family homes, town homes, duplexes, condominiums, mobile homes, and apartments. Private residences do not include hotels, motels, seasonal camps, nursing homes, schools and industrial facilities that do not also serve as residences. Therefore, the financial assurance requirements apply to any privately owned treatment works within the stated flow regime where interruption of sewer service would mean that residents served by the facility could no longer occupy their permanent homes.

If the treatment works was permitted prior to January 1, 2001 and has a **permitted** flow of less than 5,000 gpd and was not in violation of their permit or the Law for the past 5 years, they may seek a waiver from the financial assurance requirements under 9VAC25-650-150. The waiver has to be approved by the local governing body after a public hearing is held. The Department may revoke the waiver at any time for good cause.

The regulation requires that the following three items be submitted with the VPDES permit application for new issuances or reissuance after December 14, 2000:

- [Closure plan](#)

- [Cost estimate for facility closure](#)
- One, or a combination of, the financial assurance mechanisms

The VPDES permit should not be issued/reissued unless the closure plan, cost estimate and draft financial assurance mechanism have been approved. Prior to reissuance of a permit to an existing facility, it is the Department's policy that the final, approved financial assurance mechanism must be in place. Central Office financial assurance staff will review and approve the financial assurance mechanism.

The regional office is responsible for reviewing the facility closure plan and cost estimate and for ensuring that the facility closure plan and cost estimate are updated to reflect changes in flow or other facility characteristics that substantially affect the facility closure plan. Technical assistance in the review of closure plans and cost estimates will be provided by the Office of VPDES Permits.

## 2. Permit Application Requirements for POTW and PVOTW:

The following permit application forms are required for POTW and PVOTW:

- Local Government Ordinance Form (for new issuances)
- EPA Form 2A
- EPA Form 2F (TWTDS with a design flow > 1.0 MGD or required to have an approved pretreatment program unless a No Exposure Certification is obtained)
- VPDES Permit Application Addendum
- VPDES Sewage Sludge Permit Application Form (for new issuances)
- VPDES Sewage Sludge Permit Application Form for Permit Reissuance
- Water Quality Criteria Monitoring Form (on a case-by-case basis; see Attachment A decision matrix)
- Public Notice Billing Authorization Form
- Reclamation and reuse application addendum (for reclamation and reuse projects; see GM10-2001 for full guidance)

The following documents are required to be submitted by all PVOTW that treat sewage generated by private residences and discharge more than 1,000 gpd and less than 40,000 gpd. See Section II.B.1.b for additional information:

- Closure plan
- Cost estimate
- Draft financial assurance mechanism

### a. Local Government Ordinance Form (LGOF)

See Section II.A.4.d for more details when this form is required. Ann LGOF template form is available on [DEQnet](#).

### b. EPA Form 2A

As of September 27, 2000, Form 2A is the only form used for applications for discharges from POTWs and all other TWTDS (9VAC 25-31-100 J). Form 2A contains six sections. Sections 1, 2, 3, and 6 are required for **ALL** applicants. Discharges with a design flow of 100,000 gpd or more will also complete Part B. Those TWTDS that accept process wastewater from Significant Industrial Users or that receive RCRA or CERCLA waste must complete Section 4. If the system has combined sewer overflows (CSOs), the applicant must also complete Section 5. Table A is required for all applicants. Table B is required for all

POTWs and other TWDS with a design flow equal to or greater than 0.1 MGD. If the design flow is greater than or equal to 1 MGD (municipal majors), or if the applicant is required to have a pretreatment program, then they will complete Tables C, D, E as applicable. Detailed instructions are provided with Form 2A. Note that federal facilities that receive 50 percent or more industrial waste use Form 2C.

#### **Domestic Sewage Discharges $\leq$ 1000 gpd General Permit Registration Statement**

Domestic sewage discharges of  $\leq$  1000 gpd may be eligible for coverage under a general permit. In this case, the applicant would file a registration statement requesting coverage under the general permit in lieu of an application. For more information, please see the Guidance Memo for this general permit.

#### (1) Form 2A Testing Requirements

All applicable questions on Form 2A should be answered. If a question does not apply, the applicant should enter an NA (Not Applicable) to show that the question was considered but does not apply. Applicants who do not have information for the answers to Question 3.7, which ask for critical flows and receiving stream hardness, may indicate "NA" or "unknown". DEQ will generate this information from our own sources if it is needed. Form 2A has specific testing and data submission requirements, especially for facilities with discharges equal to or greater than 1.0 MGD or that have pretreatment programs.

#### c. Form 2F

TWTDS with a design flow  $\geq$  1.0 MGD or required to have an approved pretreatment program are considered by the VPDES Permit Regulation (9VAC25-31-10 ) to generate "stormwater associated with industrial activity" if they have a point source stormwater discharge from the treatment plant site. These treatment plants are required to either submit Form 2F for stormwater characterization as part of the individual permit application process, apply for an Industrial Stormwater general permit (9VAC25-151), or apply for a No Exposure Certification (NEC). See Section III for more information on stormwater permitting requirements for TWTDS.

The testing required on Form 2F is considered the "minimum testing requirements" as recommended by DEQ. **Note:** Advise the applicant that the monitoring for metals on the Form 2F should be for the dissolved form. Existing data may be used, if available, in lieu of sampling conducted solely for the purposes of this application, provided it is representative of the present discharge and was collected within 3 years of the application due date. Among the factors that would cause the data to be unrepresentative are significant changes in production level; changes in raw materials, processes, or final products; and changes in stormwater treatment.

Form 2F contains a provision allowing only one outfall to be analyzed if it is representative of other substantially similar, solely stormwater discharges at the facility. However, the applicant must request this in writing and obtain RO approval prior to submission of the data from one outfall as representative of others. The request should include the locations of the outfalls, why the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data, where available, estimates of the size of the drainage area (in square feet) for each of the outfalls and an estimate of the runoff coefficient of the drainage areas (low: under 40%; medium: 40% to 65%; high: above 65%).

d. VPDES Permit Application Addendum

This form requests information the permit writer will use in processing the permit, which is not included on the standard EPA application forms. It should be sent with all new permit application packages, although some of the information may be useful for reissuances as well. An example addendum form can be found on [DEQnet](#). For reclamation and reuse projects the water reclamation and reuse application addendum is needed in addition to the VPDES permit application addendum in most issuances and reissuances. See GM No.10-2001 for full guidance on implementation of water reclamation and reuse in conjunction with VPDES permitting.

e. Form 2S

This form is required to be completed by all TWTDS. The form is divided into two parts:

Part 1 requests a limited amount of information from “sludge-only” facilities (facilities without a currently effective VPDES permit) that were not directed by DEQ to submit a full permit application at this time. It is intended to allow DEQ to identify these facilities, track sewage sludge use and disposal, and establish priorities for permitting.

