

Office of Regulatory Management  
Economic Review Form

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC25-260-185
<b>VAC Chapter title(s)</b>	Water Quality Standards
<b>Action title</b>	Modification of Implementation Requirements for Criteria Specific to the Chesapeake Bay and Its Tidal Tributaries (9VAC25-260-185)
<b>Date this document prepared</b>	4/2/2024
<b>Regulatory Stage (including Issuance of Guidance Documents)</b>	Fast Track Rulemaking

**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)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p><b>Background:</b> To determine if the quality of Virginia’s waters support designated uses established in 9 VAC 25-260, Water Quality Standards (WQS), the Department of Environmental Quality (DEQ) analyzes the available monitoring data and biennially performs a water quality assessment. Designated uses refer to intended purpose of a water body, such as recreation, aquatic life; wildlife; and producing edible and marketable</p>
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	<p>natural resources. Whenever assessments indicate that a waterbody does not meet one or more water quality criteria, the waters are considered “impaired” since they are not meeting an intended designated use. The waters are then added to the states impaired waters list.</p> <p>The proposed amendment pertains to 9 VAC 25-260-185.D(3) of the WQS regulation, which describes how to perform the water quality assessment of criteria established to protect water quality in the Chesapeake Bay and its tidal tributaries. Currently, the text stipulates that the criteria shall be assessed “through comparison of the generated cumulative frequency distribution of the monitoring data to the applicable criteria reference curve for each designated use”, also known as a Cumulative Frequency Distribution (CFD) methodology. This language limits which methods DEQ can use to assess dissolved oxygen and chlorophyll criteria established in the WQS to assess designated uses in the Chesapeake Bay. One implication of this existing regulatory language is that it limits Chesapeake Bay assessments to using only discrete datasets, excluding other types of available data from being applied to assessments such as continuous data. The proposed revised language specifies that Chesapeake Bay criteria can continue to be assessed using CFD methodology, but also allows for using alternate scientifically defensible methods. This proposed change is prompted by recommendations from DEQ staff who believe that the proposed revision will provide greater flexibility for criteria implementation and make additional datasets available for Chesapeake Bay water quality assessments. This rulemaking is using a fast-track process because it is considered noncontroversial.</p> <p><b>Direct Costs:</b> There are no anticipated direct economic costs resulting from the regulatory change.</p> <p><b>Indirect Costs:</b> There are no anticipated indirect costs. This amendment is update of existing rules and it will not take additional staff or resources to apply different water quality assessments protocols. The proposed modification would provide DEQ with more flexibility when implementing Chesapeake Bay criteria.</p> <p><b>Direct Benefits:</b> There are no direct economic benefits.</p> <p><b>Indirect Benefits:</b> The proposed modification enhances DEQ’s ability to assess water quality by using all available data in Chesapeake Bay criteria assessments. Currently, regulatory language limits assessments to using</p>
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	<p>only discrete datasets, excluding available monitoring datasets from state of the art automated, continuous, and high frequency data collection. The proposed revised language would allow for Chesapeake Bay criteria to be assessed using the currently utilized method and also allow for alternate scientifically defensible methods. This change expands the use of existing datasets beyond a limited set of water quality criteria. Acquiring these data cost an estimated \$2.5 million from state and federal funds annually. Maximizing the data use provides a better return on this investment.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) This change expands the use of existing datasets beyond a limited set of water quality criteria. Acquiring these data cost an estimated \$2.5 million from state and federal funds annually. Maximizing the data use provides a better return on this investment.
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	DEQ Water Planning Division water monitoring budget; federal 117(e) grant award.	

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

(1) Direct & Indirect Costs & Benefits (Monetized)	<p><b>Direct Costs:</b> There are no direct costs associated with maintaining the status quo.</p> <p><b>Indirect Costs:</b> The Commonwealth is not realizing the full benefit of its annual \$2.5 million investment into tidal water monitoring in the Chesapeake Bay watershed in that high frequency, continuous monitoring datasets cannot be used for Chesapeake Bay assessments. Currently, the continuous monitoring data is only used for pH criteria assessments because current regulatory language specifies the assessment methodology which excludes their use from Chesapeake Bay-specific criteria assessments. Dissolved oxygen is currently not assessed utilizing all available data.</p> <p><b>Direct Benefits:</b> There are no direct benefits maintaining the status quo.</p>
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	<b>Indirect Benefits:</b> There are no direct benefits to maintaining the status quo.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) None.
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	DEQ Water Planning Division water monitoring budget; federal 117(e) grant award.	

