



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	State Water Control Board
VAC Chapter Number:	9 VAC 25-220-10 et seq.
Regulation Title:	Surface Water Management Area
Action Title:	Regulation Review and Retention
Date:	August 8, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

The purpose of the Surface Water Management Area regulation is to prevent problems in the future by providing for the protection of beneficial uses in designated surface waters of the Commonwealth during periods of drought. The regulation details the process for designation of a management area, including the initiation of a surface water management area study, conditions under which designation shall take place, standards for determining the level of flow in need of protection, and criteria for issuing, modifying, revoking or denying a permit. The designation of a surface water management area will allow the state to have a management structure in place that could be invoked during periods of low flow.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or

discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The authority for this regulation is found in Title 62.1, Chapter 24, § 62.1-242 et seq. of the Code of Virginia. Specifically, § 62.1-246 authorizes the State Water Control Board (Board) to declare surface water management areas; § 62.1-247 authorizes the Board to issue surface water withdrawal permits; §§ 62.1-248 and 249 establish permit requirements; § 62.1-243, authorizes the Board to issue water withdrawal certificates and to establish certificate requirements.

There is no federal mandate for this regulation.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

The Board received no comments in response to the Notice of Periodic Review of Regulations published in the Virginia Register on June 18, 2001.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The goals of the regulation are to: (1) protect the beneficial uses of the streams of the Commonwealth by identifying areas that may be impacted by low flows during drought periods and by designating those areas as Surface Water Management Areas, (2) provide a coordinated approach in managing and allocating the limited surface water resources of the Commonwealth during periods of low flow, and (3) ensure that water supply sources are protected and managed wisely.

This regulation has no direct impact on the institution of the family or family stability. It is clearly written and understandable for the entities directly affected.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The State Water Commission, a legislatively mandated panel charged with studying all aspects of water supply and allocation problems in the Commonwealth, has over the years, examined various approaches for resolving water supply and allocation problems, including imposition of an administrative statewide permitting system. Efforts to develop a comprehensive water policy have been largely unsuccessful due to the reluctance of the General Assembly to assert state control over the allocation of Virginia's water resources.

In 1989, the Water Commission recommended a compromise approach that would protect Virginia's streamflow levels while at the same time satisfy the needs of offstream and instream uses, by proposing the surface water management area legislation. This approach did not establish a statewide permit system but acknowledged both the differing values of the state's rivers and streams by designation of problem areas where, when flow levels fall below a specified level, water withdrawal will be managed according to a scheme that have been agreed upon by the withdrawers in the area.

The alternative to the limited management of only critical areas is a statewide permit system for water withdrawals that would regulate all withdrawers regardless of the impact of their withdrawals.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency is recommending that the regulation stay in effect without change.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

This regulation has no direct impact on the institution of the family or family stability.