Part 2 is for any facility that is submitting a full VPDES permit application. Details on completing the form are provided in the instructions.

**If the sludge management plan involves land application, send a copy to CO Office of Land Application (Neil Zahradka) for review.**

f. Water Quality Criteria Monitoring Form (Attachment A)

This form may be required as part of an application submittal or as a permit requirement. The following table provides a decision matrix for Attachment A monitoring:

| Action         | Facility/ Discharge Type |                            | Required Sampling *            |           |
|----------------|--------------------------|----------------------------|--------------------------------|-----------|
| Issuance       | Municipal                | Flow > 0.040 MGD           | Full List                      |           |
|                |                          | Flow ≤ 0.040 MGD           | None <sup>4</sup>              |           |
|                | Industrial               | Major                      | Full List <sup>5</sup>         |           |
|                |                          | Minor                      | WET Testing                    | Full List |
| No WET Testing | 1                        |                            |                                |           |
| Reissuance     | Municipal                | Flow ≥ 1.0 MGD             | Full list with each reissuance |           |
|                |                          | 1.0 MGD > Flow > 0.040 MGD | 2                              |           |
|                |                          | Flow ≤ 0.040 MGD           | None <sup>4</sup>              |           |
|                | Industrial               | Major                      | Full list with each reissuance |           |
|                |                          | Minor                      | WET Testing                    | 3         |
|                |                          |                            | No WET Testing                 | 3         |

\* For unbuilt facilities or expansions, sampling and analysis is required in the permit no later than 2 years following commencement of discharge.

1. WQC monitoring is not required at issuance; however, the permit writer (PW) may require WQC monitoring (full or customized list) based on influent characteristics, industrial processes, etc.
2. WQC monitoring is not required at reissuance; however, the PW may require WQC monitoring (full or customized list) if there have been significant changes affecting the facility. Significant changes may include changes to source water, treatment processes, industrial users, etc.

3. WQC monitoring is not required at reissuance; however, the PW may require WQC monitoring (full or customized list) based on variability in effluent quality and/or if there have been significant changes affecting the facility. Significant changes may include changes to source water, treatment processes, industrial processes, etc.
4. If there are industrial users that present a concern, a full or customized list may be required at the permit writer's discretion.
5. If the permit only authorizes stormwater discharges and there are no process wastewaters, WQC monitoring may not be required.

### C. Industrial Permit Application Requirements

The following applications and forms are to be completed by persons applying for an industrial permit to discharge wastewater. Detailed instructions are provided with each individual form. All questions should be answered. If a question does not apply, an NA (Not Applicable) should be entered to show that the question was considered.

Check the State Corporation Commission (SCC) database to confirm the legal name of the applicant to ensure that the entity has legal recognition in the state of Virginia. This is necessary to ensure the permit is "enforceable" under a legal entity.

SCC information can be found here: <https://www.scc.virginia.gov/pages/Businesses>

#### 1. Form 1

This is a general form used with all other VPDES permit applications. It provides general information needed to identify and locate the facility, determine the type of facility, the identity of the owner and the nature of the applicant's business.

#### 2. Form 2B

This form is used for VPDES permits for animal feeding operations that have point source discharges, such as large puppy farms. For new aquatic animal production facilities (fish farms and hatcheries), this form has been superseded by the Fish Farm Questionnaire. Concentrated animal feeding operations that are restricted by federal effluent guidelines 40 CFR 412 are permitted under the VPA program, not the VPDES.

#### 3. Fish Farm Questionnaire

This application is to be completed by applicants for new or unpermitted concentrated aquatic animal production facilities (fish farms and hatcheries). This application will be used as a substitute for EPA Forms 1 and 2B.

The information provided in this questionnaire will allow the RO to decide if a VPDES permit is required. If the facility qualifies for a VPDES permit, then Form 2C must also be filed for the permit to be issued. Aquatic animal production facility owners who are applying for reissuance of a VPDES permit should file EPA Forms 1 and 2C.

#### 4. Form 2C

This form is to be completed by owners of existing industrial facilities who cannot use the other application forms. Federal facilities that receive 50% or more non-domestic waste shall complete Form 2C. All questions should be answered. If a question does not apply, an NA (Not Applicable) should be entered to show that the question was considered.

### a. Form 2C Testing Waivers

Tables A, B, C and D of the form require the applicant to collect and report data on the pollutants discharged for each outfall. The owner may request in writing a waiver for one or more of the pollutants. **Do not** send testing waivers to EPA for approval.

Please note that previous sampling data may be utilized but only if the sampling was done no more than three years before submission, and all data are representative of the present discharge.

### b. Form 2C Testing Requirements

| Table | Pollutants/Parameters                                              | Who Completes?                                                                                                                                              |
|-------|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A     | Conventional and non-conventional pollutants                       | All applicants from all outfalls unless a waiver is obtained.                                                                                               |
| B     | Toxic metals, cyanide, total phenols, and organic toxic pollutants | Applicants in the primary industry categories listed in Exhibit 2C-3 at the end of these instructions.                                                      |
| C     | Certain conventional and non-conventional pollutants               | Applicants subject to ELGs that limit pollutants directly or indirectly and applicants who believe pollutants may be present in their facility's discharge. |
| D     | Certain hazardous substances and asbestos                          | Applicants who believe pollutants may be present in their facility's discharge.                                                                             |
| E     | 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)                 | Applicants that use or manufacture the pollutant or believe the pollutant may be present in the facility's discharge.                                       |

(1) Table A – All applicants must sample and report data on all the pollutants/parameters listed for all process water outfalls including noncontact cooling water outfalls and outfalls with commingled process water and stormwater (the Form 2C sampling must be performed during dry weather [i.e. no or minimal stormwater impacts]). The applicant may request, in writing, a waiver of the requirement to test for one or more of these pollutants. These pollutants include:

- BOD
- COD
- TOC
- TSS
- Ammonia
- Flow
- Temperature (winter and summer); and
- pH (minimum and maximum)

