

Summary of Revisions

9VAC25-210			
Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
10		Definitions	Revised introductory paragraph to add sentence referring reader to additional definitions in proposed section 300 for surface water withdrawal activities. Added additional citation to the Statutory Authority footnote.
10		Definitions	Deleted definition for "Act" and used full title/name in regulation text instead.
	10	Definitions	Added definition for "Administratively withdrawn" to clarify provisions about processing incomplete applications.
10		Definitions	Replaced 'authorization' with 'coverage' in "Applicant".
10		Definitions	Revised "Beneficial use" for better consistency with language in Code of Virginia § 62.1-44.3. This definition is applicable to the VWP permit program and is referenced in relative code provisions § 62.1-44.15:5.01, § 62.1-44.15:20, § 62.1-44.15:22. There is a second definition of the same term in § 62.1-10, but that is specifically linked to the VPDES program lake level contingency code provisions in § 62.1-44.15:1.2.
10		Definitions	Revised "Board" to include noncapitalized version of word.
10		Definitions	Revised "Channelization" for better consistency with program guidance.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
10		Definitions	Revised "Compensation" or "compensatory mitigation" for better consistency with 2008 Federal Mitigation Rule and address suggestions made by Citizen Advisory Group.
10		Definitions	Revised "Compensation" or "compensatory mitigation" for better consistency with 2008 Federal Mitigation Rule and address suggestions made by Citizen Advisory Group.
60	10	Definitions	Relocated and revised the definition of "Construction site" from section 60 for better consistency with existing VPDES program definitions.
	10	Definitions	Added "Coverage" as a result of changes made to the VWP general permit term and transition provisions.
60	10	Definitions	Moved "Conversion" from section 60 and revised to insert 'permanently change' to address Citizens Advisory Group suggestion.
10		Definitions	Revised "Cross-sectional" to replace 'sketch' with 'drawing' and replace 'waterbody' with 'water body'.
10		Definitions	Revised "Discharge" to remove last part of definition because definition of state waters includes the concept of all state jurisdictional waters.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
10		Definitions	Revised "Ecologically preferable" to use phrases 'wetland acreage or functions' and 'functions and values ' more consistently and for better consistency with language in Code § 62.1-44.15:20.
9VAC25-690-10; 9VAC25-680-10; 9VAC25-670-10; 9VAC25-660-10	10	Definitions	Moved "Emergent wetland" from VWP general permit regulations and revised for better consistency with Corps wetland delineation supplements.
10		Definitions	Revised "Enhancement" to delete 'or values' for better consistency with language in Code § 62.1-44.15:20.
9VAC25-690-10; 9VAC25-680-10; 9VAC25-670-10; 9VAC25-660-10	10	Definitions	Moved "Forested wetland" from VWP general permit regulations and revised for better consistency with Corps wetland delineation supplements. Replaced 6m/20 ft with 'approximately 20 feet (6 meters) tall or taller and 3 inch (7.6 centimeter) or larger diameter breast height (DBH)' and 'characterized' with 'dominated'.
10		Definitions	Deleted "General permit" and combined with "VWP general permit" definition.
10		Definitions	Deleted "Geographic area of delineated wetland", obsolete.
	10	Definitions	Added "Hydrologic regime" to clarify use of term in sections 60 and 370.
10		Definitions	Revised "Impacts" for simplification purposes.

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10		Definitions	Revised "Impairment" to use phrases 'acreage or functions of wetlands' and 'functions of state waters' for better consistency with language in Code § 62.1-44.15:20.
	10	Definitions	Added "Independent utility" as copied from VWP general permit regulations.
10		Definitions	Revised "In-lieu fee fund" to "In-lieu fee program" for better consistency with 2008 Federal Mitigation Rule.
	10	Definitions	Added "Legal name" to clarify who the permittee is.
10		Definitions	Deleted "Major surface water withdrawal", "Minor surface water withdrawal", and "surface water supply project" – obsolete in conjunction with other revisions.
10		Definitions	Revised "Mitigation banking" to delete reference to use of credits, obsolete.
10		Definitions	Deleted "Multi-project mitigation site", obsolete for majority of regulated public, already considered a type of permittee-responsible mitigation by DEQ.
10		Definitions	Corrected citation in "Nationwide permit" and "Regional permit".
10		Definitions	Added "Nontidal wetland" to clarify which provisions apply to which regulated aquatic resources.
	10	Definitions	Added "Notice of project completion" as a result of changes made to the VWP general permit term and transition provisions.

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9VAC25-690-10; 9VAC25-680-10; 9VAC25-670-10; 9VAC25-660-10	10	Definitions	Moved "Open water" from VWP general permit regulations.
	10	Definitions	Added "Ordinary high water" or "ordinary high water mark" for better consistency with Corps' definition and to clarify delineation provisions in section 45.
10		Definitions	Revised "Out-of-kind mitigation to "Out-of-kind compensatory mitigation" or "out-of-kind mitigation" to clarify provisions in sections 80 and 116.
