



Proposed Regulation Agency Background Document

Approving authority name	State Water Control Board
Virginia Administrative Code (VAC) citation	9 VAC 25-210-10 et seq.
Regulation title	Virginia Water Protection Permit Regulation
Action title	Virginia Water Protection Permit Regulation Amendments
Document preparation date	September 14, 2005

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

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

Substantive changes to the Virginia Water Protection Permit (VWPP) regulation contained in these amendments includes 1) clarification of which water withdrawals are excluded from the permit requirement and under what conditions; 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 what information will be considered in the evaluation of cumulative impacts to instream flow; 6) clarification of what information is submitted by the applicant to demonstrate that an alternatives analysis has been conducted; 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.

There are also a number of administrative amendments that will allow for a more efficient and understandable application, review and issuance process.

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 number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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 by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The goals of the proposed changes 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, and better understanding and management of the cumulative impacts of surface water withdrawals on beneficial uses. The proposed changes will allow for a more efficient and understandable permit application, review and issuance process for surface water supply projects. In turn, this will allow for greater consistency and predictability for the public.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

Exclusions. Section 9 VAC 25-210-60 12 and 13 (page 13, lines 25-34, page 14, lines 1-23 of the attached regulation, *Virginia Water Protection Permit Program 9 VAC 25-210*) 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.

Pre-application Process for Surface Water Projects. Section 9 VAC 210-75 is new. This new section establishes a Pre-Application Review Panel that the applicant can use to identify project issues associated with impacts to beneficial uses and identification of the affected stream reach for analysis of these impacts. The make up of the proposed panel will be 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.

Information Submitted for Surface Water Projects. Section 9 VAC 25-210-80 B 2, has been amended to add additional language (f-i, page 22, lines 22-35, page 23, lines 1-6) 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.

Emergency Virginia Water Protection Permit for Public Water Supplies. Section 9 VAC 25-210-80 B 3 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 is being revised in order to spell out the administrative requirements for the permit and for regulatory consistency.

Determination of instream flow conditions/cumulative impact analyses. Section 9 VAC 25-210-110 A 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 permits.

Potomac Low Flow Allocation Agreement. Section 9 VAC 25-210-110 B has been added to begin implementation of Virginia's responsibilities as a signatory to the Potomac River Low Flow Allocation Agreement. Since 1978, Virginia's responsibilities for protecting the sustainability of water supplies in metropolitan Washington were carried out 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).

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 compensation 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.

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.

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.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so 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 looking at the cumulative affects of new 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 relates to the 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 get “credit” or recognition in the regulatory process for work done to meet the requirements of the local and regional water supply planning 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 primary advantage of these changes to the Commonwealth relate to 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.

DEQ anticipates that once the total amount of excluded water use is known, 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. 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 reach the level of implementation 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.

Requirements More Restrictive Than Federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements proposed that exceed applicable federal standards.

Locality Particularly Affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

These regulatory amendments will affect any Virginia locality that seeks a new permit to withdraw surface water. However, the vast majority of surface water withdrawals existing today are excluded by statute from having to obtain a VWP permit.

Public Participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulation on farm or forest land preservation.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and on any impacts of the regulation on farm and forest land preservation. Also, the Board is

seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail, email or fax to Scott Kudlas, Virginia Department of Environmental Quality, 629 E. Main Street, 9th Floor, Richmond, VA 23219, phone 804-698-4456, fax 804-698-4347, email: scott.kudlas@deq.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period.

A public hearing will be held and notice of the public hearing can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>DEQ anticipates absorbing any costs associated with implementing and enforcing the proposed amendments.</p>
<p>Projected cost of the regulation on localities</p>	<p>Local applicants will be required to conduct a pre-application public meeting that was not required before. Based on the recent experience of several local governments in developing their projects, the estimated cost for such a meeting is approximately \$3000. This includes the cost of advertising and the hourly cost associated with having consultants available to make presentations and answer questions. A discussion with electric utility representatives indicates that the cost of one of these meetings can be as low or as high as one wants to make them. A recent catered meeting with significant public mailings, fact sheets, posters, and consultant participation cost as much as \$28,000 to hold.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>Any applicant who requires an individual Virginia Water Protection permit for a surface water withdrawal.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>At this time, DEQ has only very preliminary estimates of the number of small businesses affected. Based on our existing water use data of those facilities reporting prior to 1990, there are as many as 150 commercial operations, 80 manufacturing operations, and 10 mining operations that may be affected. However, some of these operations may be statutorily excluded users or may be under the stated employment and over the gross annual sales used to define small</p>

