

9 VAC 25-720-10. Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Board" means the Commonwealth of Virginia State Water Control Board or State Water Control Board.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality.

"CWA" means the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

"EPA" means the United States Environmental Protection Agency.

"Impaired waters" means those water bodies or water body segments that are not fully supporting or are partially supporting of the fishable and swimmable goals of the Clean Water Act and include those waters identified as impaired according to subdivision C1 of §62.1-44.19:5 of the Code of Virginia.

“Nonpoint source” means a source of pollution that is not collected or discharged as a point source.

“Point source” means any discernible, defined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agricultural land.

“303(d) list” means the list, pursuant to the federal Clean Water Act (33 USC §1313 et seq.) and §62.1-44.19:5 C and D of the Code of Virginia, identifying all waters or stream segments that fail to attain the quality required by the water quality standards or that fail to attain the assigned beneficial uses.

“303(d) report” means the 303(d) list and other items pursuant to §62.1-44.19:5 C of the Code of Virginia.

“305(b) report” means the biennial report describing the status of water quality for all navigable waters that each state must develop and submit to EPA pursuant to the federal Clean Water Act (33 USC §1315 et seq.).

“Total maximum daily load (TMDL)” means the amount of a pollutant that a particular water or stream segment can assimilate and still meet all the requirements of the water quality standards and attain all the assigned beneficial uses.

“Virginia Pollutant Discharge Elimination System (VPDES) Permit” means a document issued by the Board, pursuant to state regulation 9 VAC 25-31-10 et seq., authorizing, under prescribed conditions the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge. Under the approved state program, a VPDES permit is equivalent to a NPDES permit.

Wasteload allocation” means the portion of a receiving water’s loading capacity that is allocated to one or more existing or future point sources of pollution.

“Wasteload allocation study” means the development or modification of a wasteload allocation for one discharger in a non-impaired water that may modify or limit the allocation(s) assigned to other dischargers to the same water or stream segment.

“Water quality management plans (WQMPs)” means watershed plans prepared under the

federal Clean Water Act (33 USC §1313 et seq.) containing in part the following elements:

TMDLs, water quality based effluent limits, schedules for compliance of effluent limits, nonpoint source management and control strategies, provisions for intergovernmental cooperation, and implementation measures.

"Water quality monitoring, information, and restoration act (WQMIRA)" means §62.1-44.19:4 through 62.1-44.19:8 of the Code of Virginia.

"Water quality standards (WQS)" mean provisions of state or federal law which consist of designated use or uses for the waters of the Commonwealth and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the State Water Control Law (§62.1-44.2 et seq. of the Code of Virginia) and the federal Clean Water Act (33 USC §1251 et seq.).

1. 9 VAC 25-720-20. Purpose.

This regulation sets forth the public participation procedures that the Board shall follow in connection with development of TMDLs, certain wasteload allocation studies, 303(d) Lists,

and WQMPs in order to provide the public and stakeholders with an adequate opportunity to participate in their development and implementation.

VAC 25-720-30. Public notice of TMDL actions.

A. The Board shall give public notice of the following actions:

1. A TMDL development process is beginning under §62.1-44.19:7 of the Code of Virginia;
2. A draft TMDL has been prepared and is ready for public review and comment;
3. A TMDL implementation plan development process is beginning under §62.1-44.19:7 of the Code of Virginia;
4. A draft TMDL implementation plan has been prepared and is ready for public review and comment; and
5. A two year priority schedule for TMDL development has been prepared, pursuant to §62.1-44.19:7 C Code of Virginia, and is ready for public review and comment.

B. Public notices may describe more than one TMDL or TMDL actions.

9 VAC 25-720-40. Public notice of wasteload allocation study.

- A. For wasteloads that effect only one discharger in a non-impaired water, opportunity for public participation shall be limited to that provided during the permit issuance procedures in accordance with 9 VAC 25-31-10, et seq.

- B. The Board shall give public notice when a wasteload allocation study in a non-impaired water is to be prepared that may result in the modification or limitation of the allocation assigned to more than one discharger to the same water or stream segment.

- C. Wasteload allocation studies are guidance only with no legally binding effect.

- D. Wasteload allocation decisions will be made in accordance with 9 VAC 25-31-10, et seq.

- E. Public notices may describe more than one wasteload allocation study.

9 VAC 25-720-50. Public notice of 303(d) report actions.

A. The Board shall give public notice of the following actions:

1. The draft procedure for developing the 305 (b) report and 303(d) report for defining impaired waters has been prepared under §62.1-44.19:5 C of the Code of Virginia and is available for public review and comment;
2. The draft 303(d) report has been prepared under §62.1-44.19:5 C of the Code of Virginia and is available for public review and comment; and
3. An impaired water has attained water quality standards and is to be removed from the EPA approved 303(d) list.

