



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action
Agency Background Document

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| Agency Name: | State Water Control Board |
| VAC Chapter Number: | 9 VAC 25-740 |
| Regulation Title: | Regulation for the Reuse of Reclaimed Wastewater |
| Action Title: | Adoption of Regulation for the Reuse of Reclaimed Wastewater |
| Date: | December 20, 2000 |

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose*

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the proposed action is to satisfy the provisions of the Code of Virginia, §62.1-44.15 relating to the reclamation and reuse of wastewater as mandated by the 2000 General Assembly in House Bill 1282.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The basis for this regulation is Section 62.1-44.2 et seq. of the Code of Virginia. Specifically, Section 62.1-44.2 establishes the purpose of the State Water Control Law that is to promote and encourage the reclamation and reuse of wastewater in a manner protective of the environment

and public health. Section 62.1-44.15:5 authorizes the Board to issue a Virginia Pollution Discharge Elimination System (VPDES) permit or a Virginia Pollution Abatement (VPA) permit for the reuse of reclaimed wastewater including, but not limited to, land irrigation. Section 62.1-44.15:10 authorizes the Board to adopt regulations as it deems necessary to enforce the general water quality management program. Furthermore, Section 62.1-44.15:15 authorizes the Board to promote and establish requirements for the reclamation and reuse of wastewater that are protective of state waters and public health as an alternative to directly discharging pollutants into state waters.

Need*

Please detail the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied

Although a regulatory framework for wastewater reclamation and reuse involving land irrigation has been established through the VPA Permit Regulation (9 VAC 25-32-10 et seq.) or VPDES Permit Regulation (9 VAC 25-31-10 et seq.), these regulations do not prescribe any technical standards for this type of operation. The reuse of reclaimed wastewater for other purposes (such as industrial cooling processes, fire protection, street washing, dust control, etc.) are not currently required to obtain a permit from the Department.

Pursuant to the action of the 2000 General Assembly, the Board must promote and establish requirements for the reclamation and reuse of wastewater that are protective of state waters and public health as an alternative to directly discharging pollutant into state waters. The proposed regulation will establish technical standards that address various potential categories of reuse. Therefore, the proposed regulatory action would be essential to protect the health, safety and welfare of the citizens of Commonwealth. It would also be essential to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

Substance*

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed.

The proposed regulation will establish requirements for the reclamation and reuse of wastewater that are protective of state waters and public health. It will provide for greater flexibility and less stringent requirements commensurate with the quality of the reclaimed wastewater and its intended use. It will provide a predictable and certain process for the approval or denial of requests for the reclamation and reuse of wastewater in Virginia.

In response to HJR662 (1999), the Department conducted a study on issues surrounding land irrigation, and reclamation and reuse of wastewater. A report (House Document No. 92) was prepared and submitted to the General Assembly with input provided by an ad hoc advisory group. As recommended by the advisory group, the proposed regulation will encompass the following six water reuse categories:

1. Land irrigation for agricultural, forest and landscape use;
2. Ground water recharge for certain purposes (e.g., saltwater intrusion control)
3. Industrial processes (e.g., cooling, boiler feed, stack scrubbing, and process water)
4. Non-potable urban (e.g., fire protection, street washing, and vehicle washing)
5. Environmental (e.g., stream flow augmentation/fishery sustainability)
6. Miscellaneous (e.g., snowmaking, dust control, and construction)

Alternatives*

Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action, and the reasoning by which the agency has rejected any of the alternatives considered.

The following alternatives have been considered by the Department:

1. Promulgate a water reuse regulation that establishes technical standards for various potential reuse categories. The permitting mechanisms established in the VPA and VPDES Permit Regulations could be incorporated by reference.
2. Amend the VPA Permit Regulation by incorporating the technical standards for various potential reuse categories. These standards could then be used as criteria for a VPDES permit issued to facilities that may employ any reuse options in addition to the wet weather discharge.
3. Take no action to adopt the regulation. Instead, establish requirements by issuing a staff guidance. This option was not recommended because the result is not as predictable or certain as regulation.

The Department has tentatively determined that alternative 1 is the most appropriate alternative available that will satisfy the statutory mandates. The requirements established by the proposed regulation would apply to either of the existing permitting programs, VPA or VPDES. It would also provide a predictable and certain process for the approval or denial of requests for the reuse of reclaimed wastewater in Virginia.

Public Participation*

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a meeting because the agency has

authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate where information on the public meeting (i.e., date, time and place) may be found.

The Board is seeking comments on the intended regulatory action, including (1) ideas to assist in the development of a proposal, (2) the costs and benefits of the alternatives stated in this notice or other alternatives, and (3) impacts of the regulation on farm or forest lands. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations. In order to be considered comments must be received by the close of the comment period and must contain the name, address and phone number of the person submitting comments. Comments may be submitted by mail, facsimile transmission, e-mail, or by personal appearance at the public meeting, but must be submitted to Ms. Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240 (e-mail: lchoi@deq.state.va.us) (fax: 804-698-4032).

In addition, a Technical Advisory Committee will be formed by the Department to assist in the development of the regulation. Any person who desires to be on the committee should notify the agency contact in writing by the close of public comment period and provide their name, address, phone number and the organization who they represent.

Participatory Approach*

Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board is using the participatory approach in the development of the proposal.

Family Impact Statement

Please provide a preliminary analysis of the potential 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.

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