	business. In addition, some may also be eligible for the proposed general permit for surface water withdrawals which will reduce costs of compliance.
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>These changes primarily clarify existing requirements in greater detail and should not add significant new costs (e.g. demonstration of project need and analysis of alternatives). There will be new costs associated the public information meeting requirement but this is already done by many applicants as a routine part of their project development process.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Alternatives considered are limited. The proposed emergency permit changes and coordination of the review of surface water projects are the result of statutory changes made by the General Assembly and regulatory modifications are needed to implement these new provisions of the Code. The other changes integrate the work resulting from compliance with the new Local and Regional Water Supply Planning regulation (9 VAC 25-780), clarify, and improve the permit process for surface water withdrawals under the VWPP regulation. Under another regulatory action (9 VAC 25-800), DEQ is pursuing the development of a general permit for minor surface water withdrawals to minimize the cost and regulatory burden associated with the individual permit process with these types of minor or seasonal withdrawals.

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.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
City of Newport News, Utilities Department	The purpose of any proposed scoping meeting should be clear and any ambiguity as to whether the meeting is “informational” or intended to “define information required of the applicant” should be avoided.	The proposed pre-application public meeting has been designed to make it clear that it is for the purpose of providing public information.
City of Newport News, Utilities Department	The U.S. Army Corps of Engineers conducts a scoping process for projects needing NEPA review and coordination with this process is recommended to avoid overlap and unnecessary expense.	The proposed pre-application review panel envisions participation by the same agencies involved in the U.S. Army Corps of Engineers scoping process. The intent is to coordinate the process so multiple scoping meetings are not necessary.
City of Newport News, Utilities Department	In order to be useful, any new language regarding cumulative impacts ought to establish criteria that put the impacts in context with regard to the project benefits and ought to clarify what levels of use are acceptable to DEQ.	At this time, DEQ lacks sufficient statewide information on the needs of specific beneficial uses to establish broadly applicable standards but agree that establishing the kind of regulatory framework envisioned by the commenter is a worthy goal.

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.

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9 VAC 25-210-10		Definitions.	<p>Addition of a definition of “affected stream reach” to clarify requirements for assessment of withdrawals on beneficial use.</p> <p>Revision for clarification of the definition of “applicant” to mean “a person applying for a VWP individual permit or VWP general permit authorization”.</p> <p>Revise definition of “Aquatic resources” or “aquatic environment” to only define the term “Aquatic environment”.</p> <p>Addition of a definition for “Channelization of streams”.</p> <p>Delete the definition of “Code”. The term “Code of Virginia” is spelled out whenever it is used in the regulation.</p> <p>Clarification of the definition of “consumptive use” by changing the term to “consumptive water use”.</p> <p>Addition of a definition of “Cross-sectional sketch”.</p> <p>Addition of a definition of “Drought”.</p> <p>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.</p> <p>Addition of a definition of “Emergency Virginia Water Protection Permit”.</p> <p>Revision of the definition of “Enhancement” to reference portions of the aquatic environment instead of aquatic resources.</p> <p>Addition of a definition of “Impacts”.</p> <p>Addition of a definition of “Intake structure”.</p>

