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Final Regulation Agency Background Document

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) citation	9 VAC 25-210 et seq.
Regulation title	Virginia Water Protection Permit Regulation
Action title	Virginia Water Protection Permit Regulation Amendments
Date this document prepared	January 7, 2007

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

In addition to a number of administrative amendments that will allow for a more efficient and understandable application, review and issuance process, the changes to the VWPP regulation contain changes resulting from two concurrent Technical Advisory Committee processes and public review of draft amendments. Substantive changes to the regulation resulting from deliberations and discussions of the VWP TAC include: 1) clarification of water withdrawals excluded by statute from permit requirements and the conditions related to those exclusions; 2) the institution of a new pre-application panel and public information meeting process for surface water projects; 3) the creation of an Emergency Virginia Water Protection Permit for public water supplies during drought; 4) the inclusion of new language regarding permit conditions for withdrawals in the Potomac River consistent with the Potomac Low Flow Allocation Agreement; 5) new language defining the evaluation of cumulative impacts to instream flow; 6) clarification of an applicant's requirement to conduct an alternatives analysis; 7) the creation of a new variance provision to address temporary relaxation of permit conditions during drought; and 8) establishment of a new joint public notice process for surface water projects requiring both a VWPP and a Virginia Marine Resources Permit.

Additional changes to the regulation are the result of the incorporation of key concepts and language from the WP5 TAC process and the proposed General Permit for Minor Surface Water Withdrawals. These

amendments: 1) establish a distinction between major (90 million gallons per month or greater) and minor (less than 90 million gallons per month) surface water withdrawals; 2) provide for regulatory exclusions for certain surface water withdrawals from VWPP requirements; 3) create a reporting requirement for some surface water withdrawals excluded from VWPP requirements; 4) create a streamlined application process for new or expanded minor surface water withdrawals; 5) establish applicable permit standards for new or expanded minor surface water withdrawals, and 6) clarify the requirements for evaluation of project alternatives for minor surface water withdrawals for public surface water supply withdrawal projects.

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 the Virginia Water Protection Permit Regulation (9 VAC 25-210 et seq.) administered by the Department of Environmental Quality on December 14, 2006.

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.

The amendments proposed include a combination of mandated and discretionary actions.

State Water Control Law (Code of Virginia) web site: 1) Coordinated review of water resources projects @ section 62.1-44.15:5.01 (2005, c. 49.) <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+62.1-44.15C5.01>

2) Emergency VWP permits @ section 62.1-44.15:5 J (2003, c. 399.) <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+62.1-44.15C5>

The source of legal authority for promulgating this regulation is provided in Sections 62.1-44.15(10) and 62.1-44.15:5 of the Code of Virginia. The promulgating entity is the State Water Control Board.

State Water Control Law (Code of Virginia) web site: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+62.1-44.15> and <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+62.1-44.15C5>

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 goals of the proposed amendments to the VWPP regulation are to provide greater predictability for the applicant, increased public involvement, increased state support for project need determinations and alternatives analyses, increased flexibility for addressing public health and safety interests during drought, better understanding and management of the cumulative impacts of surface water withdrawals on beneficial uses, to provide for exclusions for certain categories of surface water withdrawals and to provide for a streamlined application process for minor surface water withdrawal permits. The proposed changes will allow for a more efficient and understandable permit application, review and issuance process for surface water supply projects, and a more streamlined permitting process. In turn, this will allow for greater consistency and predictability for the public.

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.

NOTE: All page numbers and section citations noted below refer to the attached regulation, Virginia Water Protection Permit Program 9 VAC 25-210.

Definitions. Section 9 VAC 25-210-10 contains a number of new and revised definitions. Definitions of affected stream reach; agricultural surface water withdrawal; channelization of streams; cross-sectional sketch; drought; Emergency Virginia Water Protection Permit; impacts; intake structure; major surface water withdrawal; minor surface water withdrawal; out-of-kind mitigation; permanent impacts; plan view sketch; Potomac River Low Flow Allocation Agreement; profile sketch; public surface water supply withdrawal; public water supply emergency; riprap; Section 401; Section for Cooperative Water Supply Operations on the Potomac (CO-OP); surface water supply project; surface water withdrawal; temporary impacts; undesirable plant species; Water Supply Coordination Agreement; and withdrawal system have been included in the regulation.

Exclusions. Section 9 VAC 25-210-60.B provides for the exclusion of certain categories of surface water withdrawals from VWP permit requirements and identifies specific exclusions. Sections 9 VAC 25-210-60.B.1 and 2 contains significant new language outlining the nature and extent of the statutory exclusion provision for surface water withdrawals. The statutory exclusion found in § 62.1-44.15:5 G excludes those surface water withdrawals in existence on January 1, 1989, unless a new § 401 certification is required to increase the withdrawal. The statutory exclusion found in § 62.1-44.15:5 H excludes those surface water withdrawals in existence after July 1, 1989, when the § 401 certification was received before January 1, 1989, unless the withdrawal is increased beyond the amount authorized by the certification. The proposed amendments seek to characterize this excluded amount of water as that amount that can be withdrawn through the existing intake structure. Any physical changes to the intake structure in order to increase the withdrawal will require a permit. The amendments also outline under what conditions DEQ will consider an intake abandoned. Virginia currently has approximately 550 known users of surface water. Approximately 90% of these known users are excluded from the requirement of obtaining a VWPP permit for their withdrawal. The amendments also require that these excluded users furnish DEQ with an estimate of their excluded water use by providing the maximum withdrawal capacity of the intake structure. The users have one year from being notified to provide this information. This information will be used to evaluate new permit application and to evaluate impacts on beneficial uses, including existing users. Section 9 VAC 25-210-60.B.3 provides for an exclusion for existing lawful unpermitted surface water withdrawals initiated between July 1, 1989 and the effective date of these amendments and establishes information and reporting compliance requirements. Sections 9 VAC 25-210-60.B.4 thru 15 identify specific surface water withdrawal categories that are excluded from VWP permit requirements. Thirteen of the specific exclusions included in this section were derived from a consensus of the general permit WP5 TAC. Section 9 VAC 25-210-60.C allows the Board to require a permit for any exclusion identified in Sections 9 VAC 25-210-60.B.3 through 15 if adverse impacts occur.

It should be noted that the exclusions contained in Sections 9 VAC 25-210-60.B.1 and 2 are based directly on legislation and the recapture clause contained in C can not be applied.

Pre-application Process for Major Surface Water Withdrawals. Section 9 VAC 210-75 is new and establishes a Pre-Application Review Panel that an applicant may use to identify the stream reach impacted by the proposed project, the analysis required within this reach, and potential impacts to existing beneficial uses that must be considered in the application process. The proposed panel will be composed of state and federal agency staff. In addition, the applicant will have a new requirement to have a public notice for the project prior to submitting their VWP application. If requested by the public, a public information meeting shall be held. This change brings consistency across media for how public input is managed for significant projects. New landfills and major new sources of air pollution currently require a public information meeting as part of the pre-application process.

Application for a VWP Permit/Information Submitted for Surface Water Projects. Section 9 VAC 25-210-80 B 2, has been amended to add additional language to the submission requirements for surface water supply project applications. These information requirements resulted from the addition of the pre-application process, clarification of what information needs to be submitted to demonstrate project purpose, need, and project alternatives analysis.

Applications for new or expanded minor surface water withdrawals. A new Section 9 VAC 25-210-80.C has been added to address the application requirements for new or expanded minor surface water withdrawals. These changes are a result of the incorporation of key concepts from the discussions of the WP5 TAC to create a streamlined process for this category of withdrawal.

Emergency Virginia Water Protection Permit for Public Water Supplies. A new Section 9 VAC 25-210-80.D has been added to address legislation (SB 399, 2003) that established Emergency VWP permits for public water supplies during drought. This change will allow DEQ to issue expedited water withdrawal permits during drought to address inadequate public water supplies. Even though this legislative change was self-implementing, the regulation has been revised in order to clarify the administrative requirements for the permit and for regulatory consistency.

Incomplete application. Section 9 VAC 25-210-80.F has been revised to clarify that a revised application with new information shall not require additional notice or an additional permit application fee. In addition this section establishes a mechanism to administratively withdraw the application for failure to provide required information.

Conditions applicable to Surface Water Withdrawals. Section 9 VAC 25-210-110 establishes the conditions applicable to surface water withdrawals for the determination of instream flow conditions/cumulative impact analyses. Section 9 VAC 25-210-110.A.1 has been modified to clarify what information will be considered by DEQ in establishing instream flow permit conditions for surface water withdrawals. The new language will allow DEQ to evaluate the combined cumulative effects of upstream consumptive use in the development of instream flow conditions during the review of all applications.

Potomac Low Flow Allocation Agreement. Section 9 VAC 25-210-110.A.2 has been added to begin implementation of Virginia's responsibilities as a signatory to the Potomac River Low Flow Allocation Agreement. Since 1978, the responsibility for protecting the sustainability of water supplies in metropolitan Washington was implemented through Maryland permit programs. However, the recent Virginia v. Maryland decision by the United States Supreme Court ruling changed this situation by holding that Virginia activities in the Potomac River do not require Maryland permits. This amendment establishes that any new permittee in the Potomac River between Little Falls and the confluence of the Shenandoah River must reduce its withdrawal during Restriction or Emergency stages declared for the Washington Metropolitan Area by the Section for Cooperative Water Supply Operations (CO-OP).

Conditions applicable to new or expanded minor surface water withdrawals. A new Section 9 VAC 25-210-110.A.3 has been added to incorporate key concepts from the WP5 TAC deliberations to create a streamlined process and applicable standards for minor surface water withdrawals.

Alternatives analysis and project need. Section 9 VAC 25-210-115 has been significantly reorganized and expanded. This section previously included requirements for avoidance and minimization (alternatives), mitigation, and compensation. The proposed amendments add new language for surface water withdrawal projects in section 115 addressing the identification of project purpose, establishing the project need, and evaluating alternatives to address the established need. Language on compensatory mitigation previously contained in this section has been moved to create a new section 116 for clarity. The amendment was drafted to ensure that both state and federal regulators were reviewing similar information regarding the analysis of project alternatives and need.

Final compensatory mitigation plan. A new section 9 VAC 25-210-116.F has been added to clarify the specific information requirements for the final compensatory mitigation plans for wetlands (9 VAC 25-210-116.F.1) and streams (9 VAC 25-210-116.F.2). These amendments were added to clarify that the final compensation plan is a condition of the permit not a condition for the application to be deemed complete and to establish the time period allowed for submittal of the proof of recordation.

VWP general permits. Section 9 VAC 25-210-130.H.4 has been revised to establish specific options for providing compensatory mitigation for unavoidable wetland impacts as appropriate to replace acreage and function.

DEQ and MRC Coordination in the review of Surface Water Projects. Section 9 VAC 25-210-140.A has been amended to address legislation (SB1248, 2005) that requires coordinated permit review for surface water withdrawal projects needing a Marine Resource Commission permit and an individual VWP permit. The amendment requires concurrent notice of the receipt of an application. This provision is intended to clarify and improve coordination of state agency reviews and comments for water supply projects in the permit process.

Variance from VWPP Conditions. Section 9 VAC 25-210-175 has been added to create a variance procedure for temporary relief from VWPP permit conditions. The provisions of this section are intended to establish a series of requirements that must be met to be eligible for temporary relaxation of a VWPP permit condition during drought. The advisory committee discussed a number of scenarios where, after exhausting expected management actions, a temporary relaxation of specific permit conditions would allow extraordinary actions to be taken to avoid a public health or safety emergency. This change is intended to provide necessary flexibility to address circumstances similar to those that occurred during the last drought while still protecting beneficial uses.

Rules for modification, revocation and reissuance, transfer and termination of VWP permits. Section 9 VAC 25-210-180 has been significantly revised to clarify when a VWP permit may be modified, or revoked and reissued with permittee consent; when a VWP permit can be transferred; specify when minor modifications can be made to a VWP permit; and when a VWP permit can be terminated by consent. These amendments also provide certification statements that are required for termination of a VWP project by consent in the case of project completion; project cancellation; and for events beyond permittee control.

Duration of VWP permits; extensions. Section 9 VAC 25-210-185.A has been added to clarify the duration of VWP permits. The amendments set a maximum of 15 years for VWP permits. This section also establishes a maximum permit term of one year for Emergency Virginia Water Protection Permits.

Administrative Changes. Numerous administrative and editorial changes have been made throughout the regulation. There have been a number of changes to the wetland general permits that resulted in changes in definitions, terminology, language, and application filing requirements. These changes in the general permit regulation became effective on January 26, 2005. The proposed amendments incorporate

these changes into this regulation. In addition, a number of organization changes were made to consolidate sections for clarity. In these cases, language was generally transferred in verbatim form. The incorporation of key concepts and language from the Minor Water Withdrawal Technical Advisory Committee discussions on the development of a general permit for minor surface water withdrawals has also created the need to renumber and reorganize sections of the regulation. Changes have been made to clarify the regulation and improve the sequence of the regulation requirements.

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 primary advantage to the public is an additional opportunity for involvement that occurs prior to the filing of the VWPP application and an assurance that DEQ will be evaluating the cumulative affects of new proposed withdrawals on all beneficial uses. The amended regulation also provides greater regulatory flexibility for addressing public health and safety issues with public water supplies or other essential public services during times of drought.

The primary advantage of these changes to the regulated community is improved clarity and predictability of the application process and the opportunity to identify potentially critical project issues through the use of the pre-application review panel before submitting an application. The revised regulation allows an applicant to utilize work done to meet the requirements of the local and regional water supply planning process in the regulatory process. Work done in demonstrating local need and public outreach will be able to be used to meet regulatory requirements under certain conditions. This will eliminate potential duplication of effort. The amended regulation provides additional categories of exclusions for surface water withdrawals. In addition, the amended regulation provides a streamlined application process for those new or expanded surface water withdrawals of less than 90 million gallons per month (minor surface water withdrawals). Implementation of this regulation will also help clarify the exclusions to VWP permit requirements by providing a specific list of the authorized exclusions.

The primary advantage of these changes to the Commonwealth is an increase in the comprehensiveness of the overall surface water management strategy. Applications should be processed more predictably and more quickly due to: early identification of problems with a project due to improved planning and use of the pre-application review panel; the potential for increased public support for these projects through additional public information opportunities; and improved project need and alternatives analyses due to greater clarity in what must be evaluated by the applicant. Another significant advantage to the Commonwealth is that the implementation of this regulation will give the DEQ a much better understanding and quantification of the extent of the water use excluded from the permit program. The implementation of this regulation will create a reporting mechanism to provide additional water use data from currently existing lawful unpermitted surface water withdrawals.

DEQ staff believes that once the total amount of excluded water use is known and DEQ considers these excluded amounts in cumulative impact analyses, some river basins will be near their capacity to meet the necessary demands of all existing beneficial uses during times of low flow. If some river basins are at or near capacity, a number of important regulatory and policy decisions will need to be made. In the short term, applicants may move toward off-stream impoundments that rely on pumping during higher than normal flows to meet their needs. The VWP TAC has expressed interest in continuing to work with DEQ

and others to collectively improve our tools to manage this situation. However, there is a reasonable likelihood that resolution of this issue will become a legislative matter sometime in the future.

Additional work is needed to address consumptive uses in the Potomac River basin to assure a similar level of implementation in Virginia as compared to the efforts currently undertaken by Maryland to protect the water supplies in metropolitan Washington during low flow periods. Over the years, a complex arrangement of flow augmentation responsibilities has developed based in part on the level of consumptive use by individual withdrawals. The political and technical issues associated with implementing a basin-wide program comparable to that implemented by Maryland were too great to manage during the consensus process for these amendments.

A concern over the existing fee structure available for the proposed Minor Surface Water Withdrawal Permit was raised during the joint meeting of the VWP TAC and the WP5 TAC. In anticipation of the development of a General Permit for Minor Surface Water Withdrawals, the Board had set the fee for such a general water withdrawal permit at \$2,400. Since the minor water withdrawal general permit did not proceed, an individual permit for New or Expanded Minor Surface Water Withdrawals would not be eligible under the general permit category and the existing permit fee regulation (9 VAC 25-20-10 et seq.) would set the fee for this type of permit in the 15 to 25 thousand dollar range. Additional work will need to be done to evaluate the review requirements for applications for new or expanded minor surface water withdrawals to determine an appropriate fee level for consideration when the Fee Regulation is revisited.

The Fairfax County Water Authority raised a question regarding the potential impact of the proposed amendments on their existing on-shore and off-shore intakes on the Potomac River and provided suggested revisions. These comments were received after the close of the comment period for this regulatory action. Staff has evaluated these comments and suggestion and has made a determination that, provided that the information regarding the capacity of the on-shore intake that has been presented is correct, withdrawals of up to 400 MGD by FCWA will be excluded from permitting requirements whether it is withdrawn from the on-shore or off-shore intake. A letter providing this interpretation has been presented to the attorney representing FCWA and is included as an attachment to this staff memo. FCWA has given staff verbal assurances that our interpretation addresses their concerns.

