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## Periodic Review Report of Findings

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC25-101
<b>Regulation title</b>	Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation
<b>Date this document prepared</b>	March 4, 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.*

U.S.- United States

## 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.*

Section 62.1-44.15 of the Code of Virginia requires operators of tank vessels transporting or transferring oil as cargo upon state waters to develop contingency plans. Section 62.1-44.16 of the Code of Virginia requires financial responsibility to be provided by an operator of a tank vessel demonstrating the owner's financial stability to conduct a proper response to a discharge of oil. The State Water Control Board adopted this regulation to implement these statutory requirements.

The federal Oil Pollution Act of 1990 also places requirements on vessels transporting oil and requires vessels to have vessel response plans and to obtain a Certificate of Financial Responsibility from the U.S. Coast Guard. Virginia's statute recognizes the requirements of the Oil Pollution Control Act of 1990 and deems vessels in compliance with Virginia requirements if they have a vessel response plan approved by the U.S. Coast Guard and/or a Certificate of Financial Responsibility, as applicable.

## 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.*

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Based on current statute, there are no alternatives to this regulation that are less burdensome. The statute recognizes that vessels that have a vessel response plan approved by the U.S. Coast Guard and a Certificate of Financial Responsibility as required by the Oil Pollution Control Act of 1990 are in compliance with this regulation. By complying with specific provisions of the Oil Pollution Control Act of 1990, a vessel operator is complying with Virginia's regulation, and no additional action is required by the vessel operator. The regulation as currently written is the least burdensome alternative to ensuring vessels have response plans to address spills and are financially able to pay for a response to a spill of oil, should one occur.

### 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.*

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An advisory group was not formed to assist with the periodic review. No comments were received during the public comment period.

### 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.*

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This regulation continues to be needed to protect public health, safety, and welfare since it requires operators of tank vessels transporting or transferring oil as cargo upon state waters to develop contingency plans to address spills of oil. The regulation 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).*

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The regulation continues to be needed and is being retained without changes.

### 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.*

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The regulation continues to be needed. This requires operators of tank vessels transporting or transferring oil as cargo upon state waters to develop contingency plans.

No comments were received during the periodic review.

The regulation requires operators of tank vessels transporting or transferring oil as cargo upon state waters to develop contingency plans. This is not a state specific requirement and vessels are required to develop these plans to meet federal requirements found in the Oil Pollution Control Act of 1990. Virginia's regulation has been written to minimize the regulatory burden on the regulated community by maintaining

consistency with the requirements of federal regulations. By complying with specific provisions of the Oil Pollution Control Act of 1990, a vessel operator is complying with Virginia's regulation, and no additional action is required by the vessel operator.

This regulation was last amended in 2015 to maintain consistency with federal law and state statute. The regulation remains consistent with federal laws, regulation and state statute.