

Office of Regulatory Management

Economic Review Form

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	Amendment to change the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31 et seq.) in response to Chapter 276 of the 2023 Virginia Acts of Assembly (HB 2189)
Date this document prepared	May 31, 2023; Revised September 13, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt Action

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>This is a final exempt regulatory action. No changes are proposed other than incorporation of requirements in response to Chapter 276 of the 2023 Virginia Acts of Assembly (HB 2189).</p> <p>Background:</p> <p>Statutory changes made by Chapter 276 of the 2023 Acts of Assembly require the pretreatment standards adopted by the State Water Control Board (Board) and implemented by publicly owned treatment works through their pretreatment programs to require industrial users that clean, repair, refurbish, or process equipment used to treat any water or wastewater from an offsite manufacturing process involving PFAS to test their discharges to the sewer for PFAS. The results of the tests are to be submitted to the publicly owned treatment works that receives the discharge to the sewer.</p> <p>The federal Clean Water Act requires a pretreatment program as a part of the National Pollutant Discharge Elimination System (NPDES) program. Virginia has delegated NPDES permitting authority from the U.S. Environmental Protection Agency, and DEQ implements the NPDES program in Virginia as the Virginia Pollutant Discharge Elimination System (VPDES) program.</p> <p>The pretreatment standards apply to publicly owned treatment works. There are 104 publicly owned treatment works in the Commonwealth, and they are already required to have a pretreatment program. The pretreatment standards adopted by the Board through regulation establish requirements for those pretreatment programs.</p> <p>The new state law, Chapter 276 of the 2023 Acts of Assembly, explicitly establishes new requirements to be implemented by publicly owned treatment works for their existing pretreatment programs.</p> <p>In the context of pretreatment standards “industrial user” is a defined term that does not correspond to the every day use of the term industrial. In the context of this law an “industrial user” includes any entity to which pretreatment standards apply. However, this law only affects a small subset of industrial users, specifically those that receive and clean, repair, refurbish, 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 knows should use PFAS.</p>
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Direct Costs:

The pretreatment programs implemented by publicly owned treatment works will require industrial entities that discharge to a sewer and clean, repair, refurbish, or process equipment used to treat any water or wastewater from an offsite manufacturing process involving PFAS to test their sewer discharges for PFAS. These users will incur costs for sampling, including laboratory costs. The law only applies to industrial users of a sewer. Industrial facilities with their own discharge permit and residential users of sewers are not affected.

There are an unknown number of facilities that discharge to a sewer and clean, repair, refurbish, or process equipment used to treat any water or wastewater from an offsite manufacturing process involving PFAS that will incur these costs.

Costs per test for PFAS vary widely based on the lab used. Sampling collection costs using a contractor are estimated at \$300 per event. Analytical costs per sample range, depending on the laboratory used, from \$400 per sample to \$500 per sample.

Publicly owned treatment works implementing their pretreatment programs may incur increased costs to implement this new requirement, including identifying users that may be required to test for PFAS.

Indirect Costs:

It is possible that industrial users that are required to test for PFAS will pass the costs of PFAS testing on to their customers, but no conclusive statement can be made to that effect.

Direct Benefits:

Direct benefits include increased protection against PFAS contamination in Virginia's waterways, including drinking water sources. When PFAS enters a sewer system it can pass through the publicly owned treatment works, and into state waters, including drinking water sources. When drinking water sources have to be treated there can be significant costs to deploy treatment systems (i.e., millions of dollars).

Indirect Benefits:

Users of Virginia's waterways receive an indirect benefit from this regulation because it increases protection against PFAS contamination in Virginia's waterways. This could benefit users of Virginia's waterways,

	including the fishing and shellfish harvesting industries, recreational users of waterways, and water-related tourism.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	<p>(a) An unknown number of industrial users that discharge to a sewer and clean, repair, refurbish, or process equipment used to treat any water or wastewater from an offsite manufacturing process involving PFAS will be required to test their wastestreams for PFAS.</p> <p>Costs per test for PFAS vary widely based on the lab used. Sampling collection costs using a contractor are estimated at \$300 per event. Analytical costs per sample range, depending on the laboratory used, from \$400 per sample to \$500 per sample.</p> <p>The 104 publicly owned treatment works that implement their own pretreatment programs may incur increased costs to implement this new requirement, including identifying users that may be required to test for PFAS.</p>	<p>(b) There is an indeterminate direct benefit from this regulation due to increased protection against PFAS contamination of drinking water sources and avoided drinking water treatment costs. When PFAS contaminates drinking water sources and treatment is required there can be significant costs to deploy treatment systems (i.e., millions of dollars).</p> <p>There is an indeterminate indirect benefit from this regulation due to increased protection from PFAS contamination that could benefit users of Virginia’s waterways including the fishing and shellfish harvesting industries, recreational users of waterways, and water-related tourism.</p>
(3) Net Monetized Benefits	No conclusive statement can be made about specific net monetized benefits, however, when PFAS enters drinking water sources, additional	

