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SENATE BILL NO. 1242

Offered January 8, 2025

Prefiled January 8, 2025

A BILL to amend and reenact § 62.1-44.19:14 of the Code of Virginia, relating to watershed general permits for nutrients; priority projects; compliance schedule; emergency.

Patron—Durant

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.19:14 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.19:14. Watershed general permit for nutrients.

A. The Board shall issue a Watershed General Virginia Pollutant Discharge Elimination System Permit, hereafter referred to as the general permit, authorizing point source discharges of total nitrogen and total phosphorus to the waters of the Chesapeake Bay and its tributaries. Except as otherwise provided in this article, the general permit shall control in lieu of technology-based, water quality-based, and best professional judgment, interim or final effluent limitations for total nitrogen and total phosphorus in individual Virginia Pollutant Discharge Elimination System permits for facilities covered by the general permit where the effluent limitations for total nitrogen and total phosphorus in the individual permits are based upon standards, criteria, waste load allocations, policy, or guidance established to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

B. This section shall not be construed to limit or otherwise affect the Board's authority to establish and enforce more stringent water quality-based effluent limitations for total nitrogen or total phosphorus in individual permits where those limitations are necessary to protect local water quality. The exchange or acquisition of credits pursuant to this article shall not affect any requirement to comply with such local water quality-based limitations.

C. The general permit shall contain the following:

1. Waste load allocations for total nitrogen and total phosphorus for each permitted facility expressed as annual mass loads, including reduced waste load allocations where applicable under the ENRC Program. The allocations for each permitted facility shall reflect the applicable individual water quality-based total nitrogen and total phosphorus waste load allocations. An owner or operator of two or more facilities located in the same tributary may apply for and receive an aggregated waste load allocation for total nitrogen and an aggregated waste load allocation for total phosphorus for multiple facilities reflecting the total of the water quality-based total nitrogen and total phosphorus waste load allocations established for such facilities individually;

2. A schedule requiring compliance with the combined waste load allocations for each tributary as soon as possible taking into account (i) opportunities to minimize costs to the public or facility owners by phasing in the implementation of multiple projects; (ii) the availability of required services and skilled labor; (iii) the availability of funding from the Virginia Water Quality Improvement Fund as established in § 10.1-2128, the Virginia Water Facilities Revolving Fund as established in § 62.1-225, and other financing mechanisms; (iv) water quality conditions; and (v) other relevant factors. Following receipt of the compliance plans required by subdivision C 3, the Board shall reevaluate the schedule taking into account the information in the compliance plans and the factors in this subdivision, and may modify the schedule as appropriate;

3. A requirement that the permittees shall either individually or through the Association submit compliance plans to the Department for approval. The compliance plans shall contain, at a minimum, any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined waste load allocations of all the permittees in the tributary. The compliance plans may rely on the exchange of point source credits in accordance with this article, but not the acquisition of credits through payments authorized by § 62.1-44.19:18, to achieve compliance with the individual and combined waste load allocations in each tributary. The compliance plans shall be updated annually and submitted to the Department no later than February 1 of each year. The compliance plans due beginning February 1, 2023, shall address the requirements of the ENRC Program;

4. Such monitoring and reporting requirements as the Board deems necessary to carry out the provisions of this article;

5. A procedure that requires every owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 100,000 gallons or more per day, or an equivalent load, directly into tidal waters, or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters, to secure general permit coverage by filing a registration statement with the Department within a

59 specified period after each effective date of the general permit. The procedure shall also require any owner or
60 operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge
61 40,000 gallons or more per day, or an equivalent load, directly into tidal or nontidal waters to secure general
62 permit coverage by filing a registration statement with the Department at the time he makes application with
63 the Department for a new discharge or expansion that is subject to an offset or technology-based requirement
64 in § 62.1-44.19:15, and thereafter within a specified period of time after each effective date of the general
65 permit. The procedure shall also require any owner or operator of a facility with a discharge that is subject to
66 an offset requirement in subdivision A 5 of § 62.1-44.19:15 to secure general permit coverage by filing a
67 registration statement with the Department prior to commencing the discharge and thereafter within a
68 specified period of time after each effective date of the general permit. The general permit shall provide that
69 any facility authorized by a Virginia Pollutant Discharge Elimination System permit and not required by this
70 subdivision to file a registration statement shall be deemed to be covered under the general permit at the time
71 it is issued, and shall file a registration statement with the Department when required by this section. Owners
72 or operators of facilities that are deemed to be permitted under this section shall have no other obligation
73 under the general permit prior to filing a registration statement and securing coverage under the general
74 permit based upon such registration statement;

