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Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation(s)	9VAC25-720
Regulation title(s)	Water Quality Management Planning Regulation
Action title	Amendment to adopt two new TMDL waste load allocations in the James River Basin (9 VAC 25-720-60.A), twelve new TMDL waste load allocations in the Roanoke River Basin (9 VAC 25-720-80.A), seven new TMDL waste load allocations in the Chowan River – Dismal Swamp River Basin (9 VAC 25-720-100), five new TMDL waste load allocations in the Chesapeake Bay – Small Coastal – Eastern Shore River Basin (9 VAC 25-720-110.A), and ten new wasteload allocations for the York River Basin (9 VAC 25-720-120.A)
Final agency action date	December 11, 2014
Date this document prepared	November 2, 2014

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The amendments to the state's Water Quality Management Planning Regulation (9 VAC 25-720) include two new TMDL waste load allocations in the James River Basin (9 VAC 25-720-60.A), twelve new TMDL waste load allocations in the Roanoke River Basin (9 VAC 25-720-80.A), seven new TMDL waste load allocations in the Chowan River – Dismal Swamp River Basin (9 VAC 25-720-100), five new TMDL waste

load allocations in the Chesapeake Bay – Small Coastal – Eastern Shore River Basin (9 VAC 25-720-110.A), and ten new wasteload allocations for the York River Basin (9 VAC 25-720-120.A).

The TMDLs were developed in accordance with Federal Regulations (40 CFR § 130.7) and are exempt from the provisions of Article II of the Virginia Administrative Process Act. The TMDLs were subject to the TMDL public participation process and the waste load allocations are adopted as part of 9 VAC 25-720 in accordance with Virginia's "Public Participation Procedures for Water Quality Management Planning". Attached is a document that lists by name the seven TMDL reports and thirty six individual TMDLs affected by this regulation.

Acronyms and definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

Allocation: That portion of a receiving water's loading capacity that is attributed to one of its existing or future pollution sources (nonpoint or point) or to natural background sources.

Allocation Scenario: A proposed series of point and nonpoint source allocations (loadings from different sources), which are being considered to meet a water quality planning goal.

Background levels: Levels representing the chemical, physical, and biological conditions that would result from natural geomorphological processes such as weathering and dissolution.

Best Management Practices (BMP): Methods, measures, or practices that are determined to be reasonable and cost-effective means for a land owner to meet certain, generally nonpoint source, pollution control needs. BMPs include structural and nonstructural controls and operation and maintenance procedures.

Calibration: The process of adjusting model parameters within physically defensible ranges until the resulting predictions give a best possible good fit to observed data.

Direct nonpoint sources: Sources of pollution that are defined statutorily (by law) as nonpoint sources that are represented in the model as point source loadings due to limitations of the model. Examples include: direct deposits of fecal material to streams from livestock and wildlife.

Failing septic system: Septic systems in which drain fields have failed such that effluent (wastewater) that is supposed to percolate into the soil, now rises to the surface and ponds on the surface where it can flow over the soil surface to streams or contribute pollutants to the surface where they can be lost during storm runoff events.

HSPF (Hydrological Simulation Program-Fortran): A computer-based model that calculates runoff, sediment yield, and fate and transport of various pollutants to the stream. The model was developed under the direction of the U.S. Environmental Protection Agency (EPA).

Hydrology: The study of the distribution, properties, and effects of water on the earth's surface, in the soil and underlying rocks, and in the atmosphere.

Instantaneous or Single Sample criterion: The instantaneous criterion or instantaneous water quality standard is the value of the water quality standard that should not be exceeded at any time. For example, the Virginia instantaneous water quality standard for *E. coli* is 235 cfu/100 mL. If this value is exceeded at any time, the water body is in violation of the state water quality standard.

Load allocation (LA): The portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background.

Margin of Safety (MOS): A required component of the TMDL that accounts for the uncertainty about the relationship between the pollutant loads and the quality of the receiving waterbody. The MOS is normally incorporated into the conservative assumptions used to develop TMDLs (generally within the calculations or models).

Model: Mathematical representation of hydrologic and water quality processes. Effects of land use, slope, soil characteristics, and management practices are included.

Nonpoint source: Pollution that is not released through pipes but rather originates from multiple sources over a relatively large area. Nonpoint sources can be divided into source activities related to either land or water use including failing septic tanks, improper animal-keeping practices, forest practices, and urban and rural runoff.