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
9 VAC 25-210: Part I	No Title, just Part I.	Title was added: Part I: VWP Permit Program Definitions, Exclusions, Prohibitions & Requirements	Administrative Change - Consistency
9 VAC 25-210-10	Definitions. “Agricultural surface water withdrawal”	Definition added.	(WP5 TAC) Incorporation from proposed General Permit discussions.
9 VAC 25-210-10	Definitions. “Consumptive water use”.	Clarification of the definition of “consumptive water use” by referring to “without recycle of said waters to their source of origin” instead of “their source or basin of origin”.	To clarify the return point for water used. – Joint TAC Recommendation

9 VAC 25-210-10	Definitions. "Major surface water withdrawal"	Definition added.	(WP5 TAC) Incorporation from proposed General Permit discussions.
9 VAC 25-210-10	Definitions. "Minor surface water withdrawal"	Definition added.	(WP5 TAC) Incorporation from proposed General Permit discussions.
9 VAC 25-210-10	Definitions. "Nationwide Permit"	Definition was changed to refer to USACE Corps Districts.	The reference should address all Corps Districts not just a single District. – Administrative Change
9 VAC 25-210-10	Definitions. "Public surface water supply withdrawal"	Definition added.	(WP5 TAC) Incorporation from proposed General Permit discussions.
9 VAC 25-210-10	Definitions. "Public water supply emergency"	Definition added.	(WP5 TAC) Incorporation from proposed General Permit discussions.
9 VAC 25-210-10	Definitions. "Riprap"	The term "nonerodible" was added to the definition of "riprap".	(In Response to Comments.) To quantify the type of materials used for "riprap".
9 VAC 25-210-10	Definitions. "Riprap"	The phrase "on an embankment slope for the purpose of preventing erosion" has been deleted.	(in Response to Comments.) To match the definition of "riprap" contained in the VWP general permit regulations.
9 VAC 25-210-10	Definitions. "Section 401"	The word "in" was added to the definition.	- Administrative Change.
9 VAC 25-210-10	Definitions. "Surface water withdrawal"	Definition added.	Incorporation from proposed General Permit discussions.
9 VAC 25-210-10	Definitions. "Undesirable Species"	The term "plant" was added to make this a definition of "undesirable plant species".	Language changed to reflect the use of the phrase "undesirable plant species". Incorporation from proposed General Permit discussions.
9 VAC 25-210-10	Definitions. "Water supply emergency"	Definition deleted and replaced with the definition of "Public water supply emergency".	Incorporated from the WP5 discussions and for consistency with changes made to the VWP as a result of the inclusion of WP5 language.
9 VAC 25-210-50.A	Prohibitions and requirements for VWP Permits.	The word "or" was deleted from the list of general prohibitions and requirements.	- Administrative Change: to correct punctuation errors.
9 VAC 25-210-50.A	Prohibitions and requirements for VWP Permits.	The phrase 'and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses' was added. Also a number of	To clarify VWP Permit requirements and to include the prohibition against detrimental environmental impacts. Incorporation from proposed General Permit

		punctuation corrections were made.	discussions. Also a number of punctuation corrections were made to accommodate this addition. – Administrative Change
9 VAC 25-210-60.A	Exclusions.	The term “activities” was added to the introductory sentence.	Clarification of what is excluded. – Administrative Change
9 VAC 25-210-60.A.6	Exclusions for normal residential gardening, lawn and landscape maintenance.	The phrase “in a wetland” was added to the exclusion for normal residential gardening, lawn and landscape maintenance.	Clarification of regulation requirements. – Administrative Change
9 VAC 25-210-60.A.7	Exclusions for normal agriculture and silviculture activities.	The phrase “in a wetland” was added to the exclusion for normal agriculture and silviculture activities.	Clarification of regulation requirements. – Administrative Change
9 VAC 25-210-60.A.7.a	Exclusions for normal agriculture and silviculture activities.	The reference for the “Forestry Best Management Practices for Water Quality in Virginia Technical Guide” was corrected to reference the “Fourth Edition, July 2002”.	- Administrative Change.
9 VAC 25-210-60.A.9	Exclusions for construction or maintenance of farm or stock ponds or irrigation ditches.	The phrase “in a wetland” has been deleted.	(In Response to Comments.) Exclusion applies to construction or maintenance of farm or stock ponds or irrigation ditches in all waters not just in wetlands.
9 VAC 25-210-60.A.11	Exclusions for construction or maintenance of farm roads...	The reference for the “Forestry Best Management Practices for Water Quality in Virginia Technical Guide” was corrected to reference the “Fourth Edition, July 2002”.	- Administrative Change.
9 VAC 25-210-60.B	Exclusions for surface water withdrawals.	A new section B addressing surface water withdrawals was added.	(WP5 TAC) Incorporation of WP5 materials and clarification of regulation requirements.
9 VAC 25-210-60.B.1	Originally Section 9 VAC 25-210-60.B. Exclusions for surface water withdrawals.	Section items were renumbered to accommodate the addition of a new Section B.	- Administrative Change.
9 VAC 25-210-60.B.1.a	Originally Section 9 VAC 25-210-60.B.1. Exclusion for any surface water withdrawal in existence on July 1, 1989.	Section renumbered to accommodate the addition of section material.	- Administrative Change.
9 VAC 25-210-60.B.1.b	Originally Section 9 VAC 25-210-60.B.2. Exclusions for any surface water withdrawal in existence on July 1, 1989 – Information requirements.	Section renumbered to accommodate the addition of section material.	- Administrative Change.
9 VAC 25-	Exclusions for any	The phrase “notification of	Language changed to

210-60.B.1.b	surface water withdrawal in existence on July 1, 1989 – Information requirements.	abandonment” was replaced by the phrase “notice of such request” and language was changed so that instead of being received “by” the DEQ it is received “from” the DEQ.	clarify that this section applies to any surface water withdrawal not just those that have been or have been abandoned. - Administrative Change.
9 VAC 25-210-60.B.2	Originally Section 9 VAC 25-210-60.C. Exclusion for any surface water withdrawal not in existence on July 1, 1989.	Section renumbered to accommodate the addition of section material.	- Administrative Change.
9 VAC 25-210-60.B.3	Exclusion for any existing lawful unpermitted surface water withdrawal initiated between July 1, 1989 and the effective date of this regulation revision.	Section added to establish exclusion requirements for any existing unpermitted surface water withdrawals initiated between July 1, 1989 and the effective date of this regulation revision.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.3.a	Exclusion requirements.	Section added which establishes the information requirements for withdrawals falling into this category.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.3.b	Exclusion requirements.	Section added which establishes a timeline for the submittal of required information and the concept of a “limit on withdrawal” amount.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.3.c	Exclusion requirements.	Section added which establishes annual reporting requirements.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.4	Exclusions.	Section added to add an exclusion for agricultural surface water withdrawals under certain conditions.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.5	Exclusions.	Section added to add an exclusion for surface water withdrawals from non-tidal waters under certain conditions.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.6	Exclusions.	Section added to add an exclusion for surface water withdrawals from tidal waters for non-consumptive uses.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.7	Exclusions.	Section added to adds an exclusion for agricultural surface water withdrawals from tidal waters under certain conditions.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.8	Exclusions.	Section added to add an exclusion for surface water withdrawals	(WP5 TAC) Incorporation of WP5 discussions and

		under certain conditions.	concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.9	Exclusions.	Section added to add an exclusion for surface water withdrawals for firefighting and for training activities related to firefighting.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.10	Exclusions.	Section added to add an exclusion for surface water withdrawals placed into portable containers under certain conditions.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.11	Exclusions.	Section added to add an exclusion for surface water withdrawals for hydrostatic pressure testing.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.12	Exclusions.	Section added to add an exclusion for surface water withdrawals for normal single family home residential gardening, lawn, and landscape maintenance.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.13	Exclusions.	Section added to add an exclusion for surface water withdrawals returned to the stream of origin under certain conditions.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.14	Exclusions.	Section added to add an exclusion for surface water withdrawals from quarry pits under certain conditions.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.15	Exclusions.	Section added to add an exclusion for surface water withdrawals from privately owned agriculture ponds, emergency water storage facilities or other water retention facility under certain conditions.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-60.B.15	Exclusions.	Language added to reference the “bed of a perennial or intermittent stream” and to exclude surface water withdrawals from “such facilities constructed in beds of ephemeral streams”.	Joint TAC Recommendation.
9 VAC 25-210-60.C	Exclusions.	Section added to provide for permit requirements if “a withdrawal system excluded from permit requirements” is determined to have detrimental impacts.	Joint TAC Recommendation.
9 VAC 25-210-75	Preapplication procedures.	Section has been reworded to incorporate the concept of “new or expanded VWP permit for major	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing

		surface water withdrawals.	major surface water withdrawals.
9 VAC 25-210-75.A	Preapplication Review Panel.	Language clarified to reference a surface water supply project instead of “projects”.	- Administrative Change.
9 VAC 25-210-75.A	Preapplication Review Panel.	Language clarified so that outside agencies are to participate to the extend “practicable” instead of “practical”.	- Administrative Change.
9 VAC 25-210-75.B.3	Preapplication Procedures – public notice.	Language clarified to reference the provisions of both Sections 9 VAC 25-780-50.C.11 “and” 9 VAC 25-780-150, not “or”.	- Administrative Change.
9 VAC 25-210-75.B.3	Preapplication Procedures – public notice.	Language changed from “2” to “two” years as the time period for a public meeting.	- Administrative Change.
9 VAC 25-210-80.A	Application for a VWP Permit.	The phrase “for a VWP Permit” was added to the section header.	- Administrative Change.
9 VAC 25-210-80.A	Application for a VWP Permit.	The phrase “except those persons applying for a VWP permit for a minor surface water withdrawal or an emergency VWP permit” was added.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.B.	Information requirements.	The phrase “for a VWP Permit Application, except applications for minor surface water withdrawals or emergency VWP permits” was added.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.B.1.g	Minimum information requirements for a complete VWP permit application regarding the amount of stream impacts (in linear feet).	The phrase “and in square feet for purposes of calculating the permit application fee, when applicable” was added to the minimum information requirements for stream impacts.	(In Response to Comments.) To provide for the information needed for the calculation of permit fees.
9 VAC 25-210-80.B.1.k (1)	Information requirements for wetland impacts greater than one acre.	Language modified to incorporate the phrase “or other beneficial uses”.	(In Response to Comments.) To clarify the need to evaluate beneficial uses for all projects, not just water withdrawals.
9 VAC 25-210-80.B.1.k (5) (e)	Final compensation plan requirements.	Section deleted. The language from old Section (e) was transferred to 9 VAC 25-210-116.F.	(In Response to Comments.) Reorganized to clarify conditions for compensation plans.
9 VAC 25-210-80.B.1.k (5) (e)	Compensation plan requirements.	A new Section (e) was added to include compensation plan requirements for measures for the control of undesirable species.	Reorganized to clarify conditions for compensation plans. – Administrative Change
9 VAC 25-210-80.B.1.k (5) (f)	Final compensatory mitigation plan information requirements for wetlands.	Section deleted. Language transferred to 9 VAC 25-210-116.F.1	(In Response to Comments.) Reorganized to clarify conditions for compensation plans.
9 VAC 25-	Proof of willingness	Original Section number 9 VAC	To accommodate transfer

210-80.B.1.k (5) (f)	concept.	25-210-80.B.1.k (5) (i) renumbered.	of language to new section and deletion of section. – Administrative Change
9 VAC 25-210-80.B.1.k (5) (g)	Final compensatory mitigation plan information requirements for streams.	Section deleted. Language transferred to 9 VAC 25-210-116.F.2	(In Response to Comments.) Reorganized to clarify conditions for compensation plans.
9 VAC 25-210-80.B.1.k (5) (g)	Purchase and Use of banking credits requirements.	Original Section number 9 VAC 25-210-80.B.1.k (5) (j) renumbered.	To accommodate transfer of language to new section and deletion of section. – Administrative Change
9 VAC 25-210-80.B.1.k (5) (h)	Meaning of the phrase “undesirable species”.	Section deleted.	The correct term “undesirable plant species” is already defined in the 9 VAC 25-210-10. Definitions. Eliminates duplication. – Administrative Change
9 VAC 25-210-80.B.1.k (5) (h)	Off-site compensatory mitigation requirements.	Original Section number 9 VAC 25-210-80.B.1.k (5) (k) renumbered.	To accommodate transfer of language to new section and deletion of section. – Administrative Change
9 VAC 25-210-80.B.1.l	Detailed project location map definition.	Language revised to delete specific reference to latitude and longitude; hydrologic unit code and stream classification.	(In Response to Comments.) To clarify information requirements and to allow more the applicant more flexibility in providing a map with sufficient details.
9 VAC 25-210-80.B.2	Additional information requirements for a VWP Permit application.	Language revised to refer to applications involving “instream flow requirements”, and “major surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts and - Administrative Change.
9 VAC 25-210-80.B.2.g	Additional information requirements for a VWP Permit application.	Language revised to include reference to “surface water supply withdrawal projects” instead of “drinking water supply projects” and reference citations corrected.	(WP5 TAC) Incorporation of WP5 discussions and concepts - Administrative Change.
9 VAC 25-210-80.C	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.1	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.2	Information requirements for new or expanded minor surface water	Section added to incorporate the concept of specific streamlined information requirements for “new	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing

	withdrawals.	or expanded minor surface water withdrawals”.	minor surface water withdrawals.
9 VAC 25-210-80.C.3	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.4	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.5	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.5	Information requirements for new or expanded minor surface water withdrawals.	Language added to clarify the documentation requirements for new or expanded minor surface water withdrawals.	Joint TAC Recommendation.
9 VAC 25-210-80.C.6	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.7	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.8	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.9	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing minor surface water withdrawals.
9 VAC 25-210-80.C.10	Information requirements for new or expanded minor surface water withdrawals.	Section added to clarify the requirement for “a minor surface water withdrawal for a public surface water supply project to provide an evaluation of project alternatives as required in 9 VAC 25-210-115.”	Joint TAC Recommendation.
9 VAC 25-210-80.D	Information requirements for an Emergency Virginia Water Protection Permit.	Original Section 9 VAC 25-210-80.B.3 revised and renumbered as a Section header.	(WP5 TAC) Incorporation of WP5 discussions and concepts.
9 VAC 25-210-80.D.1	Information requirements for an Emergency Virginia Water Protection Permit.	New section added to address specific information requirements for application for an Emergency Virginia Water Protection Permit.	Section to clarify information requirements. – Administrative Change

9 VAC 25-210-80.D.2	Information requirements for an Emergency Virginia Water Protection Permit.	Old Section 9 VAC 25-210-80.B.4 renumbered.	Section renumbered to accommodate inclusion of addition sections. – Administrative Change
9 VAC 25-210-80.E	Additional information provision.	Old Section 9 VAC 25-210-80.C renumbered.	Section renumbered to accommodate inclusion of addition sections. – Administrative Change
9 VAC 25-210-80.F	Incomplete application provision.	Old Section 9 VAC 25-210-80.D renumbered.	Section renumbered to accommodate inclusion of addition sections. – Administrative Change
9 VAC 25-210-80.F	Incomplete application provision.	Language revised to “require the submission” of additional information when there is an incomplete application and reference to a “revised application with new information”. A provision for the revised application to be administratively withdrawn has also been added.	- Administrative Change and clarification of requirements for a revised application once an application has been deemed incomplete by the Board.
9 VAC 25-210-110.A	Establishing applicable standards, limitations or other VWP permit conditions.	New section added to specify “conditions applicable to surface water withdrawals”.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing surface water withdrawals.
9 VAC 25-210-110.A.1	Instream flow conditions.	Old Section 9 VAC 25-210-110.A renumbered.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC 25-210-110.A.1.a	Instream flow conditions.	Old Section 9 VAC 25-210-110.A.1 renumbered.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC 25-210-110.A.1.b	Instream flow conditions.	Old Section 9 VAC 25-210-110.A.2 renumbered.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC 25-210-110.A.1.c	Instream flow conditions.	Old Section 9 VAC 25-210-110.A.3 renumbered.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC 25-210-110.A.1.c.1	Instream flow conditions.	Old Section 9 VAC 25-210-110.A.3.a renumbered.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC 25-210-110.A.1.c.2	Instream flow conditions.	Old Section 9 VAC 25-210-110.A.3.b renumbered.	Section renumbered to accommodate the incorporation of new language. –

			Administrative Change
9 VAC 25-210-110.A.1.c.3	Instream flow conditions.	Old Section 9 VAC 25-210-110.A.3.c renumbered.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC 25-210-110.A.1.d	VWP Permits for surface water withdrawals.	Old Section 9 VAC 25-210-110.A.4 renumbered.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC 25-210-110.A.2	VWP Permits issued for surface water withdrawals from the Potomac River under certain conditions.	Old Section 9 VAC 25-210-110.B renumbered.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC 25-210-110.A.2	Requirements for VWP Permits issued for surface water withdrawals from the Potomac River.	Old Section 9 VAC 25-210-110.B language changed to reflect that the Department direction to the permittee will be “after” consultation with the Section for Cooperative Water Supply Operations on the Potomac (CO-OP) and the Department will indicate to the permittee “by what quantity” in addition to what duration their flows are to be reduced.	(In Response to Comments.) Clarifies procedure for dealing with the VWP Permits issued for surface water withdrawals from the Potomac River and removes the ambiguity as to the quantity of water that should be reduced.
9 VAC 25-210-110.A.3	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-110.A.3.a	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-110.A.3.b	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-110.A.3.c	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-110.A.3.d	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-	Conditions applicable to new or expanded surface	New section added to identify conditions applicable to new or	(WP5 TAC) Incorporation of WP5 discussions and

110.A.3.d.1	water withdrawals.	expanded surface water withdrawals.	concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-110.A.3.d.2	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-110.B	Water quality standards and state requirements.	Old Section 9 VAC 25-210-110.C renumbered.	Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.C	Toxic pollutants.	Old Section 9 VAC 25-210-110.D renumbered.	Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.D	Monitoring requirements.	Old Section 9 VAC 25-210-110.E renumbered.	Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.E	Best Management Practices.	Old Section 9 VAC 25-210-110.F renumbered.	Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.F	Reissued VWP Permits.	Old Section 9 VAC 25-210-110.G renumbered.	Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.G	Reopening VWP Permits.	Old Section 9 VAC 25-210-110.H renumbered.	Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-115.A	Identification of purpose of proposed project.	Language revised to refer to a “major” surface water withdrawal, “public surface water supply withdrawal project” or the alteration of instream flows.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.

9 VAC 25-210-115.B	Proposed activity involving a surface water withdrawal meets an established local water supply need.	Language revised and reorganized to refer to proposed activities that include a reference to a “major” surface water withdrawal, a public surface water withdrawal project, or the alteration of instream flows.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-115.C.2	Alternatives analysis requirements.	Language revised to refer to public “surface” water supply “withdrawal” projects.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-115.C.3	Alternative analysis requirements.	Language revised to refer to alternative “analysis” conducted for projects “that involve a surface water withdrawal or alteration of instream flows” other than “public surface” water supply “withdrawal” projects.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-116.B.1	Requirements for the analysis of practicable and ecologically preferable compensation alternatives.	The order of the wording “practicable” and “ecologically preferable compensation alternatives” was changed.	(In Response to Comments.) Language changed to clarify the order of practicable versus ecologically preferable compensation alternatives.
9 VAC 25-210-116.C.3	Identification of the ways that compensation for unavoidable impacts to streams may be met.	The term “mitigation” was added after “compensatory” and the phrase “approved by the board” was replaced by the phrase “acceptable to DEQ”.	(In Response to Comments.) Wording changed to clarify that the section deals with “compensatory mitigation” and to make it consistent with the language in the general permit regulations.
9 VAC 25-210-116.C.4	Preferred sequence of compensatory mitigation options.	Grammatical revisions/corrections.	- Administrative Change.
9 VAC 25-210-116.F	Old 9VAC 25-210-80.B.1.K (5) (e) on information requirements for final compensatory mitigation plans.	Section number changed.	To clarify that the final compensation plan is a condition of the permit not a condition for the application to be deemed complete. – Administrative Change
9 VAC 25-210-116.F.1	Old 9 VAC 25-210-80.B.1.K (5) (f) on final compensation plan requirements for wetlands.	Section number changed and “recording of mechanism for protection of the compensation site(s) revised. A provision allowing for the submittal of “proof of recording within 120 days of final compensation plan approval” was added.	(In Response to Comments.) To clarify that the final compensation plan is a condition of the permit not a condition for the application to be deemed complete and to establish the time period allowed for submittal of the proof

			of recordation.
9 VAC 25-210-116.F.2	Old 9 VAC 25-210-80.B.1.k (5) (g) on final compensation plan requirements for streams.	Section number changed and “recordation of mechanism for protection of the compensation site(s) revised. A provision allowing for the submittal of “proof of recordation within 120 days of final compensation plan approval” was added.	(In Response to Comments.) To clarify that the final compensation plan is a condition of the permit not a condition for the application to be deemed complete and to establish the time period allowed for submittal of the proof of recordation.
9 VAC 25-210-140.B	Public involvement requirements for every draft VWP permit, except an Emergency Virginia Water Protection Permit.	Wording deleted that referred to “variances from Virginia Water Protection Permit conditions as outlined in 9 VAC 25-210-175”.	- Administrative Change.
9 VAC 25-210-170.C.1	Content of the public notice of any public hearing.	Additional requirement to include “a description of the nature of the withdrawal and the amount of the withdrawal” as part of the public notice.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-175.A	Variances from VWP permit conditions for public water supplies.	Language revised to refer to “public” surface water “supply” withdrawals and Code reference corrected.	(WP5 TAC) - Administrative Change and incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.
9 VAC 25-210-175.B.2	Variances from VWP permit conditions for all other water supplies.	Grammatical correction.	- Administrative Change.
9 VAC 25-210-175.F	Public notice of any variance granted by the board requirements.	Language changed to reference that the public notice shall be given “concurrently with the” issuance of any variance.	Clarification of requirements and - Administrative Change.
9 VAC 25-210-180.D	Rules for modification, revocation and reissuance or termination of VWP Permits.	Language changed to clarify and correct specific section references.	Clarification of requirements and - Administrative Change.
9 VAC 25-210-180.E	Transfer of a VWP Permit.	Language from Old Section 9 VAC 25-210-180.E.2 was moved to this section.	Clarification and - Administrative Change.
9 VAC 25-210-180.E.1	Transfer by modification.	Section deleted.	Clarification and - Administrative Change.
9 VAC 25-210-180.E.2	Automatic transfer.	Section deleted. Language moved to 9 VAC 25-210-180.E.	Clarification and - Administrative Change.
9 VAC 25-210-180.E.1	Transfer of a VWP Permit - requirements.	Old Section 9 VAC 25-210-180.E.2.a renumbered.	Section renumbered to accommodate deletion of sections. – Administrative Change
9 VAC 25-210-	Transfer of a VWP Permit - requirements.	Old Section 9 VAC 25-210-180.E.2.b renumbered.	Section renumbered to accommodate deletion of