	10	Definitions	Moved "Perennial stream" from VWP general permit regulations.
10		Definitions	Revised "Permanent impacts" to use phrases 'acreage or functions of a wetland' and 'functions and values' for better consistency with language in Code § 62.1-44.15:20.
	10	Definitions	Added "Permittee-responsible compensatory mitigation" or "permittee-responsible mitigation" for better consistency with 2008 Federal Mitigation Rule; to clarify sections 80 and 116; and to address Citizens Advisory Group suggestions.
10		Definitions	Revised "Person" for simplification purposes.
9VAC25-690-10	10	Definitions	Added "Phased development" as copied from VWP general permit regulations as companion definition to 'independent utility' and 'single and complete'.
10		Definitions	Revised "Pollution" to match Code § 62.1-44.3.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
10		Definitions	Revised "Profile sketch" to replace 'waterbody' with 'water body'.
10		Definitions	Revised "Public hearing" to correct Code citation.
10		Definitions	Deleted "Schedule of compliance", obsolete.
9VAC25-690-10; 9VAC25-680-10; 9VAC25-670-10; 9VAC25-660-10	10	Definitions	Moved "Scrub-shrub wetland" from VWP general permit regulations and revised for better consistency with Corps wetland delineation supplements. Replaced 6m/20 ft with 'excluding woody vines, approximately 3 to 20 feet (1 to 6 m)'. Replaced 'characterized' with 'dominated'.
	10	Definitions	Added "Single and complete" as copied from VWP general permit regulations as companion definition to 'independent utility'.
9VAC25-690-10; 9VAC25-680-10; 9VAC25-670-10; 9VAC25-660-10	10	Definitions	Moved "Stream bed" or "stream channel" from VWP general permit regulations and revised to add 'along each side of a stream' referring to ordinary high water mark location.
10		Definitions	Revised "Surface water" to replace 'ground water' with 'groundwater'.
	10	Definitions	Added "Suspend" or "suspension" to clarify provisions about processing applications. As used in the context of the regulation, it applies to a decision made by the board.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
10		Definitions	Revised "Temporary impacts" to delete 'cumulatively' and add 'permanent' in front of alteration; revised functions and values to 'acreage and functions'; added 'with topsoil from the impact area where practicable' based on Citizen Advisory Group suggestions.
	10	Definitions	Added "Tidal wetland" to clarify which provisions apply to which regulated aquatic resources.
10		Definitions	Revised "Toxic pollutant" to clarify the Act citation.
10		Definitions	Revised "Undesirable plant species" for clarification based on suggestions made by Citizen Advisory Group and to associate the term with restoration of temporary impacts.
10		Definitions	Deleted "USACE", spelled out acronym in regulation text.
10		Definitions	Deleted "VMRC", spelled out acronym in regulation text.
10		Definitions	Revised "VWP general permit" to combine with deleted "general permit" definition.
10		Definitions	Revised "Water quality standards", spelled out acronym in regulation text and clarified the Act citation.
	10	Definitions	Added "Watershed approach" to clarify compensation provisions; derived from Corp's definition.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
10	300	Definitions	Moved definitions specific to surface water withdrawals to a new Part (V) to provide greater clarity as to the provisions specific to this activity. Terms moved and revised for clarity and consistency within the regulation or with other DEQ programs: "Consumptive Use", "Drought", "Intake structure", "Public surface water supply withdrawal", "Surface water withdrawal", "Withdrawal System". Terms moved but not revised: "Affected stream reach", "Agriculture surface water withdrawal", "Emergency Virginia Water Protection Permit", "Potomac River Low Flow Allocation Agreement", "Public water supply emergency", "Section for Cooperative Water Supply Operations on the Potomac (CO-OP) Coordination Agreement", "Water supply coordination agreement".
45		Delineation of surface waters	Revised the section title to "surface water delineations" to address clarification suggestions from Citizens Advisory Group.
45	45 A	Delineation of surface waters	Revised original, single paragraph to update reference to federal manuals, to clarify which aquatic resources apply, to allow use of additional technical resources.
	45 B	Delineation of surface waters	Added subsection B to address delineation of waters under state jurisdiction.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
50 A		Delineation of surface waters	Revised 'surface waters' to 'state waters' and made grammatical revisions.
	55	Statewide information	Added new section to explicitly state authority of board to request information as needed to make permitting decisions or for other reasons in carrying out authority under Chapter 3.1; derived from Code 62.1-44.15:21 and -44.21. Replaces a similar statement in subsection 80 E.
60		Permit exclusions	Reorganized the order of some subdivisions in this section.
60 A	60	Permit exclusions	Deleted subsection A letter designation and added provision that applicant must demonstrate the project qualifies for an exclusion.
60 A 2	60 9	Permit exclusions	Existing text in subdivision 2 moved to subdivision 9.
60 A 3; 60 A 4	60 2	Permit exclusions	Existing text in subdivision 3 revised and combined with some of the existing text in subdivision 4; combined text was moved and renumbered as subdivision 2 for clarity.
