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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC25-600
VAC Chapter title(s)	Designated Groundwater Management Areas
Date this document prepared	12/29/2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

GWMA – Groundwater Management Area

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.

The State Water Control Board is authorized by §62.1-256.8 of the Code of Virginia to promulgate regulations it deems necessary to administer and enforce the provisions of Chapter 25, the Ground Water Management Act of 1992. Section 62.1-257 B of the Code of Virginia requires the Board to declare an

area meeting one or more of the criteria identified in §62.1-257 A a groundwater management area (GWMA). The Board shall include in its regulation a definition of the boundaries of the GWMA. This regulation became effective in 1989 and was amended in 2013 and 2014.

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 statute directs the Board to designate a GWMA when established statutory criteria are met. The review of a potential area can be initiated by the Board’s own motion or by petition by any county, city, or town within the area in question. The regulation lists the two existing GWMA’s: the Eastern Virginia GWMA and the Eastern Shore GWMA. These two areas continue to demonstrate conditions consistent with the designation criteria and require on-going management to protect the public welfare, safety, and health. No viable alternatives were identified that were consistent with state law.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s 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.

There was no public comment received.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This regulation is necessary for the protection of public health, safety, and welfare. The two existing GWMA’s continue to demonstrate conditions consistent with the designation criteria and require on-going management through the permit program. By statute, the purpose of the regulation is to identify areas where “continued unrestricted usage of ground water” will “contribute to pollution and shortage of ground water, thereby jeopardizing public welfare, safety, and health.” Unsustainably low water levels and saltwater intrusion within the two existing designated GWMA’s continue to threaten the public welfare, safety and health. The regulation identifies, by affected county, city, and town, the geographic boundaries of each GWMA. The regulation also describes the aquifers subject to the GWMA. The regulation is not complex and is clearly written and understandable. There are no overlapping, duplicative, or conflicting state or federal laws or regulations addressing groundwater shortages or pollution caused by groundwater withdrawals.



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).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The Department is retaining the regulation without change. The regulation continues to be beneficial to the Commonwealth. The regulation describes groundwater management areas where, based on statutory criteria, additional management of groundwater is required to prevent further decline in groundwater levels and potential pollution from saltwater intrusion. Groundwater is a primary source of drinking water for thousands of Virginians with individual homeowner wells, hundreds of municipal public water supplies, and hundreds of economic interests. All these entities require a reasonable expectation that the water supply will be available and of high quality into the future to thrive. The geographic description of the GWMA identified in this regulation is required by statute and is the minimum necessary to identify these areas.

An ORM Economic Impact form accompanies this form.

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. This regulation establishes the geographic location of the two GWMA declared by the State Water Control Board that meet the criteria for management through the withdrawal permit program. Unsustainably low water levels and saltwater intrusion within the two existing designated GWMA continue to threaten the public welfare, safety and health. DEQ did not receive any public comments during the periodic review. The regulation is not complex and is clearly written and understandable. There are no overlapping, duplicative, or conflicting state or federal laws or regulations addressing groundwater shortages or pollution caused by groundwater withdrawals. This regulation was last amended in 2014. The last periodic review occurred in 2018. The regulation establishes groundwater management areas and does not directly impact small businesses.

Family Impact

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

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