(2) Table B – This part must also be completed by all applicants for all process water outfalls, including noncontact cooling water outfalls and outfalls with commingled process water and storm water (the Form 2C sampling must be performed during dry weather conditions). If the permittee indicates in Item 7.4 of EPA Form 2C that the facility's processes contribute wastewater that falls into one or more of the primary industry categories, they must check "Testing Required" for all toxic metals, cyanide, and total phenols in Section 1 of Table B. If the permittee qualifies as a "small business" they are exempt from submitting quantitative data for the organic toxic pollutants on Table B (Sections 2 through 5). They must indicate, though, whether they believe any of the



pollutants listed in Sections 1 through 5 are present in their discharge. For Section 1 of Table B, for each pollutant that is known or believed present in their discharge from each applicable outfall in concentrations of 10 parts per billion (ppb) or greater, the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, they must submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. Based on previous data on a particular outfall or data on similar outfalls, a permit writer may challenge an applicant's declaration of "Believed Absent".

- (3) Table C – The applicant must indicate whether the pollutant is "believed present" or "believed absent". If the "believed present" column has been checked, the applicant must provide quantitative data if the pollutant is limited in an effluent limitations guideline. If the pollutant is not so regulated, the permittee may either provide quantitative data or explain the presence of the pollutant in the discharge.
- (4) Table D – For each outfall, the applicant must indicate whether any pollutant listed in Table D is "believed present" or "believed absent". For every pollutant believed present, the applicant must describe the reasons the pollutant is expected to be discharged and report any available quantitative data for that pollutant. **Note:** Applicants are not required to perform analytical tests for any of the Table D pollutants; however, if they have prior tests, they must report them.
- (5) Table E – If the applicant indicates in Item 7.17 of Form 2 C that they have reason to believe that 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) is or may be present in an effluent, they must report *qualitative* data using a screening procedure not calibrated with analytical standards for TCDD.

## 5. Form 2D

This form is to be completed by new manufacturing, commercial, mining, or silvicultural facilities that has yet to commence discharge of process wastewater. In most cases involving an existing indirect discharger going direct, a better characterization of the effluent may be obtained by requiring the collection of analytical data on the existing discharge and filing of Form 2C. Form 2D is not for use by municipal facilities or for industrial discharges of stormwater runoff.

## 6. Form 2E

This form is to be completed by new or existing (including manufacturing, commercial, mining, and silvicultural activities) that discharge only nonprocess wastewater. It is not for use by dischargers of stormwater runoff or by existing educational, medical, or commercial chemical laboratories. These facilities must use Form 2C or 2F.

The applicant must test for and report all the required pollutants/parameters listed unless a waiver has been granted. Do not send testing waivers to EPA for approval. Applications that do not provide testing results for required parameters will be deemed incomplete and returned to the applicant. Section 4 of the Form 2E application requires the applicant to report data for the following pollutants and/or parameters:

- BOD
- TSS
- Fecal Coliform, *E. coli*, Enterococci (if believed present or if sanitary waste is discharged)
- Total Residual Chlorine (if used)
- Oil & Grease
- COD (for discharges of non-contact cooling water)
- TOC (for discharges of non-contact cooling water)

- Ammonia
- Discharge Flow
- pH (provide range)
- Temperature (winter and summer)

**Note:** The applicant may request a waiver from testing and reporting one or more of the parameters. Such requests must be in writing, must specify the parameters which are to be waived, and must specify the reasons for requesting the waiver.

## 7. Form 2F

This form is to be used by applicants in certain industrial categories who are applying for an individual permit for **point** source discharges of stormwater associated with industrial activity (including commingled stormwater and non-stormwater discharge as described below). (See 9VAC25-31-10 for the definition of stormwater associated with industrial activity.) Form 2F can also be used for permitting discharges of stormwater that are not included in the definition as long as the discharge is composed exclusively of stormwater. **Note:** Stormwater runoff which occurs as sheet flow and does not discharge through a distinct outfall does not require completion of Form 2F or a permit.

### a. Form 2F Stormwater and Other Discharges

Stormwater point source discharges can be covered by a permit that also addresses other types of wastewater discharges. Form 2F should be submitted along with Form 1, 2C, 2D or 2E if the industry has both stormwater and other types of discharges as follows:

- (1) Discharges consisting **solely** of stormwater associated with industrial activity require submission of Form 2F and Form 1.

Note that dischargers may qualify for coverage under one of the industrial general permits. They may find this advantageous in lieu of obtaining an individual permit.

- (2) Existing discharges consisting of stormwater associated with industrial activity and process water require submission of Form 2F, Form 2C, and Form 1.
- (3) Existing outfalls consisting of commingled stormwater associated with industrial activity and process water require that Form 2C be used to characterize the process water with dry weather sampling and Form 2F be used to characterize the stormwater with sampling during a representative storm event.
- (4) Existing discharges consisting of stormwater associated with industrial activity and nonprocess water require submission of Form 2F, Form 2E, and Form 1.
- (5) Existing outfalls with commingled stormwater associated with industrial activity and non-process water require that Form 2E be used to characterize the nonprocess water with dry weather sampling and Form 2F be used to characterize the stormwater with sampling during a representative storm event.
- (6) New or proposed discharges consisting of stormwater associated with industrial activity and other industrial wastewater require submission of Form 2F, Form 2D, and Form 1. These discharges can be commingled or separate.

### b. Form 2F Testing Requirements

The testing required on Form 2F is considered the “minimum testing requirements” as recommended by DEQ.



Advise the applicant that the monitoring for metals on the Form 2F should be for the dissolved form.

Form 2F contains a provision allowing only one outfall to be analyzed if it is representative of other substantially similar, solely stormwater discharges at the facility. However, the applicant must request this in writing and obtain RO approval prior to submission of the data from one outfall as representative of others. The request should include a description of the outfall locations and explain in detail why the outfalls are expected to discharge substantially identical effluents.

