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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
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32)
Action title	Implementation of Chapters 853 and 854 of the 2026 Acts of Assembly
Final agency action date	June 23, 2026
Date this document prepared	May 12, 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 853 and 854 of the 2026 Acts of Assembly (HB1443 – Del. Lopez; SB386 – Sen. Stuart) amend § 62.1-44.19:3 of the Code of Virginia to establish per- and polyfluoroalkyl substances (PFAS) testing, reporting, and concentration-based management requirements for owners of sewage treatment works and other permit holders that land apply, market, or distribute sewage sludge in the Commonwealth.

The Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) contain the requirements for treated sewage sludge that is managed in a manner to meet the required pathogen control and vector attraction reduction, and contains acceptable levels of certain pollutants, such that it is acceptable for land

application, marketing, or distribution (and is thus called “biosolids”). Currently, neither the VPA Permit Regulation nor the VPDES Permit Regulation address PFAS testing, reporting, or concentration-based management requirements for biosolids land application, marketing, and distribution.

To implement Chapters 853 and 854 of the 2026 Acts of Assembly, 9VAC25-31 is being amended to add a new section 9VAC25-31-465 (PFAS requirements) that consolidates all statutory PFAS requirements related to biosolids into a single location within the VPDES Permit Regulation. A parallel new section 9VAC25-32-316 (PFAS requirements) is also being added to 9VAC25-32, to consolidate all statutory PFAS requirements related to biosolids into a single location within the VPA Permit Regulation. In addition to the new sections, references to the PFAS requirements are added where appropriate within both 9VAC25-31 and 9VAC25-32. Together, these amendments implement the statutory mandates of § 62.1-44.19:3 of the Code of Virginia, as amended by Chapters 853 and 854 of the 2026 Acts of Assembly, across both permit frameworks, ensuring all permit holders with biosolids land application, marketing, and distribution obligations are subject to the same PFAS requirements regardless of permit type.

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 853 and 854 of the 2026 Acts of Assembly amend § 62.1-44.19:3 of the Code of Virginia to establish PFAS testing, reporting, and concentration-based management requirements for owners of sewage treatment works and other permit holders that land apply, market, or distribute biosolids in the Commonwealth.

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. These amendments must be submitted to the Virginia Register for publication within 90 days of the effective date of the 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) 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 Regulation (9VAC25-31) and the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32).

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.