			<p>Inclusion of a numerical limitation for one-tenth of an acre in the definition of the term “Isolated wetlands of minimal ecological value”.</p> <p>Revision of the definition of “Nationwide permit” by including the phrase “except where suspended by individual USACE Corps District”.</p> <p>Addition of the term “Out-of-kind” mitigation”.</p> <p>Clarification of the definition of “Permanent impacts” by including references to permanent increases in the duration or depth of standing water and exclusions from consideration as permanent flooding.</p> <p>Addition of a definition of “Permanent impacts”.</p> <p>Clarification of the definition of “Person”.</p> <p>Addition of a definition for “Plan view sketch”.</p> <p>Addition of a definition for “Potomac River Low Flow Allocation Agreement”.</p> <p>Addition of a definition for “Profile sketch”.</p> <p>Addition of a definition of “Riprap”.</p> <p>Addition of a definition of “Section 401”.</p> <p>Addition of a definition of “Section for Cooperative Water Supply Operations on the Potomac (CO-OP)”.</p> <p>Addition of a definition of “surface water supply project”.</p> <p>Addition of a definition of “Temporary impacts”.</p> <p>Addition of a definition of “Undesirable species”.</p> <p>Addition of a definition of “Water Supply Coordination Agreement”.</p> <p>Addition of a definition of “Water supply emergency”.</p> <p>Addition of a definition of “Withdrawal system”.</p>
--	--	--	---

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.
9 VAC 25-210-60.6			Language added to specify an exclusion for normal residential gardening, lawn and landscape maintenance “in a wetland”.
9 VAC 25-210-60.7			Language added to specify an exclusion for normal agricultural and silvicultural activities “in a wetland”.
9 VAC 25-210-60.8			Replacement of the word exemption with “exclusion”.
9 VAC 25-210-60.9			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”.
	9 VAC 25-210-60.12		Inclusion of a new section 12 to identify “surface water withdrawals in existence on July 1, 1989” as not requiring a VWP Permit.
	9 VAC 25-210-60.12 a		Inclusion of a new section 12 a to address “abandonment of a surface water withdrawal”.
	9 VAC 25-210-60.12 b		Inclusion of a new section 12 b to clarify the “information to be furnished to the DEQ” for surface water withdrawals.
	9 VAC 25-210-60.13		Inclusion of a new section 13 to address those surface water withdrawals not in existence on July 1, 1989.
	9 VAC 25-210-75		Preapplication procedures for a VWP permit for surface water supply projects.
	9 VAC 25-210-75.A		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.
	9 VAC 25-210-75.B		Establishes the guidelines for “preapplication public notices” and information requirements for those notices.
	9 VAC 25-210-75.B.1		Provides for “publication of notice once a week for two consecutive weeks”.
	9 VAC 25-210-75.B.2		Establishes requirements for public information meetings and sets notice requirements.
	9 VAC 25-210-75.B.3		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”.
	9 VAC 25-210-75.B.4		Provides that “the potential applicant shall maintain a list of person making comments”.
9 VAC 25-210-80.A		Application for a VWP permit.	Change in Subsection title from “How to apply” to “Application”. 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”. Incorporation of language related to commencement of any activity prior to the issuance of a VWP permit or VWP general permit authorization.
9 VAC 25-210-80.A 1		Processing and Completeness Review time.	Section Deleted.
9 VAC 25-210-80.A 2		Commencement of any activity restriction.	Section incorporated into 9 VAC 25-210-80.A.
9 VAC 25-210-80.B 1		Information requirements.	Changes to this section clarify the Information requirements for a complete VWP permit.
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.
	9 VAC 25-210-80.B 1 b		Provides for inclusion of contact information for property owner if applicable.
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.
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.
9 VAC 25-210-80.B 1 d	9 VAC 25-210-80.B 1 e		No changes other than new section number.
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”. Provides for the identification of the quantification as well as the identification of wetland impacts according to their Cowardin classification. Provides that stream impacts are to

			quantified and identified based on geomorphological types.
9 VAC 25-210-80.B 1 f	9 VAC 25-210-80.B 1 g		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).
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.
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.
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.
9 VAC 25-210-80.B 1 j		Appendices.	Deleted. The Joint Permit Application no longer includes appendices.
9 VAC 25-210-80.B 1 k			Deletes the reference to the term "DEQ Addendum". Provides for the inclusion of information from a "beneficial uses evaluation" for instream flow and surface water withdrawal projects (if applicable).
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". Deletes reference to "existing beneficial uses" and "information on fish and wildlife resources and habitat". 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.
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).
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.
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.
9 VAC	9 VAC 25-	Delineation map.	No changes other than new section number.