60 A 4		Permit exclusions	Existing text in subdivision 4 deleted.
60 A 5		Permit exclusions	Existing text in subdivision 5 deleted, as portions of activities are not excluded from VWP permitting or section 401 certification.
60 A 6	60 3	Permit exclusions	Existing text in subdivision 6 revised to clarify Code citation and subdivision renumbered as 3.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
60 A 7	60 4	Permit exclusions	Existing text in subdivision 7 revised for better consistency with Code .15:21.G and subdivision renumbered as 4.
60 A 9	60 5	Permit exclusions	Existing text in subdivision 9 revised to clarify intent of maintenance and moved to new subdivision 5.
	60 6	Permit exclusions	Added new subdivision 6 to exclude impacts to open waters that do not have a detrimental effect on uses.
60 A 11	60 7	Permit exclusions	Existing text in subdivision 11 revised to clarify which structures and associated activities are excluded, moved, and renumbered as new subdivision 7.
60 A 12	60 11	Permit exclusions	Subdivision 12 renumbered to 11. Moved and revised "construction site" to section 10 definitions-derived from DEQ stormwater regulations.
60 B; 60 C	310	Permit exclusions	Moved to new section 310 and revised to provide greater clarity as to the provisions for surface water withdrawals.
	65	Administrative continuance of a permit	Added new section to address provision in Code allowing staff to continue the terms and conditions of an issued permit when circumstances occur that prevent staff from processing a new or modified permit. Included time frames at suggestion of Citizens Advisory Group.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
75	320	Preapplication for surface water withdrawal projects	Section repealed. Existing text in section moved to new section 320 and revised to organize provisions specific to surface water withdrawals.
80 A		Application requirements	Reference to minor surface water withdrawal deleted from subsection A. Acronym 'DEQ' was spelled out. Reference to public water supply emergency inserted. 'Authorization' revised to 'coverage'.
80 B		Application requirements	Reference to minor surface water withdrawal deleted from introductory paragraph in subsection B. Existing text in introductory paragraph clarified to identify where to find requirements for each type of application and incorporate existing language from subdivision B 2. Reorganized order of some subdivisions in subsection B. Revised 'board shall' to 'board may'.
80 B 1 a		Application requirements	Revised 'name' to 'legal name'.
80 B 1 b		Application requirements	Revised 'name' to 'legal name'. Added email address.
80 B 1 d; 80 B 1 e	80 B 1 e (2)	Application requirements	Existing text in B 1 d moved to B 1 e (2). Existing text in B 1 e moved to B 1 e (1) and revised to clarify that subdivision applies to permittee-responsible mitigation, as the info requested would not be necessary for a credit purchase.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
	80 B 1 e (6)	Application requirements	Added to require GIS shape files of project boundary unless otherwise waived by DEQ.
80 B 1 f; 80 B 1 g	80 B 1 h; 80 B 1 h (1) through (3)	Application requirements	Revised existing text in B 1 f to move the requirement for description of surface water alterations to B 1 h and combine with existing text requesting the amount of impacts in B 1 g; and to move 'conversion' to definitions section 10. Existing text in B 1 g requiring description of wetland, stream, and open water impacts was combined with B 1 f, surface water alteration and moved to B 1 h (1), (2), and (3), respectively.
80 B 1 h	80 B 1 k	Application requirements	Moved existing text in B 1 h regarding materials assessment requirements to B 1 k.
	80 B 1 h (5)	Application requirements	Added B 1 h (5) to require GIS shape files of delineated surface waters unless otherwise waived by DEQ.
80 B 1 i	80 B 1 d	Application requirements	Moved existing text from B 1 i regarding proposed construction schedule to B 1 d.
	80 B 1 i	Application requirements	Added as B 1 i the map requirement for submitting any existing protected areas that may be located on the project site.
80 B 1 j	80 B 1 p	Application requirements	Moved existing text in B 1 j regarding required signature(s) to B 1 p and revised to clarify who can sign.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
80 B 1 k	80 B 1 e (3) and (4)	Application requirements	Existing text in B 1 k introductory paragraph regarding lat/long and hydrologic unit moved to B 1 e (3) and (4). Hydrologic code was revised from USGS 8-digit to 4 th order as defined in the National Watershed Boundary Dataset.
80 B 1 k (1)	80 C	Application requirements	Existing text in B 1 k (1) requiring a functional assessment was moved to -80 C and revised to clarify when the assessment is necessary, and to separate requirements for less than one acre from those for greater than one acre. Intent was to require the assessment for non-standard and out-of-kind compensation proposals of where greater than minimal impacts occurring to wetlands.
80 B 1 k (2)	340 B 5	Application requirements	Existing text in B 1 k (2) requiring information on beneficial uses was moved to new subdivision 340 B 5 and reworded for clarity.