180.E.2			sections. – Administrative Change
9 VAC 25-210-180.E.3	Transfer of a VWP Permit - requirements.	Old Section 9 VAC 25-210-180.E.2.c renumbered.	Section renumbered to accommodate deletion of sections. – Administrative Change
9 VAC 25-210-180.E.4	Transfer of a VWP Permit - requirements.	Old Section 9 VAC 25-210-180.E.2.d renumbered.	Section renumbered to accommodate deletion of sections. – Administrative Change
9 VAC 25-210-180.F.5	Minor modification requirements.	Language revised to provide conditions for an increase to permitted project impacts by including specific code references.	Clarification of allowable increases in permitted project impacts. – Administrative Change
9 VAC 25-210-180.F.7	Minor Modification provisions for permit limitation or monitoring requirements.	Grammatical correction; deletion of the term “and”.	- Administrative Change.
9 VAC 25-210-180.F.8	Minor modification requirements.	Language revised to reference that “the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development or within logical termini”; to include a reference to “open water” impacts; and to increase the threshold for unavoidable cumulative in stream impacts from “less than 50 feet” to “less than 100 linear feet”.	(In Response to Comments.) Clarification of requirements and grammatical corrections.
9 VAC 25-210-180.F.9	Minor modification requirements.	Grammatical correction; the word “and” was added.	- Administrative Change – Grammatical correction.
9 VAC 25-210-180.H.4.a	Certification language for “project completion”.	The phrase “and any requested compensatory mitigation” was added and the terms “general” and “authorization” were removed.	(In Response to Comments.) Wording changed to clarify that the certification statement dealt with not only the activities authorized by the VWP permit but also any requested compensatory mitigation. Other language changed for consistence with the regulation.
9 VAC 25-210-180.H.4.b	Certification language for “project cancellation”.	The phrase “and any requested compensatory mitigation” was added and the terms “general” and “reauthorization” were removed. The phrase “and issuance of another permit” was also added.	(In Response to Comments.) Wording changed to clarify that the certification statement dealt with not only the activities authorized by the VWP permit but also any requested compensatory mitigation. Other language changed

			for consistence with the regulation and to clarify that resumption of activities would require the issuance of another permit.
9 VAC 25-210-180.H.4.c	Certification language for “project cancellation” for events beyond permittee control.	New section with certification language “for events beyond the permittee control” was added.	(In Response to Comments.) Wording added to be consistent with certifications allowed under the general permit regulations.
9 VAC 25-210-230.A.4	Denial of the VWP permit or variance request.	Language was revised to refer to existing “wetland” acreage and function “and no net loss of functions in all surface waters”.	Clarification of requirements and - Administrative Change.
9 VAC 25-210-230.A.8	Denial of the VWP permit or variance request.	Code references were corrected.	- Administrative Change.
9 VAC 25-210-230.A.9	Denial of the VWP permit or variance request.	Grammatical correction – section reworded for clarification.	- Administrative Change.
9 VAC 25-210-230.C	Denial of the VWP permit or variance request.	Language revised to note that should the applicant withdraw his application that no VWP permit “or variance” will be issued.	– Administrative Change
9 VAC 25-210-230.D	Denial of the VWP permit or variance request.	Language revised to refer to “his” right to a public hearing to consider the denial and provided a reference to the Procedural Rule governing that right.	Clarification of requirements and - Administrative Change.
9 VAC 25-210-260.A	Transition requirements: established that all applications received after the effective date of the regulation or all other applications received on or after the effective date would be processed under the new procedures.	The reference to “all other applications received on or after the effective date” of the regulations was removed.	(In Response to Comments.) Clarifies that “all” applications received after the effective date of the regulations will be processed under the new procedures and simplifies the language so that it is clear that there is only one effective date.
9 VAC 25-210-260.B	New Section. Transition requirements.	Language was added regarding VWP individual permits issued prior to the effective date of the regulation.	(In Response to Comments.)
9 VAC 25-210-260.C	New Section. Transition requirements.	Language was added addressing “modifications and all other types of notifications that are received by the board prior to the effective date of the regulation.	(In Response to Comments.)
9 VAC 25-210-260.D	Old 9 VAC 25-210-260.B.	Old Section 9 VAC 25-210-260.B renumbered.	Section number changed to accommodate the addition of new “transition” issues. –

Forms	List of Forms incorporated in the regulation.	Title of the Joint Permit Application changed corrected to read “Joint Permit Application for Projects Involving Tidal Waters and/or Tidal Wetlands in Virginia”.	Administrative Change Title of Form corrected. – Administrative Change
Forms	List of Forms incorporated in the regulation.	Title of Virginia Department of Transportation Joint Permit Application Form changed to Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (effective 10/28/2002).	(In Response to Comments.) Title of Form corrected.
Forms	List of Forms incorporated in the regulation.	New proposed simplified application form for Minor Surface Water Withdrawals added.	(WP5 TAC) Incorporation of WP5 discussions and concepts for addressing new or expanded surface water withdrawals.

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.

Comments and Agency Responses – VWP Amendments - Water Supply Permitting

Commenter	Comment	Agency response
John M. Carlock, Deputy Executive Director, Hampton Roads PDC	Noted than the Hampton Roads PDC and the Directors of Utilities Committee were very interested in the proposed amendments and would like to reserve an opportunity to address the proposed amendments at the State Water Control Board meeting where these amendments will be addressed.	Staff acknowledged the comment and noted the group’s desire to reserve an opportunity to address the board.
Larry M. Foster, James City County Department of Utilities	Noted that there are likely currently some streams that may be oversubscribed through “grandfathered” water withdrawal rights. He asked when the State would be able to make a determination on whether area streams would be able to sustain their flows and beneficial uses given the amount of yet to be determined water withdrawal rights.	Staff noted that this evaluation would probably not be possible until the first set of Water Supply Plans required under the Virginia Local and regional Water Supply Planning Regulation (9 VAC 25-780) had been submitted and evaluated in 2011 and until after the receipt and analysis of the “estimates of grandfathered amounts” required by the amendments.
Richard C. Woody, II, Natural Resources	The phrase ‘functions or stream functions and water quality benefits’ is used throughout the	While the language may not be exactly the same as in the State Water Control Law, the authority to regulate stream functions and

<p>Section Manager, Environmental Division, VDOT</p>	<p>proposed amendments. We request the replacement of the phrase 'stream functions and water quality benefits' with 'maintain or improve existing instream beneficial uses' throughout the document to be consistent with SWCL.</p>	<p>water quality benefits is in accordance with § 62.1-44.2, § 62.1-44.4, § 62.1-44.5, § 62.1-44.14, and § 62.1-44.14 of the Code of Virginia. The proposed language was recently adopted by the State Water Control Board, after review by the Attorney General, as part of the VWP General Permit Regulations (9 VAC 25-660, -670, -680, -690-10, et seq.</p>
<p>Kimberly Larkin, Chairperson, Northern Virginia Building Industry Association</p>	<p>This regulation does not just deal with water withdrawals, and should incorporate any of the recent changes to the VWP General Permits into the final regulation. While some have been included, many are missing or need revision. We do applaud the revised process for water withdrawals, and believe it will assist local governments no matter the size in understanding the regulatory process from a withdrawal projects inception.</p>	<p>Not all revisions to the VWP General Permit Regulations are appropriate or applicable for the activities covered by the VWP Program regulation, as the general permit regulations authorize specific activities having minor impacts to surface waters and provide for streamlined application procedures. Also, many provisions in the VWP General Permit Regulation were promulgated because no comment opportunity exists for these authorizations, unlike with individual permits issued under the VWP Program Regulation. The NOIRA for this action did not address wholesale changes to the Regulation, but focused on those related to water withdrawal activities. We would need to initiate a new NOIRA process to address any other changes so that there would be adequate public comment opportunity.</p>
<p>Thomas L. Smith, DCR Natural Heritage Director</p>	<p>Natural Heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations. DCR-DNH recommends the definition for "Isolated wetlands of minimal ecological value" (9 VAC 25-210-10. Definitions) be modified to delete the phrase "are not forested" and to add references to "G1, G2, or S1 natural heritage resources".</p>	<p>This definition was recently approved by the State Water Control Board and the Attorney General's Office in the VWP General Permit Regulations (9 VAC 25-660; -670; -680; 690-10. et seq. DEQ-issued permits must comply with state law or regulation, including Chapter 5 of Title 29.1. The permit cannot allow a "taking" of Federal listed species without a permit from the Virginia Department of Game and Inland Fisheries. 4 VAC 15-20-130.B adopts the Federal list as a state list and grants the same protections afforded to federally-listed species. Therefore, is the species is not declared threatened or endangered, then the same protections are not offered.</p>
<p>Richard C. Woody, II, Natural resources Section Manager, Environmental Division, VDOT</p>	<p>The definitions for "cross-sectional sketch", "plan view sketch" and "profile sketch" all specify a "scaled" graph or plot. While we agree that a scaled sketch is essential for water supply projects and large construction projects, for most projects permitted under this regulation including VDOT's maintenance projects, hand-drawn sketches are the norm and they will not have any scale. We request</p>	<p>No changes have been proposed to address this comment.</p>

	the deletion of the term “scaled” to also be consistent with the definitions in the general permits.	
Richard C. Woody, II, VDOT	Request defining the word permanent in this regulation.	The term “permanent” is used in the Code of Virginia. There is no definition of “permanent” in the Code.
Richard C. Woody, II, VDOT	Requested that the definition of the term “person” be changed to be consistent with that stated in the Code of Virginia § 1-230.	The definition was changed in this regulation to include multiple permitting issues that have arisen due to the exclusion of certain entities in previous definitions.
Richard C. Woody, II, VDOT	Requested that the term “riprap” be redefined more accurately reflect the many uses of riprap and to include reference to the use of “nonerodible” material.	Staff recommends that the term “nonerodible” be added to the proposed definition of “riprap” as the meaning is used differently from that in the VWP general permit regulations.
Richard C. Woody, II, VDOT	Requested clarification of the language regarding “diverting water for non-consumptive purposes thereby altering the hydrologic regime”. Requested revision of the definition of “surface water supply project” to exempt non-consumptive uses such as temporary diversions, permanent stream relocations, and other transportation related activities”.	DEQ does not classify a “stream relocation” project as a “water supply project”. DEQ will work with the VDOT staff to address their concerns in guidance developed for the implementation of this regulation.
Kimberly Larkin, NVBIA	Recommend that several definitions be changed and several additional definitions be added to be consistent with the general permit regulation.	Staff proposed a change to the definition of “riprap” as proposed by NVBIA and VDOT to include the term “nonerodible”. No other changes have been proposed to address these comments.
Richard C. Woody, II, VDOT	The addition of the phrase ‘in a wetland’ to 9 VAC 25-210-60.9 is not consistent with (Federal Law Section 404(f) (1) (c) of the Clean Water Act and Title 33 Section 323.4 (a) (3)). We request ‘in a wetland’ be deleted as this exclusion should apply to construction or maintenance activities in all surface waters.	Staff recommends the deletion of the phrase ‘in a wetland’ from 9 VAC 25-210-60.9 so that the exclusion applies to construction or maintenance activities in all surface waters.
Kimberly Larkin, NVBIA	Section 9 VAC 25-210-60.11 needs to include the ability to conduct minor water withdrawals for dust control on any construction site.	This section deals with the discharges or fill material for the construction of farm roads and mimics the federal exemption for consistency and clarity. If it is a truly minor temporary withdrawal it would likely not require a permit.
Craig Ziesemer, Director of Utilities, City of Suffolk	Asked for a clarification of the water withdrawal reporting requirement for “excluded” withdrawals. Should withdrawal (intake) structure be identified as having a given capacity?	9 VAC 25-210-60.12.b identifies the information to be furnished to DEQ for water withdrawals. Staff noted that each user would have to assign a value of capacity to each of their intake structures.
Kimberly Larkin, NVBIA	We believe that applicant should not be responsible to maintain a list and/or notify commenters of the	The TAC, mindful of the controversial nature of water supply permitting created this extra step for those few permits. The requirement

	draft VWP permit public notice. This should be part of the permit process and a responsibility of the permit staff.	was a much discussed consensus compromise of the group. The requirement only applies to water supply projects.
Richard C. Woody, II, VDOT	The proposed amendments delete 9 VAC 25-210-80.A.1. We request that this section not be deleted as proposed.	The TAC suggested and we were advised to delete this section since the time frames were being confused with the new statutory provisions for review timeframes for water withdrawal projects. All felt that the timeframes are clear in the Code and to repeat them in this way could lead to confusion with that as well.
Richard C. Woody, II, VDOT	The proposed amendments to 9 VAC 25-210-80.B.1 require the inclusion of a FAX number as part of the required information. We request that FAX number not be required for a complete application, since that information is not essential to review a permit application for completeness or to contact the permittee or agent to seek additional information.	The proposed language includes the phrase 'if applicable', so it is not required for a complete application.
Richard C. Woody, II, VDOT	The proposed amendments to 9 VAC 25-210-80.B.1.f require the inclusion of 'the name of the project' as part of the required information. We request the addition of the phrase 'if applicable' after 'the name of the project', since VDOT and the typical property owner do not usually name their projects.	This could be as straight forward as the 'Route #' or the 'Property Owner's Name'.
Kimberly Larkin, NVBIA	'Geomorphological Stream types' needs to be defined.	We believe that the phrase 'geomorphological stream type' is a term of art that is understood in the technical community; in addition there are several stream assessment methodologies that can be used to describe stream type and with the proposed wording any of them would be acceptable.
Kimberly Larkin, NVBIA	9 VAC 25-210-80.B.1.g needs to be modified to include the square feet of stream impacts as it is required in order to assess the cost of the Permit Fees.	Staff recommends revising this section as suggested to require square feet of stream impacts for purposes of calculating a permit application fee, when applicable.
Kimberly Larkin, NVBIA	Concerned over the inclusion of the requirement for a 'materials assessment' as a part of the information requirements for a VWP Permit under 9 VAC 25-210-80.B.1.h.	DEQ must ensure to a reasonable degree that a permit is not issued that allows contaminants to enter surface waters. Information about potential toxic materials is required at the application phase as noted in 9 VAC 25-210-110.D.2.
Kimberly Larkin, NVBIA	Recommended adding a FAX as an acceptable electronic signature.	Facsimiles are considered to be electronic.
Thomas L. Smith, DCR	DCR-DNH recommends an impact assessment for all natural heritage	DEQ-issued permits must comply with state law or regulation, including Chapter 5 of Title

	resources be included as part of the DEQ addendum not only listed species.	29.1. The permit cannot allow a “taking” of Federal listed species without a permit from the Virginia Department of Game and Inland Fisheries. 4 VAC 15-20-130.B adopts the Federal list as a state list and grants the same protections afforded to federally-listed species. Therefore, if the species is not declared threatened or endangered, then the same protections are not offered.
Kimberly Larkin, NVBIA	Please define an ‘instream flow project’. Additionally, this change appears to exclude the need to evaluate beneficial uses for any projects other than water withdrawal, which we do not believe is the intent.	Instream flow projects are generally water withdrawal projects and FERC relicensings, but a mill race or canal diversion could also qualify. DEQ will be developing guidance to address these concerns.
Richard C. Woody, II, VDOT	9 VAC 25-210-80.B.k (5) includes the phrase ‘stream functions and water quality benefits’. We request the replacement of that phrase with ‘maintain or improve existing instream beneficial uses’ to be consistent with the SWCL.	While the language may not be exactly the same as in the State Water Control Law, the authority to regulate stream functions and water quality benefits is in accordance with § 62.1-44.2, § 62.1-44.4, § 62.1-44.5, § 62.1-44.14, and § 62.1-44.14 of the Code of Virginia. The proposed language was recently adopted by the State Water Control Board, after review by the Attorney General, as part of the VWP General Permit Regulations (9 VAC 25-660, -670, -680, -690-10, et seq.
Richard C. Woody, II, VDOT	Request the deletion of the hydrologic unit code and stream classification information requirements from the location map as require by 9 VAC 25-210-80.B.k (5) (b), since it is not necessary for this information to be on the map for the application to be complete.	The existing language in 9 VAC 25-210-80.B.1.k does not require the information to be on the location map. For 9 VAC 25-210-80.B.1.k (5) (b) and (c): the stream classification is not required to be included on the location map for the conceptual compensation plans. The HUC should be readily available to applicants for IP projects. Staff recommends revisions to 9 VAC 25-210-80.B.1.l to delete reference to requirements on the ‘detailed project location map’.
Kimberly Larkin, NVBIA	Recommend removal of the words ‘at a minimum’ from the compensatory mitigation plan’ requirements identified in 9 VAC 25-210-80.B.1.k (5) (b).	DEQ has specified in this section what is required at a minimum, but does not want to discourage the submittal of additional information. In addition changing the requirements for mitigation plans was not part of the NOIRA for this particular regulatory review.
Richard C. Woody, II, VDOT	Request the deletion of the hydrologic unit code and stream classification information requirements from the location map as require by 9 VAC 25-210-80.B.k (5) (c), since it is not necessary for this information to be on the map for the application to be complete.	The existing language in 9 VAC 25-210-80.B.1.k does not require the information to be on the location map. For 9 VAC 25-210-80.B.1.k (5) (b) and (c): the stream classification is not required to be included on the location map for the conceptual compensation plans. The HUC should be readily available to applicants for IP projects.
Richard C. Woody, II, VDOT	Request that ‘proof that the protective instrument...has been	Staff agrees that the applicant should have 120 days after DEQ approves the final plans

	recorded' not be required as part of the final compensation plan as identified in 9 VAC 25-210-80.B.1 (5) (f). The permittee cannot record the plan until DEQ approves the final plan. The general permit regulations allow 120 days after final plan approval for the plan to be recorded.	to record deed restrictions and to provide proof of recordation. This section has been revised to address these concerns.
Kimberly Larkin, NVBIA	Request relocation of 9 VAC 25-210-80.B.1.k (5) (f) to make the final mitigation plan a condition of the permit instead of a requirement for the application to be deemed complete. In addition, the final compensation plan requirement wording regarding the recordation of easements needs to be revised. Easement should not be recorded until the mitigation site itself is constructed.	Staff recommends that the proposed VWP Program regulation be revised to relocate the text in 9 VAC 25-210-80.B.k (5) (e) to 9 VAC 25-210-116.F; 9 VAC 25-210-80.B.k (5) (f) to 9 VAC 25-210-116.F.1; and 9 VAC 25-210-80.B.k (5) (g) to 9 VAC 25-210-116.F.2. Staff also agrees that the applicant should have 120 days after DEQ approves the final plans to record deed restrictions and to provide proof of recordation. These sections have been revised to address these concerns.
Richard C. Woody, II, VDOT	Request that 'proof that the protective instrument...has been recorded' not be required as part of the final compensation plan as identified in 9 VAC 25-210-80.B.1 (5) (g). The permittee cannot record the plan until DEQ approves the final plan. The general permit regulations allow 120 days after final plan approval for the plan to be recorded.	Staff agrees that the applicant should have 120 days after DEQ approves the final plans to record deed restrictions and to provide proof of recordation. This section has been revised to address these concerns.
Kimberly Larkin, NVBIA	As numbered in 9 VAC 25-210-80.B.1.k (5) (g), the final mitigation plan must be submitted for the application to be deemed complete. The final mitigation plan should be a condition of the permit itself. The final compensation plan requirement wording regarding recordation of easements needs to be revised.	Staff recommends that the proposed VWP Program regulation be revised to relocate the text in 9 VAC 25-210-80.B.k (5) (e) to 9 VAC 25-210-116.F; 9 VAC 25-210-80.B.k (5) (f) to 9 VAC 25-210-116.F.1; and 9 VAC 25-210-80.B.k (5) (g) to 9 VAC 25-210-116.F.2. Staff also agrees that the applicant should have 120 days after DEQ approves the final plans to record deed restrictions and to provide proof of recordation. These sections have been revised to address these concerns.
Kimberly Larkin, NVBIA	Request that 'stream classification' be defined as used in 9 VAC 25-210-80.B.1.l.	Staff recommends revisions to 9 VAC 25-210-80.B.1.l to delete reference to requirements for inclusion of 'stream classification' on the 'detailed project location map'.
Richard C. Woody, II, VDOT	9 VAC 25-210-80.B.1.l of the proposed amendments includes details on what is required on a detailed project location map. We request the deletion of the hydrologic unit code and stream classification information requirements from the location	Staff recommends revisions to 9 VAC 25-210-80.B.1.l to delete reference to requirements for inclusion of the 'hydrologic unit code' and 'stream classification' on the 'detailed project location map'.