25-210-80.B 1 k (3)	210-80.B 1 k (4)		
9 VAC 25-210-80.B 1 k (4)	9 VAC 25-210-80. B 1 k (5)	Plan for mitigation.	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.
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.)
9 VAC 25-210-80. B 1 k (4) (b)			Section deleted.
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.
	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.
	9 VAC 25-210-80.B 1 k (5) (d)		Provides for the inclusion of compensation for open water impacts.
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).
	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)
	9 VAC 25-210-80.B 1 k (5) (g)		Specifies the information requirements for the final compensation plan for streams.
	9 VAC 25-210-80.B 1 k (5) (h)		Provides a definition of “undesirable species” for purposes of this regulation.
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.
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.
9 VAC 25-210-	9 VAC 25-210-80.B 1 k		Includes a reference to another section of the regulation dealing with compensation.

80.B 1 k (4) (g)	(5) (k)		Evaluation criteria have been deleted from this section
9 VAC 25-210- 80.B 1 k (4) (i)			Section deleted.
9 VAC 25-210- 80.B 1 l			“For example” has been spelled out instead of the use of the abbreviation e.g. Provides for the inclusion of the project boundary as part of the detailed project location map. Requires that the stream classification be clearly identified on the location map.
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.
9 VAC 25-210- 80.B 2			Includes applications involving “instream flow requirements” in the list of projects requiring additional information.
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.
9 VAC 25-210- 80.B 2 d	9 VAC 25- 210-80.B 2 c		No changes other than new section number.
9 VAC 25-210- 80.B 2 e			Section deleted.
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.
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.
	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.
	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.
	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.
	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.
	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.
	9 VAC 25-210-80.B 3 a		Identifies contact information needed for the applicant.
	9 VAC 25-210-80.B 3 b		Identifies contact information needed for the property owner.
	9 VAC 25-210-80.B 3 c		Identifies contact information needed for the authorized agent.
	9 VAC 25-210-80.B 3 d		Requires the name of the waterbody or waterbodies or receiving waters.
	9 VAC 25-210-80.B 3 e		Requires the name of the city or county where the project is located.
	9 VAC 25-210-80.B 3 f		Provides for the acceptance of electronic submittals.
	9 VAC 25-210-80.B 3 g		Identifies the need for an application processing fee.
	9 VAC 25-210-80.B 3 h		Requires that information on the drainage area and flows be provided.
	9 VAC 25-210-80.B 3 i		Provides that information on the aquatic life along the affected stream reach is included.
	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.
	9 VAC 25-210-80.B 3 k		Requests that a description of the severity of the public water supply emergency be included.
	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.
	9 VAC 25-210-80.B 3 m		Requests an estimate of the water savings realized with mandatory water conservation measures.
	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.
	9 VAC 25-210-80.B 3 o		Provides for the inclusion of any other information related to the water supply emergency.
	9 VAC 25-210-80. B 4		Establishes a 14 day deadline for application for a VWP permit.
9 VAC 25-210-80.D		Incomplete application.	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.
9 VAC 25-210-90.D		VWP permit action.	Section deleted. VWP permit action language incorporated into 9 VAC 25-210-180.D
9 VAC 25-210-90.D 1			Section deleted. Language incorporated into 9 VAC 25-210-180.D.
9 VAC 25-210-90.D 2			Section deleted. Language incorporated into 9 VAC 25-210-180.D.
9 VAC 25-210-90.D 3			Section deleted. Language incorporated into 9 VAC 25-210-180.D.
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.
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.
9 VAC 25-210-90.F	9 VAC 25-210-90.E	Duty to provide information.	No changes other than new section number.
9 VAC 25-210-90.F 2	9 VAC 25-210-90. E 2		Deletes “specifications” from the list of required information.
9 VAC 25-210-90.G	9 VAC 25-210-90.F	Monitoring and records requirements.	No changes other than new section number.
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.
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”.
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.
	9 VAC 25-210-100.B 2 c		Creates a separate section using material from 9 VAC 25-210-100.B 2 b.
9 VAC 25-210-110.1	9 VAC 25-210-110.A	Instream flow conditions.	No changes other than new section number.
	9 VAC 25-210-110.A 1		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.
	9 VAC 25-210-110.A 2		Provides for consideration of “the affected stream reach and the amount of water that is put to consumptive use”.
	9 VAC 25-		Provides for the Board’s consideration of “the