80 B 1 k (3)	80 B 1 l	Application requirements	Existing text in B 1 k (3) requiring information on threatened and endangered species moved to B 1 l.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
80 B 1 k (4)	80 B 1 i (4) and (5); 80 B 1 h (4) and (5)	Application requirements	Existing text in B 1 k (4) regarding surface water delineation confirmations and maps was moved to B 1 i (4) as part of the required plan view map information, to B 1 h (4) as part of the description of impacts, and to B 1 h (5) based on edits proposed to section 45. Existing text in B 1 k (4) regarding location of preservation areas was moved to B 1 i (5) and revised to clarify the requirements and applicability of the requested information.
80 B 1 k (5) (a); 115 C 1	80 B 1 g	Application requirements	Existing text in B 1 k (5) (a) regarding avoidance and minimization was combined with existing language in subdivision 115 C 1 and moved to 80 B 1 g.
80 B 1 k (5) (b) and (c)	80 B 1 m (3)	Application requirements	Existing text in B 1 k (5) (b) and (c) regarding protective mechanism for compensation was moved to and revised to contain all the info necessary for the protective mechanism, including the plan and assurance language, and to allow an option for government agencies.
80 B 1 k (5) (b), (c), and (e) through (h)	80 B 1 m	Application requirements	Existing text regarding compensation plans was moved to B 1 m and revised to clarify which provisions apply to which type of proposed compensation; to clarify what is required for a complete application regarding compensation plans; and what is required for the protective instrument over compensation sites.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
80 B 1 k (5) (d)	116 C 4	Application requirements	Compensation for open water was moved to section 116 for clarity.
80 B 1 l	80 B 1 e (5)	Application requirements	Existing text in B 1 l regarding the project location moved to B 1 e (5) and revised to expand on the information required.
80 B 1 m	80 B 1 i and j	Application requirements	Moved B 1 m regarding plan view, cross-sectional view, and profile view drawings to B 1 i and j, respectively and revised to clarify requirements for each. Same language proposed in general permit regulations as condition of the general permit.
80 B 1 n	80 B 1 q	Application requirements	Existing text in B 1 n regarding permit application fee moved to B 1 q and revised to remove reference to 9VAC25-20.
	80 B 1 n	Application requirements	Added as new B 1 n the narrative requirement for submitting any existing protected areas that may be located on the project site or on a permittee-responsible compensation site for consistency with the VWP general permit regulations, and in order to inform the application review.
	80 B 1 o	Application requirements	Added requirement for applicant to provide riparian owner information in B 1 o and to add DEQ's ability to waive requirement, per recent revisions to the Code of Virginia.
80 B 2 a through i	340 B	Application requirements	Moved B 2 a through i to new subsection 340 B and revised to reorganize and consolidate provisions specific to surface water withdrawals.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
80 C 1 through 10		Application requirements	Existing text in C 1 through 10 deleted to remove distinction between minor surface water withdrawal and major surface water withdrawal, which was found only to be a regulatory distinction and does not reflect a difference in the level of permit review.
80 D 1 and 2	340 C	Application requirements	Existing text in D 1 and 2 moved to new subsection 340 C and revised to reorganize and consolidate provisions specific to surface water withdrawals.
80 E	80 D	Application requirements	Existing text in E revised from 'shall' to 'may' and subsection renumbered to D.
80 F	80 E	Application requirements	Existing text in F revised to clarify the circumstances under which an administrative withdrawal of an application may occur; to change number of days from 180 to 60 after which an incomplete application may be administratively withdrawn; to clarify that an applicant may also request the withdrawal; to add existing language as copied from 9VAC25-690; and to renumber subsection to E.
90 A		Conditions applicable to all VWP permits	Revised for better consistency with 9VAC25-690-100.
90 C		Conditions applicable to all VWP permits	Subsection C was revised to insert 'VWP' in front of 'permit'.
90 E 1 and 2		Conditions applicable to all VWP permits	Existing text in E 1 deleted, obsolete. Deleted numbering of E 2.
90 F 3		Conditions applicable to all VWP permits	Subdivision F 3 was revised to reword 'permit expiration'.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
	90 G	Conditions applicable to all VWP permits	Added new provision stating requirement to reapply at the end of a permit term if permittee desires to continue authorized activities.
110		Standards, limitations, and permit conditions	Introductory paragraph was revised to add citation for the section where additional permit conditions pertaining to surface water withdrawals can be found (9VAC25-210-370)
110 A	370	Standards, limitations, and permit conditions	Subsection A pertaining to surface water withdrawals moved to new section 370 and revised.
110 B through G	110 A through F	Standards, limitations, and permit conditions	Subsections were renumbered.
115	80 B 1 g; 360	Project alternatives	Section repealed. 115 A, B, C 2, and 3 regarding evaluation of project alternatives for surface water withdrawals moved to section 360. Existing text in 115 C 1 regarding avoidance and minimization was combined with existing language in subdivision B 1 k (5) (a) and moved to B 1 g.