	map, since it is not necessary for this information to be on the map for the application to be complete.	
Richard C. Woody, II, VDOT	Request that the parenthetical phrase '(if available)' be moved after 'contours' in 9 VAC 25-210-80.B.1.m so that it applies to existing contours.	Staff feels that information on the existing contours can be obtained and understands that proposed contours may not be available for the application phase.
Arthur L. Collins, Executive Director/Secretary, Hampton Roads PDC	Provisions of standard guidance by DEQ on appropriate demand projection methodologies will be helpful to localities both in preparation of water supply plans and in development of permit applications.	Staff will address in guidance.
James R, Spacek, Portsmouth Department of Public Utilities	Concerned over the issue of 'demand hardening' as it relates to the requirements of the regulations for mandatory conservation measures taken or imposed by a locality during times of drought (9 VAC 25-210-80.B.3.I.)	Staff noted that localities had very little opportunity for water conservation savings other than addressing non-essential outdoor water usage. Staff acknowledged that there will always be some components of the system that a locality will not be able to address.
Arthur L. Collins, Hampton Roads PDC	Based on regional experience, average residential water consumption has been trending downward over the past several years. This 'demand hardening' is likely to complicate efforts to increase water conservation as a condition of approval of a Virginia Water Protection Permit for a new or expanded water withdrawal.	Staff noted that localities had very little opportunity for water conservation savings other than addressing non-essential outdoor water usage. Staff acknowledged that there will always be some components of the system that a locality will not be able to address.
Larry M. Foster, James City County Department of Utilities	Asked about the reporting requirements for conservation measures relating to an emergency permit situation. Asked for clarification of what was needed.	Staff noted that what was being asked for was an estimate of projected demand with 'conservation measures' and without 'conservation measures' in place. Staff will be providing guidance on addressing 'demand determinations' and what data sources might be used.
Stephanie Tinsley, Assistant Director of Utilities, City of Norfolk	Raised a concern about the wording of the last sentence in 9 VAC 25-210-80.D dealing with incomplete applications.	Staff noted that this sentence was added as a way to address 'incomplete applications' which were involved in long term compilation and submittal of new and updated information who were felt were not making a 'good faith' effort to supply the information. Staff will address these concerns in guidance.
Speaker Pollard, Christian & Barton, LLP	Raised a concern about the wording of the last sentence in 9 VAC 25-210-80.D dealing with incomplete applications. He felt that the current wording puts an applicant in limbo and creates uncertainty about the permit process.	Staff noted that this sentence was added as a way to address 'incomplete applications' which were involved in long term compilation and submittal of new and updated information who were felt were not making a 'good faith' effort to supply the information. Staff will address these concerns in guidance.
Kristen M. Lentz,	Raised a concern about the	Staff noted that this sentence was added as a

<p>P.E., Director of Utilities, City of Norfolk</p>	<p>wording of the last sentence in 9 VAC 25-210-80.D dealing with incomplete applications. Noted that the language added to the end of the regulation regarding incomplete applications could force an applicant to restart the application process and to lose its place in line for review.</p>	<p>way to address 'incomplete applications' which were involved in long term compilation and submittal of new and updated information who were felt were not making a 'good faith' effort to supply the information. Staff will address these concerns in guidance.</p>
<p>Arthur L. Collins, Hampton Roads PDC</p>	<p>Raised a concern about the wording of the last sentence in 9 VAC 25-210-80.D dealing with incomplete applications. Noted that the language added to the end of the regulation regarding incomplete applications could force an applicant to restart the application process and to lose its place in line for review.</p>	<p>Staff noted that this sentence was added as a way to address 'incomplete applications' which were involved in long term compilation and submittal of new and updated information who were felt were not making a 'good faith' effort to supply the information. Staff will address these concerns in guidance.</p>
<p>Richard C. Woody, II, VDOT</p>	<p>The amendments to 9 VAC 25-210-80.D proposed to delete the phrase 'specific' in reference to additional information being requested from the applicant. We request that the word 'specific' be kept in the language as it exists, since it is required by State Water Control Law.</p>	<p>Staff feels that there is no conflict with the state law since 'specific' is not defined in Code.</p>
<p>Kimberly Larkin, NVBIA</p>	<p>We do not concur with the proposed insertion of 'the requested' in 9 VAC 25-210-80.D; this should be the 'required or deficient information'. The wording 'Requested information' can lead to requiring superfluous information that is not a requirement of the permit regulation.</p>	<p>DEQ addresses or will address these concerns in VWP Permit Program guidance.</p>
<p>Harry F. Day, Chairman, Fairfax County Water Authority</p>	<p>Emphasized the need for a consumptive use regulation for the Potomac River Basin. The proposed regulation includes language requiring that Potomac River main-stem withdrawals be reduced when regional drought operations are in effect (9 VAC 25-210-110.B), the augmentation storage requirements associated with a consumptive use regulation would go further and ensure that water is available to implement required withdrawal reductions.</p>	<p>Staff will continue to work with Fairfax Water and the Interstate Commission on the Potomac River Basin on the issues related to the development of a 'consumptive use regulation' for Virginia water withdrawals in the Potomac River Basin.</p>
<p>Joseph K. Hoffman, Executive Director, Interstate</p>	<p>Raised the need for the development of a 'consumptive use regulation' for Virginia and offered ICPRB as a forum and/or technical</p>	<p>Staff will continue to work with Fairfax Water and the Interstate Commission on the Potomac River Basin on the issues related to the development of a 'consumptive use</p>

Commission on the Potomac River Basin	support to support the current and future regulation of the Potomac.	regulation' for Virginia water withdrawals in the Potomac River Basin.
Joseph K. Hoffman, Executive Director, Interstate Commission on the Potomac River Basin	Suggested the insertion of the language 'by what quantity' into 9 VAC 25-210-110.B regarding establishing applicable standards, limitations or other VWP permit conditions in order to remove the ambiguity as to the quantity of water that should be reduced by surface water withdrawals from the Potomac River.	Staff recommends revision of 9 VAC 25-210-110.B to reflect that DEQ shall direct the permittee as to when, 'by what quantity' and for what duration withdrawals shall be reduced 'after' consultation with the Section for Cooperative Water Supply Operations on the Potomac (CO-OP).
Richard C. Woody, II, VDOT	Raised a concern over the wording of the proposed amendments (9 VAC 25-210-116.A) which includes the phrase 'no net loss of functions in all surface waters'. Feel that the proposed language appears to exceed the legal authority by incorporating streams into a no net loss policy.	DEQ is authorized to protect surface water functions and values and to receive compensation for lost functions and values.
Richard C. Woody, II, VDOT	Requested the reversal of the order of the wording in 9 VAC 25-210-116.B.1, such that 'practicable' is before 'ecologically preferable' so that the sentence does not imply that 'practicable' is restricted to ecological justifications only.	Staff proposes revising the wording of 9 VAC 25-210-116.B.1 to address this comment and concern.
Richard C. Woody, II, VDOT	Request the revision of the conditions specified in 9 VAC 25-210-116.B.2 to read as follows: "to replace lost acreage or square feet of wetland impacts, linear feet of stream impacts or acreage or square feet of open water impacts, whichever applies". Also requested the replacement of the phrase 'lost stream functions and water quality benefits' with 'maintain or improve existing instream beneficial uses' to be consistent with SWCL.	While the language may not be exactly the same as in the State Water Control Law, the authority to regulate stream functions and water quality benefits is in accordance with § 62.1-44.2, § 62.1-44.4, § 62.1-44.5, § 62.1-44.14, and § 62.1-44.14 of the Code of Virginia. The proposed language was recently adopted by the State Water Control Board, after review by the Attorney General, as part of the VWP General Permit Regulations (9 VAC 25-660, -670, -680, -690-10, et seq. Staff proposes revising the wording of 9 VAC 25-210-116.B.1 to also address this comment and concern.
Kimberly Larkin, NVBIA	Raised a concern about the wording of 9 VAC 25-210-116.B.2. This section states that on-site/in-kind shall be deemed the most ecologically preferable for compensation. We do not support this statement without the wording 'practicable'. This section is too bias toward on-site, without knowledge of circumstances or place. This section goes on to state that "out of kind opportunities	The proposed amendment language states "On-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases." DEQ addresses or will address these concerns in VWP Permit Program guidance. "May" is consistent with the Code and the recently approved revisions to the VWP general permit regulations.

	that prove more ecologically preferable or practicable MAY be considered". This word should be "SHALL be considered".	
Richard C. Woody, II, VDOT	Requested the replacement of the phrase 'replace functions or water quality benefits' with 'maintain or improve existing instream beneficial uses' in 9 VAC 25-210-116.C.3 to be consistent with SWCL. Also, requested that the phrase in this section, 'approved by the board' be replaced by 'acceptable to DEQ' to be consistent with the language proposed in the general permit regulations. Also raised a concern over the types of assessment methodology that might be approved.	Staff will work with the Department of Transportation and the Corps to address concerns about stream assessment methodologies through guidance developed for the implementation of these regulations. Staff supports the suggestion for the language change from 'approved by the board' to 'acceptable to DEQ' and has made that change.
Kimberly Larkin, NVBIA	Please define the watershed to be utilized as required in 9 VAC 25-210-140.D.5. Is this the local or major river as in the HUC code watershed, or the DEQ WQ standards watershed?	It will not always be an 8 digit HUC. DEQ writes the public notices and uses its discretion in naming the effected watershed to best inform the public. Restricting the naming of the watershed to a one-size-fits-all approach would be inconsistent with our efforts to increase public involvement.
Richard C. Woody, II, VDOT	Please clarify the phrase 'regardless of pending changes to the permitted activities' being proposed for inclusion in 9 VAC 25-210-180.C. Also, we request the specification of paragraph B in the cross-reference (9 VAC 25-210-185) in this section since that section is specific to permit extensions.	The phrase 'regardless of pending changes to the permitted activities' means regardless of what kind of changes that the applicant is proposing. The provisions of 9 VAC 25-210-185 do not apply just to 9 VAC 25-210-185.B.
Kimberly Larkin, NVBIA	It appears that 9 VAC 25-210-180.F.5 contradicts 9 VAC 25-210-180.F.8.	9 VAC 25-210-180.F.8; 9 VAC 25-210-180.F.9; and 9 VAC 25-210-180.F.10 were added to be consistent with the GP revisions; however 9 VAC 25-210-180.F.8 does appear to conflict with 9 VAC 25-210-180.F.5. Staff recommends language changes to 9 VAC 25-210-180.F.5 to eliminate this contradiction.
Richard C. Woody, II, VDOT	The proposed amendments to 9 VAC 25-210-180.F.8 sets the limits for minor modification for unavoidable cumulative increase in stream impacts to less than 50 linear feet. We request that the limits for a minor modification be changed to 100 feet to be consistent with the proposed changes to the general permits.	Staff supports the recommendation and proposes revising the language to reference 100 feet instead of 50 feet.
Richard C.	The proposed amendments to 9	Staff supports the recommendation and

Woody, II, VDOT	VAC 25-210-180.H contain two 'termination by consent certification statements'. We request the addition of a third termination by consent certification statement for 'Events beyond permittee control'.	recommends the addition of a third certification statement to address 'events beyond permittee control'. Staff also recommends several - Administrative Change changes to the existing certification statements to delete references to the VWP "general" permit and permit "authorizations" and "reauthorizations".
Richard C. Woody, II, VDOT	Requested clarification of 9 VAC 25-210-260 related to "Transition" and "effective date".	Staff proposes revisions to the section to clarify that there is only one effective date for the regulation and that all applications received after that date will be processed in accordance with the new procedures.
Richard C. Woody, II, VDOT	Requested addition of language in 9 VAC 25-210-260 similar to that proposed for the general permit regulations related to additional transition issues.	Staff concurred with the recommendations and proposes inclusion of additional "transition" issue statements.
Richard C. Woody, II, VDOT	Requested the use of the correct name of the VDOT JPA be incorporated into the identified Forms list.	Staff accepted the recommendation and has incorporated the correct name into the regulation Forms List.

Comments and Agency Responses – Incorporation of Minor Surface Water Withdrawals Concepts into VWP Regulation

Commenter	Comment	Agency response
Sam L. Hollins, Virginia Transportation Construction Alliance	It was noted that original references to screening of intakes, specifically exemptions as they apply to portable intake screening, have been removed from this document. It is our desire to have that wording included in the proposed revision changes, either in the exclusions or conditions portion of the VWP, as portable systems are far less portable with large screens.	In regard to withdrawals excluded from permitting requirements, obviously no screening requirements would be required.
Katie Kyger Frazier, Virginia Agribusiness Council	<p>1) How does property ownership vs. leased land affect the permit exclusions for those that do not have permits?</p> <p>2) Is the exclusion "issued" to the operator or owner?</p> <p>3) Does the exclusion right transfer with the sale of property, as it does in the "grandfathering" section? If so, this needs to be clarified.</p> <p>4) Are the "exclusions" granted by withdrawal site or aggregated for owners/operators? (We would</p>	<p>1) 9 VAC 25-610-60.B excludes withdrawals from permitting requirements with no regard to property ownership, lease agreements or property transfers. As long as the owner/operator complies with all requirements contained in 9 VAC 25-610-60.B.3.a. through c. and, in the Board's determination, no adverse impacts exist as described in 9 VAC 25-210-60.C., the exclusion would continue.</p> <p>2) The withdrawal is excluded and documentation of the amount determined to be excluded would be reported back to the owner or operator depending on who provided the information required in 9 VAC 25-610-60.B.3.a.</p>

	<p>prefer by withdrawal site.)</p> <p>5) Does the "exclusion" transfer with the purchase or inheritance of property (as it does in the 1989 grandfathering statute)?</p> <p>6) How long is the life of the "exclusion"?</p>	<p>3) The exclusion from permitting requirements is not a right and is tied directly to the withdrawal, not a particular property owner. In the case of a property transfer, it would be the responsibility of the new owner to report the continuation of the excluded withdrawal as required by 9 VAC 25-610-60.B.3.c. and failure to report the withdrawal may result in the new owner being required to obtain a permit prior to resuming the previously excluded withdrawal.</p> <p>4) The decision on the nature of the excluded withdrawal will have to be made on a site specific basis and would be a case decision. Please note that the magnitude of the excluded withdrawal is not a consideration so long as, in the Board's determination, no adverse impacts occur as described in 9 VAC 25-610-60.C.</p> <p>5) Please see item 3 above.</p> <p>6) The exclusion described in 9 VAC 25-610-60.B.3. remains in effect as long as the owner/operator complies with sections a. through c. and , in the Board's determination no adverse impacts occur as described in section 9 VAC 25-210-60.C.</p>
<p>Sam L. Hollins, Virginia Transportation Construction Alliance</p>	<p>It was noted that original references to the activity of "surface water withdrawals from ponds collecting diffuse surface water and not situated on a perennial stream" not need authorization have been removed from this document. It is our desire to have that wording included in the proposed revisions to the VWP.</p>	<p>It is the staff's opinion that the exclusion contained in 9 VAC 25-610-60-B.16. includes "surface water withdrawals from ponds collecting diffuse surface water and not situated on a perennial stream".</p>
<p>Katie Kyger Frazier, Virginia Agribusiness Council</p>	<p>Upon expanded permit issuance, am I guaranteed the same amount of my historical withdrawal? (In other words, we would like a presumption that your historical use would minimally carry through permit issuance and reissuance).</p>	<p>There is no guarantee that a historical withdrawal amount will granted in the issuance of a permit. While it is certainly the staff's assumption that existing (i.e. historical) withdrawal amounts are not currently causing adverse impacts, and it is the Agency's intention to protect these excluded uses when new withdrawal proposals are considered, the draft regulations contemplate that there may be specific instances where current withdrawals do have adverse impacts and these historic withdrawals may require permits (9 VAC 25-610-60-C.). If such cases exist, the Agency would include whatever requirements in the permit that might be necessary to mitigate adverse impacts, including reduction of withdrawal amounts. However, the basis of this regulatory proposal is the assumption that</p>

		existing withdrawals that were initiated after July 1, 1989 are not causing adverse impacts and that the Agency will manage the water resources of the Commonwealth to assure these existing withdrawals can continue into the future at the rate of their historic withdrawals.
Katie Kyger Frazier, Virginia Agribusiness Council	Can there be clarity added to the conditions where the Board may decide that you need a permit (even though you qualify for an exclusion)? For instance, if the situation that arises is only temporary, can the "fix" to the situation also be temporary? Is there language that can be added to accomplish this?	Staff is of the opinion that more specific language to define adverse impacts is not possible in 9 VAC 25-610-60-C. Staff will certainly entertain alternate proposals. It should be noted that this section states that a permit MAY be required, the Agency retains the flexibility with this language to address short term issues outside of the permitting process.
Sam L. Hollins, Virginia Transportation Construction Alliance	Concerning section 9 VAC 25-210-60, Exclusions, #15 – Can the reference to “such pond or facility is not placed in a stream bed or wetland” be amended to apply to all such ponds created after July 1, 1989. As many mining operations may have such ponds that have been in existence prior to the Clean Water Act (1972 and amended in 1976).	9 VAC 25-210-60.15. applies to all such ponds regardless of when they were constructed. This section also applies to ponds that meet this definition that may be constructed in the future.
Sam L. Hollins, Virginia Transportation Construction Alliance	Regarding the application process for new or expanded minor surface water withdrawals, is there a streamlined approval process planned for these?	A streamlined application and review process is contemplated for new or expanded minor withdrawals. It is the Agency’s intention to include the stream flow characteristics (high, moderate and low base flow definitions) and proposed withdrawal characteristics that were included in the draft general permit for minor water withdrawals as guidance for the implementation of this proposal to regulate minor water withdrawals. Proposals for minor water withdrawals that meet the criteria proposed in the original general permit would be recommended for issuance. The permit will be subject to public comment.
John Kauffman, DGIF	Since I was involved with the minor permit proposal I am familiar with the fact that what was proposed with that regulation was that outside agencies would have no review opportunities but that it did involve certain protections as to watershed size and flows as well as cutoff levels for certain withdrawals. Will the new minor permit have outside agency reviews since there is no mention of watershed size and cutoff levels?	Section 62.1-44.15:5.F of the Code of Virginia requires the Agency to consult with other agencies and give full consideration to other agencies’ comments for all VWP applications. A draft permit for a minor surface water withdrawal would be given this same review. In addition, a draft permit for a minor surface water withdrawal will be subject to public comment.