	210-110.A 3		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.
	9 VAC 25-210-110.A 3 a		Provides for consideration of “all existing permitted withdrawals”.
	9 VAC 25-210-110.A 3 b		Provides for consideration of “the total amount of withdrawals excluded from VWP permit requirements”.
	9 VAC 25-210-110.A 3 c		Provides for the consideration of “any other lawful withdrawals”.
	9 VAC 25-210-110.A 4	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.
	9 VAC 25-210-110.B	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.
9 VAC 25-210-110.2	9 VAC 25-210-110.C	Water quality standards and state requirements.	Old Section 9 VAC 25-210-110.2.
9 VAC 25-210-110.3	9 VAC 25-210-110.D	Toxic pollutants.	No changes other than new section and subsection numbers.
9 VAC 25-210-110.4		Duration of VWP permits.	Section deleted. Language addressing duration of VWP permits moved to new Section 9 VAC 25-210-185.A.
9 VAC 25-210-110.5	9 VAC 25-210-110.E	Monitoring requirements as conditions of VWP permits.	No changes other than new section and subsection numbers.
9 VAC 25-210-110.6	9 VAC 25-210-110.F	Best Management Practices.	No change other than new section number.
9 VAC 25-210-110.7	9 VAC 25-210-110.G	Reissued VWP permits.	No change other than new section number.
9 VAC 25-210-110.8	9 VAC 25-210-110.H	Reopening VWP permits.	No change other than new section number.
9 VAC 25-210-115		Evaluation of mitigation alternatives.	Title of Section changed to “Evaluation of project alternatives”.
9 VAC 25-210-			New language provides for the identification of the “purpose of the proposed project”

115.A			“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”.
	9 VAC 25-210-115.B		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”.
	9 VAC 25-210-115.B 1		Identifies “existing supply sources, yields and demands” as required information.
	9 VAC 25-210-115.B 1 a		Identifies “peak day and average daily withdrawals” as required information.
	9 VAC 25-210-115.B 1 b		Identifies “the safe yield and lowest daily flow of record” as required information.
	9 VAC 25-210-115.B 1 c		Identifies “types of water uses” as required information.
	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”.
	9 VAC 25-210-115.B 2		Requires the identification of “projected demands over a minimum 30 year planning period”.
	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.
	9 VAC 25-210-115.B 2 b		Identifies “statistical population (growth) trends” as a component of the required demand data.
	9 VAC 25-210-115.B 2 c		Identifies “projected demand by use type” as a component of the required demand data.
	9 VAC 25-210-115.B 2 d		Identifies “projected demand without water conservation measures” as a component of the required demand data.
	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.
	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”.
	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.
	9 VAC 25-210-115.C 2		Provides what should be included in “any alternatives analysis conducted for public drinking water supply projects”.
	9 VAC 25-210-115.C 2 a		Identifies “the range of alternatives to be analyzed”.
	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.
	9 VAC 25-210-115.C 2 a (2)		Specifies that “alternatives that are practicable or feasible from both a technical and economic standpoint that had not been identified in the local or regional water supply plan” are to be analyzed.
	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.
	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.
	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”.
	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.
	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”.
	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”.
	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)”.
	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”.
	9 VAC 25-210-115.C 2 c (5)		Provides that the criteria used to evaluate each alternative include “evaluation of alternative safe yields”.
	9 VAC 25-		Provides that the criteria used to evaluate

	210-115.C 2 c (6)		each alternative include “presence and potential impact of alternative on state and federally listed threatened and endangered species”.
	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”.
	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”.
	9 VAC 25-210-115.C 2 c (9)		Provides that the criteria used to evaluate each alternative include “water quality considerations”.
	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”.
	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”.
	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”.
	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”.
	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.
	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.
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”.
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”.
9 VAC 25-210-115.D 1	9 VAC 25-210-116.B 1		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.
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”.
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.
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.
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.
	9 VAC 25-210-116.C 3		Provides for “compensatory mitigation for unavoidable stream impacts” and provides options for meeting the needed compensatory mitigation.
9 VAC 25-210-115.B 3	9 VAC 25-210-116.C 4		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”.
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”.
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.
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.
9 VAC 25-210-130.F			Incorporates a reference to a previously submitted “termination by consent” request.
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.
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.
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”.
9 VAC			Specifies methods that may be used for

