



townhall.virginia.gov

Periodic Review Report of Findings

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation	9VAC25-410
Regulation title	Occoquan Policy
Date this document prepared	November 21, 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*.

Acronyms and Definitions

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

DEQ- Department of Environmental Quality
UOSA - Upper Occoquan Sewage Authority
WWTP- waste water treatment plant

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 (Board) adopted this regulation "to enforce the general water quality management program of the Board." (§62.1-44.15 (10) of the Code of Virginia). Section 62.1-44.15 (13) of the Code of Virginia authorizes the Board to "establish policies and programs for effective area-wide or basin-wide water quality control and management." This regulation establishes a comprehensive pollution abatement and water quality management policy for the Occoquan watershed, including stringent requirements for treatment and discharge of wastewater. One goal of this policy was the elimination of smaller treatment plants and the installation of regional high performance waste water treatment plants.

Alternatives

Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

This regulation was developed prior to the VPDES program due to concern with the large amount of poorly treated sewage effluent discharged into the Occoquan watershed which feeds Occoquan reservoir, a drinking water supply for Northern Virginia. One alternative considered was the repeal of this regulation, since the VPDES regulation has matured. This option was rejected due to the continued support from the

stakeholders for the enhanced protections provided by the policy to protect the water quality in the Occoquan reservoir.

Public Comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An informal advisory group was not formed for the purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Byran Hill, Fairfax County Executive	Affirms their continual support of the Occoquan Policy.	The agency agrees that the Occoquan Policy has provided numerous benefits to the Occoquan watershed; however, the policy was last revised in 1990 and editorial corrections need to be made to update the regulation.
Philip Allin, Fairfax Water	Provided examples of the successes of the Occoquan Policy. Supports retaining the Occoquan Policy "as-is".	The agency agrees that the Occoquan Policy has provided numerous benefits to the Occoquan watershed; however, the policy was last revised in 1990 and editorial corrections need to be made to update the regulation.
Adil Godrej, Stanley Grant, Co-Directors of Occoquan Watershed Monitoring Laboratory	Provided examples of the successes of the Occoquan Policy. Supports retaining the Occoquan Policy "as-is".	The agency agrees that the Occoquan Policy has provided numerous benefits to the Occoquan watershed; however, the policy was last revised in 1990 and editorial corrections need to be made to update the regulation.

<p>Susan Trumbo</p>	<p>My comments are directed to the limitations placed in Section 20, Long Range Policy that allows one discharge from a sewer plant to be built in Fauquier County.</p> <ol style="list-style-type: none"> 1. The limitation of one discharge allocated to Fauquier County in the Occoquan Watershed is outdated and no longer necessary. Today's WWTP easily produce an effluent which meets or exceeds drinking water standards. 2. Additional discharge from WWTP's in the Occoquan Watershed to replace existing failed septic systems would improve the overall water quality. The historic and chronic failed septic systems in Catlett, Calverton and Midland are a documented fact. For decades, raw sewage seeps up from the lawns and runs into the waterways of the Occoquan Watershed. The limitation of one discharge to Fauquier County has simply failed it's purpose to protect the Occoquan Watershed. 3. Alternative, no discharge, WWTP to serve Catlett, Calverton and Midland have proven to be prohibitively costly to construct, operate and maintain. The soils in the area do not support a no discharge plant, if they did the existing septic systems would not be failing. 4. The limitation of one discharge WWTP to Fauquier County is a transfer of property rights from Fauquier County to Fairfax County. The limitation ONLY benefits Fairfax Water Authority and it's users at the costs to the people of Catlett, Calverton and Midland. <p>Now is the day to revise the one discharge policy and rectify the failed septic systems of Catlett, Calverton and Midland and its negative impact on the environment and welfare.</p>	<p>9VAC25-410-20 allows up to three high-performance regional plants to be permitted in the Occoquan watershed. Two plants are the preferred number, one generally located in the Fauquier County/Warrenton area and one plant in the Manassas area serving the surrounding area in Prince William, Fairfax, and Loudoun counties. The policy is silent on the location of the third high-performance facility.</p>
---------------------	---	---

Commenter	Comment	Agency response
Charles Boepple, Upper Occoquan Service Authority	Occoquan Policy has provided for one of the most successful watershed improvement and water supply protection projects in the country. The policy is "necessary for the protection of public health, safety, and welfare" and for providing a safe and sustainable water supply for the citizens and businesses in the region.	The agency agrees that the Occoquan Policy has provided numerous benefits to the Occoquan watershed; however, the policy was last revised in 1990 and editorial corrections need to be made to update the regulation.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The policy is necessary for the protection of public health, safety and welfare and is clearly written and easily understandable.

Decision

Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The Occoquan Policy continues to provide numerous benefits to the Occoquan watershed; however, the policy was last revised in 1990 and the policy will be amended to make editorial corrections to update the regulation.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

This regulation was developed due to concern about the large amount of poorly treated sewage effluent discharged into the Occoquan watershed which feeds the Occoquan reservoir, a large drinking water supply for Northern Virginia. This regulation is complex and establishes a comprehensive pollution abatement and water quality management policy for the Occoquan watershed, including stringent requirements for treatment and discharge of wastewater and continues to benefit the Occoquan watershed. This regulation overlaps with 9VAC25-31 Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation and 9VAC25-260 Water Quality Standards to provide enhanced protection for the Occoquan River watershed.

Comments supporting retaining the Occoquan Policy "as is" were submitted by Fairfax County, Fairfax Water, the Upper Occoquan Service Authority, and the Occoquan Watershed Monitoring Laboratory during the public comment period. One member of the public submitted comments requesting the regulation be revised to allow additional WWTP discharges into the Occoquan Watershed. The commenter is concerned about the impact failing septic systems in Catlett, Calverton and Midland have on the Occoquan Watershed.

This regulation was last amended in 1990. Since that time, the capacity of the Upper Occoquan Sewage Authority's (UOSA) sewage treatment plant has increased. Nutrient removal technology has greatly

advanced since the initial UOSA sewage treatment plant was constructed. Past expansions of the capacity of the UOSA's has been in conjunction with the adoption of updated nutrient removal technology at the WWTP.

The policy set forth by this regulation limits the number of high performance plants discharging into the Occoquan watershed to three. Localities partnered to form UOSA to treat their wastewater; small businesses are not operating high performance plants in the Occoquan watershed and are not financially impacted by the minimum effluent requirements listed in the regulation.

Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

This regulation does not have a direct impact on the family or family stability.