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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-370
VAC Chapter title(s)	Policy for the Protection of Water Quality in Virginia's Shellfish Growing Waters
Date this document prepared	October 20, 2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

VPDES- Virginia Pollution Discharge Elimination System

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The State Water Control Board has promulgated this regulation under the authority of Section 62.1-44.15 (3a) and 62.1-44.15 (10) of the Code of Virginia.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

The regulation is a general policy statement of the board. This regulation specifies hearings will be conducted for projects that may result in shellfish condemnations. Additionally it also identifies state agencies and other groups to be included in part of the evaluation of impacts to shellfish. One option considered was the repeal of the regulation. This option was rejected since repealing this regulation would remove a general policy statement of the board concerning the Board’s position concerning projects that may result in shellfish condemnation. Both the Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and Water Quality Standards (9VAC25-260) are used to implement this policy.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An informal advisory group was not formed to assist with this periodic review. No public comments were received during the public comment period.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This regulation is a policy of the State Water Control Board relating to the protection of Virginia’s shellfish growing waters. The Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and Water Quality Standards (9VAC25-260) are used to implement this policy. This regulation continues to be needed to protect Virginia’s shellfish growing waters; thereby protecting public health, safety and welfare. The regulation is clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

This regulation continues to be needed and will be retained.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) 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, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This regulation continues to be needed. It specifically addresses the need for the board to work with other state agencies to obtain information concerning projects that may result in shellfish condemnations, with the overall goal to protect the Commonwealth's shellfish resources.

No public comments were received during the periodic review comment period.

This regulation is a general policy statement of the board, and is not complex. Other board regulations have been adopted to implement this policy.

This regulation was adopted as a policy statement by the State Water Control Board on March 25, 1980 and became effective on June 10, 1980.

This regulation is a policy to protect from condemnation of shellfish growing areas and to identify other state agencies to coordinate with concerning projects. This regulation does not place any requirements on small businesses.

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Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

This regulation does not have a direct impact on the family or family stability.