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Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation(s)	9VAC25-31 (Primary) Secondary Chapters: 9VAC25-32 9VAC25-210 9VAC25-590 9VAC25-610 9VAC25-790 9VAC25-870
Regulation title(s)	<ul style="list-style-type: none"> • Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) • Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) • Virginia Water Protection Permit Program Regulation (9VAC25-210) • Petroleum Underground Storage Tank Financial Responsibility Requirements (9VAC25-590) • Groundwater Withdrawal Regulations (9VAC25-610) • Sewage Collection and Treatment Regulations (9VAC25-790) • Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870)
Action title	40 CFR Annual Update 2017 and Methods Update Rule
Final agency action date	April 12, 2018
Date this document prepared	March 12, 2018

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Various regulations of the State Water Control Board include references to U.S. Environmental Protection Agency's (EPA) regulations under Title 40 of the Code of Federal Regulations (CFR). This regulatory amendment will bring these references up to date with the 40 CFR published on July 1, 2017. Additionally, as part of this amendment, EPA's dental effluent guidelines under 40 CFR Part 441 are being incorporated by reference into 9VAC25-31-30, and EPA's *Methods Update Rule* (MUR) amendments to 40 CFR Part 136 are being incorporated by reference into 9VAC25-31, 9VAC25-32, 9VAC25-210, 9VAC25-610, 9VAC25-790, and, 9VAC25-870.

Sections 2.2-4006.A.3 and 2.2-4006.A.4(c) of the Code of Virginia allows the Board to adopt this regulatory amendment as a final exempt action as the changes are necessary to correct a technical error and to conform to changes in the federal regulations.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Water Control Board approved this amendment to: 9VAC25-31; 9VAC25-32; 9VAC25-210; 9VAC25-590; 9VAC25-610; 9VAC25-790; and, 9VAC25-870 on April 12, 2018, as a final regulation, and affirmed that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the institution of the family or family stability.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Please note, all the changes made, unless otherwise noted, are necessary to conform to changes in the federal regulations and are exempted from the APA in accordance with § 2.2-4006.A.4(c) of the Code of Virginia.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC25-31-25		Applicability of incorporated references based on the dates that they became effective.	Updates 40 CFR references in Chapter 31 to the most current CFR published on July 1, 2017 and also incorporates: (i) a correction to 40 CFR Part 441.30 (82 FR 30997); and, (ii) changes to 40 CFR Part 136 by the MUR (82 FR 40836).
9VAC25-31-30		Federal effluent guidelines.	Updates this section to add the federal effluent guidelines for dental offices as promulgated by the EPA under 40 CFR Part 441.
	9VAC25-32-25		Added a new section for the incorporation of the most recent 40 CFR. Section 25 of 9VAC25-32 updates the references to 40 CFR to the CFR as published on July 1, 2017 and includes EPA's MUR (82 FR 40836) updates to 40 CFR Part 136. Adding this new section for Chapter 32's incorporation by reference of 40 CFR parts/sections will make future changes necessary to conform to federal regulatory updates simpler.
9VAC25-32-60		Application for a VPA permit.	Deletes the date listed after the 40 CFR references in subdivision F.2.a(4) as the incorporation date for 40 CFR is in the new section 25.
9VAC25-32-80		Conditions applicable to all VPA permits.	Deletes the date listed after the 40 CFR references in subdivision H.4 as the incorporation date for 40 CFR is in the new section 25.
9VAC25-32-317		Exclusions.	Deletes the date listed after the 40 CFR Part 261 references in subsection D and corrects the reference date to the date as incorporated by the Virginia Hazardous Waste Management Regulations in 9VAC20-60-261. This change is a technical correction (APA § 2.2-4006.A.3).
9VAC25-32-450		Sampling, analysis, and preservation.	Deletes the date listed after the 40 CFR references in subdivision H.4 as the incorporation date for 40 CFR is in the new section 25.
9VAC25-210-90		Conditions applicable to all VWP permits.	Updates subdivision F.1 reference to 40 CFR Part 136 to the most current CFR published on July 1, 2017 and incorporates changes by the MUR.
9VAC25-590-15		Applicability of incorporated references based on the	Updates this section to reference the most current CFR published on July

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		dates that they became effective.	1, 2017. Please note, the MUR is not included, as this chapter does not contain a reference to 40 CFR Part 136.
9VAC25-610-130		Conditions applicable to all groundwater permits.	Updates subdivision F.1 reference to 40 CFR Part 136 to the most current CFR published on July 1, 2017 and incorporates changes by the MUR.
9VAC25-790-210		Nonconventional methods, processes or equipment.	Updates subdivision F.1 reference to 40 CFR Part 136 to the most current CFR published on July 1, 2017 and incorporates changes by the MUR.
9VAC25-870-15		Applicability of incorporated references based on the dates that they became effective.	Updates 40 CFR references in Chapter 870 to the most current CFR published on July 1, 2017 and also incorporates: (i) a correction to 40 CFR Part 441.30 (82 FR 30997); and, (ii) changes to 40 CFR Part 136 by the MUR (82 FR 40836).

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulations apply to all facilities, including small businesses. Any (1) establishment of less stringent compliance or reporting standards; (2) establishment of less stringent schedules or deadlines for compliance and reporting requirements; (3) consolidation or simplification of compliance or reporting requirements; (4) establishment of performance standards for small businesses to replace design or operational standards required in the regulation; or (5) exemption of small businesses from all or any part of the requirements contained in this regulation for all small businesses would directly, significantly and adversely affect the benefits that would be achieved through the implementation of the regulations.

Conforming state regulations to those of the EPA is necessary in order to maintain authority to implement the national program. Facilities benefit from state implementation of the program as they have easier access to decision makers who have a clearer understanding of state-specific issues and needs.

Acronyms and definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

APA – Administrative Process Act

CFR – Code of Federal Regulations

EPA – Environmental Protection Agency.

MUR – *Methods Update Rule* promulgated by the EPA and published in the Federal Register on August 28, 2017 (82 FR 40836).

SWCB – State Water Control Board.