

Office of Regulatory Management
Economic Review Form

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-210
VAC Chapter title(s)	Virginia Water Protection Permit Program Regulation
Action title	Amendment to change the Virginia Water Protection Permit Program Regulation (9VAC25-210 et seq.) in response to Chapters 245, 258, and 259 of the 2023 Virginia Acts of Assembly
Date this document prepared	May 31, 2023; Revised September 13, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt Action

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>This is a final exempt regulatory action. No changes are proposed other than to incorporate changes required by Chapters 245, 258, and 259 of the 2023 Virginia Acts of Assembly.</p> <p>Background: Chapters 258 and 259 of the 2023 Virginia Acts of Assembly and this resulting regulation facilitate and promote economic development while ensuring that stream and wetland resources are still protected by eliminating duplicative statutory requirements to obtain permits from both DEQ and the Virginia Marine Resources Commission (VMRC) for activities in nontidal waters.</p> <p>Chapter 245 of the 2023 Virginia Acts of Assembly and this associated regulatory change also allows DEQ flexibility concerning the use of tidal wetland mitigation banks in specified areas if certain conditions are met.</p> <p>Direct Costs: There are no new direct costs to the regulated community associated with these changes. No additional projects or activities are required to obtain a Virginia Water Protection (VWP) permit or purchase compensatory mitigation as a result of these changes.</p> <p>Indirect Costs: The underlying statutory change will eliminate a source of revenue for the Virginia Marine Resources Commission (VMRC) due to a decrease in application and permit fees collected. According to VMRC, revenues from application fees, permit fees, and encroachment royalties for work in nontidal waters have averaged \$119,589 annually.</p> <p>Direct Benefits: Instead of having to obtain permits from two separate state agencies, persons who obtain a VWP permit from DEQ for activities in nontidal waters will no longer have to also obtain a permit from VMRC. As a result, this will save an indeterminate amount of time and money for economic development projects. Based on data collected from 2017 through 2021, DEQ estimates about 369 projects in nontidal waters each year may benefit from not having to obtain duplicative permits. Savings include not having to pay VMRC permit fees. VMRC’s fees for permits to use state-owned bottomlands range from \$100 to \$600 depending on the cost of the project. Other, indeterminate, benefits include reduced permitting time and reduced consulting costs associated with obtaining duplicative permits.</p>
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	<p>Indirect Benefits: The underlying statutory change will eliminate the need for VMRC to process permits for most activities in nontidal waters, which will save staff time and resources.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	<p>(a) There are no new direct costs to the regulated community associated with these changes. As a result of the underlying statutory change there is an indirect cost to VMRC as a result of a decrease in the amount of application and permit fee revenue collected. According to VMRC revenues from application fees, permit fees, and encroachment royalties for work in non-tidal waters have averaged \$119,589 annually.</p>	<p>(b) While DEQ cannot fully quantify the monetary benefit of these changes to the regulated community, based on data collected from 2017 through 2021, DEQ estimates about 369 projects in nontidal waters each year may benefit from not having to obtain duplicative permits from DEQ and VMRC. Savings include not having to pay VMRC permit fees. VMRC’s fees for permits to use state-owned bottomlands range from \$100 to \$600 depending on the cost of the project. Other, indeterminate, benefits include reduced permitting time and reduced consulting costs associated with obtaining duplicative permits.</p> <p>As a result of the underlying statutory change there is an indeterminate indirect benefit to VMRC because it will eliminate the need for VMRC to process permits for most activities in nontidal waters, which will save staff time and resources.</p> <p>Chapter 245 of the 2023 Virginia Acts of Assembly and this associated regulatory change also allows DEQ flexibility concerning the use of tidal wetland mitigation banks in specified areas if certain conditions are met.</p>
(3) Net Monetized Benefit	<p>No conclusive statement can be made about specific net monetized benefits; however, these changes will facilitate and promote economic development while ensuring that stream and wetland resources are still protected by eliminating duplicative statutory requirements to obtain permits from both DEQ and VMRC for activities in nontidal waters. Instead of having to obtain permits from two separate state agencies, persons who obtain a VWP Permit from DEQ for activities in nontidal</p>	

	waters will no longer have to also obtain a permit from VMRC. As a result, this will save time and money for economic development projects.
(4) Other Costs & Benefits (Non-Monetized)	There are no new direct costs to the regulated community associated with these changes. No conclusive statement can be made about specific non-monetized benefits, however, eliminating duplicative statutory requirements to obtain permits from both DEQ and VMCR for activities in nontidal waters will save time and money, and facilitate economic development while ensuring that state waters are still protected. As a result of the underlying statutory change, VMRC will collect less revenue from application and permit fees, but VMRC will also realize cost savings by no longer having to process permit applications for most activities in nontidal waters.
(5) Information Sources	Fiscal Impact Statements for HB 1804 (2023), HB 2181 (2023), and SB 1074 (2023).

