

2021 SPECIAL SESSION I

SENATE SUBSTITUTE

21200270D

HOUSE BILL NO. 2129

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 16, 2021)

(Patron Prior to Substitute—Delegate Lopez)

A BILL to amend and reenact §§ 10.1-1186.01, 62.1-44.19:13, and 62.1-44.19:14 of the Code of Virginia, relating to Chesapeake Bay Phase III Watershed Improvement Plan; nutrient removal; regulations.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1186.01, 62.1-44.19:13, and 62.1-44.19:14 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1186.01. Reimbursements to localities for upgrades to treatment works.

A. As used in this section, "Enhanced Nutrient Removal Certainty Program" or "ENRC Program" means the same as that term is defined in § 62.1-44.19:13.

B. The General Assembly shall fund grants to finance the reasonable costs of design and installation of nutrient removal technology at the publicly owned treatment works designated as significant dischargers contained in subsection E, F or as eligible nonsignificant dischargers as defined in § 10.1-2117. ~~Notwithstanding § 10.1-2128, at such time as~~ When grant disbursements pursuant to this section reach 200 percent of the appropriations provided for in Chapter 951 of the Acts of Assembly of 2005 and Chapter 10 of the Acts of Assembly of 2006, Special Session I a sum sufficient to fund the completion of the ENRC Program at all publicly owned treatment works, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance and Appropriations shall review (i) the future funding needs to meet the purposes of the Water Quality Improvement Act, (ii) the most recent annual needs estimate required by § 10.1-2134.1, and (iii) the appropriate funding mechanism for such needs.

B. C. The disbursement of grants for the design and installation of nutrient removal technology at those publicly owned treatment works included in subsection E F and eligible nonsignificant dischargers shall be made monthly based on a requisition submitted by the grant recipient in the form requested by the Department. Each requisition shall include written certification that the applicable local share of the cost of nutrient removal technology for that portion of the project covered by such requisition has been incurred or expended. Except as may otherwise be approved by the Department, disbursements shall not exceed 95 percent of the total grant amount until satisfactory completion of the project. The distribution of the grants shall be effected by one of the following methods:

1. In payments to be paid by the State Treasurer out of funds appropriated to the Water Quality Improvement Fund pursuant to § 10.1-2131;

2. Over a specified time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality or public service authority undertaking the design and installation of nutrient removal technology, such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board; or

3. In payments to be paid by the State Treasurer upon request of the Director of Environmental Quality out of proceeds from bonds issued by the Virginia Public Building Authority, in consultation with the Department of Environmental Quality, pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264, including the Commonwealth's share of the interest costs expended by the locality or regional authority for financing such project during the period from 50% 50 percent completion of construction to final completion of construction.

~~C. D.~~ D. The General Assembly ~~shall have~~ has the sole authority to determine whether disbursement ~~will shall~~ be made pursuant to subdivision B C 1, B 2, or B 3, or a combination thereof; provided that a disbursement shall ~~only~~ be made pursuant to subdivision B C 3 ~~only~~ upon a certification by the Department of Environmental Quality that project grant reimbursements for the fiscal year will exceed the available funds in the Water Quality Improvement Fund.

~~D. E.~~ E. Exclusive of any deposits made pursuant to § 10.1-2128, the grants awarded pursuant to this section shall include such appropriations as provided for in Chapter 951 of the Acts of Assembly of 2005; and Chapter 10 of the Acts of Assembly of 2006, Special Session I from time to time in the appropriation act or any amendments thereto.

E. F. The disbursement of grants to finance the costs of design and installation of nutrient removal technology, including eligible design and installation costs for implementation of the ENRC Program, at the following 89 listed publicly owned treatment works and other eligible nonsignificant dischargers shall be provided pursuant to the distribution methodology included in § 10.1-2131. ~~However, in The~~

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60 notation "WIP3-N" or "WIP3-P" indicates that a facility is subject to additional requirements for total
 61 nitrogen or total phosphorus, respectively, under the ENRC Program. In no case shall any publicly
 62 owned treatment works receive a grant of less than ~~35%~~ 35 percent of the costs of the design and
 63 installation of nutrient removal technology.

