

Summary of Comment from the Triennial Review
Notice of Intended Regulatory Action
 Comment period August 12 – October 11, 2013

Comments – General/Miscellaneous	Organization
The list of threatened and endangered waters, which has not been updated in many years, should be revisited during the Triennial Review.	US Fish & Wildlife Service
Prohibit new permittees from using chlorine disinfection for effluent that discharges to threatened and endangered waters.	US Fish & Wildlife Service
Clarify in the water quality standards that the Virginia Stream Condition Index (SCI) should be used only for monitoring and assessment purposes and not as a criterion for permitting and enforcement purposes.	VA Mining Issues Group & VA Association of Municipal Wastewater Agencies
They look forward to working with DEQ staff and other stakeholders to assist with developing a rulemaking with scientifically sound, cost effective, and practical changes.	VA Mining Issues Group
Address deleterious anthropogenic changes to stream flow regimes through VA WQS and control accordingly through regulatory actions.	Shenandoah & Potomac Riverkeepers
Recommend that DEQ not revise human health criteria based on updated reference doses that the Integrated Risk Information System (IRIS) has labeled with a low degree of confidence.	Hampton Roads Sanitation District
Comments – Narrative Criteria	
Wording and methods of applying the narrative criteria are insufficient to fully protect Virginia’s waters and meet legal mandates. Regulatory changes are necessary to avoid misapplication of narrative criteria provisions. DEQ should publish implementation plans for use of the narrative criteria in all their programs. Despite documented impairments in the Shenandoah River and its North and South Forks DEQ has refused to designate these waters as impaired, despite clear and abundant evidence that the pollution problems interfere with designated and existing uses. DEQ has not limited nutrient pollution from discharges that contribute to the degraded conditions. It is urgent that DEQ develop reliable and well-supported procedures for developing limits and pollution control measures based on narrative criteria. This procedure must be broad enough to guide actions in VPDES permitting, CWA section 401 certifications or any other process where the State is obligated to carry out the mandates of their WQS. Narrative criteria must be fully applied to address historic and existing impairments and losses of designated and existing uses.	Shenandoah & Potomac Riverkeepers
Recommend that the first paragraph of 9VAC25-260-20 be changed to read: <u>“State waters, including wetlands, shall be protected from pollution which contravenes established standards or interferes directly or indirectly with designated or existing uses of such water or which are inimical or harmful to human, animal, plant, or aquatic life.”</u> To	Shenandoah & Potomac Riverkeepers

accompany this change in the text of the WQS regulation, the definition of “pollution” included in the federal regulations at 40 CFR §130.2(c) should be added to 9VAC25-260-5. <u>“Pollution” means man-made or man induced alteration of the chemical, physical, biological, and radiological integrity of water.</u>	
Comments – Mixing Zones	
If there is potential that federally threatened or endangered species may be adversely affected, mixing zones should not be permitted. Water quality criteria should be met at the point of effluent discharge.	US Fish & Wildlife Service
Comments – Antidegradation	
Procedures for applying the antidegradation policy must be changed. <i>De minimis</i> provisions are not justified by any technical rationale and are not allowable under Clean Water Act or State Water Control Law. The practice of allowing waters to be degraded for all other parameters because one or more criteria are violated and tier analysis assigns Tier 1 status dooms high quality features of thousands of waters across the state to degradation.	Shenandoah & Potomac Riverkeepers
Antidegradation tier should not be lowered to Tier 1 for all contaminants if only impaired for one pollutant. DEQ must re-affirm their policy on antidegradation assessment to ensure that permit writers do not cite a lack of data as a reason to determine that a body of water should be given a designation of Tier 1.	US Fish & Wildlife Service
Antidegradation policy and implementation are already fully consistent and transparent and there is no need to make any changes. The VA approach is protective of water quality including protection of high quality waters.	Hampton Roads Sanitation District & VA Association of Municipal Wastewater Agencies
Comments – Criteria	
VA must promulgate numeric criteria in this regulatory action to address water quality problems caused by sediment and nutrient pollution. Enforcement of narrative criteria is generally reactive. The ability to act proactively through numeric criteria is practically and legally required to protect State waters.	Shenandoah & Potomac Riverkeepers
New EPA-published ammonia criteria should be incorporated into existing permits when the permit is modified for any reason. If no permit modifications occur during the current permit cycle, these criteria could be implemented upon permit reissuance.	US Fish & Wildlife Service
Permitted discharges to waters harboring federally listed species or waters that are designated critical habitat should be assessed to determine the need for more stringent ammonia limits.	US Fish & Wildlife Service
Supports the use of the biotic ligand model (BLM) for copper.	US Fish & Wildlife Service
Cyanide freshwater criteria should be lowered based on a recent report; “Scientific Review of Cyanide Ecotoxicology and Evaluation of Ambient Water Quality Criteria: Final Report” (January 2007) produced on behalf of the Water Environment Research Foundation	US Fish & Wildlife Service