<p>Katie Kyger Frazier, Virginia Agribusiness Council</p>	<p>1) Are the subsequent permits granted by withdrawal site or aggregated for owners/operators? (We would prefer by withdrawal site.)</p> <p>2) Does the subsequent permit transfer with the purchase or inheritance of property (as it does in the 1989 grandfathering statute)?</p> <p>3) How long is the life of the permit?</p> <p>4) Upon permit renewal, am I guaranteed the same amount of my historical withdrawal? (In other words, we would like a presumption that your historical use would minimally carry through permit issuance and reissuance).</p>	<p>1) An applicant for a permit for a minor surface water withdrawal will define the nature of his proposed withdrawal. Depending on the nature of the proposed withdrawal and beneficial use a particular withdrawal site may be independently permitted or multiple withdrawal sites may be included in a single permit. It is highly unlikely that multiple minor withdrawal permits (from multiple withdrawal sites) would be considered if the total withdrawal supported one beneficial use.</p> <p>2) Permits for minor surface water withdrawals may be transferred in accordance with 9 VAC 25-210-180.</p> <p>3) All VWP permits are issued for terms not to exceed 15 years.</p> <p>4) Prior to permit issuance, there would be a need for a owner/operator to increase their withdrawal (no permit would be required for the amount that they historically withdrew). Assuming that the Board acted on that application and issued either a minor or major surface water withdrawal permit, the Board would protect the ability for the owner/operator to continue to exercise the expanded withdrawal when additional request for withdrawal were made from the same waterbody. When it was time for the owner/operator to renew their withdrawal permit, the resource should be able to continue to support their permitted withdrawal. There is no guarantee that a new permit will be issued for the historic amount that was withdrawn prior to expansion of the withdrawal. When the permit is considered for renewal the owner/operator’s need for water in the next permit term will be considered and a permit will be considered for the amount of water that he can put to beneficial use. Remember, if the owner/operator does not seek to increase their withdrawal above the amount they withdrew in twelve consecutive months in the ten year period prior to the adoption date of this regulation, no permit is required so long as adverse impacts do not exist (9 VAC 25-210-60.C) and no renewal would be required.</p>
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Comments and Agency Responses – Joint TAC Discussions

Committer	Comment	Agency response
Joint TAC	The definition of “consumptive use” needs to be revised. The issue is	Staff has revised the definition of “consumptive water use” to delete reference to “basin of

	non-consumptive use in tidal waters and the return point of the water withdrawn (esp. in tidal fresh-water systems).	origin". The definition now refers to "source of origin" as the return point for water use.
Joint TAC	Section 9 VAC 25-210-60.B.3.d contains a "recapture clause" which allows DEQ to require a permit if there is a potential environmental impact. The section appears to only apply to section 60.3 withdrawals, where it should apply to all excluded withdrawals.	This section has been moved to a new Section 9 VAC 25-210-60.C so that it applies to all excluded withdrawals.
Joint TAC	Section 9 VAC 25-210-60.C provides that DEQ "may" consider requiring an application for a permit for those withdrawals where there is a potential environmental impact. A question was raised over the use of the phrase "may require" instead of "shall require".	From the standpoint of someone with a withdrawal excluded by sections 3-15, including "shall" gives the impression that these exclusions are severely limited. The issue of multiple potential withdrawals is significant (i.e. several excluded withdrawals in combination may result in adverse impacts and there may be a need to require permits for a subset of those withdrawals). Finally, it is not good practice to bind the Agency's actions in regulations (using shall instead of may requires that the Board require an application, we would be making a case decision without the facts of the case).
Joint TAC	Section 9 VAC 25-210-60.3.b contains both the phrase "permitting" and "permit requirements". This needs to be clarified.	The phrase has been corrected to "permit requirements" which is the term that is used through out the regulation.
Joint TAC	The issue of "ephemeral" streams was raised. It was suggested that Exclusion #15 in Section 9 VAC 25-210-60.B be reworded to deal with the issue of streambeds; intermittent and perennial streams and ephemeral stream and possible wetland impacts and water withdrawal from a live stream.	Exclusion #15 has been reworded to address the issues related to facilities not placed in "the bed of a perennial or intermittent stream" and "facilities constructed in beds of ephemeral streams.
Joint TAC	The need to specify additional information requirements regarding the documentation of withdrawals was raised.	The language in Section 9 VAC 25-210-80.C.5 was clarified to reflect additional information requirements including "a description of the proposed intake structure, and a schedule of the proposed withdrawal that describes any seasonal variations in withdrawal patterns."
Joint TAC	It was suggested that the requirements for conducting an alternatives analysis might need to be included under the requirements for public water withdrawals noted in 9 VAC 25-210-80.	A new Section 9 VAC 25-210-80.C.10 has been added to require that "any application for a minor surface water withdrawal for a public surface water supply withdrawal project shall provide an evaluation of project alternatives".

NOTE: Comments were also received from the public hearing process for the Proposed General Permit for Minor Surface Water Withdrawals. As a whole these comments were reviewed and due to the complex nature of the comments and the issues raised the decision was made to withdraw this proposed rule making action. Therefore, no summary of individual comments has been prepared.

All changes made in this regulatory action

Please detail all changes that have been 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 25-210: Part I			Title added: "Part I: VWP Permit Program Definitions, Exclusions, Prohibitions & Requirements" – Administrative Change
9 VAC 25-210-10			Addition of a definition of "affected stream reach" to clarify requirements for assessment of withdrawals on beneficial use. – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition of "agricultural surface water withdrawal". – Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-10		Definition of "applicant".	Revision for clarification of the definition of "applicant" to mean "a person applying for a VWP individual permit or VWP general permit authorization". – Recommendation of VWP TAC.
9 VAC 25-210-10		Definition of "aquatic resources" or "aquatic environment".	Revise definition of "Aquatic resources" or "aquatic environment" to only define the term "Aquatic environment". – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition for "Channelization of streams". – Recommendation of VWP TAC.
9 VAC 25-210-10		Definition of "Code".	Delete the definition of "Code". The term "Code of Virginia" is spelled out whenever it is used in the regulation. - Administrative Change
9 VAC 25-210-10		Definition of "consumptive use".	Clarification of the definition of "consumptive use" by changing the term to "consumptive water use". – Recommendation of VWP TAC.
9 VAC 25-210-10		Definition of "consumptive water use".	Clarification of the definition of "consumptive use" by referring to "without recycle of said waters to their source of origin" instead of "their source or basin of origin". – Joint TAC Recommendation

9 VAC 25-210- 10			Addition of a definition of “Cross-sectional sketch”. – Recommendation of VWP TAC.
9 VAC 25-210- 10			Addition of a definition of “Drought”. – Recommendation of VWP TAC.
9 VAC 25-210- 10		Definition of “ecologically preferable”.	Revision of the definition of “Ecologically preferable” to include a reference to existing stream functions and values as well as existing wetland functions and values. – Recommendation of VWP TAC.
9 VAC 25-210- 10			Addition of a definition of “Emergency Virginia Water Protection Permit”. – Recommendation of VWP TAC.
9 VAC 25-210- 10		Definition of “enhancement”.	Revision of the definition of “Enhancement” to reference portions of the aquatic environment instead of aquatic resources. – Recommendation of VWP TAC.
9 VAC 25-210- 10			Addition of a definition of “Impacts”. – Recommendation of VWP TAC.
9 VAC 25-210- 10			Addition of a definition of “Intake structure”. – Recommendation of VWP TAC.
9 VAC 25-210- 10			Addition of a definition of “major surface water withdrawal”. – Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210- 10		Definition of “isolated wetlands of minimal ecological value”.	Inclusion of a numerical limitation for one-tenth of an acre in the definition of the term “Isolated wetlands of minimal ecological value”. – Recommendation of VWP TAC.
9 VAC 25-210- 10			Addition of a definition of “major surface water withdrawal”. – Incorporation from Minor Surface Water Withdrawal Discussions
9 VAC 25-210- 10			Addition of a definition of “minor surface water withdrawal”. – Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210- 10		Definition of “nationwide permit”.	Revision of the definition of “Nationwide permit” by including the phrase “except where suspended by individual USACE Corps District”. – Recommendation of VWP TAC.
9 VAC 25-210- 10		Definition of “nationwide permit”.	Definition was changed to refer to USACE Corps “Districts” instead of a single district. – Administrative Change
9 VAC 25-210- 10			Addition of the term “Out-of-kind” mitigation”. – Recommendation of VWP TAC.
9 VAC 25-210- 10		Definition of “permanent flooding or impounding”.	Clarification of the definition of “Permanent flooding or impounding” by including references to permanent increases in the duration or depth of standing water and exclusions from consideration as permanent flooding. – Recommendation of VWP TAC.
9 VAC			Addition of a definition of “Permanent

25-210-10			impacts". – Recommendation of VWP TAC.
9 VAC 25-210-10		Definition of "person".	Clarification of the definition of "Person". – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition for "Plan view sketch". – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition for "Potomac River Low Flow Allocation Agreement". – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition for "Profile sketch". – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition for "public surface water supply withdrawal". – Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-10			Addition of a definition for "public water supply emergency". Replaces the definition of "water supply emergency". Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-10			Addition of a definition of "Riprap". – Recommendation of VWP TAC.
9 VAC 25-210-10		Definition of "riprap".	The term "nonerodible" was added to the definition of "riprap". – Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-10			Addition of a definition of "Section 401". – Recommendation of VWP TAC.
9 VAC 25-210-10		Definition of "Section 401".	Grammatical correction; the word "in was added to the definition. – Administrative Change
9 VAC 25-210-10			Addition of a definition of "Section for Cooperative Water Supply Operations on the Potomac (CO-OP)". – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition of "surface water supply project". – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition for "surface water withdrawal" was added. – Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-10			Addition of a definition of "Temporary impacts". – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition of "Undesirable species". – Recommendation of VWP TAC.
9 VAC 25-210-10		Definition of "Undesirable species.	The term "plant" was added to make this a definition of "undesirable plant species". -

10			Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-10			Addition of a definition of “Water Supply Coordination Agreement”. – Recommendation of VWP TAC.
9 VAC 25-210-10			Addition of a definition of “Water supply emergency”. – Recommendation of VWP TAC.
9 VAC 25-210-10		Definition of “water supply emergency”.	Definition was deleted and replaced with a definition of “public water supply emergency”. - Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-10			Addition of a definition of “Withdrawal system”. – Recommendation of VWP TAC.
9 VAC 25-210-50.A		Prohibitions and requirements for VWP permits.	Include the “withdrawal of surface water” as a prohibited activity except in compliance with a VWP permit. – Recommendation of VWP TAC.
9 VAC 25-210-50.A		Prohibitions and requirements for VWP permits.	The word “or” was deleted from the list of general provisions and requirements. – Administrative Changes
9 VAC 25-210-50.A		Prohibitions and requirements for VWP permits.	The phrase ‘and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses’ was added. Also a number of punctuation corrections were made. To clarify VWP Permit requirements and to include the prohibition against detrimental environmental impacts. - Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-60	9 VAC 25-210-60.A	Exclusions.	The term “activities” was added to the introductory sentence and the section number was added. – Administrative Change
9 VAC 25-210-60.1	9 VAC 25-210-60.A.1	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.2	9 VAC 25-210-60.A.2	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.3	9 VAC 25-210-60.A.3	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.4	9 VAC 25-210-60.A.4	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.5	9 VAC 25-210-60.A.5	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.6	9 VAC 25-210-60.A.6	Exclusions.	Section renumbered. – Administrative Change
9 VAC		Exclusions.	Language added to specify an exclusion for

25-210-60.A.6			normal residential gardening, lawn and landscape maintenance “in a wetland”. – Recommendation of VWP TAC.
	9 VAC 25-210-60.A.6	Exclusions.	The phrase “in a wetland” was added to the exclusion for normal residential gardening, lawn and landscape maintenance. - Incorporation from Minor Surface Water Withdrawal Discussions. Section renumbered. – Administrative Change
9 VAC 25-21—60.7	9 VAC 25-210-60.A.7	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.A.7		Exclusions	Language added to specify an exclusion for normal agricultural and silvicultural activities “in a wetland”. – Recommendation of VWP TAC.
9 VAC 25-210-60.7.a	9 VAC 25-210-60.A.7.a	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.A.7.a		Exclusions.	The reference for the “Forestry Best Management Practices for Water Quality in Virginia Technical Guide” was corrected to reference the “Fourth Edition, July 2002”. – Administrative Change
9 VAC 25-210-60.7.b	9 VAC 25-210-60.A.7.b	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c	9 VAC 25-210-60.A.7.c	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (1)	9 VAC 25-210-60.A.7.c (1)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (2)	9 VAC 25-210-60.A.7.c (2)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (3)	9 VAC 25-210-60.A.7.c (3)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (3) (a)	9 VAC 25-210-60.A.7.c (3) (a)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (3) (b)	9 VAC 25-210-60.A.7.c (3) (b)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (3) (c)	9 VAC 25-210-60.A.7.c (3) (c)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (3) (d)	9 VAC 25-210-60.A.7.c (3) (d)	Exclusions.	Section renumbered. – Administrative Change

9 VAC 25-210-60.7.c (3) (e)	9 VAC 25-210-60.A.7.c (3) (e)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (4)	9 VAC 25-210-60.A.7.c (4)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.7.c (5)	9 VAC 25-210-60.A.7.c (5)	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.8	9 VAC 25-210-60.A.8	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.A.8		Exclusions.	Replacement of the word exemption with “exclusion”. – Recommendation of VWP TAC.
9 VAC 25-210-60.9	9 VAC 25-210-60.A.9	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.A.9		Exclusions.	Language added to specify an exclusion for construction or maintenance of farm or stock ponds or irrigation ditches “in a wetland”, or the maintenance (but not construction) of drainage ditches “in a wetland”. – Recommendation of VWP TAC.
9 VAC 25-210-60.A.9		Exclusions for construction or maintenance of farm or stock ponds or irrigation ditches.	The phrase “in a wetland” has been deleted. Exclusion applies to construction or maintenance of farm or stock ponds or irrigation ditches in all waters not just in wetlands. – In Response to Comments
9 VAC 25-210-60.10	9 VAC 25-210-60.A.10	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11	9 VAC 25-210-60.A.11	Exclusions.	Section renumbered. – Administrative Change.
9 VAC 25-210-60.A.11		Exclusions.	The reference for the “Forestry Best Management Practices for Water Quality in Virginia Technical Guide” was corrected to reference the “Fourth Edition, July 2002”. – Administrative Change
9 VAC 25-210-60.11.a	9 VAC 25-210-60.A.11.a	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.b	9 VAC 25-210-60.A.11.b	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.c	9 VAC 25-210-60.A.11.c	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.d	9 VAC 25-210-60.A.11.d	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-	9 VAC 25-210-60.A.11.e	Exclusions.	Section renumbered. – Administrative Change

60.11.e			
9 VAC 25-210-60.11.f	9 VAC 25-210-60.A.11.f	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.g	9 VAC 25-210-60.A.11.g	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.h	9 VAC 25-210-60.A.11.h	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.i	9 VAC 25-210-60.A.11.i	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.j	9 VAC 25-210-60.A.11.j	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.k	9 VAC 25-210-60.A.11.k	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.l	9 VAC 25-210-60.A.11.l	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.m	9 VAC 25-210-60.A.11.m	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.n	9 VAC 25-210-60.A.11.n	Exclusions.	Section renumbered. – Administrative Change
9 VAC 25-210-60.11.o	9 VAC 25-210-60.A.11.o	Exclusions.	Section renumbered. – Administrative Change
	9 VAC 25-210-60.B	Exclusions for surface water withdrawals.	A new section B addressing surface water withdrawals was added. - Incorporation from Minor Surface Water Withdrawal Discussions.
9 VAC 25-210-60.B	9 VAC 25-210-60.B.1	Originally Section 9 VAC 25-210-60.B. Exclusions for surface water withdrawals.	Section items were renumbered to accommodate the addition of a new Section B. – Administrative Change
9 VAC 25-210-60.B	9 VAC 25-210-60.B.1	Originally Section 9 VAC 25-210-60.B. Exclusions for surface water withdrawals.	Inclusion of a new section B to identify “surface water withdrawals in existence on July 1, 1989” as not requiring a VWP Permit. – Recommendation of VWP TAC.
9 VAC 25-210-60.B.1	9 VAC 25-210-60.B.1.a	Originally Section 9 VAC 25-210-60.B.1. Exclusion for any surface water withdrawal in existence on July 1, 1989.	Inclusion of new language to address “abandonment of a surface water withdrawal”. – Recommendation of VWP TAC.
9 VAC 25-210-60.B.1	9 VAC 25-210-60.B.1.a	Originally Section 9 VAC 25-210-60.B.1. Exclusion for any surface water withdrawal in existence on July 1, 1989.	Section renumbered to accommodate the addition of section material. – Administrative Change
9 VAC 25-210-60.B.1	9 VAC 25-210-60.B.1.a	Originally Section 9 VAC 25-210-60.B.2. Exclusion for any surface water	Inclusion of a new section to clarify “information to be furnished to the DEQ” for surface water withdrawals.

		withdrawal in existence on July 1, 1989. – Information requirements.	– Recommendation of VWP TAC.
9 VAC 25-210-60.B.2	9 VAC 25-210-60.B.1.b	Originally Section 9 VAC 25-210-60.B.2. Exclusions for any surface water withdrawal in existence on July 1, 1989 – Information requirements.	Section renumbered to accommodate the addition of section material. – Administrative Change
9 VAC 25-210-60.B.1.b		Exclusions for any surface water withdrawal in existence on July 1, 1989 – Information requirements.	The phrase “notification of abandonment” was replaced by the phrase “notice of such request” and language was changed so that instead of being received “by” the DEQ it is received “from” the DEQ. Language changed to clarify that this section applies to any surface water withdrawal not just those that have been or have been abandoned. – Administrative Change
9 VAC 25-210-60.C	9 VAC 25-210-60.B.2	Originally Section 9 VAC 25-210-60.C. Exclusion for any surface water withdrawal not in existence on July 1, 1989.	Section renumbered to accommodate the addition of section material. – Administrative Change
	9 VAC 25-210-60.B.3	Exclusion for any existing lawful unpermitted surface water withdrawal initiated between July 1, 1989 and the effective date of this regulation revision.	Section added to establish exclusion requirements for any existing unpermitted surface water withdrawals initiated between July 1, 1989 and the effective date of this regulation revision. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.3.a	Exclusion requirements.	Section added which establishes the information requirements for withdrawals falling into this category. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.3.b	Exclusion requirements.	Section added which establishes a timeline for the submittal of required information and the concept of a “limit on withdrawal” amount. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.3.c	Exclusion requirements.	Section added which establishes annual reporting requirements. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 24-210-60.B.4	Exclusions.	Section added to add an exclusion for agricultural surface water withdrawals under certain conditions. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.5	Exclusions.	Section added to add an exclusion for surface water withdrawals from non-tidal waters under certain conditions. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-	Exclusions.	Section added to add an exclusion for