64	FACILITY NAME	OWNER
65	Shenandoah - Potomac River Basin	
66	ACSA-Fishersville STP	Augusta County Service Authority
67	Luray STP	Town of Luray
68	ACSA-Middle River Regional STP	Augusta County Service Authority
69	HRRSA-North River WWTF WIP3-P	Harrisonburg-Rockingham Regional Sewer
70		Authority
71	ACSA-Stuarts Draft STP	Augusta County Service Authority
72	Waynesboro STP	City of Waynesboro
73	ACSA-Weyers Cave STP	Augusta County Service Authority
74	Berryville STP	Town of Berryville
75	Front Royal STP	Town of Front Royal
76	Mount Jackson STP	Town of Mount Jackson
77	New Market STP	Town of New Market
78	Shenandoah Co.-North Fork Regional WWTP	Shenandoah County
79	Stoney Creek Sanitary District STP	Stoney Creek Sanitary District
80	Strasburg STP	Town of Strasburg
81	Woodstock STP	Town of Woodstock
82	FWSA-Opequon Water Reclamation Facility	Frederick-Winchester Service Authority
83	FWSA-Parkins Mill WWTF	Frederick-Winchester Service Authority
84	Purcellville-Basham Simms WWTF	Town of Purcellville
85	LCSA-Broad Run WRF	Loudoun County Service Authority
86	Leesburg WPCF	Town of Leesburg
87	Round Hill WWTP	Town of Round Hill
88	PWCSA-H.L. Mooney WWTF	Prince William County Service Authority
89	Upper Occoquan Sewage Authority WWTP	Upper Occoquan Sewage Authority
90	FCW&SA-Vint Hill WWTF	Fauquier County Water and Sewer Authority
91	Alexandria Sanitation Authority WWTP	Alexandria Sanitation Authority
92	Arlington Co. WPCF	Arlington County
93	Fairfax Co. - Noman-Cole Pollution Control Facility	Fairfax County
94	Stafford Co.-Aquia WWTP	Stafford County
95	Colonial Beach STP	Town of Colonial Beach
96	Dahlgren Sanitary District WWTP	King George County Service Authority
97	Fairview Beach STP	King George County Service Authority
98	Purkins Corner WWTP	King George County Service Authority
99	District of Columbia - Blue Plains STP (Virginia	Loudoun County Service Authority and Fairfax
100	portion)	County contract for capacity
101	Rappahannock River Basin	
102	Culpeper WWTP	Town of Culpeper
103	Marshall WWTP	Town of Marshall
104	Mountain Run WWTP	Culpeper County
105	Orange STP	Town of Orange
106	Rapidan STP	Rapidan Service Authority
107	FCW&SA-Remington WWTP	Fauquier County Water and Sewer Authority
108	Warrenton STP	Town of Warrenton
109	Wilderness Shores WWTP	Rapidan Service Authority
110	Spotsylvania Co.-FMC WWTF WIP3-N, WIP3-P	Spotsylvania County
111	Fredericksburg WWTF	City of Fredericksburg
112	Stafford Co.-Little Falls Run WWTF	Stafford County
113	Spotsylvania Co.-Massaponax WWTF WIP3-N,	Spotsylvania County
114	WIP3-P	
115	Montross-Westmoreland WWTP	Westmoreland County
116	Oakland Park STP	King George County Service Authority
117	Tappahannock WWTP	Town of Tappahannock
118	Urbanna WWTP	Hampton Roads Sanitation District
119	Warsaw STP	Town of Warsaw
120	Reedville Sanitary District WWTP	Reedville Sanitary District
121	Kilmarnock WWTP	Town of Kilmarnock
122	York River Basin	
123	Caroline Co. Regional STP	Caroline County
124	Gordonsville STP	Rapidan Service Authority
125	Ashland WWTP	Hanover County
126	Doswell WWTP	Hanover County