**Table 1c: Costs and Benefits under Alternative Approach(es)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>No alternative to this regulatory change was considered aside from maintaining the status quo and leaving the regulation unchanged as the change is considered noncontroversial. Since the current regulations requires use of the CFD methodology, regulatory change is required for DEQ to utilize other scientifically valid methods for performing water quality assessments in the tidal waters of the Chesapeake Bay watershed in Virginia. DEQ staff have determined the proposed revision will provide greater flexibility to assess the established water quality criteria specific to the Chesapeake Bay as established in 9VAC25-260-185.</p> <p><b>Direct Costs:</b> NA</p> <p><b>Indirect Costs:</b> NA</p> <p><b>Direct Benefits:</b> NA</p> <p><b>Indirect Benefits:</b> NA</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A

(3) Net Monetized Benefit	N/A
(4) Other Costs & Benefits (Non-Monetized)	N/A
(5) Information Sources	N/A

**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><b>Direct Costs:</b> The proposed modification would not cause direct costs to local partners.</p> <p><b>Indirect Costs:</b> The proposed modification would not cause indirect costs to local partners.</p> <p><b>Direct Benefits:</b> The proposed modification would not cause direct benefits to local partners.</p> <p><b>Indirect Benefits:</b> The proposed modification would increase the utility of local partner datasets and gives DEQ more capability to evaluate Chesapeake Bay TMDL implementation, which is driven mainly by local partner efforts.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) The proposed modification would increase the utility of local partner datasets and gives DEQ more capability to evaluate Chesapeake Bay TMDL implementation.
(3) Other Costs & Benefits (Non-Monetized)	Indeterminate but clearly positive.	

(4) Assistance	N/A
(5) Information Sources	See Table 1a.

**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><b>Direct Costs:</b> It is not anticipated that the proposed modification will have direct costs on the institution of the family and family stability.</p> <p><b>Indirect Costs:</b> It is not anticipated that the proposed modification will have indirect costs on the institution of the family and family stability.</p> <p><b>Direct Benefits:</b> It is not anticipated that the proposed modification will have direct benefit on the institution of the family and family stability.</p> <p><b>Indirect Benefits:</b> It is not anticipated that the proposed modification will have indirect benefit on the institution of the family and family stability.</p>	
(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><b>Direct Costs:</b> It is not anticipated that the proposed modification will have direct costs on small businesses.</p> <p><b>Indirect Costs:</b> It is not anticipated that the proposed modification will have indirect costs on small businesses.</p> <p><b>Direct Benefits:</b> It is not anticipated that the proposed modification will have direct benefits on small businesses.</p> <p><b>Indirect Benefits:</b> It is not anticipated that the proposed modification will have indirect benefits on small businesses.</p>	
(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) Alternatives	N/A	
(5) Information Sources	N/A	

**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.

*Change in Regulatory Requirements*

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC25-260-185	(M/A):	7	0	0	0
	(D/A):	1	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
<b>Grand Total of Changes in Requirements:</b>					(M/A):0 (D/A):0 (M/R):0 (D/R):0

**Key:**

*Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:*

**(M/A):** Mandatory requirements mandated by federal and/or state statute affecting the agency itself

**(D/A):** Discretionary requirements affecting agency itself

**(M/R):** Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

**(D/R):** Discretionary requirements affecting external parties, including other agencies

*Cost Reductions or Increases (if applicable)*

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
NA				

*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
9VAC25-260-185	Existing regulatory language limits Chesapeake Bay assessments to using only discrete datasets, excluding other types of available data	The proposed modification enhances DEQ's ability to assess water quality by using all available data in Chesapeake Bay criteria



	<p>from being applied to assessments such as continuous data.</p>	<p>assessments. Currently, regulatory language limits assessments to using only discrete datasets, excluding available monitoring datasets from state of the art automated, continuous, and high frequency data collection. The proposed revised language would allow for Chesapeake Bay criteria to be assessed using the currently utilized method and also allow for alternate scientifically defensible methods. This change expands the use of existing datasets beyond a limited set of water quality criteria. Acquiring these data cost an estimated \$2.5 million from state and federal funds annually. Maximizing the data use provides a better return on this investment.</p>

*Length of Guidance Documents (only applicable if guidance document is being revised)*

<b>Title of Guidance Document</b>	<b>Original Word Count</b>	<b>New Word Count</b>	<b>Net Change in Word Count</b>
NA			

\*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).