	210-60.B.6		surface water withdrawals from tidal waters for non-consumptive uses. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.7	Exclusions.	Section added to adds an exclusion for agricultural surface water withdrawals from tidal waters under certain conditions. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.8	Exclusions.	Section added to add an exclusion for surface water withdrawals under certain conditions. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.9	Exclusions.	Section added to add an exclusion for surface water withdrawals for firefighting and for training activities related to firefighting. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.10	Exclusions.	Section added to add an exclusion for surface water withdrawals placed into portable containers under certain conditions. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.11	Exclusions.	Section added to add an exclusion for surface water withdrawals for hydrostatic pressure testing. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.12	Exclusions.	Section added to add an exclusion for surface water withdrawals for normal single family home residential gardening, lawn, and landscape maintenance. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.13	Exclusions.	Section added to add an exclusion for surface water withdrawals returned to the stream of origin under certain conditions. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.14	Exclusions.	Section added to add an exclusion for surface water withdrawals from quarry pits under certain conditions. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.15	Exclusions.	Section added to add an exclusion for surface water withdrawals from privately owned agriculture ponds, emergency water storage facilities or other water retention facility under certain conditions. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-60.B.15	Exclusions.	New language clarified to provide that "such pond or facility is not placed in the bed of a perennial or intermittent stream" and that "such facilities constructed in the beds of ephemeral streams are excluded from permit

			requirements". – Joint TAC Recommendation.
	9 VAC 25-210-60.C	Exclusions.	New section added to provide that "DEQ may require any owner or operator of a withdrawal excluded from permit requirements to cease withdrawals and file an application and receive a permit if there are potential impairments". – Joint TAC Recommendation.
	9 VAC 25-210-75	Preapplication procedures.	Preapplication procedures for a VWP permit for surface water supply projects. – Recommendation of VWP TAC.
9 VAC 25-210-75		Preapplication procedures.	Section has been reworded to incorporate the concept of "new or expanded VWP permit for major surface water withdrawals. - Incorporation from Minor Surface Water Withdrawal Discussions.
	9 VAC 25-210-75.A	Preapplication review panel.	Establishes guidelines for the convening of a "preapplication review panel" and interagency cooperation and coordination to assist the applicant in the identification of potential natural resource impacts and regulatory implications of the options being considered. – Recommendation of VWP TAC.
9 VAC 25-210-75.A		Preapplication review panel.	Language clarified to reference a surface water supply project instead of "projects". – Administrative Changes
9 VAC 25-210-75.A		Preapplication review panel.	Language clarified so that outside agencies are to participate to the extend "practicable" instead of "practical". – Administrative Changes.
	9 VAC 25-210-75.B		Establishes the guidelines for "preapplication public notices" and information requirements for those notices. – Recommendation of VWP TAC.
	9 VAC 25-210-75.B.1		Provides for "publication of notice once a week for two consecutive weeks". – Recommendation of VWP TAC.
	9 VAC 25-210-75.B.2		Establishes requirements for public information meetings and sets notice requirements. – Recommendation of VWP TAC.
	9 VAC 25-210-75.B.2.a	Public information meeting requirements – notice requirements.	Requirement for statement of intent. – Recommendation of VWP TAC.
	9 VAC 25-210-75.B.2.b	Public information meeting requirements – notice requirements.	Requirement to include project location. – Recommendation of VWP TAC
	9 VAC 25-210-75.B.2.c	Public information meeting requirements – notice requirements.	Requirement to include information on how the public can request a public information meeting or in the alternative, the date, time

			and location of the public information meeting. – Recommendation of VWP TAC.
	9 VAC 25-210-75.B.2.d	Public information meeting requirements – notice requirements.	Requirement to include information about the potential applicant for the proposed surface water supply project. – Recommendation of VWP TAC.
	9 VAC 25-210-75.B.2.e	Public information meeting requirements – notice requirements.	Requirement to include a statement of how any oral or written public comments will be used. – Recommendation of the VWP TAC.
	9 VAC 25-210-75.B.3	Preapplication Procedures – public notice.	Provides a mechanism for not requiring the publishing of a public notice or providing the opportunity for a public information meeting if “a public meeting has been held within 2 years prior to the application for a VWP individual permit on a local or regional water supply plan”. – Recommendation of VWP TAC.
9 VAC 25-210-75.B.3		Preapplication Procedures – public notice.	Language clarified to reference the provisions of both Sections 9 VAC 25-780-50.C.11 “and” 9 VAC 25-780-150, not “or”. – Administrative Changes.
9 VAC 25-210-75.B.3		Preapplication Procedures – public notice.	Language changed from “2” to “two” years as the time period for a public meeting. – Administrative Changes.
	9 VAC 25-210-75.B.4		Provides that “the potential applicant shall maintain a list of person making comments”. – Recommendation of VWP TAC.
9 VAC 25-210-80.A		Application for a VWP permit.	Change in Subsection title from “How to apply” to “Application”. – Recommendation of VWP TAC.
9 VAC 25-210-80.A		Application for a VWP permit.	Language added to provide that any person who is required to obtain a VWP permit, “except those persons applying for a VWP permit for minor surface water withdrawal or an emergency VWP permit” shall submit a complete VWP application... - Recommendation of Minor Surface Water Withdrawal TAC.
9 VAC 25-210-80.A		Application for a VWP permit.	Change in language to eliminate the use of the terms “VWP addendum” and “registration statement” by referring to the “most current Joint Permit Application procedures”. – Recommendation of VWP TAC.
9 VAC 25-210-80.A		Application for a VWP permit.	Incorporation of language related to commencement of any activity prior to the issuance of a VWP permit or VWP general permit authorization. – Recommendation of VWP TAC.
9 VAC 25-210-80.A 1		Processing and Completeness Review time.	Section Deleted. – Recommendation of VWP TAC.
9 VAC 25-210-80.A 2		Commencement of any activity restriction.	Section incorporated into 9 VAC 25-210-80.A. – Recommendation of VWP TAC.

9 VAC 25-210-80.B		Information requirements.	The phrase “for a VWP Permit Application, except applications for minor surface water withdrawals or emergency VWP permits” was added. - Recommendation of Minor Surface Water Withdrawal TAC.
9 VAC 25-210-80.B 1		Information requirements.	Changes to this section clarify the Information requirements for a complete VWP permit. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 a			Provides for the inclusion of the mailing address and telephone number and fax number of the applicant. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B 1 b		Provides for inclusion of contact information for property owner if applicable. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 b	9 VAC 25-210-80.B 1 c		Provides for standardized contact information for the applicant’s authorized agent if applicable. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 c	9 VAC 25-210-80.B 1 d		Clarifies that the name of the impacted waterbody or waterbodies or receiving waters is required. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 d	9 VAC 25-210-80.B 1 e		No changes other than new section number. - Administrative Change
9 VAC 25-210-80.B 1 e	9 VAC 25-210-80.B 1 f		Provides for the inclusion of the “name of the project” as an information items for the identification of “project purpose, need and description”. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 e	9 VAC 25-210-80.B 1 f		Provides for the identification of the quantification as well as the identification of wetland impacts according to their Cowardin classification. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 e	9 VAC 25-210-80.B 1 f		Provides that stream impacts are to quantified and identified based on geomorphological types. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 f	9 VAC 25-210-80.B 1 g	Amount of wetland impacts.	Clarifies the information requirements for wetland impacts (by type in acres or square feet), stream impacts (in linear feet) and open water impacts (by type in square feet or acres). – Recommendation of VWP TAC.
9 VAC 25-210-80.B.1.g		Amount of steam impacts.	Clarifies that the information requirements for stream impacts should be provided in linear feet “and in square feet for purposes of calculating the permit application fee, when applicable”. – In Response to Comments.
9 VAC 25-210-80.B 1 g	9 VAC 25-210-80.B 1 h	Materials assessment.	Provides that the applicant must provide evidence or certification that the material is free from toxic contaminants prior to disposal if dredged material from on-site areas or fill material from off-site areas is involved in the project. – Recommendation of VWP TAC.

9 VAC 25-210-80.B 1 h	9 VAC 25-210-80.B 1 i	Proposed construction schedule.	No changes other than new section number. - Administrative Change
9 VAC 25-210-80.B 1 i	9 VAC 25-210-80.B 1 j	Signed and dated signature page.	Provides for the use of “electronic submittals” containing the original-signature page. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 j		Appendices.	Deleted. The Joint Permit Application no longer includes appendices. - Administrative Change
9 VAC 25-210-80.B 1 k			Deletes the reference to the term “DEQ Addendum”. - Administrative Change
9 VAC 25-210-80.B 1 k			Provides for the inclusion of information from a “beneficial uses evaluation” for instream flow and surface water withdrawal projects (if applicable). – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 k (1)		Information requirements for wetland impacts greater than one acre.	Provides a numerical value to define “one acre”. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 k (1)		Information requirements for wetland impacts greater than one acre.	Deletes reference to “existing beneficial uses” and “information on fish and wildlife resources and habitat”. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 k (1)		Information requirements for wetland impacts greater than one acre.	Provides specific information requirements for assessment of functional values of the affected surface waters which will be used to determine the type of compensatory mitigation required to ensure no net loss of wetland functions. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 k (1)		Information requirements for wetland impacts greater than one acre.	Language modified to incorporate the phrase “or other beneficial uses”. To clarify the need to evaluate beneficial uses for all projects, not just water withdrawals. – In Response to Comments.
9 VAC 25-210-80.B 1 k (1) (a)		Functional values.	Section deleted. Information requirements included in 9 VAC 25-210-80. B 1 k (1). - Administrative Change
9 VAC 25-210-80.B 1 k (1) (b)	9 VAC 25-210-80.B 1 k (2)	Evaluation of beneficial uses.	Identifies the information requirements for evaluation of beneficial uses for instream flow and surface water withdrawal projects. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 k (2)	9 VAC 25-210-80.B 1 k (3)	Assessment of potential impacts.	No changes other than new section number. - Administrative Change
9 VAC 25-210-80.B 1 k (3)	9 VAC 25-210-80.B 1 k (4)	Delineation map.	No changes other than new section number. - Administrative Change
9 VAC	9 VAC 25-	Plan for mitigation.	Deletes the word to “unavoidable” to qualify

25-210-80.B 1 k (4)	210-80. B 1 k (5)		impacts. Provides that the plan for mitigation for impacts to surface waters must include the means by which compensation will be accomplished to achieve no net loss of wetlands acreage and functions as well as no net loss of stream functions and water quality benefits. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 k (4) (a)	9 VAC 25-210-80.B 1 k (5) (a)		Regulation citation corrected to 9 VAC 25-210-115.) - Administrative Change
9 VAC 25-210-80. B 1 k (4) (b)			Section deleted. - Administrative Change
9 VAC 25-210-80.B 1 k (4) (c)	9 VAC 25-210-80.B 1 k (5) (b)		Clarifies the minimum informational requirements for a conceptual wetland compensatory mitigation plan for unavoidable permanent impacts to wetlands. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B 1 k (5) (c)		Specifies the minimum information requirements for a conceptual stream compensatory mitigation plan for unavoidable impacts to streams. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B 1 k (5) (d)		Provides for the inclusion of compensation for open water impacts. – Recommendation of VWP TAC.
9 VAC 25-210-80.B 1 k (4) (d)	9 VAC 25-210-80.B 1 k (5) (e)		Corrected Section references. Original information items identified in this section are incorporated into a new Section 9 VAC 25-210-80.B 1 k (5) (f). - Administrative Change
9 VAC 25-210-80.B.1.k (5) (e)		Final compensation plan requirements.	Section deleted. The language from old Section (e) was transferred to 9 VAC 25-210-116.F. – In Response to Comments.
	9 VAC 25-210-80.B.1.k (5) (e)	Compensation plan requirements.	A new Section (e) was added to include compensation plan requirements for measures for the control of undesirable species. – Administrative Change.
	9 VAC 25-210-80.B 1 k (5) (f)		Specifies the information requirements for the final compensation plan for wetlands. Part of section was originally included in old Section 9 VAC 25-210-80.B 1 k (4) (d) - Administrative Change
9 VAC 25-210-80.B.1.k (5) (f)		Final compensatory mitigation plan information requirements for wetlands.	Section deleted. Language transferred to 9 VAC 25-210-116.F.2. – In Response to Comments.
9 VAC 25-210-80.B.1.k (5) (i)	9 VAC 25-210-80.B.1.k (5) (f)	Proof of willingness concept.	Section renumbered to accommodate transfer of language and deletion of section. – Administrative Change.
	9 VAC 25-210-80.B 1 k		Specifies the information requirements for the final compensation plan for streams. –

	(5) (g)		Recommendation of VWP TAC.
9 VAC 25-210-80.B.1.k (5) (g)		Final Compensation mitigation plan information requirements for streams.	Section deleted. Language transferred to 9 VAC 25-210-116.F.2. – In Response to Comments.
9 VAC 25-210-80.B.1.k (5) (j)	9 VAC 25-210-80.B.1.k (5) (g)	Purchase and Use of Banking Credits – Requirements.	Section renumbered to accommodate transfer of language to new section and deletion of a section. – Administrative Change
	9 VAC 25-210-80.B.1.k (5) (h)		Provides a definition of “undesirable species” for purposes of this regulation. – Recommendation of VWP TAC.
9 VAC 25-210-80.B.1.k (5) (h)		Meaning of the phrase “undesirable species”.	Section deleted. The correct term “undesirable plant species” is already defined in 9 VAC 25-210-10. – Administrative Change
9 VAC 25-210-80.B.1.k (5) (k)	9 VAC 25-210-80.B.1.k (5) (h)	Off-site compensatory mitigation requirements.	Section renumbered to accommodate transfer of language to new section and deletion of section. – Administrative Change.
9 VAC 25-210-80.B.1.k (4) (e)	9 VAC 25-210-80.B.1.k (5) (i)		No changes other than new section number. - Administrative Change
9 VAC 25-210-80.B.1.k (4) (f)	9 VAC 25-210-80.B.1.k (5) (j)		Wording additions provide for the purchase or use of mitigation banking credits and requires the identification of the HUC in which the proposed mitigation bank is located as part of the information requirements. – Recommendation of VWP TAC.
9 VAC 25-210-80.B.1.k (4) (g)	9 VAC 25-210-80.B.1.k (5) (k)		Includes a reference to another section of the regulation dealing with compensation. Evaluation criteria have been deleted from this section. - Administrative Change
9 VAC 25-210-80.B.1.k (4) (i)			Section deleted. - Administrative Change
9 VAC 25-210-80.B.1.l		Detailed location map.	“For example” has been spelled out instead of the use of the abbreviation e.g. - Administrative Change
9 VAC 25-210-80.B.1.l		Detailed location map.	Provides for the inclusion of the project boundary as part of the detailed project location map. – Recommendation of VWP TAC.
9 VAC 25-210-80.B.1.l		Detailed location map.	Requires that the stream classification be clearly identified on the location map. – Recommendation of VWP TAC.
9 VAC 25-210-80.B.1.l		Detailed location map.	Language revised to delete specific reference to latitude and longitude; hydrologic unit code and stream classification. To clarify information requirements and to allow more the applicant

			more flexibility in providing a map with sufficient details. – In Response to Comments.
9 VAC 25-210-80.B.1.m			Provides for the inclusion of “ordinary high water elevation on all project plan view sketches and cross-sectional sketches. Requires “profile sketches” to demonstrate minimization of impacts. – Recommendation of VWP TAC.
9 VAC 25-210-80.B.2		Additional information requirements for a VWP Permit application.	Includes applications involving “instream flow requirements” in the list of projects requiring additional information. – Recommendation of VWP TAC.
9 VAC 25-210-80.B.2		Additional information requirements for a VWP Permit application.	Language revised to refer applications involving “instream flow requirements”, and “major surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
9 VAC 25-210-80.B.2.c			Section deleted. Information requirements for the proposed withdrawal moved to new Section 9 VAC 25-210-80.B 2 f. - Administrative Change
9 VAC 25-210-80.B.2.d	9 VAC 25-210-80.B.2.c		No changes other than new section number. - Administrative Change
9 VAC 25-210-80.B.2.e			Section deleted. - Administrative Change
9 VAC 25-210-80.B.2.f	9 VAC 25-210-80.B.2.d		Wording changed to provide information “along the affected stream reach” instead of just at the proposed project location. – Recommendation of VWP TAC.
9 VAC 25-210-80.B.2.g	9 VAC 25-210-80.B.2.e		Provides for the inclusion of information on the aquatic life “along the affected stream reach” instead of just at the proposed project location. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.2.f		Provides for inclusion of information on how the proposed withdrawal will alter flows along the affected stream reach. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.2.g		Provides for the inclusion of information on the proposed use of and need for the surface water and information on how the demand for surface water was determined. Identifies examples of methods to determine demand for surface water. References the water supply planning process requirements of 9 VAC 25-210-115 B and 9 VAC 25-780-115. – Recommendation of VWP TAC.
9 VAC 25-210-80.B.2.g		Additional information requirements for a VWP Permit application.	Language revised to include reference to “surface water supply withdrawal projects” instead of “drinking water supply projects” and reference citations corrected. - Incorporation of WP5 Discussions and concepts.

	9 VAC 25-210-80.B.2.h		Requires that a summary of the steps taken to seek public input and an identification of issues raised for new or expanded surface water supply projects be included. References 9 VAC 25-210-75. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.2.i		Requires that for surface water withdrawals , other than public water supply, that information on the availability of alternate sources of water supply for use during times of reduced flow be provided. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3	Emergency Virginia Water Protection Permit	Identifies the information requirements for applications for an Emergency Virginia Water Protection Permit. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.a		Identifies contact information needed for the applicant. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.b		Identifies contact information needed for the property owner. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.c		Identifies contact information needed for the authorized agent. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.d		Requires the name of the waterbody or waterbodies or receiving waters. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.e		Requires the name of the city or county where the project is located. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.f		Provides for the acceptance of electronic submittals. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.g		Identifies the need for an application processing fee. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.h		Requires that information on the drainage area and flows be provided. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.i		Provides that information on the aquatic life along the affected stream reach is included. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.j		Provides that information on recent and current water use and the sources of such water is included. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.k		Requests that a description of the severity of the public water supply emergency be included. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.l		Provides for the inclusion of a description of the mandatory water conservation measures taken or imposed by the applicant. Provides examples of mandatory water conservation measures. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.m		Requests an estimate of the water savings realized with mandatory water conservation

			measures. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.n		Provides for the inclusion of documentation that all management actions consistent with existing permit limitations have been exhausted. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.3.o		Provides for the inclusion of any other information related to the water supply emergency. – Recommendation of VWP TAC.
	9 VAC 25-210-80.B.4		Establishes a 14 day deadline for application for a VWP permit. - Administrative Change
	9 VAC 25-210-80.C	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.C.1	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.C.2	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.C.3	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.C.4	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.C.5	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
9 VAC 25-210-80.C.5		Information requirements for new or expanded minor surface water withdrawals.	Language added to clarify the documentation requirements for new or expanded minor surface water withdrawals. – Joint TAC Recommendation.
	9 VAC 25-210-80.C.6	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.C.7	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.

