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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-11
VAC Chapter title(s)	Public Participation Guidelines
Date this document prepared	November 30, 2021

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 (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DEQ- Department of Environmental Quality
DPB- Department of Planning and Budget
PPGs- Public Participation Guidelines

Legal Basis

Identify (1) the promulgating agency, 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 agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 2.2-4007.02 of the Code of Virginia requires agencies to develop and adopt public participation guidelines (PPGs) to solicit input from interested parties during the development of regulations. Chapters 321 and 575 of the 2008 Acts of Assembly directed the Virginia Department of Planning and Budget (DPB) to develop model PPGs meeting the requirements of § 2.2-4007.02 of the Code of Virginia. The current regulations are based on model PPGs developed by DPB. Approximately 100 rulemaking bodies in Virginia have used DPB's model PPGs as a basis for adopting regulations concerning public participation guidelines. The State Water Control Board previously adopted this regulation concerning

public participation guidelines to promote consistent public participation guidelines during the regulatory development process throughout the Commonwealth.

Alternatives to Regulation

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.

The options concerning alternatives to the current regulation are limited by state statute. Section 2.2-4007.02 of the Code of Virginia requires agencies to develop and adopt public participation guidelines for soliciting input from interested parties during the development of regulations. Due to this statutory requirement, repeal of this regulation is not a viable alternative.

The current regulation is based on model public participation guidelines developed by the Virginia Department of Planning and Budget (DPB) in response to Chapters 321 and 575 of the 2008 Acts of Assembly. Chapters 321 and 575 of the 2008 Acts of Assembly were passed to standardize the public participation guidelines for executive branch agencies and directed the Department of Planning and Budget to develop model public participation guidelines and provide the model guidelines to each agency that has the authority to promulgate regulations. Approximately 100 rulemaking bodies in Virginia have used DPB’s model public participation guidelines as a basis for adopting regulations concerning public participation guidelines. Consideration was given to deviating from these guidelines. Consistency with DPB’s model public participation guidelines benefits the residents of the Commonwealth by eliminating the need for the public to read and understand numerous different public participation guidelines. Deviation from the DPB model public participation guidelines was rejected as an alternative to the current regulation.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An informal advisory group was not formed to assist with this periodic review.

A periodic review was conducted concurrently for each of the Public Participation Guidelines (PPGs) Regulations for the Air Pollution Control Board (9VAC5-5), Virginia Waste Management Board (9VAC20-11), State Water Control Board (9VAC25-11), and the Department of Environmental Quality (9VAC15-11). All four of these regulations are identical except for references to the entity that adopted each regulation and the regulations are consistent with the model PPGs created by DPB. At the request of members of the Air Pollution Control Board, the 21 day comment period on the periodic review was extended from July 21, 2021, to August 20, 2021. Since all of the PPGs are similar, the comment periods for all of the PPGs for the boards and the agency were also extended. All of the comments received during the periodic review of all of the PPGs have been considered as part of the periodic review process and are summarized below. Many of the comments received pertained to elements of the public participation process, but were outside of the scope of the PPGs. The PPG have been adopted “to promote public involvement in the development, amendment or repeal of regulations.” (9VAC5-5-10, 9VAC20-11-10, and 9VAC25-11-10 and 9VAC15-11-10).

Public notification/public comment periods

Commenters requested changes concerning the posting of public hearing information to the Town Hall website and the Commonwealth calendar. The PPGs require posting of meeting notices to occur at least 7 days in advance of hearings and commenters requested this requirement be changed to at least 15 days prior to the meeting.

Response: § 2.2-3707 C. of the Code of Virginia requires the notice of a meeting of a public body to occur 3 working days prior to the meeting. (Virginia Freedom of Information Act requirement) The current Governor's Executive Order- EO14 (2018) specifies that a public regulatory meeting shall be posted at least 7 days prior to the meeting and the PPGs reflect this requirement. The requirements found in the PPGs are minimum requirements that have been adopted statewide by agency boards to provide a consistent process for the development of regulations. The boards do attempt to provide as much notice as possible of upcoming hearings and meetings and the PPGs allow this to occur. No change will be made to the PPGs at this time to ensure continued consistency with the model PPGs, state law, and with the process used by agencies across the Commonwealth.