127	HRSD-York River STP <i>WIP3-N</i>	Hampton Roads Sanitation District
128	Parham Landing WWTP	New Kent County
129	Totopotomoy WWTP	Hanover County
130	HRSD-West Point STP	Hampton Roads Sanitation District
131	HRSD-Mathews Courthouse STP	Hampton Roads Sanitation District
132	<i>Spotsylvania Co.-Thornburg STP WIP3-N, WIP3-P</i>	<i>Spotsylvania County</i>
133	James River Basin	
134	Buena Vista STP	City of Buena Vista
135	Clifton Forge STP	Town of Clifton Forge
136	Covington STP	City of Covington
137	Lexington-Rockbridge Regional WQCF	Mauzy Service Authority
138	Alleghany Co.-Low Moor STP	Alleghany County
139	Alleghany Co.-Lower Jackson River WWTP	Alleghany County
140	Amherst-Rutledge Creek WWTP	Town of Amherst
141	Lynchburg STP	City of Lynchburg
142	RWSA-Moores Creek Regional STP	Rivanna Water and Sewer Authority
143	Crewe WWTP	Town of Crewe
144	Farmville WWTP	Town of Farmville
145	Chesterfield Co.-Falling Creek WWTP	Chesterfield County
146	Henrico Co. WWTP	Henrico County
147	Hopewell Regional WWTP	City of Hopewell
148	Chesterfield Co.-Proctors Creek WWTP	Chesterfield County
149	Richmond WWTP	City of Richmond
150	South Central Wastewater Authority WWTF <i>WIP3-N, WIP3-P</i>	South Central Wastewater Authority
151	Chickahominy WWTP	New Kent County
152	HRSD-Boat Harbor STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
153	HRSD-James River STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
154	HRSD-Williamsburg STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
155	HRSD-Nansemond STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
156	HRSD-Army Base STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
157	HRSD-Virginia Initiative Plant STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
158	HRSD-Chesapeake/Elizabeth STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
159	Eastern Shore Basin	
160	Cape Charles WWTP	Town of Cape Charles
161	Onancock WWTP	Town of Onancock
162	Tangier Island WWTP	Town of Tangier

164 F. G. To the extent that any publicly owned treatment works receives less than the grant specified
 165 pursuant to § 10.1-2131, any year-end revenue surplus or unappropriated balances deposited in the Water
 166 Quality Improvement Fund, as required by § 10.1-2128, shall be prioritized in order to augment the
 167 funding of those projects for which grants have been prorated. Any additional reimbursements to these
 168 prorated projects shall not exceed the total reimbursement amount due pursuant to the formula
 169 established in subsection E of § 10.1-2131.

170 G. H. Notwithstanding the provisions of subsection B of § 10.1-2131, the Director of the Department
 171 of Environmental Quality shall not be required to enter into a grant agreement with a facility designated
 172 as a significant discharger or eligible nonsignificant discharger if the Director determines that the use of
 173 nutrient credits in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange Program
 174 (§ 62.1-44.19:12 et seq.) would be significantly more cost-effective than the installation of nutrient
 175 controls for the facility in question.

176 **§ 62.1-44.19:13. Definitions.**

177 As used in this article, unless the context requires a different meaning:

178 "Annual mass load of total nitrogen" (expressed in pounds per year) means the daily total nitrogen
 179 concentration (expressed as mg/L to the nearest 0.01 mg/L) multiplied by the flow volume of effluent
 180 discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD), multiplied by 8.34
 181 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for
 182 the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year
 183 to convert to pounds per year (lbs/yr) units.

184 "Annual mass load of total phosphorus" (expressed in pounds per year) means the daily total
 185 phosphorus concentration (expressed as mg/L to the nearest 0.01mg/L) multiplied by the flow volume of
 186 effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD) multiplied
 187 by 8.34 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then
 188 totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the
 189 calendar year to convert to pounds per year (lbs/yr) units.

190 "Association" means the Virginia Nutrient Credit Exchange Association authorized by this article.

191 "Attenuation" means the rate at which nutrients are reduced through natural processes during

192 transport in water.

193 "Best management practice," "practice," or "BMP" means a structural practice, nonstructural practice,
194 or other management practice used to prevent or reduce nutrient loads associated with stormwater from
195 reaching surface waters or the adverse effects thereof.

196 "Biological nutrient removal technology" means (i) technology that will achieve an annual average
197 total nitrogen effluent concentration of eight milligrams per liter and an annual average total phosphorus
198 effluent concentration of one milligram per liter, or (ii) equivalent reductions in loads of total nitrogen
199 and total phosphorus through the recycle or reuse of wastewater as determined by the Department.

200 "Delivered total nitrogen load" means the discharged mass load of total nitrogen from a point source
201 that is adjusted by the delivery factor for that point source.

202 "Delivered total phosphorus load" means the discharged mass load of total phosphorus from a point
203 source that is adjusted by the delivery factor for that point source.

204 "Delivery factor" means an estimate of the number of pounds of total nitrogen or total phosphorus
205 delivered to tidal waters for every pound discharged from a permitted facility, as determined by the
206 specific geographic location of the permitted facility, to account for attenuation that occurs during
207 riverine transport between the permitted facility and tidal waters. Delivery factors shall be calculated
208 using the Chesapeake Bay Program watershed model.