	9 VAC 25-210-80.C.8	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.C.9	Information requirements for new or expanded minor surface water withdrawals.	Section added to incorporate the concept of specific streamlined information requirements for “new or expanded minor surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.C.10	Information requirements for new or expanded minor surface water withdrawals.	Section added to clarify the requirement for “a minor surface water withdrawal for a public surface water supply project to provide an evaluation of project alternatives as required in 9 VAC 25-210-115.” – Joint TAC Recommendation.
9 VAC 25-210-80.B.3	9 VAC 25-210-80.D	Information requirements for an Emergency Virginia Water Protection Permit.	Original Section 9 VAC 25-210-80.B.3 revised and renumbered as a Section header. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-80.D.1	Information requirements for an Emergency Virginia Water Protection Permit.	New section added to address specific information requirements for application for an Emergency Virginia Water Protection Permit. – Administrative Change
9 VAC 25-210-80.B.4	9 VAC 25-210-80.D.2	Information requirements for an Emergency Virginia Water Protection Permit.	Old Section 9 VAC 25-210-80.B.4 renumbered. Section renumbered to accommodate inclusion of addition sections. – Administrative Change
9 VAC 25-210-80.C	9 VAC 25-210-80.E	Additional information provision.	Old Section 9 VAC 25-210-80.C renumbered. Section renumbered to accommodate inclusion of addition sections. – Administrative Change
9 VAC 25-210-80.D	9 VAC 25-210-80.F	Incomplete application.	Old Section 9 VAC 25-210-80.D renumbered. Deletes the reference to “specific” information and “missing or deficient” information. Refers to “the requested” information. Provides that the “applicant” shall submit any needed or corrected information. Provides that submittal of requested or corrected information is considered a new application but that no additional notice or additional permit application fee is required. – Recommendation of VWP TAC.
9 VAC 25-210-80.F		Incomplete application provision.	Language revised to “require the submission” of additional information when there is an incomplete application and reference to a “revised application with new information”. A provision for the revised application to be administratively withdrawn has also been added. Clarification of requirements for a revised application once an application has been deemed incomplete by the Board. – Administrative Change
9 VAC		VWP permit action.	Section deleted. VWP permit action

25-210-90.D			language incorporated into 9 VAC 25-210-180.D - Administrative Change
9 VAC 25-210-90.D 1			Section deleted. Language incorporated into 9 VAC 25-210-180.D. - Administrative Change
9 VAC 25-210-90.D 2			Section deleted. Language incorporated into 9 VAC 25-210-180.D. – Administrative Change
9 VAC 25-210-90.D 3			Section deleted. Language incorporated into 9 VAC 25-210-180.D. – Administrative Change
9 VAC 25-210-90.E	9 VAC 25-210-90.D	Inspection and entry.	Provides that “the permittee shall allow the board” or any duly authorized agent of the board entry. Identifies “reasonable” inspection times and allows for inspections during an emergency. – Recommendation of VWP TAC.
9 VAC 25-210-90.E 1	9 VAC 25-210-90.D 1		Deletes the word “any” and provides for entry upon permittee’s property. – Recommendation of VWP TAC.
9 VAC 25-210-90.F	9 VAC 25-210-90.E	Duty to provide information.	No changes other than new section number. – Administrative Change
9 VAC 25-210-90.F 2	9 VAC 25-210-90. E 2		Deletes “specifications” from the list of required information. – Recommendation of VWP TAC.
9 VAC 25-210-90.G	9 VAC 25-210-90.F	Monitoring and records requirements.	No changes other than new section number. – Administrative Change
9 VAC 25-210-90.G 4	9 VAC 25-210-90.F 4	Records of monitoring information.	Inserts the phrase “as appropriate” into the requirement for inclusion of records of monitoring information. – Recommendation of VWP TAC.
9 VAC 25-210-100.A		Signatory requirements for applications.	Provides for the use of “electronic submittals containing the original-signature page, such as that contained in a scanned document file”. – Recommendation of VWP TAC.
9 VAC 25-210-100.B 2 b			Moves language dealing with an authorization that is no longer accurate to a new section 9 VAC 25-210-100.B 2 c. – Administrative Change
	9 VAC 25-210-100.B 2 c		Creates a separate section using material from 9 VAC 25-210-100.B 2 b. _ Administrative Change
9 VAC 25-210-110.1	9 VAC 25-210-110.A	Instream flow conditions.	No changes other than new section number. – Administrative Change
	9 VAC 25-210-110.A	Establishing applicable standards, limitations or other VWP permit conditions.	New section added to specify “conditions applicable to surface water withdrawals”. - Incorporation of WP5 Discussions and concepts.
9 VAC 25-210-110.A	9 VAC 25-210-110.A.1	Instream flow conditions.	Section renumbered to accommodate the incorporation of new language. – Administrative Change
9 VAC	9 VAC 25-	Instream flow conditions.	Section renumbered to accommodate the

25-210-110.A.1	210-110.A.1.a		incorporation of new language. Includes a provision for “consideration of seasonal needs of water users and the seasonal availability of surface water flow” when developing conditions that limit the volume and rate at which surface water may be withdrawn. – Recommendation of VWP TAC.
9 VAC 25-210-110.A.2	9 VAC 25-210-110.A.1.b		Provides for consideration of “the affected stream reach and the amount of water that is put to consumptive use”. – Recommendation of VWP TAC.
9 VAC 25-210-110.A.3	9 VAC 25-210-110.A.1.c		Provides for the Board’s consideration of “the combined effect on the hydrologic regime within an affected stream reach due to consumptive uses” in the development of instream flow conditions for new withdrawals. – Recommendation of VWP TAC.
9 VAC 25-210-110.A.3.a	9 VAC 25-210-110.A.1.c.1		Provides for consideration of “all existing permitted withdrawals”. – Recommendation of VWP TAC.
9 VAC 25-210-110.A.3.b	9 VAC 25-210-110.A.1.c.2		Provides for consideration of “the total amount of withdrawals excluded from VWP permit requirements”. – Recommendation of VWP TAC.
9 VAC 25-210-110.A.3.c	9 VAC 25-210-110.A.1.c.3		Provides for the consideration of “any other lawful withdrawals”. – Recommendation of VWP TAC.
9 VAC 25-210-110.A.4	9 VAC 25-210-110.A.1.d	VWP permits for surface water withdrawals.	Provides information requirements for “VWP Permits for surface water withdrawals, other than public water supplies”. Requires identification of “how alternate sources of water supply will be made available to support the operation of the permitted facility when surface water withdrawals will be curtailed due to instream flow requirements”. Provides for “modification of the operation of the facility to assure compliance with permit conditions”. Identifies several possible modification options. – Recommendation of VWP TAC.
9 VAC 25-210-110.B	9 VAC 25-210-110.A.2	Potomac River withdrawals.	Requires that “VWP permits issued for surface water withdrawals from the Potomac River between the Shenandoah River confluence and Little Falls shall contain a condition that requires the permittee to reduce withdrawals” under certain conditions. – Recommendation of VWP TAC.
9 VAC 25-210-110.A.2		Requirements for VWP Permits issued for surface water withdrawals from the Potomac River.	Language changed to reflect that the Department direction to the permittee will be “after” consultation with the Section for Cooperative Water Supply Operations on the Potomac (CO-OP) and the Department will indicate to the permittee “by what quantity” in addition to what duration their flows are to be reduced. Clarifies procedure for dealing with

			the VWP Permits issued for surface water withdrawals from the Potomac River and removes the ambiguity as to the quantity of water that should be reduced. - In Response to Comments
	9 VAC 25-210-110.A.3	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-110.A.3.a	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals. - Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-110.A.3.b	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals. – Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-110.A.3.c	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals. – Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-110.A.3.d	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals. – Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-110.A.3.d.1	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals. – Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-110.A.3.d.2	Conditions applicable to new or expanded surface water withdrawals.	New section added to identify conditions applicable to new or expanded surface water withdrawals. – Incorporation of WP5 Discussions and concepts.
9 VAC 25-210-110.C	9 VAC 25-210-110.B	Water quality standards and state requirements.	Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.D	9 VAC 25-210-110.C	Toxic pollutants.	Old Section 9 VAC 25-210-110.D renumbered. Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.E	9 VAC 25-210-110.D	Monitoring requirements as conditions of VWP permits.	Old Section 9 VAC 25-210-110.E renumbered. Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.F	9 VAC 25-210-110.E	Best Management Practices.	Old Section 9 VAC 25-210-110.F renumbered. Section renumbered to Incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.G	9 VAC 25-210-110.F	Reissued VWP permits.	Old Section 9 VAC 25-210-110.G renumbered. Section renumbered to Incorporate addition of new section materials

			to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-110.H	9 VAC 25-210-110.G	Reopening VWP permits.	Old Section 9 VAC 25-210-110.H renumbered. Section renumbered to incorporate addition of new section materials to incorporate the WP5 discussions and concepts. – Administrative Change
9 VAC 25-210-115		Evaluation of mitigation alternatives.	Title of Section changed to “Evaluation of project alternatives”. – Recommendation of VWP TAC.
9 VAC 25-210-115.A		Identification of purpose of proposed project.	New language provides for the identification of the “purpose of the proposed project” “when a proposed activity involves a surface water withdrawal or alteration of instream flows”. Requires the development of “a narrative describing the water supply issues that form the basis of the proposed project purpose”. – Recommendation of VWP TAC.
9 VAC 25-210-115.A		Identification of purpose of proposed project.	Language revised to refer to a “major” surface water withdrawal, “public surface water supply withdrawal project” or the alteration of instream flows. – Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-115.B	Proposed activity involving a surface water withdrawal meets an established local water supply need.	Requires that “when a proposed activity involves instream flow or surface water withdrawal” that the applicant “demonstrate to the satisfaction of the Board that the project meets an established local water supply need”. – Recommendation of VWP TAC.
9 VAC 25-210-115.B		Proposed activity involving a surface water withdrawal meets an established local water supply need.	Language revised and reorganized to refer to proposed activities that include a reference to a “major” surface water withdrawal, a public surface water withdrawal project, or the alteration of instream flows. – Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-115.B 1		Identifies “existing supply sources, yields and demands” as required information. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 1 a		Identifies “peak day and average daily withdrawals” as required information. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 1 b		Identifies “the safe yield and lowest daily flow of record” as required information. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 1 c		Identifies “types of water uses” as required information. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 1 d		Requires the identification of “existing water conservation measures and drought response plan” and the identification of “what conditions trigger their implementation”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 2		Requires the identification of “projected demands over a minimum 30 year planning

			period”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 2 a		Identifies the “projected demand contained in the local or regional water supply plan developed in accordance with 9 VAC 25-780, et seq. or for the project service area, if such area is smaller than the planning area” as the source of demand data. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 2 b		Identifies “statistical population (growth) trends” as a component of the required demand data. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 2 c		Identifies “projected demand by use type” as a component of the required demand data. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 2 d		Identifies “projected demand without water conservation measures” as a component of the required demand data. – Recommendation of VWP TAC.
	9 VAC 25-210-115.B 2 e		Identifies “projected demands with long-term water conservation measures” as a component of the required demand data. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C		Language from old Section 9 VAC 25-210-115.A. Provides that “for all proposed projects, the applicant shall” demonstrate to the satisfaction of the board that “avoidance and minimization opportunities have been identified and applied to the proposed activity” and that practicable alternatives, including design alternatives, have been evaluated “for the proposed activity”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 1		Portion of old Section 9 VAC 25-210-115.A dealing with avoidance and minimization. Specifies what avoidance and minimization includes and identifies the types of measures that shall be considered. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2		Provides what should be included in “any alternatives analysis conducted for public drinking water supply projects”. – Recommendation of VWP TAC.
9 VAC 25-210-115.C 2		Alternatives analysis requirements.	Language revised to refer to public “surface” water supply “withdrawal” projects. – Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-115.C 2 a		Identifies “the range of alternatives to be analyzed”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 a (1)		Specifies that “all applicable alternatives contained in the local or regional water supply plan” should be analyzed. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 a		Specifies that “alternatives that are practicable or feasible from both a technical

	(2)		and economic standpoint that had not been identified in the local or regional water supply plan” are to be analyzed. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 a (3)		Specifies that “alternatives that are available to the applicant but not necessarily under the current jurisdiction of the applicant” should be analyzed. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 a (4)		Specifies that “water conservation measures that could be considered as a means to reduce demand for each alternative considered by the applicant” should be part of the alternatives analysis. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 b		Provides for the development of “a narrative description that outlines the opportunities and status of regionalization efforts undertaken by the applicant”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c		Provides that “the criteria used to evaluate each alternative for the purpose of establishing the least environmentally damaging practicable alternative” is included in any alternative analysis. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (1)		Provides that the criteria used to evaluate each alternative include a “demonstration that the proposed alternative meets the project purpose and project demonstrated need, as documented pursuant to 9 VAC 25-210-115 A and B”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (2)		Provides that the criteria used to evaluate each alternative include “availability of the alternative to the applicant”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (3)		Provides that the criteria used to evaluate each alternative include “evaluation of the interconnectivity of water supply systems (both existing and proposed)”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (4)		Provides that the criteria used to evaluate each alternative include “evaluation of the cost of the alternative on an equivalent basis”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (5)		Provides that the criteria used to evaluate each alternative include “evaluation of alternative safe yields”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (6)		Provides that the criteria used to evaluate each alternative include “presence and potential impact of alternative on state and federally listed threatened and endangered species”. – Recommendation of VWP TAC.

	9 VAC 25-210-115.C 2 c (7)		Provides that the criteria used to evaluate each alternative include “presence and potential impact of alternative on wetlands and streams”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (8)		Provides that the criteria used to evaluate each alternative include “evaluation of effects on instream flow”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (9)		Provides that the criteria used to evaluate each alternative include “water quality considerations”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (9) i		Specifies that water quality considerations are to include “land use within a watershed where the types of land use may impact the water quality of the source”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (9) ii		Specifies that water quality considerations are to include “the presence of impaired streams and the type of impairment”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (9) iii		Specifies that the water quality considerations are to include “the location of point source discharges”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 2 c (9) iv		Specifies that the water quality considerations are to include “potential threats to water quality other than those listed in I through iii”. – Recommendation of VWP TAC.
	9 VAC 25-210-115.C 3		Provides that “any alternatives conducted for projects other than drinking water supply projects shall include all applicable items included in 9 VAC 25-210-115. C 2. – Recommendation of VWP TAC.
9 VAC 25-210-115.C 3		Alternative analysis requirements.	Language revised to refer to alternative “analysis” conducted for projects “that involve a surface water withdrawal or alteration of instream flows” other than “public surface” water supply “withdrawal” projects. – Incorporation of WP5 Discussions and concepts.
	9 VAC 25-210-116	Compensation	Language from old Section 9 VAC 25-210-115 dealing with compensation issues has been moved to this new section. – Recommendation of VWP TAC.
9 VAC 25-210-115.C	9 VAC 25-210-116.A	No net loss.	Old Section 9 VAC 25-210-115.C dealing with no net loss of existing wetland acreage and “no net loss of” functions “in all surface waters”. – Recommendation of VWP TAC.
9 VAC 25-210-115.D	9 VAC 25-210-116.B	Practicable and ecologically preferable compensation alternatives.	Old Section 9 VAC 25-210-115.D on “alternatives analysis” renamed to “practicable and ecologically preferable compensation alternatives”. –

			Recommendation of VWP TAC.
9 VAC 25-210-115.D.1	9 VAC 25-210-116.B.1	Requirements for the analysis of practicable and ecologically preferable compensation alternatives.	Specifies that an analysis shall be required to justify that “off-site compensatory mitigation (including purchase or use of mitigation bank credits or contribution to an in-lieu fee fund) or out-of-kind compensatory mitigation” are ecologically preferable and practicable. – Recommendation of VWP TAC.
9 VAC 25-210-116.B.1		Requirements for the analysis of practicable and ecologically preferable compensation alternatives.	The order of the wording “practicable” and “ecologically preferable compensation alternatives” was changed. Language changed to clarify the order of practicable versus ecologically preferable compensation alternatives. – In Response to Comments.
9 VAC 25-210-115.D.2	9 VAC 25-210-116.B.2		Language revised to include timing “of compensation versus impacts” in the analysis of any compensation alternatives. Also requires the comparison of the ability of each mitigation option to replace lost wetland acreage and “functions or lost stream functions and water quality benefits”. – Recommendation of VWP TAC.
9 VAC 25-210-115.B	9 VAC 25-210-116.C	Compensatory mitigation proposals.	Original language from old Section 9 VAC 25-210-115.B. – Administrative Change
9 VAC 25-210-115.B.1	9 VAC 25-210-116.C.1		Original language from old Section 9 VAC 25-210-115.B 1. – Administrative Change
9 VAC 25-210-115.B.2	9 VAC 25-210-116.C.2		Original language from old Section 9 VAC 25-210-115.B 2 revised to specify that compensatory mitigation for unavoidable wetland impacts may be met through any one or combination” of options. Examples of these options are provided. – Recommendation of VWP TAC.
	9 VAC 25-210-116.C.3	Identification of the ways that compensation for unavoidable impacts to streams may be met.	Provides for “compensatory mitigation for unavoidable stream impacts” and provides options for meeting the needed compensatory mitigation. – Recommendation of VWP TAC.
9 VAC 25-210-116.C.3		Identification of the ways that compensation for unavoidable impacts to streams may be met.	The term “mitigation” was added after “compensatory” and the phrase “approved by the board” was replaced by the phrase “acceptable to DEQ”. Wording changed to clarify that the section deals with “compensatory mitigation” and to make it consistent with the language in the general permit regulations. – In Response to Comments.
9 VAC 25-210-115.B.3	9 VAC 25-210-116.C.4	Preferred sequence of compensatory mitigation options.	Original language from old Section 9 VAC 25-210-115.B 3 revised to specify that the appropriate compensatory mitigation option for project impacts shall be evaluated in terms of replacement of wetland acreage and “functions or stream functions and water

			quality benefits". – Recommendation of VWP TAC.
9 VAC 25-210-116.C.4		Preferred sequence of compensatory mitigation options.	Grammatical revisions/corrections. - Administrative Change.
9 VAC 25-210-115.E	9 VAC 25-210-116.D	In-lieu fee fund approval.	New section and subsection numbers. Language has been revised through out the section to include references to no net loss of wetland acreage and "functions or stream functions and water quality benefits". – Recommendation of VWP TAC.
9 VAC 25-210-115.F	9 VAC 25-210-116.E	Use of mitigation banks and multi-project mitigation sites.	No changes other than new section and subsection numbers. – Administrative Change
9 VAC 25-210-80.B.1.K (5) (e)	9 VAC 25-210-116.F	Old 9VAC 25-210-80.B.1.K (5) (e) on information requirements for final compensatory mitigation plans.	Section number changed. To clarify that the final compensation plan is a condition of the permit not a condition for the application to be deemed complete. – Administrative Change
9 VAC 25-210-80.B.1.K (5) (f)	9 VAC 25-210-116.F.1	Old 9 VAC 25-210-80.B.1.K (5) (f) on final compensation plan requirements for wetlands.	Section number changed and "recordation of mechanism for protection of the compensation site(s) revised. A provision allowing for the submittal of "proof of recordation within 120 days of final compensation plan approval" was added. To clarify that the final compensation plan is a condition of the permit not a condition for the application to be deemed complete and to establish the time period allowed for submittal of the proof of recordation. – In Response to Comments.
9 VAC 25-210-80.B.1.K (5) (f)	9 VAC 25-210-116.F.2	Old 9 VAC 25-210-80.B.1.k (5) (g) on final compensation plan requirements for streams.	Section number changed and "recordation of mechanism for protection of the compensation site(s) revised. A provision allowing for the submittal of "proof of recordation within 120 days of final compensation plan approval" was added. To clarify that the final compensation plan is a condition of the permit not a condition for the application to be deemed complete and to establish the time period allowed for submittal of the proof of recordation. – In Response to Comments.
9 VAC 25-210-130		VWP general permits.	Language changed to clarify the use of the terms VWP general permit regulation and VWP general permit authorization. – Administrative Change
9 VAC 25-210-130.F			Incorporates a reference to a previously submitted "termination by consent" request. – Recommendation of VWP TAC.
9 VAC 25-210-130.G			Provides that "a request for continuation of a VWP general permit authorization beyond the expiration date of such authorization" in order to complete monitoring requirements shall not be considered a new application for

			coverage and no application fee will be charged. – Recommendation of VWP TAC.
9 VAC 25-210-130.H			Clarifies conditions identified in the section and subsections under which a nationwide or regional permit can meet the requirements of this regulation. – Recommendation of VWP TAC.
9 VAC 25-210-130.H 3			Language has been revised to require compensatory mitigation sufficient to achieve no net loss of existing wetland acreage and “functions or stream functions and water quality benefits”. – Recommendation of VWP TAC.
9 VAC 25-210-130.H 4			Specifies methods that may be used for compensatory mitigation “for unavoidable wetland impacts”. – Recommendation of VWP TAC.
	9 VAC 25-210-130.H 5		Specifies methods that may be used for compensatory mitigation for “unavoidable stream impacts”. – Recommendation of VWP TAC.
9 VAC 25-210-130.I			Language from old section 9 VAC 25-210-130.H dealing with certifications has been inserted. – Recommendation of VWP TAC.
9 VAC 25-210-130.I	9 VAC 25-210-130.J		New section number. Coverage under a nationwide or regional permit now references a VWP general permit “regulation”. – Administrative Change
9 VAC 25-210-140		Public notice.	Title has been revised to: Public notice of VWP permit “applications”, permit “actions” and public comment “periods”. – Administrative Change
9 VAC 25-210-140.A			New language has been inserted to address the advertising requirements for the “initial application for surface water supply projects”. – Recommendation of VWP TAC.
9 VAC 25-210-140.A	9 VAC 25-210-140.B		Language from old Section 9 VAC 25-210-140.A has been revised to include an “exception of an Emergency Virginia Water Protection Permit or variances from Virginia Water Protection Permit conditions as outlined in 9 VAC 25-210-175”. – Recommendation of VWP TAC.
9 VAC 25-210-140.B		Public involvement requirements for every draft VWP permit, except an Emergency Virginia Water Protection Permit.	Wording deleted that referred to “variances from Virginia Water Protection Permit conditions as outlined in 9 VAC 25-210-175”. – Administrative Change.
9 VAC 25-210-140.B	9 VAC 25-210-140.C		No change other than new section number. – Administrative Change
9 VAC 25-210-140.C	9 VAC 25-210-140.D		Identifies the required contents of the “public notice for a VWP permit application or proposed VWP permit action”. – Recommendation of VWP TAC.