Comments were also received requesting the PPGs be revised to reduce the number of people needed to request a public hearing from 25 to 5 in 9 VAC15-11-100 C. 3.

Response: § 2.2-4007.01 B. of the Code of Virginia addresses the requirement for public hearings on proposed regulations, and specifies that at least 25 people must request a public hearing during the Notice of Intended Regulatory Action comment period and the PPGs are consistent with the requirements of state law. Comments are always accepted in written format by mail, email, fax, and through the online Town Hall Public Comment forum regardless of whether a public hearing is held. No change will be made to the PPGs at this time to ensure continued consistency with the model PPGs, state law, and with the process used by agencies across the Commonwealth.

Commenters also requested the agency to make public comments accessible to the public as they are submitted or shortly thereafter, to make the public comments searchable, and to post the comments in a format that allows readers to copy information from posted comments. When providing the public responses to public comments as a pdf document, the pdf document should be searchable. A commenter also requested a requirement for the agency to acknowledge receipt of comments.

Response: Commenters have many available options for the submission of written comments and the PPGs do specify that an online public comment forum shall be made available for public comment forums concerning the regulatory adoption process. The Virginia Regulatory Town Hall website manages all regulatory public comment forums and provides the public a common location where all public comment forums can be found. All comments that are submitted through the Town Hall Public Comment forum are viewable to the public, and provide verification that the comments were submitted during the active comment period. Comments submitted by email may be sent with return receipt requested to receive verification that the comment has been received. All comments submitted are available to the public for review upon request and comments submitted online through the public comment forum are currently searchable to the public. No change will be made to the PPGs at this time to ensure continued consistency with the model PPGs and with the process used by agencies across the Commonwealth.

Commenters requested the minimum number of calendar days during which the agency will receive public comment be lengthened.

Response: The PPGs contain the minimum number of days for different types of comment periods and allows the agency to hold longer comment periods if necessary. The PPGs are consistent statewide and provide a uniform process for the adoption of regulations. No change will be made to the PPGs at this time to ensure continued consistency with the model PPGs and with the process used by agencies across the Commonwealth.

Suggestions were also submitted concerning ways the agency could improve public engagement. Most comments were directed at improving notification of communities impacted by a project related to a permit. Some comments were made concerning the notification list and the need to include environmental justice communities on the notification list. One commenter however suggested eliminating the notification list from the regulation.

Response: § 2.2-4007.02 A of the Code of Virginia requires the public participation guidelines to identify methods for the identification and notification of interested parties concerning the regulatory process and does not apply to permits. The model PPGs developed by DPB, and adopted and implemented by agencies across the state, provide a consistent process for notifying interested parties concerning potential changes to regulations. The Virginia Regulatory Town Hall website has developed a free email notification service to facilitate the notification of individuals interested in monitoring changes to regulations. Registered users may indicate which agency, boards or regulation they are interested in receiving notifications from concerning upcoming regulatory actions or meetings. Additionally, anyone may request to be added to the notification list maintained by individual state agencies and boards; however, the service offered by the Virginia Regulatory Town Hall website offers faster notification of upcoming regulatory changes and upcoming meetings, and provides information to registered users within 24 hours of the posting of information. Interested individuals may register for notifications from the Virginia Regulatory Town Hall website at the following address: <https://townhall.virginia.gov/L/Register.cfm> Continued consistency with the model PPGs used by agencies across the Commonwealth is beneficial to the public and no changes are being proposed to the PPGs at this time. Please also see the response to “Environmental Justice Concerns” below.

Commenters also suggested adding additional methods for the submission of comments, to include submission through voicemail messages, texting, the development of an app, and social media. Creation of a more user friendly method for submitting comment was also suggested.