**8. Water Quality Criteria Monitoring Form (Attachment A)**

This form may be required as part of an application submittal or as a permit requirement. The following table provides a decision matrix for Attachment A monitoring:

| Action     | Facility/ Discharge Type |                        | Required Sampling *            |              |
|------------|--------------------------|------------------------|--------------------------------|--------------|
| Issuance   | Municipal                | Flow > 0.040 MGD       | Full list                      |              |
|            |                          | Flow ≤ 0.040 MGD       | None <sup>4</sup>              |              |
|            | Industrial               | Major                  | Full list <sup>5</sup>         |              |
|            |                          | Minor                  | WET Testing                    | Full list    |
|            |                          | No WET Testing         | 1                              |              |
| Reissuance | Municipal                | Flow ≥ 1.0 MGD         | Full list with each reissuance |              |
|            |                          | 1.0 MGD > Flow > 0.040 | 2                              |              |
|            |                          | Flow ≤ 0.040 MGD       | None <sup>4</sup>              |              |
|            | Industrial               | Major                  | Full list with each reissuance |              |
|            |                          | Minor                  | WET Testing                    | <sup>3</sup> |
|            |                          | Minor                  | No WET Testing                 | <sup>3</sup> |

\* For unbuilt facilities or expansions, sampling and analysis is required in the permit no later than 2 years following commencement of discharge.

1. WQC monitoring is not required at issuance; however, the permit writer (PW) may require WQC monitoring (full or customized list) based on influent characteristics, industrial processes, etc.
2. WQC monitoring is not required at reissuance; however, the PW may require WQC monitoring (full or customized list) if there have been significant changes affecting the facility. Significant changes may include changes to source water, treatment processes, industrial users, etc.
3. WQC monitoring is not required at reissuance; however, the PW may require WQC monitoring (full or customized list) based on variability in effluent quality and/or if there have been significant changes affecting the facility. Significant changes may include changes to source water, treatment processes, industrial processes, etc.
4. If there are industrial users that present a concern, a full or customized list may be required at the permit writer's discretion.
5. If the permit only authorizes stormwater discharges and there are no process wastewaters, WQC monitoring may not be required.

**D. Application Review**

**1. Receipt of Application and Fee**

a. New issuances

Date stamp the permit application upon receipt if not received through myDEQ Portal (nForm). Original fee forms and check payments (with federal tax identification numbers and/or social security numbers) for new issuance should have been sent by the applicant directly to Receipts Control. If the original forms are incorrectly sent to the RO with the application, forward them to Receipts Control (Office of Financial Management). This will eliminate the need for redaction of sensitive personal identification information found in the other fee payment forms and attachments. Copies of completed permit fee forms (with federal tax identification numbers/social security numbers) and check payments (showing bank account numbers) **should be destroyed** once it is verified that the fee payment is matched to a specific permit number to support a complete application determination.

The appropriate fee must be paid prior to deeming a new application for an issuance or modification request complete. See the permit fee form for the fee schedule for classes of VPDES permits or [9VAC25-20-110](#) and [9VAC25-20-120](#). **Fees should correspond to the largest flow tier a facility uses, including any expansion planned during the permit term.**

Agency to Agency account transfers (ATAs) can be used for other state agencies to pay fees (VDOT, VDOC, etc). For ATAs, the RO must verify that the fee form and fee have been submitted by requesting notice of payment from the CO Accounts Receivable Accounting Manager.

For reissuances, permit writers should check the Finance Tab in CEDS

b. Reissuance

The annual maintenance fee must be paid prior to deeming a new application complete. Check the Finance tab in CEDS to make sure the permittee is up to date on **all** of its maintenance fees (see below).

| Invoice Lines/Adjustments                      |            | Payments                      |              |
|------------------------------------------------|------------|-------------------------------|--------------|
| VPDES Municipal Minor / 1,001 GPD - 10,000 GPD | \$2,290.00 | 09/01/2023 CL                 | \$2,290.00   |
|                                                |            | 09/26/2023 CL DC#<br>54403383 | (\$2,290.00) |

**This shows that a bill has been paid**

Email the permittee and provide the invoice provided by the Office of Financial Management and let the permittee know that the permit cannot be reissued or administratively continued unless **all maintenance fee payments** are up to date. If the fee is not paid before the expiration date, allow the permit to expire.

The appropriate annual maintenance fee is specified in [9VAC25-20-142](#).

c. Fee Refunds

A refund of a permit fee must be initiated via a form (Attachment B of the most recent Water Program Fee Program Procedures Guidance). This form must be completed and signed by a person in a position with delegated permit issuance and approval authority, and addressed to the DEQ Accounts Receivable Accounting Manager. A copy of the fee form, which identifies the payment and date of deposit, must be attached to the refund memo.

## 2. Application Review

- a. Determine whether or not an application is complete within 14 days of receipt of the application (PEEP provides 30 days for application review). An application is considered complete when all necessary blanks on the form are accurately filled in, the proper signature applied, all necessary documents are attached, and the permit fee is paid. Additionally, the RO has the authority to ask the permittee for additional information, including data not specifically required in the application forms, such as concept engineering reports, water quality models, or preliminary engineering reports (9VAC 25-31-100). The application should provide the permit writer with all facility information necessary for development of the Fact Sheet. If the application review reveals deficiencies and documents cannot be developed from the information provided, the application may be deemed incomplete.
- b. The RO has the authority, by 9VAC25-31-100, to request additional information not identified on the application. The Public Notice Billing Authorization Form is part of the additional information DEQ is requesting. If it is not included with the application, the application is considered incomplete and the permit writer shall not send an Application Complete Letter.
- c. If the application form has not been filled out correctly, return it to the permittee noting the deficiencies. If the application deficiencies are minor in nature and will not affect the permit development, the permit writer may telephone the applicant and request that the deficiencies be corrected in writing (document all phone conversations). This written submittal then becomes an attachment to the application. Under no circumstances should the permit writer consider the application amended without a written submittal from the applicant.
- d. Examine the technical details of the application for accuracy and completeness. Some questions to ask during a technical review include:
  - Is the treatment described in the application adequate for the waste discharged?
  - Are the parameters tested adequate to characterize the effluent?
  - Do the testing values indicate proper operation of the treatment system?
  - Have there been any changes to the facility since the last permit was issued which may change the permit limits or conditions?
- e. The RO is responsible for consistent review of applications and correct determinations regarding incomplete applications. Comprehensive RO application review should ensure that all deficiencies are covered in one application deficiency letter.

If the sludge management plan involves land application for municipals, send a copy to CO Office of Land Application (Neil Zahradka) for review.

### 3. Application Signatures

Ensure that all permit application signatures are in accordance with 9VAC25-31-110 of the VPDES Permit Regulation:

- a. For a corporation, by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- b. For a Municipality, State, Federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a Federal, municipal or State agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).
- c. For a partnership or sole proprietorship by a general partner or proprietor respectively.