and on other studies that have taken place since the previous triennial review.	
Methyl mercury fish tissue criterion should be evaluated to ensure that it is protective of federally listed fish species, which are not human food sources.	US Fish & Wildlife Service
Current selenium criteria are functionally obsolete and no longer reflect the best available science. DEQ should revise the freshwater aquatic life criteria to be consistent with that as reported in GEI Consultants, Inc. "Updated Freshwater Life Criteria for Selenium" (2013).	VA Mining Issues Group
DEQ should revise the current selenium criteria to reflect higher values that are supported by the best available science and data.	VA Manufacturer's Association
A bromide criterion is needed to protect the drinking water use in waters designated as Public Water Supplies from the formation of bromate. Bromate is a brominated disinfection by-product (DBP) regulated in drinking water through the Safe Drinking Water Act. Brominated DPBs are linked to increased cancer risk and other adverse human health effects. Potential sources of bromide are fire retardants, coal-fired power plants, industrial wastewater, and oil & gas extraction wastewater.	Fairfax Water & Norfolk Dept. Utilities
Maintain the current 50 ug/l Public Water Supply criterion for manganese.	Fairfax Water & Norfolk Dept. Utilities
Generally supportive of revising cadmium and lead criteria though it is unclear what potential impact more stringent cadmium criteria may have on permittees. DEQ must continue to allow facilities to manage effluent hardness to limit metal bioavailability in lieu of costly upgrades.	Hampton Roads Sanitation District
Supportive of inclusion of the BLM method of calculating site specific copper criteria. Recommend continued consideration of the Water Effect Ratio (WER) methodology as well.	Hampton Roads Sanitation District & VA Association of Municipal Wastewater Agencies
New EPA-recommended freshwater ammonia criteria are substantially more stringent than existing criteria and present implementation challenges to publicly owned treatment works. A reasonable approach to implementation would be to apply the existing criteria to waters that do not have a readily identifiable unionid mussel presence pending a mussel bioassessment. If unionid mussels are present then the new criteria and appropriate permit discharge limitations would apply.	Hampton Roads Sanitation District & VA Association of Municipal Wastewater Agencies
Support revision of cadmium and lead criteria	VA Association of Municipal Wastewater Agencies
Manganese criterion for public water supplies should be deleted as it is an unenforceable guideline for finished drinking water and it is inappropriate for application to natural surface waters. Dominion's multi-year study to evaluate sources of manganese distribution of concentrations indicates that the majority of manganese is natural in	Dominion Power

origin.	
Supports adoption of the BLM methodology to determine site specific freshwater copper criteria.	Dominion Power & International Copper Association & Copper Development Association
Recommend that VA adopt BLM-based zinc criteria along with BLM-based criteria for copper. It is recognized that EPA has no current recommendation for zinc criteria determination through use of a BLM so it is recommended that the DEQ consider updating §46-6-7 (Site-Specific Numeric Criteria Requested Pursuant to 46 CSR 1, Section 8.4) to allow for use of the BLM to derive site-specific zinc criteria. <i>(Section quotation is for WV water quality standards regulation)</i>	International Zinc Association and Windward Environmental
Comments –Bacteria Criteria (Recreation)	
Urge DEQ to delay adoption of new EPA-recommended recreational bacteria criteria until EPA provides guidance outlining how to implement criteria that require compliance with both a geometric mean and a Statistical Threshold Value (single value).	Hampton Roads Sanitation District & VA Association of Municipal Wastewater Agencies
Comments – Special Standards	
Clarify special standard ‘m’; effluent limitations that apply to wastewater treatment facilities in the entire Chickahominy watershed above Walker's Dam (this excludes discharges consisting solely of stormwater). Regulatory history indicates the limitations were to be solely applied to municipal wastewater. The language is confusing and has resulted in applying the standard more broadly than intended.	Vulcan Materials, Inc.