



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Department of Environmental Quality
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC 25-380-10 <i>et seq.</i>
<b>Regulation title</b>	Wetlands Policy
<b>Document preparation date</b>	September 19, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

This policy is authorized by the Virginia General Assembly. Its statutory basis is in Section 62.1-14.15 of the Code of Virginia which states that, "It shall be the duty of the [State Water Control] Board and it shall have the authority to establish such standards of quality and policies for any state waters consistent with the general policy set forth in this chapter..."

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

This policy imposes no additional regulatory burden. The Wetland Policy recognizes the importance of wetlands and calls for their conservation. Repeal of the policy is not recommended because it would remove an important symbolic tool for the protection and conservation of the Commonwealth's natural resources and could result in significant public concern.

**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. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

No informal advisory group was formed. Three (3) comments were received during the public comment period:

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Chesapeake Bay Foundation and Wetlands Watch (joint letter)	The Board should retain the Wetland Policy in its entirety. The Board should retain the Wetland policy without any changes. If the Board contemplates changes to the current Wetland Policy, such changes should be considered in an open, public participation process.	The Board agrees with these comments, and does not propose any changes to the Wetland Policy. The Board agrees to retain the Wetland Policy.
Wetland Studies and Solutions, Inc.	Comments received did not pertain to the regulation/policy under periodic review. Rather, the comments pertained to procedural and regulatory requirements under the Virginia Water Protection Permit Program regulations (9VAC25-210 <i>et seq.</i> ).	These comments, while not germane to the regulation/policy under review, will be retained for future consideration when the appropriate regulation undergoes periodic review or rulemaking.
The Vectre Corporation, on behalf of the Virginia Association of Commercial Real Estate	Comments received did not pertain to the regulation/policy under periodic review. Rather, the comments pertained to procedural and regulatory requirements under the Virginia Water Protection Permit Program regulations (9VAC25-210 <i>et seq.</i> ).	These comments, while not germane to the regulation/policy under review, will be retained for future consideration when the appropriate regulation undergoes periodic review or rulemaking.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

This policy recognizes the important role that wetlands play in protecting water quality, reducing water pollution, and the value of wetlands as a natural resource. It also encourages their conservation in order

to maintain the quality of Virginia’s waters. It is clearly written in non-technical language and is easily understandable by the individuals and entities it affects.

**Result**

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

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The agency recommends retaining the Wetland Policy without any changes.

**Small business impact**

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) 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, include a discussion of the agency’s determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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This policy is needed to continue to identify the role wetlands play in the protection of water quality and the need for their conservation. The level of complexity of this policy is low; it sets forth straightforward policies in plain language that promote wetland protection and preservation. This policy compliments, but does not take the place of, the provisions stated in Section 62.1-14.15:20 of the Code of Virginia and the Virginia Water Protection Permit Program Regulation (9 VAC 25-210-10 *et seq.*). The policy was previously evaluated in 2001 and was retained without changes. The agency has determined that the policy should not be amended or repealed to minimize the impact of regulation on small businesses, as this policy imposes no additional regulatory burden.

**Family impact**

*Please provide an analysis of the regulation’s impact on the institution of the family and family stability.*

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This regulation has no direct impact on the institution of the family and family stability. Generally, however, sound environmental regulations protect the quality of life for Virginia’s families.