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Under the status quo entities engaged in activities in nontidal waters must obtain duplicative permits from DEQ and VMRC. This includes duplicative application and permit fees, costs to hire consultants, and time delays. VMRC’s fees for permits to use state-owned bottomlands range from \$100 to \$600 depending on the cost of the project.</p> <p>There are also costs to VMRC to administer the duplicative permit program, including staff time and travel from VMRC’s offices at Fort Monroe to nontidal waters in the Commonwealth.</p> <p>Indirect Costs: Costs of these duplicative permits may be passed on to consumers (e.g., additional costs related to duplicative permits for residential housing may increase the cost of the homes in that development).</p> <p>Direct Benefits: The duplicative permit requirement does not have any direct environmental benefits. There is a benefit to VMRC as a result of application and permit fee revenue collected. According to VMRC revenues from application fees, permit fees, and encroachment royalties for work in non-tidal waters have averaged \$119,589 annually.</p> <p>Indirect Benefits: N/A</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) There is an indeterminate direct cost of obtaining duplicative permits, one from DEQ and the other from VMRC.	(b) The duplicative permit requirement does not have any direct environmental benefits. There is an indeterminate benefit to VMRC as a result of application and permit fee revenue collected.
(3) Net Monetized Benefit	No conclusive statement can be made about specific net monetized benefits, however, the cost to the regulated community of having to obtain duplicative permits from two state agencies for the same activity outweighs any benefits.	
(4) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about specific non-monetized costs and benefits, however, the costs to the regulated community of having to obtain duplicative permits from two state agencies for the same activity outweighs any benefits.	
(5) Information Sources	Fiscal Impact Statements for HB 1804 (2023), HB 2181 (2023), and SB 1074 (2023).	

Agency Note: This final exempt regulatory action is mandated by state statute effective July 1, 2023. Therefore, Table 1c is not required and has been removed.

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: This law and resulting regulation does not impose any new direct costs on local partners.</p> <p>Indirect Costs: N/A</p> <p>Direct Benefits: This law and resulting regulation facilitates and promotes economic development while ensuring that stream and wetland resources are still protected by eliminating duplicative statutory requirements to obtain permits from both DEQ and VMRC for activities in nontidal waters. As a result, this will save time and money for local partners’ projects and economic development projects in their jurisdictions.</p> <p>Indirect Benefits: N/A</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) This law and resulting regulation does not impose any direct or indirect costs on local partners.	(b) This law and resulting regulation eliminates duplicative statutory requirements to obtain permits from both DEQ and VMRC for activities in nontidal waters. As a result this will save time and money for projects undertaken by local partners and facilitate economic development in their jurisdictions.
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about specific non-monetized costs and benefits, however, the Commonwealth and its local partners generally benefit from eliminating unnecessary and duplicative regulatory requirements.	
(4) Assistance	N/A	
(5) Information Sources	Fiscal Impact Statements for HB 1804 (2023), HB 2181 (2023), and SB 1074 (2023).	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: N/A</p> <p>Indirect Costs: N/A</p> <p>Direct Benefits: N/A</p> <p>Indirect Benefits: N/A</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Information Sources	N/A	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: This law and resulting regulation does not impose any new direct costs on small businesses.</p> <p>Indirect Costs: N/A</p> <p>Direct Benefits: This law and resulting regulation facilitates and promotes economic development while ensuring that stream and wetland resources are still protected by eliminating duplicative statutory requirements to obtain permits from both DEQ and VMRC for activities in nontidal waters. As a result, this will save time and money for small businesses and their economic development projects.</p> <p>Indirect Benefits: N/A</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) This law and resulting regulation does not impose any new direct costs on small businesses.	(b) This law and resulting regulation facilitates and promotes economic development while ensuring that stream and wetland resources are still protected by eliminating duplicative statutory requirements to obtain permits from both DEQ

		and VMRC for activities in nontidal waters. As a result, this will save time and money for economic development projects.
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about specific non-monetized costs and benefits, however, small businesses will generally benefit from eliminating the existing duplicative permit requirements for many activities in nontidal waters.	
(4) Alternatives	N/A	
(5) Information Sources	Fiscal Impact Statements for HB 1804 (2023), HB 2181 (2023), and SB 1074 (2023).	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

This is a final exempt regulatory action. No changes are proposed other than to incorporate changes required by Chapters 245, 258, and 259 of the 2023 Virginia Acts of Assembly.

Change in Regulatory Requirements

VAC Section(s) Involved	Authority of Change	Initial Count	Additions	Subtractions	Net Change
9VAC25-210-40	Statutory:	3	0	0	0
	Discretionary:	0	0	0	0
9VAC25-210-116	Statutory:	22	0	0	0
	Discretionary:	0	0	0	0

This is a final exempt regulatory action. No changes are proposed other than to incorporate changes required by Chapters 245, 258, and 259 of the 2023 Virginia Acts of Assembly.

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
9VAC25-210-40	These laws and related regulatory changes eliminate duplicative requirements to	These changes eliminate the need for both DEQ and VMRC

	<p>obtain permits from both DEQ and VMRC for most activities in nontidal waters and provide certain flexibility to DEQ concerning the use of tidal wetland mitigation banks in specified areas if certain conditions are met.</p> <p>The reduction in regulatory requirements will be reflected in VMRC's implementation – when DEQ issues a VWP permit for activities in nontidal waters VMRC will not issue its own separate permit.</p>	<p>permit for most activities in nontidal waters.</p> <p>The reduction in regulatory requirements will be reflected in VMRC's implementation – when DEQ issues a VWP permit for activities in nontidal waters VMRC will not issue its own separate permit.</p>