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Fast-Track Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC 25-210
VAC Chapter title(s)	Virginia Water Protection Permit Program Regulation
Action title	Fast-track amendment to the Virginia Water Protection Permit Program Regulation (9VAC25-210) in response to changes to the Local and Regional Water Supply Planning Regulation (9VAC25-780)
Date this document prepared	March 12, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The intent of this fast-track regulatory action is to amend Part V (9VAC25-210-300 et. seq.) of the Virginia Water Protection Permit Program Regulation (VWP Regulation) to be consistent with recent amendments to the Local and Regional Water Supply Planning regulation (9VAC25-780).

The updates will improve clarity and certainty by making terminology and citations in the VWP Regulation consistent with the recent amendments to the Local and Regional Water Supply Planning regulation.

Acronyms and Definitions

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

Board: State Water Control Board
Department: Department of Environmental Quality
Local and Regional Water Supply Planning regulation: 9VAC25-780
ORM: Office of Regulatory Management
VAC: Virginia Administrative Code
VWP: Virginia Water Protection
VWP Regulation: Virginia Water Protection Permit Program Regulation

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) that the agency has "adopted final amendments" to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, "On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)]."

On April 7, 2026, the State Water Control Board (Board):

1. Authorized the Department to promulgate the amendments to Part V (9VAC25-210-300 et. seq.) of the VWP Regulation for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The Board's authorization constitutes its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the amendments, and
2. Authorized the Department to set an effective date no earlier than 15 days after the close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the amendments.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

Section 62.1-44.15:22 of the Code of Virginia allows conditions contained in a VWP Permit may include but are not limited to the volume of water which may be withdrawn as a part of the permitted activity and

conditions necessary to protect beneficial uses. Domestic and other existing beneficial uses shall be considered the highest beneficial uses.

On October 9, 2024, updates to the Local and Regional Water Supply Planning regulation became effective in response to amendments to §§ 62.1-44.36, 62.1-44.38, and 62.1-44.38:1 of the Code of Virginia pursuant to Chapter 1105 of the 2020 Acts of Assembly (HB 542). These updates included the requirement that localities plan regionally with other localities to develop water supply plans, and the repeal of sections within 9VAC25-780 for clarity. This regulatory change will update references to 9VAC25-780 and to water supply plans within the VWP Regulation, to improve regulatory consistency.

This rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because the amendments improve clarity and certainty for the regulated community and the Department by making requirements in the VWP Regulation consistent with the amendments to the Local and Regional Water Supply Planning regulation that became effective October 9, 2024. The updates to the affected sections, 9VAC25-210-320, 9VAAC25-210-340, and 9VAC25-210-360, do not change existing requirements for a potential applicant (9VAC25-210-320) or an applicant (9VAC25-210-340 and 9VAC25-210-360) for a VWP Permit.

The limited scope of this rulemaking benefits the regulated community, the Department, and other stakeholders by updating the regulation and improving clarity in a timely manner.

Legal Basis

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

Promulgating Entity

The promulgating entity for this regulation is the Board.

State Requirements

Section 62.1-44.15:22 of the Code of Virginia allows Conditions contained in a VWP Permit may include but are not limited to the volume of water which may be withdrawn as a part of the permitted activity and conditions necessary to protect beneficial uses. Domestic and other existing beneficial uses shall be considered the highest priority uses.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The proposed regulatory action protects water quality in the Commonwealth of Virginia which is essential to the health, safety and welfare of Virginia’s citizens and is needed in order to establish appropriate and necessary permitting requirements for surface water withdrawals under the VWP Permit Program. The goal of this regulatory action is to amend the VWP Regulation to improve clarity and certainty by making it consistent with recent changes to the Local and Regional Water Supply Planning regulation.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

Amendments to the VWP Regulation include:

- Updating references and terminology in 9VAC25-210-320 to clarify preapplication procedures for new or expanded surface water withdrawals under the VWP Permit Program. This update does not change existing requirements for a potential applicant.
- Removing a reference in 9VAC25-210-340 to a repealed section of 9VAC25-780.
- Updating terminology in 9VAC25-210-360 – changing “local and regional water supply plan” to “water supply plan” – to be consistent with amendments to 9VAC25-780.

Collectively, these amendments will provide clarity and improve understanding of the regulation. The updates to the affected sections do not change existing requirements for a potential applicant (9VAC25-210-320) or an applicant (9VAC25-210-340 and 9VAC25-210-360) for a VWP Permit.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

1. Public: There are no direct impacts on the public as the amendments to the VWP Regulation update existing regulatory requirements, so they reflect current requirements in the State Water Control Law and the Local and Regional Water Supply Planning regulation, clarify requirements, and improve understanding of the regulation, which in turn contributes to the efficient and effective functioning of government. There are no disadvantages to the public.