Response: The PPGs provide a specific process statewide for the submission of comments on regulatory actions. Comments may be submitted in writing by mail, email, fax, or thorough the Virginia Regulatory Town Hall comment forum. If a public hearing is held, comments may also be submitted verbally at the hearing and written comments may also be submitted at the public hearing. The other methods listed by commenters are methods that may be used as part of the public notification process, but are not methods that can adequately document the submission of public comments. No change will be made to the PPGs at this time to ensure continued consistency with the model PPGs and with the process used by agencies across the Commonwealth.

Comments were received suggesting DEQ post summary responses to comments on proposed regulations on DEQ’s website 5 days prior to final adoption.

Response: § 2.2-4012 E of the Code of Virginia requires a draft of the agency’s summary description of public comment to be sent by the agency to all public commenters on the proposed regulation at least 5 days before final adoption of the regulation, and the PPGs are consistent with the requirements of state law and the model PPGs. For these reasons, no change will be made to the PPGs at this time.

Comments were submitted indicating that the public participation regulations should clearly and uniformly state the length of public comment periods, steps to extend the public comment process, and ways to request a public hearing.

Response: Section 50 of the PPGs specifically addresses the minimum lengths of comment periods for the various stages of the regulatory process and allows the agency to extend the length of comment periods. Section 100 of the regulation specifically addresses the ability for the public to request a public hearing on a proposed regulation. For the reasons described above and to ensure continued consistency with the model PPGs and the process used by other agencies, no change will be made to the PPGs at this time.

A suggestion was made to allow public comment to citizen boards on all regulations from the early stages of development.

Response: The PPGs do encourage submission of public comments in the early stages of the development of regulations. The PPGs specifically identify a 30 day public comment period is to be held after publication of a Notice of Intended Regulatory Action (NOIRA). (subdivision B 1 of section 50). Comments submitted during the NOIRA comment period are reviewed as part of the process to develop a proposed regulation and are included in the proposed Town Hall document that accompanies the proposed regulation and are included in materials provided to the Board. For these reasons, no change is being made to the PPGs.

RAP meetings

Comments were received concerning Regulatory Advisory Panels (RAPs). Requests were made for the agency to convene a RAP to revise the PPG regulations. Commenters also indicated that when a RAP is convened, it needs to have broad representation to include community members, industry, researchers and individuals experienced with community engagement, and individuals representing EJ communities. Commenters also requested that the PPG be revised to state that a RAP should be automatically created when requested by a community member, not at the discretion of the board.

Response: The PPGs are permissive and allow agencies to decide if convening a RAP would provide assistance to address a specific regulatory issue or when individuals indicate interest in working with the agency on a specific regulatory issue. As previously mentioned, the PPGs are consistent with the model PPGs that have been adopted throughout the state. DEQ does frequently utilize RAPs to assist with the development of regulations and seeks to include representation from a variety of different fields of expertise and backgrounds on RAPs. No change is being made to the PPGs at this time to ensure continued consistency with the model PPGs and with the process used by agencies across the Commonwealth. Please also see the response to "Environmental Justice Concerns" below.

Electronic meetings

Commenters suggested the PPGs be updated to require electronic participation opportunities for members of the public during board meetings, including live-streamed access to view meetings in progress and options for individuals to electronically address the boards from remote locations during meetings, and allowing participation in person and through electronic means. Commenters also suggested all public meetings be recorded and offered for playback to interested individuals.

Response: This regulation is a model regulation that has been adopted by agencies across the Commonwealth to ensure that agencies and regulatory boards are all using consistent processes concerning the adoption of regulations. This regulation does not address public access to meetings. State law, specifically the Virginia Freedom of Information Act, addresses access to public meetings. The agency is continuing to explore the use of technology to increase public access to meetings that is consistent with the requirements of the Virginia Freedom of Information Act. For these reasons, no change is being proposed to be made to the PPGs at this time.

Multi-lingual materials

Comments were submitted suggesting public notices and technical materials be made available in multiple languages upon request. Sign language translation should also be made available.