9 VAC 25-210-140.C 1	9 VAC 25-210-140.D 1		Requires that the public notice include the "mailing" address of the applicant. – Recommendation of VWP TAC.
	9 VAC 25-210-140.D 2		Requires that the public notice include "the permit application number". – Recommendation of VWP TAC.
	9 VAC 25-210-140.D 3		Part of language from old Section 9 VAC 25-210-140.C 1. Requires that the public notice include "the project location". – Recommendation of VWP TAC.
9 VAC 25-210-140.C 2	9 VAC 25-210-140.D 4		No change other than new subsection number. – Administrative Change
9 VAC 25-210-140.C 3	9 VAC 25-210-140.D 5		Specifies the information needed for a "description of the area affected" to be included in the public notice. – Recommendation of VWP TAC.
	9 VAC 25-210-140.D 6		Requires that the public notice contain a "description of what the applicant plans to do to compensate for the affected area". – Recommendation of VWP TAC.
9 VAC 25-210-140.C 4	9 VAC 25-210-140.D 7		No change other than new subsection number. – Administrative Change
9 VAC 25-210-140.C 5	9 VAC 25-210-140.D 8		No change other than new subsection number. – Administrative Change
9 VAC 25-210-140.C 6	9 VAC 25-210-140.D 9		Requires that the public notice include "the address, e-mail address and phone number of a specific person or persons at the state office from whom further information may be obtained". – Recommendation of VWP TAC.
9 VAC 25-210-140.C 7	9 VAC 25-210-140.D10		No change other than new subsection number. – Administrative Change
9 VAC 25-210-140.D	9 VAC 25-210-140.E		No change other than new section number. – Administrative Change
9 VAC 25-210-140.E	9 VAC 25-210-140.F		No change other than new section number. – Administrative Change
9 VAC 25-210-170.C 1		Content of the public notice of any public hearing.	Specifies that the public notice contain the "mailing" address of each applicant and requires that "information on the number of acres of wetlands and/or the number of linear feet of streams affected, as well as the name of the receiving waterway and the name of the affected watershed" be included in the description of each person's proposed activities or operations. – Recommendation of VWP TAC.
9 VAC 25-210-170.C 1		Content of the public notice of any public hearing.	Additional requirement to include "a description of the nature of the withdrawal and the amount of the withdrawal" as part of the public notice. – Incorporation of WP5

			Discussions and concepts.
9 VAC 25-210-170.C 2			Provides that the precise location of the “proposed” activity is provided in the public notice. – Recommendation of VWP TAC.
	9 VAC 25-210-170.C 3		Provides that a “description of what the applicant plans to do to compensate for the affected area” is included in the public notice. – Recommendation of VWP TAC.
9 VAC 25-210-170.C 3	9 VAC 25-210-170.C 4		New section number. Requires that a brief reference to the public notice issued for the VWP permit application “or permit action” including “the permit application” number is included in the public notice. – Recommendation of VWP TAC.
9 VAC 25-210-170.C 4	9 VAC 25-210-170.C 5		No change other than new subsection number. – Administrative Change
9 VAC 25-210-170.C 5	9 VAC 25-210-170.C 6		No change other than new subsection number. – Administrative Change
9 VAC 25-210-170.C 6	9 VAC 25-210-170.C 7		No change other than new subsection number. – Administrative Change
9 VAC 25-210-170.C 7	9 VAC 25-210-170.C 8		Requires that the public notice contain the “mailing” address and “name of the DEQ Regional Office” where interested persons may obtain further information. – Recommendation of VWP TAC.
9 VAC 25-210-170.C 8	9 VAC 25-210-170.C 9		No change other than new subsection number. – Administrative Change
	9 VAC 25-210-175	Variance from VWP permit conditions.	Establishes process for granting variances from VWP permit conditions under certain circumstances. – Recommendation of VWP TAC.
	9 VAC 25-210-175.A		Identifies conditions for granting of “a temporary variance to any condition of a VWP permit for a surface water withdrawal that supports a public water supply to address a public water supply emergency during a drought”. – Recommendation of VWP TAC.
9 VAC 25-210-175.A		Variances from VWP permit conditions for public water supplies.	Language revised to refer to “public” surface water “supply” withdrawals and Code reference corrected. – Recommendation of VWP TAC.
	9 VAC 25-210-175.B		Identifies conditions for granting of “a temporary variance to any condition of a VWP permit for a surface water withdrawal during a drought”. – Recommendation of VWP TAC.
	9 VAC 25-210-175.B.1		Provides that “public health and safety interests are served by the issuance of” a variance. – Recommendation of VWP TAC.
9 VAC		Variances from VWP permit	Grammatical correction. - Administrative

25-210-175.B.2		conditions for all other water supplies.	Change.
	9 VAC 25-210-175.C		Identifies specific conditions to be placed on the applicant for the granting of any variance. – Recommendation of VWP TAC.
	9 VAC 25-210-175.D		Provides that “the Board may require the permittee to take any other appropriate action to minimize adverse impacts to other beneficial uses”. – Recommendation of VWP TAC.
	9 VAC 25-210-175.E		Provides that “any variances issued by the Board shall be of the shortest duration necessary”. – Recommendation of VWP TAC.
	9 VAC 25-210-175.F	Public notice of any variance granted by the board requirements.	Provides that “public notice of any variance issued by the Board shall be given immediately upon issuance of any variance”. Also provides that the “Board may modify such variances based on public comment”. Specifies that the “publication costs of all public notices shall be the responsibility of the permittee”. – Recommendation of VWP TAC.
9 VAC 25-210-175.F		Public notice of any variance granted by the board requirements.	Language changed to reference that the public notice shall be given “concurrently with the” issuance of any variance. Clarification of requirements and - Administrative Change.
9 VAC 25-210-180		Rules for modification, revocation and reissuance, transfer, and termination of VWP permits.	Revised Section Title to include “transfer” of VWP permits. Section has been revised by the inclusion of old Section 25-210-200 – Transferability of VWP permits. – Administrative Change
9 VAC 25-210-180.A			Revised to include the “transfer” of VWP permits. – Administrative Change
9 VAC 25-210-180.B			Revised to include the “transfer” of VWP permits. – Administrative Change
9 VAC 25-210-180.C			Requires that “if the permittee wishes to continue one or more activities regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185”. – Recommendation of VWP TAC.
9 VAC 25-210-190	9 VAC 25-210-180.D	Rules for modification, revocation and reissuance or termination of VWP Permits.	Provides that modification, revocation and reissuance, or termination may be initiated by the Board “upon” request of the permittee, or “upon the request of another “person. Identifies conditions under which the Board may initiate this process. Specifies conditions in a number of new subsections under which “a VWP permit may be modified or revoked and reissued with permittee consent”. – Recommendation of VWP TAC.

9 VAC 25-210-180.D		Rules for modification, revocation and reissuance or termination of VWP Permits.	Language changed to clarify and correct specific section references. Clarification of requirements and - Administrative Change.
	9 VAC 25-210-180.E	Transfer of VWP permits.	Provides that “a VWP permit shall be transferred only if the VWP permit has been modified to reflect the transfer, has been revoked and reissued to the new permittee, or has been automatically transferred”. New subsections incorporate the language from old Section 9 VAC 25-210-200. – Recommendation of VWP TAC.
9 VAC 25-210-180.E		Transfer of a VWP Permit.	Language from Old Section 9 VAC 25-210-180.E.2 was moved to this section. Clarification and - Administrative Change.
9 VAC 25-210-180.E.1		Transfer by modification.	Section deleted. Clarification and - Administrative Change.
9 VAC 25-210-180.E.2		Automatic transfer.	Section deleted. Language moved to 9 VAC 25-210-180.E. Clarification and - Administrative Change.
9 VAC 25-210-180.E.2.a	9 VAC 25-210-180.E.1	Transfer of a VWP Permit - requirements.	Section renumbered to accommodate deletion of sections. – Administrative Change
9 VAC 25-210-180.E.2.b	9 VAC 25-210-180.E.2	Transfer of a VWP Permit - requirements.	Section renumbered to accommodate deletion of sections. – Administrative Change
9 VAC 25-210-180.E.2.c	9 VAC 25-210-180.E.3	Transfer of a VWP Permit	Section renumbered to accommodate deletion of sections. – Administrative Change
9 VAC 25-210-180.E.2.d	9 VAC 25-210-180.E.4	Transfer of a VWP Permit	Section renumbered to accommodate deletion of sections. – Administrative Change
	9 VAC 25-210-180.F	Minor modification requirements.	New Section added. Provides a mechanism under which “minor modifications may be made in the VWP permit without following the public involvement procedures”. Specifies what constitutes a “minor modification” for VWP permits in a number of new subsections. – Recommendation of VWP TAC.
	9 VAC 25-210-180.F.1	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
	9 VAC 25-210-180.F.2	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
	9 VAC 25-210-180.F.3	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
	9 VAC 25-210-180.F.4	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
	9 VAC 25-210-180.F.5	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
9 VAC 25-210-180.F.5		Minor modification requirements.	Language revised to provide conditions for an increase to permitted project impacts by including specific code references.

			Clarification of allowable increases in permitted project impacts. – Administrative Change
	9 VAC 25-210-180.F.6	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
	9 VAC 25-210-180.F.7	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
9 VAC 25-210-180.F.7		Minor Modification provisions for permit limitation or monitoring requirements.	Grammatical correction; deletion of the term “and”. – Administrative Change
	9 VAC 25-210-180.F.8	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
9 VAC 25-210-180.F.8		Minor modification requirements.	Language revised to reference that “the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development or within logical termini”; to include a reference to “open water” impacts; and to increase the threshold for unavoidable cumulative in stream impacts from “less than 50 feet” to “less than 100 linear feet”. Clarification of requirements and grammatical corrections. – In Response to Comments.
	9 VAC 25-210-180.F.9	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
9 VAC 25-210-180.F.9		Minor modification requirements.	Grammatical correction; the word “and” was added. – Administrative Change.
	9 VAC 25-210-180.F.10	Minor modification requirements.	New Section Added - Recommendation of VWP TAC.
9 VAC 25-210-180.E	9 VAC 25-210-180.G		Section number has been changed to reflect the addition of new sections. Provides for the identification of “reasons for termination for cause”. – Recommendation of VWP TAC.
	9 VAC 25-210-180.H	Termination by consent.	Provides a mechanism for the termination of a VWP permit “by consent”. Specifies the information that the permittee shall submit as part of the “termination by consent” request. Provides examples of certification statements for “project completion” and project cancellation”. – Recommendation of VWP TAC.
	9 VAC 25-210-180.H.1		New Section Added – Recommendation of VWP TAC.
	9 VAC 25-210-180.H.2		New Section Added – Recommendation of VWP TAC.
	9 VAC 25-210-180.H.3		New Section Added – Recommendation of VWP TAC.
	9 VAC 25-210-180.H.4		New Section Added – Recommendation of VWP TAC.
	9 VAC 25-210-180.H.4.a		New Section Added – Recommendation of VWP TAC.
9 VAC 25-210-		Certification language for “project completion”.	The phrase “and any requested compensatory mitigation” was added and the

180.H.4.a			terms “general” and “authorization” were removed. Wording changed to clarify that the certification statement dealt with not only the activities authorized by the VWP permit but also any requested compensatory mitigation. Other language changed for consistence with the regulation. – In Response to Comments.
	9 VAC 25-210-180.H.4.b		New Section Added – Recommendation of VWP TAC.
9 VAC 25-210-180.H.4.b		Certification language for “project cancellation”.	The phrase “and any requested compensatory mitigation” was added and the terms “general” and “reauthorization” were removed. The phrase “and issuance of another permit” was also added. Wording changed to clarify that the certification statement dealt with not only the activities authorized by the VWP permit but also any requested compensatory mitigation. Other language changed for consistence with the regulation and to clarify that resumption of activities would require the issuance of another permit. – In Response to Comments.
	9 VAC 25-210-180.H.4.c		New Section Added – Recommendation of VWP TAC.
9 VAC 25-210-180.H.4.c		Certification language for “project cancellation” for events beyond permittee control.	New section with certification language “for events beyond the permittee control” was added. Wording added to be consistent with certifications allowed under the general permit regulations. – In Response to Comments.
	9 VAC 25-210-180.I		Provides that “the VWP permit terms and conditions shall remain effective until the request is acted upon by the board”. – Recommendation of VWP TAC.
9 VAC 25-210-185		Duration of VWP permits; extensions.	Title of section changed from “VWP permit extension” to “duration of VWP permits; extensions”. – Administrative Change
9 VAC 25-210-110.C 4	9 VAC 25-210-185.A	Duration of VWP permits.	Original section language has been expanded to address “Emergency Virginia Water Protection Permits” and specifies that they “shall not exceed a duration of one year or shall expire upon the issuance of a regular Virginia Water Protection Permit, whichever comes first”. – Recommendation of VWP TAC.
9 VAC 25-210-185	9 VAC 25-210-185.B	VWP permit extension.	Original language from old Section 9 VAC 25-210-185. Sets a limit of 15 years for a combination of the original and the extended permit terms. Provides stipulations for the permittee should the permit extension be denied. – Recommendation of VWP TAC.
9 VAC		Cause for Modification.	Section Repealed. Language has been

25-210-190			incorporated into new Section 9 VAC 25-210-180.D – Administrative Change.
9 VAC 25-210-200		Transferability of VWP permits.	Section Repealed. Language has been incorporated into new Section 9 VAC 25-210-180.E. – Administrative Change
9 VAC 25-210-210	9 VAC 25-210-180.E	Minor modification.	Section deleted. Language dealing with minor modifications has been incorporated into Section 9 VAC 25-210-180.E. – Administrative Change
9 VAC 25-210-220.B		Waiver of VWP permit.	Includes a reference to permits issued by “wetlands boards”. – Administrative Change
9 VAC 25-210-230		Denial of the VWP permit or variance request.	Section title has been revised to include “denial of a variance request”. – Administrative Change
9 VAC 25-210-230.A			Language has been revised to in include “variance request”. – Administrative Change
9 VAC 25-210-230.A.4		Denial of the VWP permit or variance request.	Language was revised to refer to existing “wetland” acreage and function “and no net loss of functions in all surface waters”. Clarification of requirements and - Administrative Change.
9 VAC 25-210-230.A 8		Denial of the VWP permit or variance request.	Corrects Code reference to 9 VAC 25-40-80.C 1 n. – Administrative Change
9 VAC 25-210-230.A 8		Denial of the VWP permit or variance request.	Additional Code references were added. – Administrative Changes.
	9 VAC 25-210-230.A 9	Denial of the VWP permit or variance request.	Specifies that” when “the applicant has not demonstrated that there is a substantial threat to public health and safety” that the request for “an Emergency Virginia Water Protection Permit” will be denied and “that normal Virginia Water Protection Permit procedures should be followed”. – Recommendation of VWP TAC.
9 VAC 25-210-230.A.9		Denial of the VWP permit or variance request.	Grammatical correction – section reworded for clarification. - Administrative Change.
9 VAC 25-210-230.C		Denial of the VWP permit or variance request.	Language revised to note that should the applicant withdraw his application that no VWP permit “or variance” will be issued. – Administrative Change
9 VAC 210-230.D		Denial of the VWP permit or variance request.	Language revised to refer to “his” right to a public hearing to consider the denial and provided a reference to the Procedural Rule governing that right. Clarification of requirements and - Administrative Change.
9 VAC 25-210-260.A		Transition requirements: established that all applications received after the effective date of the regulation or all other applications received on or	The reference to “all other applications received on or after the effective date” of the regulations was removed. Clarifies that “all” applications received after the effective date of the regulations will be processed under the new procedures and simplifies the language

		after the effective date would be processed under the new procedures.	so that it is clear that there is only one effective date. – In Response to Comments.
9 VAC 25-210-260.B		New Section. Transition requirements	Language was added regarding VWP individual permits issued prior to the effective date of the regulation. – In Response to Comments.
9 VAC 25-210-260.C		New Section. Transition requirements.	Language was added addressing “modifications and all other types of notifications that are received by the board prior to the effective date of the regulation. – In Response to Comments.
9 VAC 25-210-260.B	9 VAC 25-210-260.D	Transition requirements.	Section number changed to accommodate the addition of new “transition” issues. – Administrative Change
Forms	List of Forms incorporated in the regulation.		Title of the Joint Permit Application changed corrected to read “Joint Permit Application for Projects Involving Tidal Waters and/or Tidal Wetlands in Virginia”. – Administrative Change
Forms	List of Forms incorporated in the regulation.		Title of Virginia Department of Transportation Joint Permit Application Form changed to Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (effective 10/28/2002). – In Response to Comments.
Forms	List of Forms incorporated in the regulation.		New proposed simplified application form for Minor Surface Water Withdrawals added. - Incorporation of WP5 discussions and concepts

NOTES:

Two additional documents incorporated by reference:

Potomac River Low Flow Allocation Agreement, January 11, 1978, Section 181 of the Water Resources Development Act of 1976, Public Law 94-587, as modified on April 22, 1986

Water Supply Coordination Agreement, an attachment to the Drought-Related Operations Manual for the Washington Metropolitan Area Water Suppliers

One additional form incorporated by reference:

DEQ Application for New or Expanded Minor Surface Water Withdrawals Initiated On or After (insert date these regulation revisions will be effective).

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.

This proposed set of regulatory amendments is part of the Commonwealth's comprehensive surface water withdrawal management strategy that includes improved water supply planning (9 VAC 25-780), improved identification and evaluation of those projects needing individual VWPP permits (9 VAC 25-210), and the development of a general permit for minor surface water withdrawals (9VAC 25-800). This approach will improve permit processing for all surface water withdrawal projects through improved planning and will limit the greatest regulatory burden to those projects requiring individual permits. The general permit for minor surface water withdrawals (9 VAC 25-800) will minimize the cost associated with the individual permit process for minor municipal and commercial or seasonal agricultural withdrawals.

Housekeeping changes permit the use of electronic filing and signatures, increasing efficiency of processing.

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 Board does not expect any direct impacts on the institution of the family and family stability.