2. The Department: The amendments update existing regulatory requirements and will allow the Department and surface water permit applicants under the VWP Permit Program to utilize regulations that reflect current requirements in the State Water Control Law and the Local and Regional Water Supply Planning regulation, and improve the understanding of the VWP Regulation, which in turn contributes to the efficient and effective functioning of government. This is an advantage. There are no disadvantages to the Department or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal requirements and therefore no requirements that exceed federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

There is no state agency which will bear any identified disproportionate material impact due to the proposal which would not be experienced by other state agencies.

Localities Particularly Affected

There is no locality which will bear any identified disproportionate material impact due to the proposal which would not be experienced by other localities.

Other Entities Particularly Affected

There is no entity which will bear any identified disproportionate material impact due to the proposal which would not be experienced by other entities.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail.</p>	<p>The regulatory change will not result in any economic impact (cost or benefit) to the Department.</p>
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b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	The regulatory change will not result in any economic impact (cost or benefit) to any state agency.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The direct benefit to state agencies of updating the VWP Regulation to be consistent with recent changes in the Local and Regional Water Supply Planning regulation is to improve clarity and consistency of regulatory requirements, which will result in increased certainty and compliance.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	No impacts to any locality are anticipated.
Benefits the regulatory change is designed to produce.	ORM Economic Impact form, Table 2

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	ORM Economic Impact form, Tables 1a, 3 and 4
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	ORM Economic Impact form, Tables 1a, 3 and 4
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;	ORM Economic Impact form, Tables 1a, 3 and 4

<p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	
<p>Benefits the regulatory change is designed to produce.</p>	<p>The direct benefit to other entities of creating consistency between the VWP Regulation and the Local and Regional Water Supply regulation is increased clarity, consistency, and certainty in the permitting process and a program that is efficiently and effectively administered.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

There are no practical alternatives. Failing to update the VWP Regulation (i.e., incorrect and inconsistent cross-references to applicable requirements in the Local and Water Supply Planning regulation) will likely cause misunderstanding, confusion, and inconsistent application of regulatory requirements for the Department and applicants for surface water withdrawals under the VWP Permit Program.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

This analysis has been reported on the ORM Economic Review Form in Tables 1b and 1c.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

There are no alternatives to this regulatory action other than continuing to operate with the existing language with no updates.

This regulatory change is very limited in scope to include technical changes for consistency with related state regulations and to provide clarity and certainty. This action does not change the substantive requirements for surface water permit applicants under the VWP Permit Program. In addition, it does not change the technical requirements, such as determining compliance with water quality criteria that protects public health and the environment.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Department is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency’s regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Eric Seavey, Virginia Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia 23218, or eric.seavey@deg.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-210-320 B 3		Preapplication procedures for new or expanded	Updating cross references and terminology:

		<p>surface water withdrawals. Preapplication public notice.</p>	<p>9VAC25-780-50 C 11 was repealed on 10/09/2024. This citation is being updated to 9VAC25-780-55. The subdivision has been reorganized to clarify the preapplication procedure for new or expanded surface water withdrawals. A potential applicant shall not be required to publish public notice or provide an opportunity for a public information meeting if a public meeting has been held within two years prior to the submittal of an application for a VWP permit if a public meeting has been held for a water supply plan, which included the proposed project, and the public meeting was held in accordance with 9VAC25-2780-55 or 9VAC25-780-150. The update also removes “local or regional” when referencing a water supply plan because local water supply plans are no longer required in 9VAC25-780. This aligns the terminology with the definition of water supply plan in 9VAC25-210-300: “a document developed in compliance with 9VAC25-780.”</p> <p>These are technical updates to make the VWP Regulation consistent with the recent amendments to the Local and Regional Water Supply Planning regulation.</p> <p>The updates do not change existing requirements for a potential applicant.</p>
<p>9VAC25-210-340 B 6</p>		<p>Application requirements for surface water withdrawals.</p>	<p>Updates to regulatory citations: 9VAC25-780-130 was repealed on 10/09/2024. This citation is being removed.</p>
<p>9VAC25-210-360 2 a, 3 a (1) and (2)</p>		<p>Evaluation of project alternatives for surface water withdrawals.</p>	<p>Updates to terminology: Changing “local or regional water supply plan” to “water supply plan” since local water supply plans are no longer required and to align with the definition of water supply plan in 9VAC25-210-300: “a document developed in compliance with 9VAC25-780”.</p>

			These are technical updates to make the VWP Regulation consistent with the recent amendments to the Local and Regional Water Supply Planning regulation.
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Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential 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 proposed regulatory action will not have an impact on families.