209 "Department" means the Department of Environmental Quality.

210 "Enhanced Nutrient Removal Certainty Program" or "ENRC Program" means the Phase III
211 Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program established pursuant to
212 subsection G of § 62.1-44.19:14.

213 "Equivalent load" means 2,300 pounds per year of total nitrogen and 300 pounds per year of total
214 phosphorus at a flow volume of 40,000 gallons per day; 5,700 pounds per year of total nitrogen and 760
215 pounds per year of total phosphorus at a flow volume of 100,000 gallons per day; and 28,500 pounds
216 per year of total nitrogen and 3,800 pounds per year of total phosphorus at a flow volume of 500,000
217 gallons per day.

218 "Facility" means a point source discharging or proposing to discharge total nitrogen or total
219 phosphorus to the Chesapeake Bay or its tributaries. This term does not include confined animal feeding
220 operations, discharges of stormwater, return flows from irrigated agriculture, or vessels.

221 "General permit" means the general permit authorized by this article.

222 "MS4" means a municipal separate storm sewer system.

223 "Nutrient credit" or "credit" means a nutrient reduction that is certified pursuant to this article and
224 expressed in pounds of phosphorus or nitrogen either (i) delivered to tidal waters when the credit is
225 generated within the Chesapeake Bay Watershed or (ii) as otherwise specified when generated in the
226 Southern Rivers watersheds. "Nutrient credit" does not include point source nitrogen credits or point
227 source phosphorus credits as defined in this section.

228 "Nutrient credit-generating entity" means an entity that generates nonpoint source nutrient credits.

229 "Permitted facility" means a facility authorized by the general permit to discharge total nitrogen or
230 total phosphorus. For the sole purpose of generating point source nitrogen credits or point source
231 phosphorus credits, "permitted facility" shall also mean the Blue Plains wastewater treatment facility
232 operated by the District of Columbia Water and Sewer Authority.

233 "Permittee" means a person authorized by the general permit to discharge total nitrogen or total
234 phosphorus.

235 "Point source nitrogen credit" means the difference between (i) the waste load allocation for a
236 permitted facility specified as an annual mass load of total nitrogen, and (ii) the monitored annual mass
237 load of total nitrogen discharged by that facility, where clause (ii) is less than clause (i), and where the
238 difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered
239 total nitrogen load.

240 "Point source phosphorus credit" means the difference between (i) the waste load allocation for a
241 permitted facility specified as an annual mass load of total phosphorus, and (ii) the monitored annual
242 mass load of total phosphorus discharged by that facility, where clause (ii) is less than clause (i), and
243 where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of
244 delivered total phosphorus load.

245 "State-of-the-art nutrient removal technology" means (i) technology that will achieve an annual
246 average total nitrogen effluent concentration of three milligrams per liter and an annual average total
247 phosphorus effluent concentration of 0.3 milligrams per liter, or (ii) equivalent load reductions in total
248 nitrogen and total phosphorus through recycle or reuse of wastewater as determined by the Department.

249 "Tributaries" means those river basins listed in the Chesapeake Bay TMDL and includes the
250 Potomac, Rappahannock, York, and James River Basins, and the Eastern Shore, which encompasses the
251 creeks and rivers of the Eastern Shore of Virginia that are west of Route 13 and drain into the
252 Chesapeake Bay.

253 "Waste load allocation" means (i) the water quality-based annual mass load of total nitrogen or

annual mass load of total phosphorus allocated to individual facilities pursuant to the Water Quality Management Planning Regulation (9VAC25-720) or its successor, or permitted capacity in the case of nonsignificant dischargers; (ii) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus acquired pursuant to § 62.1-44.19:15 for new or expanded facilities; or (iii) applicable total nitrogen or total phosphorus waste load allocations under the Chesapeake Bay total maximum daily loads (TMDLs) to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