25-210-130.H 4			compensatory mitigation “for unavoidable wetland impacts”.
	9 VAC 25-210-130.H 5		Specifies methods that may be used for compensatory mitigation for “unavoidable stream impacts”.
9 VAC 25-210-130.I			Language from old section 9 VAC 25-210-130.H dealing with certifications has been inserted.
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”.
9 VAC 25-210-140		Public notice.	Title has been revised to: Public notice of VWP permit “applications”, permit “actions” and public comment “periods”.
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”.
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”.
9 VAC 25-210-140.B	9 VAC 25-210-140.C		No change other than new section number.
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”.
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.
	9 VAC 25-210-140.D 2		Requires that the public notice include “the permit application number”.
	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”.
9 VAC 25-210-140.C 2	9 VAC 25-210-140.D 4		No change other than new subsection number.
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.
	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”.
9 VAC 25-210-140.C 4	9 VAC 25-210-140.D 7		No change other than new subsection number.
9 VAC 25-210-140.C 5	9 VAC 25-210-140.D 8		No change other than new subsection number.
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”.
9 VAC 25-210-140.C 7	9 VAC 25-210-140.D10		No change other than new subsection number.
9 VAC 25-210-140.D	9 VAC 25-210-140.E		No change other than new section number.
9 VAC 25-210-140.E	9 VAC 25-210-140.F		No change other than new section number.
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.
9 VAC 25-210-170.C 2			Provides that the precise location of the “proposed” activity is provided in the public notice.
	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.
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.
9 VAC 25-210-170.C 4	9 VAC 25-210-170.C 5		No change other than new subsection number.
9 VAC 25-210-170.C 5	9 VAC 25-210-170.C 6		No change other than new subsection number.
9 VAC 25-210-170.C 6	9 VAC 25-210-170.C 7		No change other than new subsection number.
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.
9 VAC 25-210-170.C 8	9 VAC 25-210-170.C 9		No change other than new subsection number.
	9 VAC 25-210-175	Variance from VWP permit conditions.	Establishes process for granting variances from VWP permit conditions under certain circumstances.
	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”.
	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”.
	9 VAC 25-210-175.B 1		Provides that “public health and safety interests are served by the issuance of” a variance.
	9 VAC 25-210-175.C		Identifies specific conditions to be placed on the applicant for the granting of any variance.
	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”.
	9 VAC 25-210-175.E		Provides that “any variances issued by the Board shall be of the shortest duration necessary”.
	9 VAC 25-210-175.F		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”.
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.
9 VAC 25-210-180.A			Revised to include the “transfer” of VWP permits.
9 VAC 25-210-180.B			Revised to include the “transfer” of VWP permits.
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”.
9 VAC 25-210-180.D			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”.
	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.
	9 VAC 25-210-180.F		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.
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".
	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".
	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".
9 VAC 25-210-185		Duration of VWP permits; extensions.	Title of section changed from "VWP permit extension" to "duration of VWP permits; extensions".
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".
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.
9 VAC 25-210-190	9 VAC 25-210-180.D	Causes for modification.	Section deleted. Language dealing with modifications has been incorporated into Section 9 VAC 25-210-180.D.
9 VAC 25-210-200		Transferability of VWP permits.	Section deleted. Language has been incorporated into new Section 9 VAC 25-210-180.E.
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.
9 VAC 25-210-220.B		Waiver of VWP permit.	Includes a reference to permits issued by "wetlands boards".
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".
9 VAC			Language has been revised to in include

25-210-230.A 1			"variance request".
9 VAC 25-210-230.A 8			Corrects Code reference to 9 VAC 25-40-80.C 1 n.
	9 VAC 25-210-230.A 9		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".

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