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Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation	9 VAC 25-200
Regulation title	Water Withdrawal Reporting
Action title	Exempt Action Final as result of 2018 periodic review- correct citation
Final agency action date	September 20, 2018
Date this document prepared	May 8, 2018

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This final exempt regulatory action is being taken to correct the citation of a referenced regulation.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On September 20, 2018, the State water Control Board took final action to adopt an amendment to the regulation entitled "Water Withdrawal Reporting (9VAC25-200)." The regulatory action will be filed as soon as possible, consistent with the Administrative Process Act.

The regulation amendment is exempt from the state administrative procedures for adoption of regulations by the provisions of § 2.2-4006 A 3 of the Administrative Process Act because the changes correct technical errors.

Family impact

Please assess the impact of this 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.

It is not anticipated that this regulatory amendment will have a direct impact on the institution of the family or family stability.

Periodic review/small business impact review report of findings

Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by §2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

An informal advisory group was not formed as part of this review. No comments were received during the public comment period.

Section 62.1-44.38 C. of the Code of Virginia allows the board to adopt a regulation to require water users withdrawing surface or groundwater to register and report withdrawals if they withdraw certain amounts of surface or groundwater. The reporting thresholds for this regulation are withdrawals of groundwater or surface water exceeding one million gallons in any single month for use for crop irrigation and daily average withdrawals during a single month exceeding 10,000 gallons per day for other uses. Electronic reporting of surface and groundwater withdrawal amounts is encouraged.

This regulation continues to be needed and is necessary for the protection of public health, safety and welfare. The regulation is clearly written and easily understandable. This information is needed to plan for water supply needs of the citizens by identifying areas where water withdrawals can cause significant impact on the local water supply sources.

This regulation is a state only regulation and there is no equivalent federal regulation. Reporting of surface and groundwater withdrawals is required by §62.1-44.38 of the Code of Virginia. Entities required

to report surface and groundwater withdrawals may also be required to obtain a permit under Surface Water Management Area Regulation (9VAC25-220), Virginia Water Protection Permit Program Regulation (9VAC25-210), or Groundwater Withdrawal Regulations (9VAC25-610).

This regulation was last reviewed in 2013 and is still consistent with statutory requirements and data collection practices of the regulated community.

All changes made in this regulatory action

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Definitions	Corrected citation referencing the Virginia Pollutant Discharge Elimination System permit regulation.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

These regulations are based on the statutory requirement for withdrawers of ground and surface waters meeting specific withdrawal thresholds to report the amount of their withdrawals (§62.1-44.38 of the Code of Virginia). As part of this periodic review, alternative regulatory methods were evaluated. The agency considered changing the reporting frequency of water withdrawal information. A more frequent reporting schedule would place an additional burden on the regulated community, including small businesses. The current annual reporting schedule was identified as meeting the need for information about water withdrawals and is consistent with other reporting schedules related to water withdrawal permits. Annual reporting of withdrawal information is accomplished primarily through online reporting, which streamlines the collection of information in an efficient manner, and benefits all reporting entities including small business.