### 4. Late or Deficient Applications

If no response is received from the applicant to a written request for information (i.e. application submittal, application deficiencies, draft comments, modification information, public notice billing authorization forms, public notice verification, etc.), contact the permittee at least one more time to try to resolve the problem. Record the contact and its details in the RO permit file. Return the application if no resolution is achieved.

If a permittee fails or refuses to comply with the **180-day** requirement for filing an application for reissuance, advise the regional compliance auditor.

### 5. Facility Site Visit

A site visit of the facility is highly recommended to be conducted by the permit writer prior to permit drafting. Ensure that a site visit to a proposed or existing discharge site has been made prior to the issuance/reissuance of a permit and documented in the Fact sheet. The permit writer should perform this site visit prior to permit drafting and incorporate the results into the Fact Sheet. However, a technical inspection conducted within the past two years satisfies this requirement. A compliance, reconnaissance, or laboratory inspection **does not** fulfill the inspection requirement.

The results of the site inspection for a permit issuance should include the following:

- Location of the proposed or existing discharge for which an application has been filed;
- Location and suitability of any identified land application sites for sludge;
- Location of nearby existing or proposed discharge(s);
- Description of the receiving waters at the discharge site (e.g. stream characterization for the stream model);

- Determination of stream uses or nearby land uses in the case of sludge application sites; and
- Familiarization with plant operations.

## 6. Permit Numbers

Once the application for a new or proposed discharge is determined to be complete, a VPDES permit number should be generated in CEDS (CEDS > VPDES Program > Create New Issuance Application).

## 7. Application Complete

Applications may be considered complete following the review process and receipt of all required information from the applicant. Application completeness is not dependent on the receipt of information from VDH. Once the application has been deemed complete, send the applicant an application complete letter. See [DEQnet](#) for an example. As a reminder, permits cannot be issued/reissued unless all fees are paid.

There are special considerations needed for applications for Eastern Shore shellfish waters (see [9VAC25-260-275](#) and GM09-2011) that are not disapproved under 9VAC25-260-270. When such application proposes a new or expanded discharge that would not be denied pursuant to 9VAC25-260-270 but would result in shellfish water condemnation, then the application shall be amended to contain an analysis of wastewater management alternatives to the proposed discharge. **An application shall be deemed incomplete until this analysis is provided to the department.**

## E. Application Review by Other Agencies

In circumstances as detailed below, the RO is required to send the permit application to other state agencies for their review. Review by these agencies should be concurrent. This should be done electronically. See [Section VII](#) for contacts. Sample letters can be found on [DEQnet](#).

### 1. Virginia Department of Health (VDH)

#### (a) Office of Drinking Water

The VDH Office of Drinking Water Field Offices have **30 days** to comment on the applications that DEQ forwards to them. Resolve VDH comments affecting public health and obtain VDH input regarding reliability class (where necessary) relative to public health impacts.

#### (b) Division of Shellfish Sanitation (VDH-DSS)

In accordance with [GM07-2009](#), for proposed sewage discharges to, or in near proximity to, shellfish growing areas, provide a copy of the VPDES permit application or registration statement containing information on the location and nature of the proposed discharge to DSS and VMRC for review and comment. **Proposed discharges are considered to be new individual VPDES permit applications, new general permit registration statements, or modification requests or reissuance applications that propose an increase in discharge flow.** Additionally, sewage discharges will be considered to include all municipal discharges, industrial discharges containing 10% or more sewage, and discharges for which general permit coverage is being sought under the “Domestic Sewage Discharges of Less Than or Equal To 1,000 Gallons Per Day” general permit. Please note that DEQ must provide notification to DSS and VMRC of the public comment period, and should provide a copy of the final permit, if issued, to DSS.

Send the application for proposed discharges to waters below the fall zone (except the Chowan Basin). DSS has provided the following to define the areas of the major river basins below which they would like to see applications:

- Potomac River tributaries – Mathias Point upstream of the US 301 bridge
- Rappahannock River – Tappahannock Bridge (US 360)
- York River – upstream border of the Town of West Point
- James River – line connecting Swanns Point on the south bank to Glass House Point on the north bank (upper end of Jamestown Island).

If DSS indicates that the proposed discharge will result in condemnation of shellfish beds, a public hearing on the issuance of the permit is required by SWCB Water Quality Standards Regulations (9VAC25-260-270), unless the applicant voluntarily withdraws the application. If DSS comments that a proposed new or modified discharge will require a

There are special considerations needed for applications for Eastern Shore shellfish waters (see [9VAC25-260-275](#) and GM09-2011) that are not disapproved under 9VAC25-260-270. When such application proposes a new or expanded discharge that would not be denied pursuant to 9VAC25-260-270 but would result in shellfish water condemnation, then the application shall be amended to contain an analysis of wastewater management alternatives to the proposed discharge. An application shall be deemed incomplete until this analysis is provided to the department.

change in a shellfish closure they would like to see a copy of the final permit (cover page and Part I is sufficient) before making their final determination on making the change.

## 2. Virginia Marine Resources Commission (VMRC)

VMRC review is necessary for proposed sewage discharges (municipal and industrial with  $\geq$  10% sewage, based upon the long-term average flow), into shellfish waters.

If DSS intends to condemn shellfish beds and VMRC says that the condemned area contains an actual or potential shellfish resource, then the permit application must be denied, in accordance with 9 VAC 25-260-270. This same regulation requires a public hearing in these situations.

## 3. Notification of Local Governments and Riparian Landowners

Section 62.1-44.15:4 D of the State Water Control Law reads as follows:

“Upon receipt of an application for the issuance of a new or modified permit other than those for agricultural production or aquacultural production activities, the Board shall notify, in writing, the locality wherein the discharge does or is proposed to take place of, at a minimum: (i) the name of the applicant; (ii) the nature of the application and proposed discharge; (iii) the availability and timing of any comment period; and (iv) upon request, any other information known to, or in the possession of, the Board or the Department regarding the applicant not required to be held confidential by this chapter. The Board shall make a good faith effort to provide this same notice and information to (i) each locality and riparian property owner to a distance one quarter mile downstream and one quarter mile upstream or to the fall line whichever is closer on tidal waters, and (ii) each locality and riparian property owner to a distance one half mile downstream on nontidal waters. Distances shall be measured from the point, or proposed point, of discharge. If the receiving river, at the point or proposed point of discharge, is two miles wide or greater, the riparian property owners on the opposite shore need not be notified. Notice to property owners shall be based on names and addresses taken from local tax rolls. Such names and addresses shall be provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdictions upon request by the Board.”