116		Compensation	Throughout section, 'in-lieu fee fund' was replaced with 'in-lieu fee program' for better consistency with the 2008 Federal Mitigation Rule.
116 B 1		Compensation	Subdivision B 1 was clarified to incorporate and revise text from original B 2 and better describe the requirements for analysis to demonstrate permittee-responsible mitigation.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
116 B 2		Compensation	Existing text in B 2 regarding the requirements of analysis for off-site our out-of-kind compensation was moved to B 1 and revised to clarify acceptable means by which to conduct the analysis. Text added for requirement to provide a protective mechanism(s) for all permittee-responsible compensation.
116 C 1		Compensation	Existing text in C 1 was revised to state the preferred type of compensatory mitigation by the program but that other options may apply.
116 C 2		Compensation	Existing text in C 2 was revised to list wetland mitigation options in a preferred sequence that is consistent with the 2008 Federal Mitigation Rule, but that states staff evaluation may determine the ultimate options.
116 C 2 a		Compensation	C 2 a was revised from wetland creation to mitigation bank credits.
116 C 2 b		Compensation	C 2 b was revised from wetland restoration to in-lieu fee program credits.
116 C 2 c		Compensation	C 2 c was revised from bank credits to permittee-responsible mitigation, watershed approach.
116 C 2 d		Compensation	C 2 d was revised from in-lieu fee contribution to permittee-responsible mitigation, onsite/in-kind.
116 C 2 e		Compensation	C 2 e was revised from in-lieu fee contribution to permittee-responsible mitigation, off-site/out-of-kind.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
116 C 2 f		Compensation	C 2 f was revised to insert 'or preservation' after restoration to match Code 62.1-44.15:21, change state waters to wetlands, and correct a citation.
116 C 2 g		Compensation	C 2 g was revised to add consistency with subsection 116 A and correct a citation.
116 C 3		Compensation	Existing text in C 3 was revised to list stream mitigation options in a preferred sequence that is consistent with the 2008 Federal Mitigation Rule, but that states staff evaluation may determine the ultimate options.
116 C 3 a		Compensation	C 3 a was revised from stream channel restoration or enhancement to mitigation bank stream credits.
116 C 3 b		Compensation	C 3 b was revised from riparian buffer restoration or enhancement to in-lieu fee program credits.
116 C 3 c		Compensation	C 3 c was revised from riparian buffer preservation to permittee-responsible mitigation, watershed approach.
116 C 3 d		Compensation	C 3 d was revised from in-lieu fee contribution to permittee-responsible mitigation, onsite/in-kind.
116 C 3 e		Compensation	C 3 e was revised from bank credits to permittee-responsible mitigation, off-site/out-of-kind.
116 C 3 f		Compensation	C 3 f for restoration or preservation of upland buffers adjacent to streams was added per Code 62.1-44.15:21.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
116 C 3 g		Compensation	C 3 g for preservation of stream channels and adjacent riparian buffers was added.
116 C 4; 80 B 1 k (5) (d)	116 C 4	Compensation	Existing language in C 4 was deleted as obsolete due to proposed revisions to C 1 through 3. Compensation for open water was moved here from 9VAC25-210-80 B 1 k (5) (d) and a condition was added regarding compensation for open waters in karst regions of VA.
116 D 1		Compensation	Original text in D 1 was deleted as repetitive of text in D 3 and 4. New text was added that combined original text from D 2, and D 5.
116 D 2 a and b	116 D 1	Compensation	Original text D 2 was revised and moved to D 1 to clarify how DEQ approves a program, and combined with a portion of revised text from D 5 to include requirement for public comment.
	116 D 2	Compensation	New provision added to allow use of a program in permitting or enforcement cases where the program is state-sponsored, mandated by the Code of Virginia, and approved by the US Army Corps of Engineers.
116 D 3		Compensation	D 3 was revised for wording choice.
116 D 3 a		Compensation	Original text was revised to use phrase 'wetland acreage or functions' for better consistency with language in Code and match preferred sequencing in 116 C.
116 D 3 b		Compensation	D 3 b was revised to clarify agency approves a program site.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
116 D 3 c		Compensation	Inserted modifier 'compensatory' before 'mitigation'.
116 D 3 d		Compensation	D 3 d was revised to use phrase 'wetland acreage or functions' for better consistency with language in Code.
116 D 3 e		Compensation	D 3 e was revised to use phrase 'wetland acreage or functions' for better consistency with language in Code and delete reference to fund contributions, obsolete.
116 D 4		Compensation	D 4 was revised to change the years from 5 to 10 that DEQ may approve a bank or in-lieu fee program. This value was the mid-point between two suggestions of 'leave at 5' and 'change to 20' made by Citizens Advisory Group participants. Original text regarding mitigation options deleted as duplicative of original text in D 3, and instead, new text added directing reader to D 3.
116 D 5	116 D 1	Compensation	Portion of original text revised and moved to D 1 and portion was deleted due to inconsistency with publication procedures for VA Register.
