



**Final Regulation
Agency Background Document**

Approving authority name	State Water Control Board
Virginia Administrative Code (VAC) citation	9 VAC 720 90.B
Regulation title	Amendment of the Water Quality Management Planning Regulation (9 VAC 720)
Action title	Amendment to the Tennessee – Big Sandy River Basin section (9 VAC 25-720-90.B) of the Water Quality Management Planning Regulation
Document preparation date	August 17, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The amendment to the Tennessee - Big Sandy River Basin section (9 VAC 25-720-90.B) is needed to establish a standard format for data presentation, update the data and information contained in these portions of the regulation to provide consistency with the current VPDES permits. This section of the Water Quality Management Plan Regulation (9 VAC 25-720) proposed to be amended no longer reflect current water quality conditions and need to be deleted.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The State Water Control Board adopted the amendments to 9 VAC 25-720-90 B at the September 27-28, 2005 meeting.

Legal basis

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

Virginia Code, Sections 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.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The State Water Control Board (Board) proposes to amend the Tennessee - Big Sandy River Basin section (9 VAC 25-720-90.B) of the state's Water Quality Management Plan Regulation (9 VAC 25-720). Section (9 VAC 25-720-90.B) serves as a repository for those waste load allocations not developed in the Total Maximum Daily Load (TMDL) process. The proposed amendment is needed to standardize the format, update the data and information contained in the regulation to reflect the advances in technology and changing water quality conditions. This amendment is needed to provide

consistency with VPDES permits and other water quality management programs. Also, obsolete information needs to be removed from the regulation.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

The Tennessee - Big Sandy River Basin (9 VAC 25-720-90.B) section of the Water Quality Management Plan Regulation (9 VAC 25-720) needs a standard format and outdated waste load allocations need to be updated. Obsolete information needs to be deleted from the regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The amendment to provide a consistent format and data is a benefit for the public interested in the pollutant loads and allocations for Virginia’s streams. Also, the amended regulation will contain current information which is a benefit to all users. The one possible disadvantage to some citizens is that some information not required by the statutory and regulatory authorizations is being eliminated in the amendment. This information will be moved into the non-regulatory river basin plan.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
		None	

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
None		

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9 VAC 720 90.B			Format change, update WLAs to reflect new information, and delete obsolete data. This is a dynamic regulation needed periodic amendments.

Regulatory Flexibility Analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent

compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Periodic updates of the regulation are necessary to maintain consistency with the VPDES program in accordance with federal requirements. The alternate to updating the regulation is to repeal the regulation. This repeal alternate was presented to the technical advisory committee (TAC). The TAC wanted the regulation updated and maintained and rejected the repeal option.

Family impact

Please assess the 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.

The proposed amendment to the Water Quality Management Regulation is for the protection of public health and safety, which has only an indirect impact on families.