If the discharge in the permit application is to a municipal separate storm sewer system (MS4), the point of discharge for the purpose of determining the localities and riparian property to be notified is the discharge point of the MS4.

These notifications apply to new permits and cases where the permittee submits an application for major modifications only. It does not apply to permit reissuances (except when expansions or substantial facility modifications have occurred or are planned), or minor modifications.

Note that for issuance or modification of a permit that includes non-point source pollutant management activities (VPA-related activities like land application or storage prior to land application or reuse), there may be additional locality and riparian owner notification even though it may be unrelated to the discharge. Consult the VPA permit manual or OLAP staff for guidance.

### a. Notifying localities

Notification to localities should be to the chief administrative officer of the locality (e.g. County Administrator or Town Manager). This notification should be done as soon as possible after receipt of the application. Failure to make this notification is a violation of



the law and it could jeopardize the validity of the permit issued to the applicant. An example notification letter can be found on [DEQnet](#).

b. Notifying riparian owners

Obtain the names and addresses of riparian landowners from the Commissioner of the Revenue or tax assessor's office in the affected jurisdiction by sending a request along with a copy of the topographic map from the application that identifies the discharge location. Alternately, it may be possible to obtain riparian landowner information from a county website. Note that the strict interpretation of riparian means owners whose property borders the waterbody, and not those with access rights only, although it is acceptable to expand this interpretation in cases where there is significant public interest. Identifying the tax map parcel where the discharge is located will assist the Commissioner. This information may be obtained from the permittee. Mark the boundaries of the notification area on the map. If the receiving stream is the boundary between two localities, contact the Commissioners for both localities. An example request letter is available on [DEQnet](#). Notification to the riparian owners should be via regular mail primarily because emails are not available to the tax commissioner.

If the information is not received within two weeks of the first letter, send a letter to the Commissioner by certified mail with a copy to the permittee. If the information is still not received, document the second contact in the file and return the application to the permittee with an explanation that it cannot be processed without the list of riparian owners. Alternately, in cases where the Commissioner refuses to compile the list, it is acceptable to suggest to the permittee that he compile the list and ask the Commissioner to certify it as complete and accurate.

## 5. Threatened and Endangered Species Coordination

### Permit Issuances

Screen the receiving stream for threatened and endangered species using the DWR and DCR databases. If threatened and endangered aquatic species (do not send information from the database on terrestrial species) are present within a 2 mile radius (for DWR) or near lat/long coordinates and mixing zone (for DCR), begin coordination with DWR, DCR and USFWS as appropriate (see coordination form on [DEQnet](#)). See GM No. 07-2007 for additional details.

All coordination for issuances should go directly to all the agencies, including NOAA and NMFS (for tidal). Permit writers should send the coordination request concurrently with other T&E coordination requests.

### Permit Reissuances

DCR, DWR, and USFWS will provide an initial list of facilities to be considered for T&E coordination. This list will be posted on [DEQnet](#).

The permit writer should include the following with each coordination request:

- T&E coordination form
- DMR data for the current permit cycle
- WET testing results for the current permit cycle (either WET reports or a summary of WET data)
- Current Fact Sheet



- Permit application**  
 USFWS only: If coordination with DCR is required, send a copy of the mixing zone shapefile to USFWS submitted through DCR's website (after a project is submitted to DCR for review, the website allows the discharge area and mixing zone when applicable to be downloaded). This is not necessary if coordination with DCR is not required.  
 A shapefile is created when a project is submitted through DCR-NHDE's website as shown below.

**Project Review Results**

| Revision date        | Report Status | Report File              | Boundary Shapefile      | KMZ File     | Latitude  | Longitude  |
|----------------------|---------------|--------------------------|-------------------------|--------------|-----------|------------|
| 1/5/2024 02:00:00 PM | Generated     | project_review_44434.pdf | project_shape_44434.zip | Generate KMZ | 375959.00 | -781149.00 |

Submitted by *catherine.nicel...* on Fri, 01/05/2024 - 13:58  
 User Project Number(s): VA0090743

Instream Work:

- No - Instream Work Not Required

Project Description:  
 The project is submitted for the reissuance of an existing municipal minor VPDES permit. The facility design flow of 0.311 MGD uses UV disinfection.

Priority Service: *\_none*  
 Site Conditions: Outfall 003 is for wastewater treatment plant, discharge is to South Anna River  
 Contact Name: Cathy Nicely  
 Organization: Virginia Dept of Environmental Quality  
 Email: *catherine.nicely@deq.virginia.gov*  
 Phone number: 571-866-6094  
 Address: 13901 Crown Ct  
 City: Woodbridge  
 State/Province: Virginia  
 ZIP Code: 22193  
 Fax number: 804-698-4178  
 Web Project ID: WEB0000021924

- DWR only:** Permit writers should perform geographic search on the Virginia Fish and Wildlife Info Service website (<https://services.dwr.virginia.gov/fwis/>) using 2.0 mile radius, select aquatic species only, and print report to PDF to attach to the T&E coordination form.

**DWR:** Permit writers should only coordinate on permits listed in the spreadsheet provided by DWR if one or more criteria are met.

**DCR:** DCR requires coordination on all permits (whether included in the spreadsheet or not), if one or more criteria are met.

**USFWS:** Coordinate on all permits listed in the spreadsheet provided by USFWS. Coordinate on minor municipal permits only if one or more criteria are met.

**DWR**

T&E Coordination Requests for VPDES permit reissuances related to the facilities identified in the initial list provided by DWR should only be forwarded to these agencies if they satisfy one or more of the criteria outlined below:

- The location of the discharge is proposed to change;
- The discharging infrastructure needs maintenance or repair resulting in instream work;
- The composition of the discharge effluents is proposed to change; and/or
- A 316(a) or 316 (b) assessment has been performed for the facility.

If the project meets any of the aforementioned triggers, it should be sent to DWR's Environmental Services [ESSProjects@dwr.virginia.gov](mailto:ESSProjects@dwr.virginia.gov) and [ProjectReview@dwr.virginia.gov](mailto:ProjectReview@dwr.virginia.gov). Please indicate in your email that one of the criteria were met and which one.

