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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-210 9VAC25-610
VAC Chapter title(s)	Virginia Water Protection Permit Program Regulation (9VAC25-210 et seq.) and Groundwater Withdrawal Regulations (9VAC25-610 et seq.)
Action title	Amendment to the Virginia Water Protection Permit Program Regulation (9VAC25-210 et seq.) and Groundwater Withdrawal Regulations (9VAC25-610 et seq.) in response to Chapter 251 of the 2024 Virginia Acts of Assembly
Final agency action date	June 25, 2024
Date this document prepared	April 17, 2024

This information is required for executive branch review pursuant to 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. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to 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.

This final exempt regulatory action is necessary to implement Chapter 251 of the 2024 Acts of Assembly (Sen. Stuart, SB 581). This Act of Assembly revises state law to authorize the Board to utilize and incorporate comprehensive groundwater, surface water, and aquifer data in its surface water and groundwater permit decisions. Such data may include information relating to water levels, flow rates, and water quality. The Virginia Water Protection Permit Program Regulation (9VAC25-210 et seq.) and Groundwater Withdrawal Regulations (9VAC25-610 et seq.) are being amended to be consistent with the change to state law.

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, internal staff review, 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."

The Governor signed SB581 (Chapter 251 of the 2024 Acts of Assembly) into law and these changes will become effective July 1, 2024. The Virginia Water Protection Permit Program Regulation (9VAC25-210 et seq.) and Groundwater Withdrawal Regulations (9VAC25-610 et seq.) are being amended to be consistent with the change to state law.

This regulatory action is required to conform the existing regulations to changes in state law. Section 2.2-4006 A 4 a of the Code of Virginia, excludes regulations that are necessary to conform to changes in Virginia statutory law or the Appropriation Act where no agency discretion is involved from the requirements of the Administrative Process Act.

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) the name of the agency taking the action; and 3) the title of the regulation.

On June 25, 2024, the State Water Control Board approved final amendments to the Virginia Water Protection Permit Program Regulation (9VAC25-210 et seq.) and Groundwater Withdrawal Regulations (9VAC25-610 et seq.) and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.