75 6. A procedure for efficiently modifying the lists of facilities covered by the general permit where the
76 modification does not change or otherwise alter any waste load allocation or delivery factor adopted pursuant
77 to the Water Quality Management Planning Regulation (9VAC25-720) or its successor, or an applicable total
78 maximum daily load. The procedure shall also provide for modifying or incorporating new waste load
79 allocations or delivery factors, including the opportunity for public notice and comment on such
80 modifications or incorporations; and

81 7. Such other conditions as the Board deems necessary to carry out the provisions of this chapter and §
82 402 of the federal Clean Water Act (33 U.S.C. § 1342).

83 D. 1. The Board shall (i) review during the year 2020 and every 10 years thereafter the basis for
84 allocations granted in the Water Quality Management Planning Regulation (9VAC25-720) and (ii) as a result
85 of such decennial reviews propose for inclusion in the Water Quality Management Planning Regulation
86 (9VAC25-720) either the reallocation of unneeded allocations to other facilities registered under the general
87 permit or the reservation of such allocations for future use.

88 2. For each decennial review, the Board shall determine whether a permitted facility has:

89 a. Changed the use of the facility in such a way as to make discharges unnecessary, ceased the discharge
90 of nutrients, and become unlikely to resume such discharges in the foreseeable future; or

91 b. Changed the production processes employed in the facility in such a way as to render impossible, or
92 significantly to diminish the likelihood of, the resumption of previous nutrient discharges.

93 3. Beginning in 2030, each review also shall consider the following factors for municipal wastewater
94 facilities:

95 a. Substantial changes in the size or population of a service area;

96 b. Significant changes in land use resulting from adopted changes to zoning ordinances or comprehensive
97 plans within a service area;

98 c. Significant establishment of conservation easements or other perpetual instruments that are associated
99 with a deed and that restrict growth or development;

100 d. Constructed treatment facility capacity;

101 e. Significant changes in the understanding of the water chemistry or biology of receiving waters that
102 would reasonably result in unused nutrient discharge allocations over an extended period of time;

103 f. Significant changes in treatment technologies that would reasonably result in unused nutrient discharge
104 allocations over an extended period of time;

105 g. The ability of the permitted facility to accommodate projected growth under existing nutrient waste
106 load allocations; and

107 h. Other similarly significant factors that the Board determines reasonably to affect the allocations
108 granted.

109 The Board shall not reduce allocations based solely on voluntary improvements in nutrient removal
110 technology.

111 E. The Board shall maintain and make available to the public a current listing, by tributary, of all
112 permittees and permitted facilities under the general permit, together with each permitted facility's total
113 nitrogen and total phosphorus waste load allocations, and total nitrogen and total phosphorus delivery factors.

114 F. Except as otherwise provided in this article, in the event that there are conflicting or duplicative
115 conditions contained in the general permit and an individual Virginia Pollutant Discharge Elimination System
116 permit, the conditions in the general permit shall control.

117 G. The Board shall adopt amendments to the Water Quality Management Planning Regulation and
118 modifications to Virginia Pollutant Discharge Elimination System permits or registration lists to establish and
119 implement the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program

120 (ENRC Program) as provided in this subsection. The ENRC Program shall consist of the following projects
121 and the following waste load allocation reductions and their respective schedules for compliance.