**PEEP Tracking:**

- If a permit is *not* identified by DWR on the review list, and *none* of the four triggers specified are met, further coordination is not required.
  - PEEP tracking: The permit writer selects "**Addtl Agency Coordination Not Required**"
- If a permit is *not* identified by DWR on the review list, and *one or more* of the listed triggers are met, further coordination is required.
  - PEEP tracking: The permit writer selects "**Comments Received from DWR**" or "**No comment received from DWR**" as appropriate.
- If a permit *is* identified by DWR on the review list, but *none* of the four triggers are met, further coordination is not required.
  - PEEP tracking: The permit writer selects "**Addtl Agency Coordination Not Required**"
- If a permit *is* identified by DWR on the review list and *one or more* of the listed triggers are met, further coordination is required.
  - PEEP tracking: The permit writer selects "**Comments Received from DWR**" or "**No comment received from DWR**" as appropriate.

**DCR**

DCR requires coordination on all permits (whether included in the spreadsheet or not), if one or more criteria outlined below are met:

The location of the discharge is proposed to change;

- The discharging infrastructure needs maintenance or repair resulting in instream work;
- The composition of the discharge effluents is proposed to change; and/or
- A 316(a) or 316 (b) assessment has been performed for the facility.

If the project meets any of the aforementioned triggers, it should be submitted to DCR through Virginia Natural Heritage Explorer website (<https://vanhde.org/home>). Please indicate in your submittal that one of the criteria were met and which one

**PEEP Tracking:**

- If the permit writer determines that *one or more* of the listed criteria are met, further coordination is required.

- PEEP tracking: The permit writer selects "**Comments Received from DCR**" or "**No comment received from DCR**" as appropriate.

### **NOAA NMFS**

NOAA Fisheries has jurisdiction over the following listed T&E species that may be present in the state waters of Virginia:

- Atlantic sturgeon, *Acipenser oxyrinchus oxyrinchus*
- Shortnose sturgeon, *Acipenser bevirostrum*
- Green sea turtle, *Chelonia mydos*
- Kemp's ridley sea turtle, *Lepidochelys kempii*
- Leatherback sea turtle, *Dermochelys coriacea*
- Loggerhead sea turtle, *Caretta caretta*
- North Atlantic right whale, *Eubalaena glacialis*
- Fin whale, *Balaenoptera physalus*

If any of these species are identified during the T&E screening, coordination with NOAA is required ([meagan.riley@noaa.gov](mailto:meagan.riley@noaa.gov), cc: [Nmfs.gar.esa.section7@noaa.gov](mailto:Nmfs.gar.esa.section7@noaa.gov)). If they are not listed, additional coordination with NOAA is not required.

**Note:** If coordination with other agencies isn't required, please perform screening using Mapper. To determine whether or not ESA-listed species under NOAA Fisheries jurisdiction are present where an action will occur, please use ESA Section 7 Mapper: <https://noaa.maps.arcgis.com/apps/webappviewer/index.html?id=a85c0313b68b44e0927b51928271422a>. You can input the address for any facility outfall/intake location into the Mapper to see a list of the species that may overlap with the action. NOAA stated that they will review your submission and respond only when they have comments and/or additional information to provide.

The permit writer should include the following with each coordination request:

- T&E coordination form
- Permit application

### **PEEP Tracking:**

- If the aforementioned species are not identified during the screening, additional coordination with NOAA is not required.
  - PEEP tracking: The permit writer selects "**Addtl Agency Coordination Not Required.**"
- If any of these species are identified during the screening, further coordination with NOAA is required.
  - PEEP tracking: The permit writer selects "**Comments Received from other Agencies**" or "**No comment received from other Agencies**" as appropriate.

## 6. New municipal solid waste landfills

Chapter 478 of the 2006 Act of Assembly (Senate Bill 106) requires that an “application for a new or modified individual VPDES permit or new or modified coverage under a general VPDES permit, authorizing direct or indirect discharge of stormwater runoff from a new municipal solid waste landfill into a local watershed protection district established and designated as such by city ordinance prior to January 1, 2006, must contain a certification from the local governing body of the city in which the discharge is to take place, that the discharge is consistent with the city's ordinance establishing and designating the local watershed protection district in order to be considered complete. The bill does not apply to any municipal solid waste landfill in operation on or before January 1, 2006.” Note that this requirement pertains to this type of permit regardless of its status as a major or a minor. This is a rare and infrequently used requirement so no forms are included in this manual. See [GM06-2008](#) for letters and forms for this requirement.

## 7. VDOT Notification for New Issuances

Notify VDOT on new individual VPDES applications that discharge to VDOT right of ways on a case by case basis. See <http://www.virginiadot.org/info/contactus.asp#local> (click on Local Contacts for residency offices). Use best professional judgment in determining whether it is necessary to copy VDOT because of distance traveled to right of way, type, or volume of discharge, etc. Contact the Office of VPDES Permits if there are questions.

## F. Continuation of Expiring Permits

Permits expire at the end of their term. However, expiring permits may be administratively continued (see [9VAC25-31-70](#)) pending issuance of a new permit if:

- The permittee has submitted a timely and complete application; and,
- The department is unable, through no fault of the permittee, to issue a new permit before the expiration date of the previous permit.

Some flexibility is needed in implementing this requirement as there can be different views of “complete”. CEDS has codes for ROAPCP (application administratively complete) and APCP (application totally technically complete). If the application is in on time with some things missing, but the applicant is cooperative and trying to get the information we need, administrative continuation should still be considered an option.

Coordinate with Central Office on administratively continued permits that are controversial.

## G. Application Denial

It is very important these exact procedures are followed as deviating from the procedures could result in litigation, particularly with regards to public notice and hearing procedures. Details of public hearing procedures can be found in [Section VI](#) of this manual. Any questions about procedures should be directed to the Office of Regulatory Affairs.