Response: Sign language translation is available when requested in advance for meetings of the regulatory boards. Advance notice is required to allow staff to contract for sign language translation services. Access to information by individuals with limited English proficiency is a statewide issue currently being examined by the Governor's Office of Diversity, Equity, and Inclusion which is developing a plan, including the steps and resources needed to implement a language access policy. The work undertaken by the Governor's Office of Diversity, Equity, and Inclusion may lead to the development of

recommendations related to the PPGs that may require changes in the future, but no change is being proposed to be made to the PPGs at this time.

Environmental Justice Concerns

Comments pertaining to the need to address environmental justice were submitted. Commenters endorsed recommendations found in the Skeo report concerning public engagement. Commenters emphasized the need for better outreach earlier in phases of regulations, guidance and projects to ensure notice to, and engagement of, vulnerable communities including environmental justice (EJ) communities. Suggestions were made to develop and provide the board with an inventory map of Virginia's vulnerable environmental justice communities, and to create a list of EJ communities. Some commenters believe that DEQ should fund, support and run educational opportunities concerning permitting projects that are language accessible as well as at a time and location most convenient to the local community. Inclusion of EJ data in permit summaries, as well as making EJ data considered as part of permit applications available for peer review was also mentioned. DEQ staff should receive training in EJ and ensure EJ community outreach specialists are on every board and are actively engaging with impacted communities.

Response: This regulation is a model regulation that has been adopted by agencies across the Commonwealth to ensure that agencies and regulatory boards are all using consistent processes for public participation in the adoption of regulations. Members of the public, including representatives of EJ communities are encouraged to utilize these processes, including commenting on NOIRAs and proposed regulations and volunteering for Regulatory Advisory Panels. These comments have been shared with DEQ's Office of Environmental Justice (EJ office). The EJ Office is working to engage EJ communities on DEQ's permitting and regulatory processes and implement recommendations for improving public engagement and training as well as other recommendations from the Skeo report through strategic planning and across agency programs. DEQ chairs the Inter Agency Environmental Justice Work Group. The group is working through the whole of government to coordinate on environmental justice issues. These on-going work and processes may lead to the development of recommendations related to the PPGs that may require changes in the future, but no change is being proposed to be made to the PPGs at this time.

Board public comment policy and meetings

Comments were also submitted on the Board's public comment policy which is not a part of this regulation (or any regulation) but a policy that was jointly adopted by the Air Pollution Control Board, State Water Control Board and the Virginia Waste Management Board. Commenters objected to elements of the policy including time limits for speakers at public forums, requirements for commenters to comment during permit public comment forums if they wished to address the board on a permit, and the exclusion of discussion of agenda items during the public forum. Comments were also received on the requirement to register to address the board in advance of electronic meetings. Comments were also submitted on the selection of meeting locations, the timing of the public forum during the meeting, security requirements at the meetings, the pooling of minutes by speakers, allowing elected officials to address the board first, allowing new information to be presented to the board, the time of day meetings are held, the scheduling of hearings/meetings near holidays, the accessibility of meeting locations to public transit, and the need to provide childcare so impacted citizens in communities can participate in meetings. A commenter also requested a minimum threshold of community members to be present before a board decision can occur. Another commenter requested that the public be provided with the opportunity to address the Board, not the Department, on all regulations and on controversial permits.

Response: All three of DEQ's regulatory boards previously jointly adopted a public participation policy that establishes procedures for public comment at board meetings. The Board's public participation policy is not a regulation and is separate from the PPGs; therefore, it is not part of this periodic review. The PPGs address the process used to adopt regulations. Most regulations are typically applicable to the entire state; however, in some instances a regulation being adopted may be applicable to a particular region of the state. On those occasions, the board has historically held public meetings to allow public comment on the regulatory changes in the areas impacted by the regulation (for example groundwater withdrawal

regulations in designated groundwater management areas). The PPGs are consistent with DPB's model PPGs, and allow the Boards flexibility to hold meetings and to select locations of meetings. These comments did not address the content of the PPGs, and no changes are needed to the PPGs.

