



Virginia
Regulatory
Town Hall

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Proposed Regulation Agency Background Document

Approving authority name	State Water Control Board
Virginia Administrative Code (VAC) citation	9 VAC 25-720-90.B
Regulation title	Amendment of the Water Quality Management Planning Regulation (9 VAC 720)
Action title	Amendment to the Tennessee – Big Sandy River Basin section (9 VAC 25-720-90.B) of the Water Quality Management Planning Regulation
Document preparation date	October 26, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

The proposed amendment Tennessee - Big Sandy River Basin section (9 VAC 25-720-90.B) is needed to establish a standard format for data presentation, update the data and information contained in these portions of the regulation to provide consistency with the current VPDES permits. This section of the Water Quality Management Plan Regulation (9 VAC 25-720) proposed to be amended no longer reflect current water quality conditions and need to be deleted.

Basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Virginia Code, ?? 62.1-44.15 (10), 62.1-44.15(13) and 62.1-44.19:7 give the State Water Control Board the duty and authority to adopt TMDLs and to establish policies and programs for effective area-wide and basin-wide water quality control and management. The Code also authorizes the Board to develop pollution abatement and water quality control plans.

Water Quality Management Plans are required by Section 303(e) of the Clean Water Act [33 U.S.C. 1313(e)] as implemented by 40 CFR 130.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The State Water Control Board (Board) proposes to amend the Tennessee - Big Sandy River Basin section (9 VAC 25-720-90.B) of the state's Water Quality Management Plan Regulation (9 VAC 25-720). Section (9 VAC 25-720-90.B) serves as a repository for those waste load allocations not developed in the Total Maximum Daily Load (TMDL) process. The proposed amendment is needed to standardize the format, update the data and information contained in the regulation to reflect the advances in technology and changing water quality conditions. This amendment is needed to provide consistency with VPDES permits and other water quality management programs. Also, obsolete information needs to be removed from the regulation.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The Tennessee - Big Sandy River Basin (9 VAC 25-720-90.B) section of the Water Quality Management Plan Regulation (9 VAC 25-720) needs a standard format and outdated waste load allocations need to be updated. Obsolete information needs to be deleted from the regulation.
Enter statement here

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

The amendment to provide a consistent format and data is a benefit for the public interested in the pollutant loads and allocations for Virginia’s streams. Also, the amended regulation will contain current information which is a benefit to all users. The one possible disadvantage to some citizens is that some information not required by the statutory and regulatory authorizations is being eliminated in the amendment. This information will be moved into the non-regulatory river basin plan.

Enter statement here

Requirements More Restrictive Than Federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include 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 statement to that effect.

The requirements of this regulation are consistent with federal regulations. None of the requirements of this regulation are more stringent or restrictive than applicable federal requirements

Enter statement here

Locality Particularly Affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

This regulation does not place a disproportional impact on any locality.

Enter statement here

Public Participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulation on farm or forest land preservation.

In addition to any other comments, the Department of Environmental Quality is seeking comments on the costs and benefits of the proposal and on any impacts of the regulation on farm and forest land preservation.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail, email or fax to Charles Martin, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, or telephone (804) 698-4462, or e-mail at chmartin@deq.virginia.gov

Written comments must include the name and address of the commenter. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period.

A public hearing will be held and notice of the public hearing can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Financial impact

Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information:

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	Staff time to make periodic updates. Approximate cost of staff time is \$1,500. This is a recurring cost every 3 – 5 years or as needed.
Projected cost of the regulation on localities	No direct or indirect cost to localities
Description of the individuals, businesses or other entities likely to be affected by the regulation including specific information on the impact on small businesses as defined in § 2.2-2279	No direct or indirect cost to businesses or other entities
Agency’s best estimate of the number of such entities that will be affected	NA
Projected cost of the regulation for affected individuals, businesses, or other entities	NA

Enter any other statement here

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Periodic updates of the regulation are necessary to maintain consistency with the VPDES program in accordance with federal requirements. The alternate to updating the regulation is to repeal the regulation. This repeal alternate was presented to the technical advisory committee (TAC). The TAC wanted the regulation updated and maintained and rejected the repeal option.
Enter statement here

Public comment

Please summarize all public comment received during 30-day period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
No written comments were		

received		
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Impact on family

Please assess the 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 proposed amendment to the Water Quality Management Regulation is for the protection of public health and safety, which has only an indirect impact on families.
Enter statement here

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9 VAC 25-720-90.B	NA		Standardize format, update waste load allocations, delete un-necessary or obsolete information.

Enter any other statement here