116 E		Compensation	The introductory paragraph in subsection E was revised for wording choice.
116 E 3		Compensation	E 2 was deleted, obsolete and duplicative of C 1.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
116 E 3 through 5	116 E 2 through 4	Compensation	Renumbered. Timeline for purchase was clarified in E 3. E 4 was revised to include an applicability date for the provisions; to add a requirement for long-term management; and to add a caveat that staff would not be required to reopen and revise older permits.
116 F		Compensation	F was revised to clarify the applicability to permittee-responsible mitigation and revise a citation.
116 F 1 and 2		Compensation	Text regarding informational requirements for developing protective mechanisms was revised and moved to 80 B 1 m. Text regarding recording protective mechanisms was revised to delete the 120-day timeline for recordation of a final protective instrument and require such prior to implementing project impacts in surface waters, as is consistent with when a final compensation plan must be submitted and approved, and for consistency with existing provisions in the VWP general permit conditions.
130 B 2		VWP general permits	Replaced 'authorization' with 'coverage'.
130 B 3		VWP general permits	Deleted 'regulation or authorization', obsolete.
130 B 4		VWP general permits	Revised for wording choice and replaced 'authorization' with 'coverage'.
130 C		VWP general permits	Replaced 'authorization' with 'coverage'.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
130 E		VWP general permits	Replaced 'authorization' with 'coverage'.
130 F		VWP general permits	Subsection F was revised to change 'notice of termination' to 'notice of project completion'.
130 G		VWP general permits	G was revised to refer the reader to each general permit regulation to determine the valid term of the general permit and to delete provisions pertaining to the extension of coverage.
130 H 3		VWP general permits	H 3 was revised to use phrase 'wetland acreage or functions' for better consistency with language in Code.
130 H 4 and 5		VWP general permits	Text detailing mitigation options was deleted from H 4 and H 5 and replaced with the citation to section 116 – was duplicative of 116.
140		Public notice, permits	The title of section 140 was revised to clarify applicability of the section to individual permit actions.
140 A	330	Public notice, permits	Subsection A was moved to new section 330 and clarified to organize provisions specific to surface water withdrawals.
140 B through F	140 A through E	Public notice, permits	Renumbered. Subsection B was clarified for applicability to individual permits. 'will' was changed to 'shall' in renumbered E.
150		Public access to information	Paragraph revised to include vwp general permit authorizations in addition to individual permits and strike incorrect reference to trade secrets.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
160 A through C		Public comments, hearing	Subsections were clarified for applicability to individual permits and revised to correct Code citation.
170 C 8		Public notice, hearing	Subdivision C 8 was revised to spell out the acronym 'DEQ'.
170 D		Public notice, hearing	Subsection D was revised for clarity and to correct Code citation.
175	390	Variance	Section repealed, moved to new section 390 and revised for applicability to surface water withdrawal activities and to revise citations.
180		Permit modification, revocation and reissuance, extension, transfer, termination	Title of the section was revised to clarify applicability to individual permits.
180 A		Permit modification, revocation and reissuance, extension, transfer, termination	Subsection A was revised to clarify applicability to individual permits; change 'shall' to 'may'; add 'extended'; and clarify the whole or just part of the permit may be acted upon.
180 B	180 A	Permit modification, revocation and reissuance, extension, transfer, termination	Subsection B was deleted and moved to be combined with A.
180 C		Permit modification, revocation and reissuance, extension, transfer, termination	Text from existing -180 C was deleted as duplicative of section 185.
180 D	180 B	Permit modification, revocation and reissuance, extension, transfer, termination	D was renumbered to B and revised to clarify language and circumstances under which permits may be modified.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
180 D 1		Permit modification, revocation and reissuance, extension, transfer, termination	D 1 deleted, obsolete and duplicative of reopener provision.
180 D 2, 3, 5 and 6	180 B 1 through 4; 380	Permit modification, revocation and reissuance, extension, transfer, termination	Renumbered. D 2 revised to include project additions and alterations as part of new information, incorporating original D 1 concept here. Existing text moved from D 6 to new section 380 and new text added directing reader to that section.
180 D 4		Permit modification, revocation and reissuance, extension, transfer, termination	Deleted, obsolete to VWP process.
	180 C	Permit modification, revocation and reissuance, extension, transfer, termination	Added to address modifications as a result of changes to the project; to request additional information if necessary; and indicate the process if the board decides to modify a permit.
	180 D	Permit modification, revocation and reissuance, extension, transfer, termination	Added to clarify that only portions pertaining to the request will be modified versus re-evaluating the entire project.
180 E and E 1 through 4	180 F 4	Permit modification, revocation and reissuance, extension, transfer, termination	Existing text regarding permit transfer in subsection E and subdivisions E 1 through 4 was moved to the existing subdivision F 4 and clarified as to the criteria for such a transfer to occur under a minor modification action.