### 1. Reasons for new permit denial

According to [9VAC25-31-50 C](#), no permit may be issued:

- a. When the conditions of the permit do not provide for compliance with the applicable requirements of CWA or the SWCL, or regulations promulgated under CWA or the SWCL;
- b. When the applicant is required to obtain a state or other appropriate certification under Section 401 of CWA and that certification has not been obtained or waived (not applicable unless EPA is issuing an NPDES permit);
- c. When the EPA Regional Administrator has objected to issuance of the permit;
- d. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states;
- e. When, in the judgment of the Secretary of the Army (Corps of Engineers), anchorage and navigation in or on any of the waters of the United States would be substantially impaired by the discharge;
- f. For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste;
- g. For any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of CWA;
- h. For any discharge to the territorial sea, the waters of the contiguous zone, or the oceans in the following circumstances:
  - (1) Before the promulgation of guidelines under Section 403(c) of CWA (for determining degradation of the waters of the territorial seas, the contiguous zone, and the oceans) unless the board or department determines permit issuance to be in the public interest; or
  - (2) After promulgation of guidelines under Section 403(c) of CWA, when insufficient information exists to make a reasonable judgment whether the discharge complies with them.
- i. To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge into a water segment which does not meet applicable water quality standards or is not expected to meet those standards even after the application of the effluent limitations required by the Law and Sections 301(b)(1)(A) and 301(b)(1)(B) of CWA, and for which the department has performed a pollutants load allocation for the pollutant to be discharged, must demonstrate, before the close of the public comment period, that:
  - (1) There are sufficient remaining pollutant load allocations to allow for the discharge; and
  - (2) The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The department may waive the submission of information by the new source or new

discharger required by this subdivision if the department determines that it already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this paragraph is to be included in the fact sheet to the permit.

## 2. Review Application/Notification of Applicant

If the RO identifies a cause for denying the application during the review process, advise the applicant of the tentative decision to deny and list the requirements necessary to obtain approval. This notification may be done along with a routine deficiency notification, but the issues associated with the cause for denial must be clearly stated and separated from the deficiencies not associated with the tentative decision to deny. An example letter of the Notice of Intent to Deny is available on [DEQnet](#).

At this point, the applicant may either withdraw or modify his application.

- a. The applicant should notify the RO of his intent to modify or withdraw the application within **14 days** of receipt of the letter Notice of Intent to Deny.
- b. If the applicant withdraws the application, stop permit processing. The owner must request in writing that the application be withdrawn or sign and return the Application Withdrawal form available on [DEQnet](#).
- c. If the applicant modifies the application so that the causes for the tentative decision to deny no longer exist, then the application should be processed according to the procedures outlined in [Sections II](#) and [III](#).
- d. If the application is not withdrawn or modified to obtain the tentative approval to issue, the RO shall provide public notice and opportunity for a public hearing prior to final action on denying the application in accordance with [9VAC25-31-260 B](#). The Regional Director should concur on the tentative decision to deny prior to the publishing of the public notice. Please note that permit fees are not refunded when applications are denied.

## 3. Public Notice of the Intent to Deny

- a. If the owner refuses to withdraw or modify the application, publish the public notice of the Intent to Deny. The Department will pay the cost of publishing the notice. Follow the format for a public notice for a permit issuance, except that the PN states that the department does not intend to issue the permit to the applicant. The reasons for denial should be clearly listed in the notice. Public notice for intent to deny should not be combined with a public hearing notice.
- b. The RO should prepare a memorandum documenting the rationale for the application denial. This functions as the Fact Sheet for the denial. This memorandum should be kept on file and made available to the public during the public notice period. The memorandum should contain, at a minimum, the following information:
  - The location and nature of the proposed discharge;
  - An explanation of the reason for the proposed denial, including regulation citation; and
  - A summary/chronology of DEQ or applicant actions related to the denial.
- c. If a significant response to the proposed denial is received during the 30-day comment period, the Regional Director can recommend a public hearing to the Director. See public



hearing procedures in [Section VI.B](#) to determine what constitutes significant response and the public hearing procedures.

- d. If a public hearing is not held and comments received during public notice do not change the denial recommendation, prepare the Denial Package at the end of the public notice period.

#### 4. Public Hearing

If a public hearing is approved, the RO will advertise the public hearing and receive comments on the proposed denial. The RO will notify all people who commented during public notice. For an explanation and description of the Hearing Procedures, see [Section VI](#).

#### 5. Prepare the Denial Package

If the owner neither modifies nor withdraws his application following public notice (and the public hearing if one was held), prepare a denial package containing the following:

- a. A memorandum to the Director recommending denial of the permit. The memorandum should include the information regarding the rationale for the denial, and a staff recommendation for denial. The Regional Director should indicate his approval of the staff recommendation on this memorandum;
- b. A summary of public comments received during the notice period and staff responses; and
- c. A copy of the application (and the draft permit and fact sheet if the denial follows a public notice of intent to issue).

#### 6. Process the Denial Package

Processing of the Denial Package differs based on whether or not a public hearing was held on the Intent to Deny.

For denials which did not receive a public hearing:

- a. Send the Denial Package to the Regional Director.
- b. If the Regional Director agrees to deny the application/permit, return the package to the applicant. Include Appeal option information in the transmittal letter. As required by the State Water Control Law, this letter and the accompanying package must be sent by certified mail ([§62.1-44.15\(9\)](#)).
- c. The RO also copies the Memorandum for Denial to:
  - (1) EPA (for Major Facilities, if denial was after public notice of a draft permit)
  - (2) VDH-RO (for municipals only)

For denials that received a public hearing per the hearing procedures in Section VI.

- a. Return the denial package to the applicant with a copy of the minutes from the hearing relating to the denial. Include Appeal option information in the transmittal letter. As required by the State Water Control Law, this letter and the accompanying package must be sent by certified mail ([§62.1-44.15\(9\)](#)).
- b. The RO also copies the minute to:
  - (1) EPA (for Major Facilities, if the hearing followed public notice of a draft permit)
  - (2) VDH-RO (for municipals only)



## 7. Applicant Petition Procedures

If an applicant wants to appeal the department's decision, he may petition for a separate formal hearing. The petition must be filed within **30 days** following the denial decision, and according to the requirements of Procedural Rule 1 - Public and Formal Hearing Procedures ([9VAC25-230](#)).

## 8. Denial of a permit reissuance

Denial of permit applications may occur at the time of reissuance as well as when new permits are requested. ([§62.1-44.16](#), [§62.1-44.17](#), [§62.1-44.19](#), [9VAC25-31-70 C](#) and [9VAC25-31-260 B](#)).

Send the Notice of Intent to Deny letter under the authority in [9VAC25-31-70 C](#). If the applicant signs and returns the application withdrawal form, let the existing permit expire. This ends the process without Department's action or public notice.

If the permittee does not return the signed form, contact the Division of Policy as this may require a more formal process than a new application denial.