	treatments, such as granular activated carbon, are required and the costs for water providers can reach into the millions of dollars, which must be absorbed by the water provider or passed through to ratepayers.
(4) Other Costs & Benefits (Non-Monetized)	Beyond drinking water users, this regulation could benefit users of Virginia’s waterways including the fishing and shellfish harvesting industries, recreational users of waterways, and water-related tourism.
(5) Information Sources	Fiscal impact statement for HB 2189 (2023); <i>Water Authority to Spend \$13.5 Million to Remove Toxin in Spring Hollow Reservoir</i> , The Roanoke Times, Sept. 15, 2022, available online at: https://roanoke.com/news/local/water-authority-to-spend-13-5-million-to-remove-toxin-in-spring-hollow-reservoir/article_74696642-3546-11ed-9fd9-c773d61c4ef6.html .

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs:</p> <p>There are no current requirements and therefore no current direct costs.</p> <p>Indirect Costs:</p> <p>There are no current requirements and therefore no current indirect costs.</p> <p>Direct Benefits:</p> <p>There are no current requirements and therefore no current direct benefits.</p> <p>Indirect Benefits:</p> <p>There are no current requirements and therefore no current indirect benefits.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A
(3) Net Monetized Benefit	N/A	

(4) Other Costs & Benefits (Non-Monetized)	N/A
(5) Information Sources	N/A

Agency Note: This final exempt regulatory action is mandated by state statute effective July 1, 2023. Therefore, Table 1c is not required and has been removed.

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: See Table 1a. Indirect Costs: See Table 1a. Direct Benefits: See Table 1a. Indirect Benefits: See Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a.	(b) See Table 1a.
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(4) Assistance	N/A	
(5) Information Sources	See Table 1a.	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: N/A (this regulation does not apply to residential users).</p> <p>Indirect Costs: It is possible that users and/or local partners would pass their costs through to families, however, no conclusive statement can be made as to the amount.</p> <p>Direct Benefits: See Table 1a.</p> <p>Indirect Benefits: See Table 1a.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a.	(b) See Table 1a.
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(4) Information Sources	See Table 1a.	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: See Table 1a.</p> <p>Indirect Costs: See Table 1a.</p>	
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	<p>Direct Benefits: See Table 1a.</p> <p>Indirect Benefits: See Table 1a.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a.	(b) See Table 1a.
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(4) Alternatives	N/A	
(5) Information Sources	See Table 1a.	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

This is a final exempt regulatory action. No changes are proposed other than incorporation of requirements in response to Chapter 276 of the 2023 Virginia Acts of Assembly (HB 2189).

Change in Regulatory Requirements

VAC Section(s) Involved	Authority of Change	Initial Count	Additions	Subtractions	Net Change
9VAC25-31-805	Statutory:	0	2	0	+2
	Discretionary:	0	0	0	0
	Statutory:				
	Discretionary:				

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Cost Reductions or Increases (if applicable)

VAC Section(s) Involved	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
9VAC25-31-805	PFAS testing required for a small subset of facilities, if activities potentially involve PFAS chemicals and discharge to a public sewer system.	\$0- currently no requirement to test	Sampling costs per test for PFAS vary widely and are summarized in Table 1a.	Increase in costs to a small segment of the regulated community due to the new statutory requirement to test for PFAS.

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Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
9VAC25-31-805	<p>This nondiscretionary regulatory change is required by a statutory change that requires the pretreatment standards adopted by the State Water Control Board to require industrial users that clean, repair, refurbish, or process equipment used to treat any water or wastewater from an offsite manufacturing process involving PFAS to test their discharges to the sewer for PFAS. The results of the tests are to be submitted to the publicly owned treatment works that receives the discharge to the sewer. In the context of pretreatment standards “industrial user” is a defined term that does not correspond to the every day use of the term industrial. In the context of this law an “industrial user” includes any entity to which pretreatment standards apply. However, this law only affects a small subset of industrial users, specifically those that receive and clean, repair, refurbish, 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 knows should use PFAS.</p>	<p>PFAS testing required for a small subset of facilities, if activities potentially involve PFAS chemicals.</p>