180 E 1, 2, and 4	180 E 4 a	Permit modification, revocation and reissuance, extension, transfer, termination	Relocated and combined text from the existing E 1, E 2, and E 4 – deleted 30 days.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
180 E 3	180 E 4 b	Permit modification, revocation and reissuance, extension, transfer, termination	Relocated and revised text from the existing E 3 – 30 days changed to 15 days.
180 F 1 through 10	180 E 1 through 10	Permit modification, revocation and reissuance, extension, transfer, termination	Existing F was renumbered as E, and the introductory paragraph regarding minor modifications was revised to add citations for the public participation sections of the regulation. New text was added requiring requests for minor modification to be in writing and allow board to request additional information as necessary. Clarifications were made to the existing text regarding when a modification subject to public comment may be warranted.
180 F 3	180 E 3	Permit modification, revocation and reissuance, extension, transfer, termination	Existing F 3 was revised to clarify that if the reason for modification is a change in a compliance date that it cannot result in a no net loss of wetland acreage or functions.
180 F 4	180 E 4	Permit modification, revocation and reissuance, extension, transfer, termination	Existing F 4 was revised to clarify change in permittee rather than ownership; and revised to add the original text at E.
180 F 5	180 E 5	Permit modification, revocation and reissuance, extension, transfer, termination	Existing F 5 was revised to correct citations.
180 F 6 and 9	180 E 6	Permit modification, revocation and reissuance, extension, transfer, termination	Existing text in F 6 deleted, obsolete. Text from existing F 9 relocated to F 6 and revised for clarity.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
180 F 7 and 8	180 E 7	Permit modification, revocation and reissuance, extension, transfer, termination	Existing text in F 7 deleted, obsolete. Text from existing F 8 relocated in part.
	180 E 7 a	Permit modification, revocation and reissuance, extension, transfer, termination	E 7 a was added to clarify where additional impacts must be located.
	180 E 7 b	Permit modification, revocation and reissuance, extension, transfer, termination	E 7 b was added to specify the quantity of additional wetland impacts that are allowed under a minor modification.
	180 E 7 c	Permit modification, revocation and reissuance, extension, transfer, termination	E 7 c was added to specify the quantity of additional stream impacts that are allowed under a minor modification.
	180 E 7 d	Permit modification, revocation and reissuance, extension, transfer, termination	E 7 d was added to require documentation on avoidance and minimization of additional impacts.
180 F 8	180 E 7 e	Permit modification, revocation and reissuance, extension, transfer, termination	Existing text regarding compensation for additional impacts in F 8 was moved to E 7 e.
	180 E 7 f	Permit modification, revocation and reissuance, extension, transfer, termination	E 7 f was added to require additional temporary impacts to be restored and include a timeframe for DEQ review and response to request for minor modification for additional temporary impacts.
180 F 10	180 E 8	Permit modification, revocation and reissuance, extension, transfer, termination	Existing text in F 10 was moved to E 8 and revised to allow substitution of a portion of the prior authorized permittee-responsible mitigation with a purchase or use of mitigation credits that meet the same mitigation requirement.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
	180 E 9	Permit modification, revocation and reissuance, extension, transfer, termination	New text was added to allow a minor modification for an extension of an individual permit term where that term was originally issued for less than 15 years.
	180 E 10	Permit modification, revocation and reissuance, extension, transfer, termination	Text added to direct the reader to the new section 380 for situations that may warrant a modification related to surface water withdrawal activities.
180 G		Permit modification, revocation and reissuance, extension, transfer, termination	Subsection G revised to correct Code citation.
180 H	180 I	Permit modification, revocation and reissuance, extension, transfer, termination	Revised to better match language in VWP general permit regulations.
	180 H	Permit modification, revocation and reissuance, extension, transfer, termination	New subsection H was added to authorize board may terminate the permit without cause when the permittee is no longer a legal entity due to death, dissolution, or when a company is no longer authorized to conduct business in the Commonwealth.
180 I	65	Permit modification, revocation and reissuance, extension, transfer, termination	Existing text at I was deleted and moved to the new section 65 on administrative continuance.
180 I 3		Permit modification, revocation and reissuance, extension, transfer, termination	Revised to delete 'authorization' as this section applies to individual permits.
180 I 4 a		Permit modification, revocation and reissuance, extension, transfer, termination	Revised to change 'requested' to 'required' and to add caveat 'unless otherwise excluded from permitting'.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
180 4 b and c		Permit modification, revocation and reissuance, extension, transfer, termination	Revised to add caveat 'unless otherwise excluded from permitting'.
185 and 185 A	185	Duration of individual permits	Revised the section title to clarify applicability to individual permits; eliminate subsection A subtitle; for wording choice; to delete a reference to conditions that contain the permit term.
185 B		Duration of individual permits	Existing text at subsection B deleted as obsolete.
220 A and C		Waiver of permit or certification	Revised for word choice purposes.
230 A 4		Denial of permit or variance	Revised to use phrase 'wetland acreage or functions' for better consistency with language in Code.