Board members

Comments were also received from the public concerning the regulatory board's need to remain informed concerning their decision making authority and any changes to state law that impacts their decision making authority. Commenters also requested that the Attorney General's Office advice to the Board on the applicable law remain public whenever possible.

Response: Board members are provided an overview of their authority when they are appointed to the regulatory board and are updated concerning any changes in state law that impact their authority. The Board only utilizes closed meetings as allowed by the Freedom of Information Act (Section 2.2-3711 A.). These comments did not address the content of the PPGs, and no changes are needed to the PPGs.

Improve public understanding of public comment periods/public participation

Commenters indicated a need for more information concerning projects to be provided to the public in early stages of projects and in advance of public meetings, and include information concerning opportunities to provide information and views to the boards. Some commenters indicated that more instructions were needed for the general public on how to participate in public comment periods, the purpose of the comment periods, and how comments will be incorporated into the decision making process. More information needs to be provided to the public to explain DEQ's role in projects, and to educate the public concerning other entities' roles (at the federal, state, or local level) in a project. When people express concerns outside DEQ's purview, DEQ should direct the commenters to who can address their concerns or what it would take for DEQ to be able to address their concerns.

Response: DEQ is aware of the complexity of permitting projects that the agency reviews, and that many times multiple entities, including those on the federal, state and local levels may share responsibility concerning the siting and permitting of projects. These concerns however are outside of the scope of the PPGs and are related to the review of applications for permits, not the process to adopt regulations. Educational outreach materials concerning the statewide process for adopting regulations have been developed by the Department of Planning and Budget and are available on the Virginia Regulatory Town Hall website. This information is available from the following locations: <https://townhall.virginia.gov/um/PublicParticipation.cfm> and <https://townhall.virginia.gov/um/charts.cfm> . For these reasons, no change is being proposed to be made to the PPGs in response to these comments.

Public Comments relating to Permits

Comments were received during the public comment period for the PPGs on the public participation process related to the issuance of permits. Comments addressed the requirement for individuals to submit comments on the draft permit to be allowed to address the board when the board is considering taking action on a permit, involving communities that may be impacted by the permit earlier in the permitting process, allowing the community the opportunity to ask questions of decision makers, providing communities with financial resources to hire scientists and engineers to give testimony at DEQ permit hearings on their behalf, requiring board members to visit the site prior to permit issuance, having DEQ provide the Board a list of pending permit actions and allowing the Board to elevate a permit issuance decision to the Board. Commenters also indicated DEQ needed to consider public comments submitted to federal regulatory agencies as part of issuing DEQ permits. Commenters stated that DEQ staff time on permits needs to be accounted for and made transparent in order to reform the inequity between taxpayer time spent to support applicants and staff time spent on public participatory engagement activities. DEQ's use of EJ Screen and other software tools used in the permitting process must be available to be peer reviewed. Additionally DEQ should not rely on regulated industries to perform outreach or inform the public concerning permits being applied for. Commenters also stated they believe the process used for permits elevated to the Board for a decision should be revised to allow board members to hear from the applicant, regulator and public in a fair way prior to making a decision on the permit.

Comments pertaining to the handling of public hearings related to permits were also received. Commenters indicated the length of the public comment hearing must be scheduled based on the number of commenters who made written comments, and that staff need to reduce the amount of information read to participants and the Boards (specifically their summary of comments) at the beginning of the hearing.

Response: This regulation does not address public participation concerning permits. Public participation requirements for permits are included in the applicable permit regulation and the Board's public participation policy and comments regarding public participation requirements for permits are not related to the periodic review of the content of the PPGs. These comments did not address the content of the PPGs, and no changes are needed to the PPGs in response to these comments.

Comments were received voicing concern about the unresponsiveness of DEQ to public comments. Commenters indicated it appears the agency has made its mind up about permits prior to opening the public comment period.

Response: This regulation does not address public participation concerning permits and comments regarding public participation requirements for permits are not related to the periodic review of the content of the PPGs. These comments did not address the content of the PPGs, and no changes are needed to the PPGs in response to these comments.