Pathogen: Disease-causing agent, especially microorganisms such as bacteria, protozoa, and viruses.

Point source: Pollutant loads discharged at a specific location from pipes, outfalls, and conveyance channels from either municipal wastewater treatment plants or industrial waste treatment facilities. Point sources can also include pollutant loads contributed by tributaries to the main receiving water stream or river.

Pollution: Generally, the presence of matter or energy whose nature, location, or quantity produces undesired environmental effects. Under the Clean Water Act for example, the term is defined as the man-made or man-induced alteration of the physical, biological, chemical, and radiological integrity of water.

Reach: Segment of a stream or river.

Runoff: That part of rainfall or snowmelt that runs off the land into streams or other surface water. It can carry pollutants from the air and land into receiving waters.

Septic system: An on-site system designed to treat and dispose of domestic sewage. A typical septic system consists of a tank that receives liquid and solid wastes from a residence or business and a drainfield or subsurface absorption system consisting of a series of tile or percolation lines for disposal of the liquid effluent. Solids (sludge) that remain after decomposition by bacteria in the tank must be pumped out periodically.

Simulation: The use of mathematical models to approximate the observed behavior of a natural water system in response to a specific known set of input and forcing conditions. Models that have been validated, or verified, are then used to predict the response of a natural water system to changes in the input or forcing conditions.

Straight pipe: Delivers wastewater directly from a building, e.g., house, milking parlor, to a stream, pond, lake, or river.

Total Maximum Daily Load (TMDL): The sum of the individual wasteload allocations (WLA's) for point sources, load allocations (LA's) for nonpoint sources and natural background, plus a margin of safety (MOS). TMDLs can be expressed in terms of mass per time, toxicity, or other appropriate measures that relate to a state's water quality standard.

Urban Runoff: Surface runoff originating from an urban drainage area including streets, parking lots, and rooftops.

Validation (of a model): Process of determining how well the mathematical model’s computer representation describes the actual behavior of the physical process under investigation. This follows the calibration of the model and ensures that the calibrated values adequately represent the watershed.

Wasteload allocation (WLA): The portion of a receiving water’s loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation.

Water quality standard: Law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body, and an anti-degradation statement.

Watershed: A drainage area or basin in which all land and water areas drain or flow toward a central collector such as a stream, river, or lake at a lower elevation.

For more definitions, see the Virginia Cooperative Extension publications available online:

Glossary of Water-Related Terms. Publication 442-758. <http://www.ext.vt.edu/pubs/bse/442-758/442-758.html>

and

TMDLs (Total Maximum Daily Loads) - Terms and Definitions. Publication 442-550. <http://www.ext.vt.edu/pubs/bse/442-550/442-550.html>

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.

At its meeting on December 11-12, 2014 the State Water Control Board adopted the amendments to the Water Quality Management Planning Regulation (9 VAC 25-720 et seq.) to include two new TMDL waste load allocations in the James River Basin (9 VAC 25-720-60.A), twelve new TMDL waste load allocations in the Roanoke River Basin (9 VAC 25-720-80.A), seven new TMDL waste load allocations in the Chowan River – Dismal Swamp River Basin (9 VAC 25-720-100), five new TMDL waste load allocations in the Chesapeake Bay – Small Coastal – Eastern Shore River Basin (9 VAC 25-720-110.A), and ten new wasteload allocations for the York River Basin (9 VAC 25-720-120.A).

Family impact

Please assess the impact of this 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 amendment of the Water Quality Management Planning Regulation is for the protection of public health and safety, which has only an indirect impact on families.

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

The comment period for the regulation change extended from October 6 – November 6, 2014. No comments were received.

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
60.A		James River Basin.	Adopting two new wasteload allocations for the James River Basin.
80.A		Roanoke River Basin.	Adopting twelve new wasteload allocations for the Roanoke River Basin.
100		Chowan River – Dismal Swamp River Basin	Adopting seven new wasteload allocations for the Chowan River – Dismal Swamp River Basin
110.A		Chesapeake Bay – Small Coastal – Eastern Shore River Basin	Adopting five new wasteload allocations for the Chesapeake Bay – Small Coastal – Eastern Shore River Basin
120.A		York River Basin	Adopting ten new wasteload allocations for the York River Basin with eight of the new wasteload allocations superseding eleven old wasteload allocations