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Regulatory
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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Approving authority name	State Water Control Board
Virginia Administrative Code (VAC) citation	9 VAC 25-720-130.B
Regulation title	Amend the New River Basin (9 VAC 25-720-130.B) section of the Water Quality Management Planning Regulation (9 VAC 720) by updating the stream segment classifications, effluent limitations including water quality based effluent limitations, and waste load allocations that have changed to reflect new requirements or changing water quality conditions.
Action title	Amendment to the Water Quality Management Planning regulation by updating the stream segment classifications, effluent limitations including water quality based effluent limitations, and waste load allocations to provide consistency with other water quality management programs
Document preparation date	Enter date this form is uploaded on the Town Hall

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The State Water Control Board (Board) proposes to amend the New River Basin section (9 VAC 25-720-130.B) of the state's Water Quality Management Plan Regulation (9 VAC 25-720). This regulation (9 VAC 25-720) serves as a repository for TMDLs, stream segment classifications, effluent limitations including water quality based effluent limitations, and waste load allocations pursuant to 40 CFR § 130.7(d)(2), and §62.1-44.19:7 of the Code of Virginia. The proposed amendment is needed to update the data and information contained in the regulation to reflect the advances in technology, changing water quality conditions, and provide consistency with VPDES permits and other water quality management programs.

Legal Basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Virginia Code, ?? 62.1-44.15 (10), 62.1-44.15(13) and 62.1-44.19:7 give the State Water Control Board the duty and authority to adopt TMDLs and to establish policies and programs for effective area-wide and basin-wide water quality control and management. The Code also authorizes the Board to develop pollution abatement and water quality control plans.

Water Quality Management Plans are required by Section 303(e) of the Clean Water Act [33 U.S.C. 1313(e)] as implemented by 40 CFR 130.

Need

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

Planning for the management of the quality of the waters of the Commonwealth is essential to protect the health, safety, and welfare of the citizens of Virginia. Water quality management plans identify water quality problems and propose alternative solutions and recommendations for pollution control measures needed to attain or maintain water quality standards.

Federal and state regulations require that VPDES permits be consistent with the applicable WQMPs. The plans, however, also allow for revisions in permit requirements as a result of availability of more data and more sophisticated methods of analyses. Application of newer methods, coupled with more data, sometimes result in permit limitations that are different from those listed in the plans. Consequently, any changes in a VPDES permit that will cause it to be inconsistent with the plan will require amendment of the plan to assure consistency between the two programs.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The New River Basin (9 VAC 25-720-130.B) section of the Water Quality Management Plan Regulation (9 VAC 25-720) no longer reflect current water quality conditions and need to be updated to provide consistency between the regulation and other water quality management.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, describe the process by which the agency has considered or will consider, other alternatives for achieving the need in the most cost-effective manner.

The primary alternative is to leave the regulation unchanged. This was not the alternative chosen because state and federal regulations require the VPDES permits to be consistent with the Water Quality Management Planning Regulation (9 VAC 25-720).

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 public 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 that the date, time and place of the meeting may be found in the calendar of events section of the Virginia Register of Regulations.

The Board is seeking comments on the intended regulatory action, including but not limited to 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 and forest land preservation. Anyone wishing to submit written comments for the public comment file may do so at the public meeting or by mail, email or fax to Jason Hill, Office of Water Quality Programs, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA. 24019 or jrhill@deq.state.va.us, phone 540-562-6724. Written comments must include the name and address of the commenter. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period.

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. Both oral and written comments may be submitted at that time.

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 seeks comment from the public on whether to use the participatory approach to assist the agency in the development of a proposal.

Impact on family

Assess 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.

Consistency between the water quality management programs is for the protection of public health and safety, which has only an indirect impact on families.