DEQ website comments

Comments were submitted during the comment period for the PPGs addressing the DEQ website and the need for a more obvious or standard way to sign up for updates from DEQ. Commenters stated that the information on the public comment webpage seems very formal.

Response: These comments do not pertain to the Public Participation Guideline regulations. The feedback received has been provided to DEQ's Division of Communication, the DEQ division responsible for managing DEQ's website.

Public Complaints

Comments were received during the public comment period concerning specific permitting projects and pollution complaints.

Response: These comments are outside of the scope of the PPGs.

One or more comments were submitted by the following individuals and groups listed below during the periodic review of the PPGs:

Comments submitted by Anna Killius, James River Association on behalf of the following organizations: Patrick Fanning, Chesapeake Bay Foundation; William A. "Skip" Stiles; Wetlands Watch; Anne Girard Little, Tree Fredericksburg; Jennifer B. Cole, Clean Fairfax; Misty Boos, Wild Virginia; Mark Frondorf, Potomac Riverkeeper Network; Nancy Vehrs, Virginia Native Plant Society; Kim Hosen, Prince William Conservation Voters; Dan Crawford, Roanoke Group, Sierra Club; Michael Town, Virginia League of Conservation Voters; Jo Anne St. Clair, Climate Action Alliance of the Valley; Bryan Hofmann, Friends of the Rappahannock; Queen Zakia Shabazz, Virginia Environmental Justice Collaborative and United Parents Against Lead; Michael Bochynski, Clean Water Action; Parker Agelasto, Capital Region Land Conservancy; Kim Jemaine, Chesapeake Climate Action Network; Scott Peterson, Faith Alliance for Climate Solutions; Samantha Ahdoot MD, Virginia Clinicians for Climate Action; Lakshmi Fjord, Union Hill Freedmen Family Research Group; Faith B. Harris, Virginia Interfaith Power & Light; Sharon Shutler, Virginia Grassroots Coalition; Natalie Pien, Loudoun Climate Project; Dale Wimberley, New River Valley Indivisible; Morgan Wilds, Surfrider Foundation, Virginia Chapter; Michael Myers, Loudoun Wildlife Conservancy; Kidest Gebrer, Virginia Interfaith Power & Light; Robin Broder, Waterkeepers Chesapeake; Barbara Walsh, Rockbridge Area Conservation Council; Dan Holmes, Piedmont Environmental Council;

Renee Grebe, Audobon Naturalist Society; Emily Steinhilber, Virginia Coastal Resilience Environmental Defense Fund; Bill Tanager, Friends of the Rivers of Virginia; Patrick L. Calvert, Virginia Conservation Network; Kate Wofford, Alliance for the Shenandoah Valley; Mark Sabath, Southern Environmental Law Center; and Kenneth Gilliam Jr., New Virginia Majority.

Comments submitted by Queen Zakia Shabazz, Virginia Environmental Justice Collaborative endorsed by: Katlyn Schmitt, Center for Progressive Reform; Lauren Landis, Chesapeake Climate Action Network; and Grace Tuttle, Protect Our Water Heritage Rights