122 1. Priority projects for additional nitrogen and phosphorus removal (schedule for compliance):

123	PROJECT NAME	DESCRIPTION (COMPLIANCE SCHEDULE)
124	HRSD-Chesapeake/Elizabeth STP	Consolidate into regional system and close treatment facility 125 (1/1/2023)
126	HRSD-Boat Harbor WWTP	Convey by subaqueous crossing to Nansemond River WWTP for 127 nutrient removal (1/1/2026)
128	HRSD-Nansemond River WWTP	Upgrade and expand with nutrient removal technology of 4.0 mg/L 129 total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
130	HRSD-Nassawadox WWTP	Convey to regional system for nutrient removal (1/1/2026)
131	Fredericksburg WWTF	Expand with nutrient removal technology of 3.0 mg/L total nitrogen 132 and 0.22 mg/L total phosphorus (1/1/ 2026 2030)
133	Spotsylvania Co.-FMC WWTF	Convey to Massaponax WWTF and close treatment facility (1/1/ 2026 134 2027)
135	Spotsylvania Co.-Massaponax WWTF	Expand with nutrient removal technology of 4.0 mg/L total nitrogen 136 and 0.30 mg/L total phosphorus to consolidate and close FMC 137 WWTF (1/1/ 2026 2027)
138	Spotsylvania Co.-Thornburg STP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen 139 and 0.30 mg/L total phosphorus (1/1/2026)
140	HRRSA-North River WWTP	Phosphorus removal tertiary filtration upgrade (1/1/2026)
141	South Central Wastewater Authority	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen 142 WWTF and 0.30 mg/L total phosphorus (1/1/2026)
143	HRSD-Williamsburg WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen 144 (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
145	HRSD-VIP WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen 146 (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
147	HRSD-James River WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen 148 (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2028)
149	HRSD-Army Base WWTP	Convey to VIP WWTP for nutrient removal (1/1/2032) or upgrade 150 with nutrient removal technology of 4.0 mg/L total nitrogen 151 (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)

152 Each priority project and the associated schedule of compliance shall be incorporated into the applicable
153 Virginia Pollutant Discharge Elimination System permit or registration list. Each priority project facility shall
154 be in compliance (i) by complying with applicable annual average total nitrogen and total phosphorus
155 concentrations for compliance years 2026, 2027, 2028, 2030, and 2032; (ii) for the South Central Wastewater
156 Authority WWTF, by implementing a phased construction program approved by the Department, and
157 acquiring sufficient point source credits until its phased construction is completed as provided in this
158 subsection; or (iii) only for a facility subject to an aggregated waste load allocation, by exercising the option
159 of achieving an equivalent discharged load by the date set out in the schedule of compliance based on the
160 applicable total nitrogen and total phosphorus annual average concentrations and actual annual flow treated
161 without the acquisition and use of point source credits generated by permitted facilities not under common
162 ownership. Noncompliance shall be enforceable in the same manner as any other condition of a Virginia
163 Pollutant Discharge Elimination System permit.

164 The following requirements shall apply to the phased construction program to upgrade the South Central
165 Wastewater Authority WWTF: (a) by August 1, 2023, the South Central Wastewater Authority (SCWWA)
166 shall submit a phased construction program to the Department, which shall review and approve such program
167 by September 1, 2023, or as soon as possible thereafter; (b) by December 31, 2023, or within 150 days of
168 approval by the Department of the phased construction program, whichever is later, SCWWA shall
169 commence construction of the initial phase of construction; (c) by February 1, 2024, and annually thereafter,
170 SCWWA shall submit a progress report to the Department describing its progress toward completing the
171 phased construction program; (d) within 30 days of substantial completion of each major phase of
172 construction, SCWWA shall submit an application for a certificate to operate to the Department and promptly
173 place the associated treatment units into operation; (e) the phased construction program for the SCWWA
174 WWTF priority project shall be completed as soon as possible on the schedule approved by the Department
175 but no later than January 1, 2030; and (f) for each compliance year during the phased construction program
176 that the facility does not achieve the nutrient removal technology concentration specified in this subsection,
177 the SCWWA WWTF shall be responsible for acquiring sufficient point source credits to comply with its total
178 nitrogen and total phosphorus waste load allocations applicable to that compliance year.