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

A. ~~By January 1, 2006, or as soon thereafter as possible, the~~ *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 ~~within nine months after the initial effective date of the general permit,~~ 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 specified period after each effective date of the general permit. The procedure shall also require any owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 40,000 gallons or more per day, or an equivalent load, directly into tidal or nontidal

waters to secure general permit coverage by filing a registration statement with the Department at the time he makes application with the Department for a new discharge or expansion that is subject to an offset or technology-based requirement in § 62.1-44.19:15, and thereafter within a specified period of time after each effective date of the general permit. The procedure shall also require any owner or operator of a facility with a discharge that is subject to an offset requirement in subdivision A 5 of § 62.1-44.19:15 to secure general permit coverage by filing a registration statement with the Department prior to commencing the discharge and thereafter within a specified period of time after each effective date of the general permit. The general permit shall provide that any facility authorized by a Virginia Pollutant Discharge Elimination System permit and not required by this subdivision to file a registration statement shall be deemed to be covered under the general permit at the time it is issued, and shall file a registration statement with the Department when required by this section. Owners or operators of facilities that are deemed to be permitted under this section shall have no other obligation under the general permit prior to filing a registration statement and securing coverage under the general permit based upon such registration statement;

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

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

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

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

- a. Changed the use of the facility in such a way as to make discharges unnecessary, ceased the discharge of nutrients, and become unlikely to resume such discharges in the foreseeable future; or
- b. Changed the production processes employed in the facility in such a way as to render impossible, or significantly to diminish the likelihood of, the resumption of previous nutrient discharges.

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

- a. Substantial changes in the size or population of a service area;
- b. Significant changes in land use resulting from adopted changes to zoning ordinances or comprehensive plans within a service area;
- c. Significant establishment of conservation easements or other perpetual instruments that are associated with a deed and that restrict growth or development;
- d. Constructed treatment facility capacity;
- e. Significant changes in the understanding of the water chemistry or biology of receiving waters that would reasonably result in unused nutrient discharge allocations over an extended period of time;
- f. Significant changes in treatment technologies that would reasonably result in unused nutrient discharge allocations over an extended period of time;
- g. The ability of the permitted facility to accommodate projected growth under existing nutrient waste load allocations; and
- h. Other similarly significant factors that the Board determines reasonably to affect the allocations granted.

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

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

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

G. The Board shall adopt amendments to the Water Quality Management Planning Regulation and modifications to Virginia Pollutant Discharge Elimination System permits or registration lists to establish and implement the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program (ENRC Program) as provided in this subsection. The ENRC Program shall consist of the following projects and the following waste load allocation reductions and their respective schedules

for compliance.

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

PROJECT NAME	DESCRIPTION (COMPLIANCE SCHEDULE)
HRSD-Chesapeake/Elizabeth STP	Consolidate into regional system and close treatment facility (1/1/2023)
HRSD-Boat Harbor WWTP	Convey by subaqueous crossing to Nansemond River WWTP for nutrient removal (1/1/2026)
HRSD-Nansemond River WWTP	Upgrade and expand with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-Nassawadox WWTP	Convey to regional system for nutrient removal (1/1/2026)
Spotsylvania Co.-FMC WWTF	Convey to Massaponax WWTF and close treatment facility (1/1/2026)
Spotsylvania Co.-Massaponax WWTF	Expand with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus to consolidate and close FMC WWTF (1/1/2026)
Spotsylvania Co.-Thornburg STP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)
HRRSA-North River WWTP	Phosphorus removal tertiary filtration upgrade (1/1/2026)
South Central Wastewater Authority WWTF	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)
HRSD-Williamsburg WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-VIP WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-James River WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2028)
HRSD-Army Base WWTP	Convey to VIP WWTP for nutrient removal (1/1/2032) or upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)

Each priority project and the associated schedule of compliance shall be incorporated into the applicable Virginia Pollutant Discharge Elimination System permit or registration list. Each priority project facility shall be in compliance by complying with applicable annual average total nitrogen and total phosphorus concentrations for compliance years 2026, 2028, and 2032 or, only for a facility subject to an aggregated waste load allocation, by exercising the option of achieving an equivalent discharged load by the date set out in the schedule of compliance based on the applicable total nitrogen and total phosphorus annual average concentrations and actual annual flow treated without the acquisition and use of point source credits generated by permitted facilities not under common ownership. Noncompliance shall be enforceable in the same manner as any other condition of a Virginia Pollutant Discharge Elimination System permit.