Marc Koslen, Timothy Whitcombe, Claiborne Yarbrough, Chrysy Costello, Pamela Muir, Tamsen Rea, Lillian Mezey, Robert Flint, Kenda Hanuman, Dana Snead, William Skirbunt-Kozabo, Kimberly Bray, Kathleen Price, Nancy Maurelli, Amelia Bland Waller, Susan Matchett, Elizabeth O'Brien, Greg Wilson, Sandra Schlaudecker, Gary Pickenpaugh, Shannon Veale, Michael Carvellas, Kathleen McClory, Joyce Rouse, Paul Henderson, Chris Kunkel, Russell Corigliano, Elizabeth Davis, Joan Yater, David Rosmer, Emma Cruz, Sandra Middour, Mary Hill, Edward Savage, Mary Jane Reyes, Lynn Gravelle, Kristin Peckman, Elaine Fischer, Linda Tanner-Sutton, Catherine Harrison, David Sutton, James Wilson, Pamela Mullins, Julie Kimmel, Laura LaVertu, Stephen Hackney, Barbara Abraham, Emily Little, Nan Halperin, Mary Barhydt, Alison Kliem, Sally Tucker, Christopher Dunn, Cynthia Howell, Marjorie Leach-Parker, Elliot Daniels, Bill Staley, Ivy Main, Renee Crisp, Karen Chauvin, Pamela Wood, Rhonda Johnson, Linda Schneider, Krista Al Qirim, Greg Garland, Michael Pan, Gordon Johnson, Benjamin Cuker, Jennifer Yarrington, Susan Lee, Phyllis Karppi, Shelley Coss, Pat Dubay, Marcia Geyer, Marvin Wingfield, Betty Hill, Michele McCauley, Steven Thai, Travis Allen, Rosemarie Sawdon, Cheryl Arthur, Diane Rohn, Jim Lindsay, Steve and Erica Davidson, Karen Nelson, DeeDee Tostanoski, Blair St. Ledger-Olson, Mary Wallace, Antonia Antonia, Carolyn Crighton, Claudia Butz, Kim Duncan, Michael Sobel, Walter Moore, Beverly Pettway, Wendy MacDonald, Deb Stranges, Nelofar Qulizada, Brooke Kane, Susan Kalan, Steven Urquhart, Don Boileau, Pamela Jones, William Schreier, Kenneth Sheppard, Paul Kaplowitz, Wayne Teel, Robert Horn, Lee Williams, Cheryl Vosburg, Greg Singleton, Kristina Cotton, Arthur Impastato, Sharon Hazelbaker, Janice May, Maria-Celeste Delgado-Librero, David Shanklin, Chris Durrer, Mary Lou Burke, Jean Ames, Brian Hires, Keith Everton, Sabrina Frazier, Raymond Nuesch, Rod Morgan, Ben Weiner, Carolyn Haupt, Storm Cunningham, Mary Ann McFarland, Gene Whitaker, SMD Howell, John Surr, Bob Shippee, Daniel Crawford, Stephen Jamme, Kathy Stark, Steven Vogel, Melissa Lee, Donald Mackler, Cathy Brunick, Ken Goldsmith, Peter Egan, Mark Hanson, Margaret Sims, Ramona Hinkle, Ronald Karpick, Jeanne Stanborough, Kelly Place, Leigh Eicher, Cynthia Munley, Michael Carter, Cathleen A Cassidy, Carol Hall, Erin Parker, Matthew Fleenor, Julia Durand, Richard Chapman, Pamela Jiranek, Patricia Rowell, David Goad, Kam Williams, Gabrielle Kubi, David Warner, Tim Cywinski, Jane Bashara, Charlotte Shnaider, and Shannon Veale, Emily Little, Mary Jane Cobb Reyes, Bill Mth, Friend of Rattlesnake Creek, Steven Vogel, Lucretia McCulley, R & W Lowrance, Jesse Sawyer, Stephen Keach, Bruce Stambaugh, Jennie L Waering, William Wells, Paul Littell, Anonymous, Suanna Bruinooge, Michael D Fox, Douglas Throp, Alyssa Freeman, James Burke, Felicia Etzkorn, Becky Daiss, Pamela Jiranek, Susan Kuhbach, Ramona Sanders, Barbara Ann Schweitzer, Evelyn Ruffin, Joan Chapman, Joseph Jeeva Abbate, Yogaville Environmental Solutions, Lorraine Fleck, Victor Escobar, Virginia Interfaith Power & Light, Shirley Paul, Maria C., Amy Petersen, John Whitley, Susan Layment, Mary Olinger, Eugene Hamilton LeCouteur, David H Teschner, Ann McMillan, Sandy Cleva, Edmund Merriman, Cheryl A Umbel, Nancy Walsh, Natalie Pien, Elaine Fischer, Meredith Haines, Elizabeth Ende, Christine Steiffer, Sally Wambold, Bryce D Yoder, Mary Finley-Brook, Lauren Landis, Chesapeake Climate Action Network, Jolene Mafnas, Food & Water Watch-Virginia Organizer, Steve Padgett, Katie Whitehead, Jessica Sims, Anne Stewart, Zander Pellegrino, Grace Terry, Freeda Cathcart, Richard Freeman Allan, Grace Terry, Cynthia Munley, Lakshmi Fjord, Carolyn Caywood, Nan Gray, Steve Martin, Victoria Campbell, David Means, Patricia Stansbury, Susan Bivins, Mary Jane Reyes, Kristin Peckman, Joyce Rouse, Sandra Schlaudecker, Amelia Bland Waller, Pamela Wood, Linda Cole, Cynthia Munley, Kurt Langberg, Akari Hernandez, Paige Wesselink, Rebecca Talbot, Glenn Shean, Heidi Dragneff, Beth Kreydatus, Elizabeth Ende, Rose Hendricks, Linda Tanner-Sutton, Marc Koslen, Timothy Whitcombe, Stacy Sallerson, Pamela Muir, Lillian Mezey, Robert Flint, Kenda Hanuman, William Skirbunt-Kozabo, Kimberly Bray, Dana Snead, Nancy Maurelli, Susan Matchett, Kathleen Price, Michael Carvellas, Chris Kunkel, Russell Corigliano, Elizabeth Davis, Joan Yater, David Rosmer, Emma Cruz, Sandra Middour,