179 2. Nitrogen waste load allocation reductions — HRSD-York River WWTP:

180 Reduce the total nitrogen waste load allocation for the HRSD-York River WWTP to 228,444 lbs/year
 181 effective January 1, 2026.

182 3. James River HRSD SWIFT nutrient upgrades:

183 Reduce total nitrogen waste load allocations for HRSD treatment works in the James River basin to the
 184 following allocations effective January 1, 2026:

185	FACILITY NAME	TOTAL NITROGEN WASTELOAD
186		ALLOCATION (lbs/year)
187	HRSD-Army Base WWTP	219,307
188	HRSD-Boat Harbor STP	304,593
189	HRSD-James River STP	243,674
190	HRSD-VIP WWTP	487,348
191	HRSD-Nansemond STP	365,511
192	HRSD-Williamsburg STP	274,133

193 Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the
 194 following allocations effective January 1, 2026:

195	FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD
196		ALLOCATION (lbs/year)
197	HRSD-Army Base WWTP	27,413
198	HRSD-Boat Harbor STP	38,074
199	HRSD-James River STP	30,459
200	HRSD-VIP WWTP	60,919
201	HRSD-Nansemond STP	45,689
202	HRSD-Williamsburg STP	34,267

203 Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the
 204 following allocations effective January 1, 2030:

205	FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD
206		ALLOCATION (lbs/year)
207	HRSD-Army Base WWTP	21,931
208	HRSD-Boat Harbor STP	30,459
209	HRSD-James River STP	24,367
210	HRSD-VIP WWTP	48,735
211	HRSD-Nansemond STP	36,551
212	HRSD-Williamsburg STP	27,413

213 Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the
 214 following allocations effective January 1, 2032:

215	FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD
216		ALLOCATION (lbs/year)
217	HRSD-Army Base WWTP	16,448
218	HRSD-Boat Harbor STP	22,844
219	HRSD-James River STP	18,276
220	HRSD-VIP WWTP	36,551
221	HRSD-Nansemond STP	27,413
222	HRSD-Williamsburg STP	20,560

223 Transfer the total nitrogen (454,596 lbs/year) and total phosphorus (41,450 lbs/year) waste load
 224 allocations for the HRSD-Chesapeake/Elizabeth STP to the Nutrient Offset Fund effective January 1, 2026.

225 Transfer the total nitrogen (153,500 lbs/yr) and total phosphorous (17,437 lbs/yr) waste load allocations
 226 for the HRSD-J.H. Miles Facility consolidation to HRSD in accordance with the approved registration list
 227 December 21, 2015, transfer.

228 **2. That the Department of Environmental Quality, by July 1, 2025, or as soon as possible thereafter,**
 229 **shall modify the Virginia Pollutant Discharge Elimination System permits for the Fredericksburg**
 230 **Wastewater Treatment Facility, Spotsylvania County-FMC Wastewater Treatment Facility, and**
 231 **Spotsylvania County-Massaponax Wastewater Treatment Facility pursuant to subdivision G 1 of §**
 232 **62.1-44.19:14 of the Code of Virginia, as amended by this act, to include the requirements and**
 233 **compliance schedules established in this act.**

234 **3. That the Department of Environmental Quality, by July 1, 2025, or as soon as possible thereafter,**
 235 **shall amend any existing water quality improvement agreement pursuant to § 10.1-2131 of the Code of**
 236 **Virginia for the Fredericksburg Wastewater Treatment Facility, Spotsylvania County-FMC**
 237 **Wastewater Treatment Facility, and Spotsylvania County-Massaponax Wastewater Treatment Facility**
 238 **in a manner consistent with the requirements and compliance schedules established in subdivision G 1**
 239 **of § 62.1-44.19:14 of the Code of Virginia, as amended by this act.**

- 240 4. That for each compliance year from January 1, 2026, until the schedule for compliance deadline
241 established in subdivision G 1 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, the
242 facility owner shall be responsible for acquiring sufficient point source credits to comply with its total
243 nitrogen and total phosphorus waste load allocations applicable to that compliance year.
244 5. That an emergency exists and this act is in force from its passage.

INTRODUCED

SB1242