



Virginia
Regulatory
Town Hall

Proposed Regulation
Agency Background Document

Agency Name:	State Water Control Board
VAC Chapter Number:	9 VAC 25-71-10 et seq.
Regulation Title:	Regulations Governing the Discharge of Sewage and Other Wastes from Boats
Action Title:	Adoption of Regulations Governing the Discharge of Sewage and Other Wastes from Boats
Secondary Action:	Repeal 9 VAC 25-70-10 et seq.
Secondary Action:	Repeal 9 VAC 25-730-10 et seq.
Date:	December 20, 2001

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary*

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The proposed regulation addresses control of sewage and other discharges from boats.

Basis*

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory

or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

The basis for this regulation is Section 62.1-44.33 of the Code of Virginia, which empowers and directs the State Water Control Board to adopt and promulgate all necessary rules and regulations for the purpose of controlling the discharge of sewage and other wastes from boats.

The proposed regulation does not exceed applicable federal minimum requirements.

The Office of the Attorney General has certified that the Board has the statutory authority to promulgate the proposed regulation and it comports with applicable state and federal law.

Purpose*

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this proposed action is to provide a state regulation to address discharges of sewage and other wastes from boats and to implement enforcement of designated No Discharge Zones. It is essential to prevent contamination of state waters from sewage discharges from boats in order to protect the health and safety of citizens of the Commonwealth. The proposed action replaces two existing boat regulations that have limited enforcement capabilities with one regulation that effectively serves their purposes, applies to all waters of the state and provides specific language regarding No Discharge Zones, areas which have received federal approval to prohibit all discharges of sewage, whether treated or not, from boats. The 2001 General Assembly has required that the State Water Control Board promulgate such a regulation and have it become effective by July 2002.

Substance*

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The proposed regulation will replace 9 VAC 25-70 and 9 VAC 25-730 with one regulation to accomplish their intended purposes but without their limitations. It will address discharges of sewage and other wastes from boats and will prohibit all discharges of sewage from boats, whether treated or not, into state waters designated as No Discharge Zones.

Issues*

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 include a sentence to that effect.

The proposed regulation specifies requirements existing in the state code with respect to discharges from boats and provides a means of designating No Discharge Zones, but it is no more stringent than requirements under federal law, so there are no disadvantages to the public or the Commonwealth. Members of the community of Smith Mountain Lake, which is the only designated No Discharge Zone in the Commonwealth at present, would prefer a more stringent regulation with No Discharge Zone enforcement methods specified, however, state code does not provide the authority for this.

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 will be applied uniformly throughout the Commonwealth and will generally not impact any one locality. In designated No Discharge Zones the discharge of treated sewage as well as untreated sewage is prohibited from boats while in other areas treated discharges of sewage are allowed. In that sense, Smith Mountain Lake, as the only designated No Discharge Zone in the Commonwealth, might be considered as particularly affected, however, the Smith Mountain Lake No Discharge Zone and its requirements are already in place in one of the existing regulations to be repealed and incorporated into this proposed regulation.

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.

The Board is seeking comments on the proposed action, including (i) the costs and benefits of any alternatives and (ii) impacts of the regulation on farm or forest lands. Anyone wishing to submit written comments for the public comment file may do so at the public meeting, by mail to Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, (804) 698-4065, by fax to (804) 698-4032, or by email to

mbgregory@deq.state.va.us. Written comments must include the name and address of the commenter. In order to be considered comments must be received by 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.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; e) the projected cost of the regulation for affected individuals, businesses, or other entities; and f) an estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

The projected cost to implement and enforce the regulation should not cause any additional financial impact to the state. A boat owner in a designated No Discharge Zone could incur costs associated with making any changes to a boat required to ensure no discharge of sewage. However, those costs would only occur for newly designated No Discharge Zones.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

The proposed regulation clarifies what is presently required by federal regulation and by state law and two state regulations that are being repealed. There are no substantive changes to the regulatory burden of citizens of the Commonwealth.

Alternatives

Please describe the specific 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.

Alternatives considered were to let two existing boating regulations remain as written or to amend them. These alternatives were dropped because: (1) 9 VAC 25-70, one of the existing

boating regulations, has an effective date tied to a contingency that has not yet taken place and is therefore not in effect, (2) 9 VAC 25-730, the other existing boating regulation, is specific only to Smith Mountain Lake, and (3) state law now requires adoption of a boating regulation as required by an act of the 2001 General Assembly. The requirements of the above two regulations will be incorporated into the new regulation.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

No public comments were received during the NOIRA comment period either in writing or orally at three public meetings that were held.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Through examination of the regulation and relevant public comments, the agency has determined that the regulation is clearly written and easily understandable by the individuals and entities affected. Repeal of two regulations and replacing them with one should enhance clarity with respect to boating discharge regulations.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

This regulation will be amended if additional No Discharge Zones are designated or if a change in code by the General Assembly allows more descriptive enforcement language to apply in No Discharge Zones. Otherwise, the agency will initiate a review and re-evaluation of this regulation to determine if it should be continued, amended or terminated within three years of the effective date of the regulation.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

It is not anticipated that this regulation will have a direct impact on families.