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Langberg, Lakshmi Fjord, Lauren Landis, Chesapeake Climate Action Network, Linda Cole, Linda Schneider, Lorraine Fleck, Lucretia McCulley, Maria C., Mary Finley-Brook, Mary Jane Cobb Reyes, Mary Jane Reyes, Mary Olinger, Meredith Haines, Michael D Fox, Michele Mattioli, Nan Gray, Nancy Maurelli, Nancy Walsh, Natalie Pien, Paige Wesselink, Pamela Jiraneck, Pamela Wood, Patricia Stansbury, Paul Littell, R & W Lowrance, Ramona Sanders, Rebecca Talbot, Richard Freeman Allan, Rose Hendricks, Sally Wambold, Sandra Schlaudecker, Sandy Cleva, Shirley Paul, Stephen Keach, Steve Martin, Steve Padgett, Steven Vogel, Suanna Bruinooge, Susan Bivins, Susan Kuhbach, Susan Layment, Victor Escobar, Virginia Interfaith Power & Light, Victoria Campbell, William Wells, Zander Pellegrino.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, 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.

The regulation is clearly written and easily understandable. This regulation includes the requirements for notification, seeking input, use of advisory panels, and public participation during regulatory actions.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

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, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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 applicable law, will minimize the economic impact of regulations on small businesses.

The current regulation continues to be needed to comply with state law. Section 2.2-4007.02 of the Code of Virginia requires agencies to develop and adopt public participation guidelines for soliciting input from interested parties during the development of regulations.

Comments were received during the periodic review comment period. Many comments received were outside of the scope of the PPGs. Comments that were applicable to the PPGs have been addressed in the response to comments section. Approximately 100 rulemaking bodies in Virginia have used DPB’s model PPGs as a basis for adopting regulations concerning public participation guidelines. The State Water Control Board previously adopted this regulation concerning public participation guidelines to promote consistent public participation guidelines during the regulatory development process throughout the Commonwealth. The regulation is being retained to maintain a consistent public participation process for the adoption of regulations by state agencies.

The regulation is not technical in nature. The regulation establishes guidelines for the participation of interested citizens during all phases of the adoption of new regulations, or the amendment or repeal of existing regulations.

Federal regulatory programs encourage public participation by citizens and the regulated community; however, Virginia law details specific public participation requirements. This regulation was adopted as required by state statute and does not conflict with federal law or regulation.

This regulation was last updated in 2017 to adopt changes to conform to changes to the Code of Virginia.

The regulation is explanatory in nature and does not place any additional regulatory burden on the regulated community including small businesses.

Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

This regulation does not have a direct impact on the family or family stability.