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

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

3. James River HRSD SWIFT nutrient upgrades:

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

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

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

FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
HRSD-Army Base WWTP	27,413
HRSD-Boat Harbor STP	38,074
HRSD-James River STP	30,459

442	HRSD-VIP WWTP	60,919
443	HRSD-Nansemond STP	45,689
444	HRSD-Williamsburg STP	34,267

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

447	FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION
448		(lbs/year)

449	HRSD-Army Base WWTP	21,931
450	HRSD-Boat Harbor STP	30,459
451	HRSD-James River STP	24,367
452	HRSD-VIP WWTP	48,735
453	HRSD-Nansemond STP	36,551
454	HRSD-Williamsburg STP	27,413

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

457	FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION
458		(lbs/year)

459	HRSD-Army Base WWTP	16,448
460	HRSD-Boat Harbor STP	22,844
461	HRSD-James River STP	18,276
462	HRSD-VIP WWTP	36,551
463	HRSD-Nansemond STP	27,413
464	HRSD-Williamsburg STP	20,560

465 *Transfer the total nitrogen (454,596 lbs/year) and total phosphorus (41,450 lbs/year) waste load*
 466 *allocations for the HRSD-Chesapeake/Elizabeth STP to the Nutrient Offset Fund effective January 1,*
 467 *2026.*

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

471 **2. That the Enhanced Nutrient Removal Certainty Program as established in subdivisions G 1, 2,**
 472 **and 3 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, shall be deemed to**
 473 **implement through January 1, 2026, the Commonwealth's Chesapeake Bay Phase III Watershed**
 474 **Implementation Plan in lieu of the floating waste load allocation concept proposed in Initiative 52**
 475 **of the Commonwealth's Chesapeake Bay Phase III Watershed Implementation Plan. However,**
 476 **nothing in this act shall be construed to limit the State Water Control Board's authority to impose**
 477 **(i) additional requirements or modifications to phosphorous waste load allocations necessary to**
 478 **achieve compliance with the numeric chlorophyll-a criteria applicable to the James River; (ii)**
 479 **requirements or modifications to waste load allocations necessary to comply with changes to**
 480 **federal law that become effective after January 1, 2021; or (iii) requirements or modifications to**
 481 **waste load allocations necessary to comply with a court order issued after January 1, 2021.**

482 **3. That the State Water Control Board shall modify the Virginia Pollutant Discharge Elimination**
 483 **System (VPDES) permits for the facilities listed in subdivision G 1 of § 62.1-44.19:14 of the Code**
 484 **of Virginia, as amended by this act, to include any requirements and compliance schedules**
 485 **established in this act.**

486 **4. That if the Secretary of Natural Resources (the Secretary) determines on or after July 1, 2026,**
 487 **that the Commonwealth has not achieved, or in the event of increased nutrient loads associated**
 488 **with climate change will not be able to maintain, its nitrogen pollution reduction commitments in**
 489 **the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation**
 490 **Plan, the Secretary may develop an additional watershed implementation plan or plans pursuant**
 491 **to § 2.2-218 of the Code of Virginia. Any such plan shall take into consideration the progress**
 492 **made by all point and nonpoint sources toward meeting applicable load and waste load allocations,**
 493 **the best available science and water quality modeling, and any applicable U.S. Environmental**
 494 **Protection Agency guidance for Chesapeake Bay TMDL implementation. In any such plan, the**
 495 **Secretary may include as priority projects upgrades with nutrient removal technology of 4.0 mg/L**
 496 **annual average total nitrogen concentration at municipal wastewater treatment facilities with a**
 497 **design capacity greater than 10.0 MGD discharging to James River Segment JMSTF2 so long as**
 498 **(i) the scheduled date for compliance is January 1, 2036; (ii) notwithstanding the wasteload**
 499 **allocations specified in clause (iii), compliance requires operating the nutrient removal technology**
 500 **to achieve an annual average total nitrogen concentration of less than or equal to 4.0 mg/L or,**
 501 **until such time as the facility is upgraded to achieve such concentration, the option of achieving an**
 502 **equivalent discharged load based on an annual average total nitrogen concentration of 4.0 mg/L**
 503 **and actual annual flow treated, including the use of point source nitrogen credits; and (iii) the**
 504 **facilities have and retain the following total nitrogen waste load allocations: Falling Creek WWTP**

505 (182,738 lbs/year), Proctors Creek WWTP (411,151 lbs/year and, in the event that Proctors Creek
506 WWTP is expanded in accordance with 9VAC25-40-70 and Falling Creek WWTP is upgraded to
507 achieve 4.0 mg/L, 493,391 lbs/year), and Henrico County WWTP (1,142,085 lbs/year). If the
508 Secretary opts to include such facilities in the plan, the State Water Control Board shall include
509 the foregoing concentrations limits, waste load allocations, and schedules for compliance in the
510 Water Quality Management Planning Regulation, the Watershed General Virginia Pollutant
511 Discharge Elimination System permit, and individual VPDES permits, as applicable.