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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
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation
Action title	Implementation of Chapters 709 and 710 of the 2026 Acts of Assembly
Final agency action date	June 23, 2026
Date this document prepared	May 18, 2026

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.

Chapters 709 and 710 of the 2026 Acts of Assembly (HB938 – Del Clark; SB138 – Sen McPike) amend §62.1-44.34:32 of the Code of Virginia to require every publicly owned treatment works (POTW) to mandate quarterly discharge monitoring for perfluoroalkyl and polyfluoroalkyl substances (PFAS) by specified categories of industrial users. The industrial users that are subject to discharge monitoring are required to report results of PFAS monitoring to the POTW within 30 days of receipt from the laboratory. Currently, the only requirements for PFAS testing and monitoring that are in State Water Control Board's regulations are at 9VAC25-31-805. The section requires POTWs that receive a wastestream from an industrial user that receives and cleans, repairs, refurbishes, or processes any equipment, parts, or media used to treat any water or wastewater from any off-site manufacturing process that the industrial user

knows or reasonably should know uses PFAS chemicals to require the industrial user to test its wastestream for PFAS chemicals prior to and after cleaning, repairing, refurbishing, or processing such items. The categories of industrial users and monitoring requirements specified in Chapters 709 and 710 go beyond those in 9VAC25-31-805, necessitating amendments to the VPDES Permit Regulation to implement the legislation.

This final exempt action amends 9VAC25-31-200 by adding a new subsection F which requires PFAS monitoring by certain industrial users discharging to a POTW. This is a substantive new requirement for POTWs and specifies that they:

- Require quarterly discharge monitoring for PFAS by certain categories of existing and new industrial users for an initial characterization period of one year. These include:
 - Any facility manufacturing PFAS, any electroplating or metal finishing facility using PFAS, any semiconductor or circuit board facility using PFAS, any paper or packaging manufacturing facility using PFAS, and any textile mill, tannery, or leather, fabric, or carpet treater using PFAS;
 - Centralized waste treatment industrial facilities;
 - Industrial launderers defined by NAICS (North American Industry Classification System) 812332; and
 - An airport, air base, air station, fire training facility, landfill, or other facility or site that the publicly owned treatment works has a reasonable basis to believe is a source of PFAS.
- May discontinue quarterly discharge monitoring for PFAS by an industrial user with proper monitoring results that are below the method detection level for the first two quarters;
- Require industrial users to continue discharge monitoring where PFAS is detected in quantities above the method detection limit;
- Require any new industrial user within the categories above to monitor their discharge for PFAS beginning within 90 days of the commencement of discharges to the POTW; and
- Report monitoring results to the Department of Environmental Quality on a quarterly basis.

The amendments also specify industrial users are required to report monitoring results for PFAS to the POTW no later than 30 days after receipt from the laboratory and the U.S. Environmental Protection Agency Method 1633 is the applicable test method.

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.”

Chapters 709 and 710 of the 2026 Acts of Assembly amend §62.1-44.34:32 of the Code of Virginia to have POTWs require certain industrial users that discharge to the POTW monitor their discharge for PFAS, necessitating this regulatory action to incorporate those statutory requirements into the Virginia Pollutant Discharge Elimination System Permit Regulation (9VAC25-31).

This regulatory amendment is exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 a of the Code of Virginia because it is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.



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) that the agency has “adopted final amendments” to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, “On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)].”

On June 23, 2026, the State Water Control Board adopted final amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit (9VAC25-31) regulation.

The regulatory action is to be effective as provided in the Administrative Process Act. In adopting these amendments, the State Water Control Board affirmed that it would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.