230 A 8		Denial of permit or variance	Revised to correct citation.
230 D		Denial of permit or variance	Revised to correct Code citation.
240	500	Enforcement	Repealed and moved in whole to new section 500.
250	600	Delegation of authority	Repealed and moved in whole to new section 600.
260	610	Transition	Repealed. Existing text moved in part to new section.
260 A and B	610 A and B	Transition	Revised to insert placeholder for new regulation effective date.
260 C		Transition	Deleted, obsolete as provided for in 610 A.
260 D	610 C	Transition	Renumbered existing text.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
	300	Definitions for surface water withdrawals	Added new section. Definitions were added to provide clarity in the regulations as to the meaning of the terms or consistency with other DEQ programs: "Drought of Record", "Human consumption", "Instream flow", "Major river basin", "Nonconsumptive use", "Public water supply safe yield", "Variance", and "Water supply plan".
	310	Exclusions for surface water withdrawals	Added new section. Moved requirements specific to surface water withdrawals to provide greater clarity as to the provisions for surface water withdrawals. Section revised, where applicable, to update citations and provide consistency with revised definitions. Amendments made to the requirements for surface water withdrawals initiated between July 1, 1989, and July 25, 2007 to provide clarity and to remove sunset provisions that have passed. Additional amendments proposed to consolidate and reorganize requirements that exclude withdrawals from permitting based upon volume and use to address confusion expressed regarding this set of exclusions.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
	320	Preapplication for surface water withdrawals	Added new section to provide greater clarity as to the provisions specific to surface water withdrawals. Section revised, where applicable, to update citations and provide consistency with revised definitions.
	330	Coordinated review with VMRC for surface water withdrawals	Added new section to provide greater clarity as to the provisions specific to surface water withdrawals. This section has been amended to include reference to the section of Code that directs coordinated reviews between DEQ and VMRC and clarifies the joint public notice requirement. Section revised, where applicable, to update citations and provide consistency with revised definitions.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
	340	Application requirements for surface water withdrawals	Added new section. Informational requirements for a complete application that are necessary to conduct a review of any withdrawal, other than those for an emergency Virginia Water Protection Permit, are organized into one detailed list. This approach removes the distinction between minor surface water withdrawal and major surface water withdrawal, which was found only to be a regulatory distinction and does not reflect a difference in the level of permit review. Additionally, while the regulations require the same information for both types of withdrawals, this is not clear and has lead to confusion and longer processing timeframes to request the information. Other amendments include adding informational requirements addressing recent statutory changes and to the Joint Permit Application.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
	350	Duty to reapply for a permit for the continuation of a surface water withdrawal	Added new section to address the reissuance of permits for the continuation of a surface water withdrawal. Identifies the informational requirements needed to apply for reissuance, including allowing for information submitted as part of a previous application that continues to be accurate to be referenced in the new application. This section includes a reference for allowance for an administrative continuance of a permit if a complete application is filed in a timely manner.
	360	Evaluation of project alternatives for surface water withdrawals	Added new section to consolidate provisions specific to surface water withdrawals under its own part (Part V) to provide greater clarity as to the provisions specific to this activity. Section revised, where applicable, to update citations and provide consistency with revised definitions.
	370	Permit conditions applicable to surface water withdrawals	Added new section to consolidate provisions specific to surface water withdrawals under its own part (Part V) to provide greater clarity as to the provisions specific to this activity. Section amended to provide clarity as to the conditions that may be part of a permit and the criteria for which a permit may be issued. Section revised, where applicable, to update citations and provide consistency with revised definitions.

9VAC25-210			
Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
	380	Modifications to permit for surface water withdrawals	Added new section to identify the types of developments for which a permit for a surface water withdrawal may be modified. The existing regulation has one general provision (180 D 6) that addresses surface water withdrawals; however, nothing more specific is provided as to the types of changes that may occur under a permit modification for a permitted surface water withdrawal. These amendments provide more specificity and clarity as to changes that may occur under both a major modification and a minor modification.
	390	Variance from surface water withdrawal permit conditions	Added new section to consolidate provisions specific to surface water withdrawals to provide greater clarity as to the provisions specific to this activity. Section revised, where applicable, to update citations and provide consistency with revised definitions.

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Current Section Number	Proposed New Section Number (if applicable)	Section Content	Proposed Change and Rationale
FORMS			Alphabetized list of forms. Revised the title and effective date of permit application fee form. Revised the effective date of the Tidewater application. Revised the title of monthly reporting of impacts form. Revised the effective date of the standard joint permit application. Revised the title of the VDOT inter-agency meeting application. Deleted the DEQ application for minor withdrawals, obsolete.
DOCUMENTS			Alphabetized list of documents. Added Corps regional supplement for eastern mountains and piedmont. Added Corps regional supplement for Atlantic and coastal plain. Added hydric soils of the United States. Added Virginia drought assessment and response plan.