B. Public notices may describe more than one 303(d) report action.

9 VAC 25-720-60. Public notice of WQMP actions.

A. The Board shall give public notice of the following actions:

1. A WQMP revision is beginning under 9 VAC 25-720-70 C;
2. WQMP advisory committee is to meet; and
3. A revised WQMP has been prepared and is ready for public review and

comment.

B. Public notices may describe more than one WQMP action.

9 VAC 25-720-70. Conditions applicable to WQMPs.

- A. WQMPs shall comply with the conditions set forth in §303(e) of the CWA.
- B. WQMPs serve as repositories for TMDLs, wasteload allocations, TMDL implementation plans, and other information pursuant to §303(e) of the Clean Water Act and §62.1-44.19:7 of the Code of Virginia.
- C. Every 5 years all WQMPs shall be reviewed and the Director shall determine if revisions are needed to reflect new requirements or changing water quality conditions.
- D. Advisory committees shall be established to assist the Board in the revision of the WQMP. WQMP advisory committees shall include, but not be limited to, representatives in the watershed from local governments, environmental groups,

agriculture, silviculture, manufacturing, and mining;

9 VAC 25-720-80. Public notice methods

A. Virginia Register.

Public notices described under 9 VAC 25-720-30 A; under 9 VAC 25-720-40 B; under 9 VAC 25-720-50; and under 9 VAC 25-720-60 shall be given by publication in the Virginia Register.

B. Mailings.

Public notice described in sections 9 VAC 25-720-30 A 1 - 4; under 9 VAC 25-720-40 B; and under 9 VAC 25-720-60 shall be given by mailing or e-mailing a copy of a notice to the following:

1. Any VPDES permittee within the watershed that may have their wasteload allocation modified or limited by the TMDL or wasteload allocation study;
2. Any Planning District Commission that may have jurisdiction over the areas included in the action;
3. Persons on the mailing list maintained by the board including those who request to be on the list;

4. Federal and state agencies having jurisdiction that may be affected by the action;
5. Soil and Water Conservation Districts having jurisdiction over areas included in the action;
6. Chief administrative officer or designee and chair of governing body or designee of any unit of local government having jurisdiction over the areas included in the action; and
7. Any adjacent state that may be affected by the results of the action.

C. Newspaper.

The public notice described in sections 9 VAC 25-720-30 A 1 - 4; under 9 VAC 25-720-40 B; and under 9 VAC 25-720-60 shall be published in a newspaper of general circulation in the area.

D. Other Methods.

The public notice described in sections 9 VAC 25-720-30 A 1 - 4; under 9 VAC 25-720-40 B; under VAC 25-720-50 A; and under 9 VAC 25-720-60 shall be given by any other method reasonably calculated to give actual notice to persons potentially affected, including press releases, or any other forum or medium to elicit public

participation, such as posting on the Internet.

E. Timing.

Public notices described in sections 9 VAC 25-720-30; under 9 25-VAC-720-40 B; under 9 VAC 25-720-50, and under 9 VAC 25-720-60 shall allow at least 30 days for public comment after publication.

F. Contents.

All public notices issued under this regulation shall contain the following minimum information:

1. Description of the action being taken.
2. The name of the water or stream segment, location description, and watershed for which the action is being taken.
3. A brief description of the procedures for submitting comments and the time and location of any public meeting that may be held.
4. Name and address of the Department's offices responsible for the action for which public notice is being given. If the study or action will involve multiple regions, each regional office affected shall be listed.
5. Name, address, telephone number and e-mail address of a person(s) from

whom interested persons may obtain fact sheets and additional information.

In addition to the general public notice described above, the public notice of a public meeting shall contain the following additional information:

1. Reference to the date of previous public notices relating to the study;
2. Date, time, and place of public meetings; and
3. A brief description of the nature and purpose of the public meeting, including the applicable rules and procedures.

9 VAC 25-720-90. Public meetings.

- A. The Board shall hold a public meeting for actions described under sections 9 VAC 25-720-30 A 1 - 4; 9 25-VAC-720-40 B; 9 VAC 25-720-50 A 2, and 9 VAC 25-720-60.
- B. Public notice of the public meetings shall be given as specified in sections 9 VAC 25-720-80.
- C. Any public meeting convened pursuant to this section shall be held in the geographic

area of the proposed action.

9 VAC 25-720-100. Public comments and agency response.

During the public comment period, any interested person may submit written comments on the actions being public noticed. All relevant comments shall be considered by the board when taking actions under 9 VAC 25-720-110. A summary response to comments shall be prepared and made available to the public.

9 VAC 25-720-110. Board actions

Board actions shall be required for:

1. Approval of TMDLs for submittal to EPA ;
2. Adoption of EPA-approved TMDLs under §9.6.14:4.1 C 4 (c) of the Code of Virginia;
3. Authorization to include adopted TMDLs in the appropriate WQMP; and
4. Approval of WQMPs developed under 9 VAC 25-720-70 C.

9 VAC 25-720-120. Delegation section

The Director or his designee can perform any action contained in this regulation except those prohibited by §62.1-44.14 of the State Water Law.