



Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation	9VAC25-71
Regulation title	Regulations Governing the Discharge of Sewage and Other Wastes from Boats
Action title	Immediate Final Rule- means of addressing no discharge from vessels in no discharge zones
Final agency action date	August 4, 2011
Document preparation date	June 13, 2011

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This final exempt regulatory action is being taken to implement Chapter 220 of the 2011 Acts of Assembly. The regulation is being amended to address means by which discharges of sewage from boats and vessels will be prevented while in no discharge zones.

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.

On August 4, 2011, the State Water Control Board took final action to adopt amendments to the regulation entitled " Regulations Governing the Discharge of Sewage and Other Wastes from Boats,"

specifically amending 9VAC25-71-60. The regulatory action will be filed as soon as possible, consistent with the Administrative Process Act.

The regulation amendments are 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 Administrative Process Act because they are necessary to conform to Virginia statutory law.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
60		Currently toilets are required to be removed from houseboats if the houseboat lacks a sewage holding tank. Through hull mechanisms for discharging sewage must be rendered inoperable while a boat or vessel is in a no discharge zone.	The regulation is being amended to revise the manner in which houseboats without sewage holding tanks are prevented from discharging while in no discharge zones. Toilets are not required to be removed from houseboats without a sewage holding tank; however, all boats and vessels are to prevent sewage discharges from marine sanitation devices in no discharge zones. Y-valves, macerator pump valves, discharge conveyances, and any other through-hull fitting valves capable of discharging sewage are required to be secured in the closed position while in a no discharge zone. Using a padlock or nonreleasable wire tie or removing the y-valve handle are methods that can be used to prevent sewage discharges from occurring in the no discharge zone. The method chosen shall present a physical barrier to the use of the y-valve or toilet. This regulatory change is needed as a result of changes made to § 62.1-44.33 of the Code of Virginia.

Regulatory flexibility analysis

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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or

simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

Since the regulatory change is being made to conform to state law, the board does not have any discretion concerning alternative regulatory methods. State law specifies the methods that shall be used to prevent sewage discharges from occurring in no discharge areas. The statutory change and corresponding regulatory change does however provide more options for houseboats, boats and vessels. Previously houseboats without holding tanks were required to have their toilets removed if the houseboat was located in a no discharge zone. This regulatory change no longer requires the removal of toilets from houseboats. Houseboats, boats and vessels located in no discharge zones are subject to the same rules concerning how sewage discharges will be prevented. The goal of the regulation is to prevent sewage from being discharged in no discharge zones.

The regulatory change may benefit small businesses. Toilets will no longer be required to be removed from houseboats without holding tanks and some small businesses may own these types of boats. The other methods described in statute and regulation are likely less expensive options to prevent sewage discharges from boats and vessels in no discharge zones.

No reporting requirements are associated with the requirement to not discharge sewage from boats and vessels in no discharge zones.

Since state statute applies to all documented and undocumented boats and vessels, small businesses are unable to be exempted from the requirements of these regulations.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

It is not anticipated that this regulatory amendment will have a direct impact on the institution of the family or family stability. No discharge areas are designated to prevent further impairment of waterways. Improvements to water quality will benefit families that use state waters for swimming, boating and fishing.