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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-31 9VAC25-32 9VAC25-790
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation; Virginia Pollution Abatement (VPA) Permit Regulation; Sewage Collection and Treatment Regulations
Action title	Amendments to licensed operator requirements in response to Chapter 178 of the 2024 Virginia Acts of Assembly
Final agency action date	June 25, 2024
Date this document prepared	May 31, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This final exempt regulatory action is necessary to implement Chapter 178 of the 2024 Acts of Assembly, which requires sewage treatment works, classified waterworks, and classified water treatment facilities to employ a licensed operator. This action will amend the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31 et seq.); the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-et seq.); and the Sewage Collection and Treatment Regulations (9VAC25-790 et seq.), to include this new statutory requirement.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

HB220 was passed during the 2024 Session of the General Assembly. The bill requires sewage treatment works, classified waterworks, and classified water treatment facilities to employ a licensed operator. The bill establishes a protocol for responding to an unexpected vacancy of the licensed operator position. The bill also permits remote monitoring of the facility by the licensed operator upon a demonstration of sufficient technology for the remote operator to adequately monitor the waterworks or treatment facility and manage onsite operators. This final exempt action is only applicable to sewage treatment works. Classified waterworks and classified water treatment facilities are subject to regulation by the State Board of Health.

The Governor signed the bill into law (HB220 – Chapter 178 of the 2024 Acts of Assembly) and these changes will become effective July 1, 2024. This regulatory action is required to conform the existing regulation to changes in Code. Section 2.2-4006 A 4 a of the Code of Virginia, excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved from the requirements of the Administrative Process Act.

Statement of Final Agency Action

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.

On June 25, 2024, the State Water Control Board approved final amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31 et seq.); Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-et seq.); and Sewage Collection and Treatment Regulations (9VAC25-790 et seq.) and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.