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Fast-Track Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation(s)	9VAC25-80
Regulation title(s)	General Regulations Under State Water Control Board - Requirement No. 1
Action title	Fast-Track repeal of regulation- result of 2019 periodic review
Date this document prepared	October 8, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please 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.

A periodic review of the General Regulations Under State Water Control Board - Requirement 1 (9VAC25-80-10 et seq.) was conducted in 2019. The result of the periodic review was to repeal this regulation since it is no longer necessary. The State Water Control Board's (board) Sewage Collection and Treatment (SCAT) Regulations, 9VAC25-790-10 et seq., became effective on February 12, 2004 and under the SCAT Regulations, no person shall construct, expand, or modify a sewerage system or sewage treatment works except in compliance with a Certificate to Construct from the Department and in accordance with the detailed standards contained within the regulations. As a result, the more generalized requirements of the General Regulations under State Water Control Law - Requirement No. 1 (9VAC25-80-10 et seq.) are no longer needed and can be repealed.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

Board- State Water Control Board

SCAT- Sewage Collection and Treatment Regulations, 9VAC25-790-10 et seq.

Statement of Final Agency Action

Please 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.

At its meeting on December 13, 2019, the State Water Control Board authorized the department to:

1. Promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The board's authorization also constituted its repeal of the General Regulations Under State Water Control Board - Requirement No. 1 (9VAC25-80 et seq.) at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
2. Set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the department does not find it necessary to make any changes to the proposal.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "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." As required by Virginia Code § 2.2-4012.1, please also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

A periodic review of the General Regulations Under State Water Control Board - Requirement 1 (9VAC25-80-10 et seq.) was conducted in 2019. The result of the periodic review was to repeal this regulation since it is no longer necessary.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

The State Water Control Board adopted this regulation under the authority of §62.1-44.15 (10) of the Code of Virginia. Section 62.1-44.19 A requires an owner to file an application for a certificate with the board before they "erect, construct, open, expand or operate a sewerage system or sewage treatment works which will have a potential discharge or actual discharge to state waters."

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

A periodic review of the General Regulations Under State Water Control Board - Requirement 1 (9VAC25-80-10 et seq.) was conducted in 2019. The result of the periodic review was to repeal this regulation since it is no longer necessary. Under the SCAT Regulations, no person shall construct, expand, or modify a sewerage system or sewage treatment works except in compliance with a Certificate to Construct from the Department and in accordance with the detailed standards contained within the regulations. As a result, the more generalized requirements of the General Regulations under State Water Control Law - Requirement No. 1 (9VAC25-80-10 et seq.) are no longer needed and can be repealed.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

A periodic review of the General Regulations Under State Water Control Board - Requirement 1 (9VAC25-80-10 et seq.) was conducted in 2019. The result of the periodic review was to repeal this regulation since it is no longer necessary. The entire regulation is being repealed.

Issues

Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage to the regulated community, public and the Commonwealth will be the removal of a regulation that contains general requirements that are included in another regulation. The SCAT regulation contains more detailed requirements concerning sewerage system or sewage treatment works. There are no disadvantages to the regulated community, public or the Commonwealth.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

This regulation is a state only regulation and there is no applicable federal requirement.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:

No state agencies are particularly affected by the repeal of this regulation.

Localities Particularly Affected:

No localities are particularly affected by the repeal of this regulation.

Other Entities Particularly Affected:

No entities are particularly affected by the repeal of this regulation.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will not have a financial impact on the agency.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will not have a financial impact on other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will eliminate confusion concerning the existence of this regulation.</p>

Impact on Localities

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will not have a financial impact on localities. Localities will continue to comply with the requirements found in the SCAT regulations.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will eliminate confusion concerning the existence of this regulation.</p>

Impact on Other Entities

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will not have an impact on other entities. Individuals or businesses will continue to comply with any applicable requirements found in the SCAT regulations.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will not affect entities.</p>

Impact on Other Entities

<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will not affect entities.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations. Repeal of this regulation will eliminate confusion concerning the existence of this regulation.</p>

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

A periodic review of the General Regulations Under State Water Control Board - Requirement 1 (9VAC25-80-10 et seq.) was conducted in 2019. As part of the periodic review, alternatives to this regulation were considered. The result of the periodic review was to repeal this regulation since it is no longer necessary. This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

A periodic review of the General Regulations Under State Water Control Board - Requirement 1 (9VAC25-80-10 et seq.) was conducted in 2019. The result of the periodic review was to repeal this regulation since it is no longer necessary. This regulatory action repeals a regulation containing general requirements that are no longer needed due to the existence of the SCAT regulations.

Public Participation

Please include a statement that in addition to any other comments on the regulation, the agency is seeking comments on the costs and benefits of the proposal and the potential impacts on the regulated community.

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the

General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

In addition to any other comments, the board is seeking comments on the costs and benefits of the proposal and the potential impacts on the regulated community. Also, the board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reported, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Melissa Porterfield, Office of Regulatory Affairs, PO Box 1105, Richmond, Virginia 23218, Telephone: (804) 698-4238, FAX: (804) 698-4019. email address: Melissa.porterfield@deq.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: www.townhall.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.

If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Delete inapplicable tables.

If the regulatory change is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below. Please include citations to the specific section(s) of the regulation that are changing.

The entire regulation, which consists of only one section (9VAC25-80-10), is being repealed.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The regulation does not negatively impact the institution of the family or family stability.