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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is" Agency Background Document

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) citation	9 VAC 25-71
Regulation title	Regulations Governing the Discharge of Sewage and Other Wastes from Boats
Date	July 19, 2018

This information is required pursuant to Executive Order 17 (2014) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

The Virginia Code, in § 62.1-44.33 A, directs the State Water Control Board "to adopt all necessary regulations for the purpose of controlling the discharge of sewage and other wastes from both documented and undocumented boats and vessels on all navigable and nonnavigable waters within this Commonwealth."

The State Water Control Board adopted this regulation in 2003 and amended the regulation in 2004, 2007, 2009, and 2011.

Alternatives

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

There are no known alternatives that would achieve the stated purpose of the program in a less burdensome and intrusive manner. These regulations prohibit the discharge of sewage and other wastes from boats in areas designated as "no discharge zones".

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. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An informal advisory group was not formed as part of this review. No public comments were received during the public comment period.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

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

Result

Please state that the agency is recommending that the regulation should stay in effect without change and provide the reason why.

The agency is recommending the regulation stay in effect without change. The regulation is beneficial to the protection of state waters and is no more stringent than existing requirements under state or federal law.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, 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, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The current regulation continues to be needed. The purpose of this regulatory action is to provide a state regulation to address discharges of sewage and other wastes from boats and to identify designated No Discharge Zones. This regulation is needed to prevent contamination of state waters from sewage discharges from boats in order to protect the health and safety of citizens of the Commonwealth.

No public comments were received during the public comment period.

The subject matter of the regulation is complex in nature and the regulations detail the requirements of the program. The regulation designates No Discharge Zones in the Commonwealth and the prohibition of the discharge of sewage and other waste in these areas.

The 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 existing requirements under state or federal law. Federal Marine Sanitation Device Standards found in 40 CFR Part 140 are referenced in this regulation.

The regulation was last amended in 2011 in response to changes in state law. Changes in technology and economic conditions since 2011 have not impacted the requirements of the regulation.

The agency is recommending the regulation stay in effect without change. The regulation is beneficial to state waters and is no more stringent than existing requirements under state or federal law.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

It is not anticipated that this regulation will have a direct impact on the institution of the family or family stability.