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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-200
VAC Chapter title(s)	Water Withdrawal Reporting
Action title	Amendments in response to Chapters 623 and 896 of the 2026 Acts of Assembly (HB496/SB553)
Final agency action date	June 23, 2026
Date this document prepared	May 22, 2026

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.

Chapters 623 and 896 of the 2026 Acts of Assembly (HB 496 and SB 553) amend § 62.1-44.38 of the Code of Virginia to require that water users subject to the existing water withdrawal reporting requirements, and that also provide water to another person offsite, must report, on their existing reporting schedule, the total volume of potable water and the total volume of reclaimed water provided in each month (or each quarter if monthly data is not available) to the following categories:

- (1) A data center, as that term is defined in subdivision A 43 of § 58.1-3506 of the Code of Virginia, with an air permit issued by the Department of Environmental Quality; and
- (2) To the extent available without utility billing system modifications: domestic purposes, commercial and industrial purposes (separately or combined as available), and all other non-categorized purposes.

The legislation also clarifies the definition of “reclaimed water” for the purposes of the reporting requirement and specifies that the reporting requirement becomes effective on January 1, 2027.

As it is currently effective, the Water Withdrawal Reporting regulation (9VAC25-200), requires the reporting of water withdrawal usage information from any user that withdraws surface water or groundwater in excess of 10,000 gallons per day for any use other than crop irrigation, or in excess of 1 million gallons in any single month for crop irrigation. The existing regulation does not require the water withdrawal report to include the volume of water provided to another person offsite. This regulatory action amends the Water Withdrawal Reporting regulation so that it is consistent with the change to Virginia statutory 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 mandate for this regulatory change is Chapters 623 and 896 of the 2026 Acts of Assembly (HB 496 and SB 553). This regulatory action amends the Water Withdrawal Reporting regulation so that it is consistent with the change to Virginia statutory law.

This regulatory action is exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act pursuant to the provisions of § 2.2-4006 A 4 a of the Code of Virginia because it is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.

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 June 23, 2026, the State Water Control Board adopted final amendments to the Water Withdrawal Reporting regulation (9VAC25-200).

In adopting these amendments, the State Water Control Board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.