



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation	9VAC25-200
Regulation title	Water Withdrawal Regulation
Document preparation date	February 5, 2013

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

The authority for this regulation is found in Title 62.1, Chapter 3.1, Section 62.1-44.38 of the Code of Virginia. Specifically, § 62.1-44.38(C) authorizes the State Water Control Board (Board) to require each water user withdrawing surface or subsurface water or both during each year to register water withdrawal and use data for the previous year including the estimated average daily withdrawal, sources of water withdrawn, and volume of water discharge, provided that the withdrawal exceeds one million gallons in any single month for use for crop irrigation, or that the daily average during any single month exceeds 10,000 gallons per day for all other users.

There is no federal mandate for this regulation.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

The purpose of these regulations is to document the amount of water withdrawn from surface and ground water resources by requiring withdrawers to annually report their withdrawals. Information received assists with efficiently planning for water supply needs of the citizens by identifying areas where water withdrawals can cause significant impact on the local water supply sources.

One alternative considered during this review was to change the reporting frequency. Increasing the frequency of the reporting would be more burdensome on water withdrawers and would not provide any additional protection to water resources. Increasing the time between reporting requirements was also considered. Extending the time between reporting increments would not provide adequate data on water usage to be used in water supply planning or water withdrawal permitting. This alternative was rejected.

Another alternative considered was to eliminate the requirement to report water withdrawals. This would prevent planning of water supply needs from occurring and would prevent management of Virginia's water resources for the benefit of all citizens. This alternative was rejected.

This regulation has been written to be the least burdensome way of collecting information on water withdrawals.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Mission H2O	Supports existing regulation without amendment	Concur
Virginia Manufacturers Association	Supports retaining the existing regulation in current form	Concur
Shenandoah Riverkeeper and Potomac Riverkeeper of Potomac Riverkeeper, Inc.	Supports existing regulation with the following amendments: 1) The regulation should not exempt withdrawals from mines or quarries; 2) The regulation should not exempt withdrawals from hydroelectric power generation.	Through the water supply planning process and the annual reporting of water withdrawals required by this regulation, the agency will evaluate the potential benefits of eliminating these exemptions. At this time, there is no evidence that significant gaps exist in our understanding of the water budget as a result of these exemptions.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The water withdrawal data that has been collected through this regulation are used by the DEQ during the preparation of surface and ground water withdrawal permits, ground water models, surface water models, environmental impact assessments and water supply studies. The regulation has been effective in protecting public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth, ensuring that water supply needs can be met while protecting in-stream and off-stream beneficial uses.

The regulation is clearly written and easily understandable.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.



The agency recommends that the regulation be retained.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, 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. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.



This regulation continues to be needed. It requires the submission of information that is used by federal, state and local officials when planning for public water supplies and evaluating the impact of water use on in-stream and off-stream beneficial uses.

No comments were received concerning the impact this regulation has on small businesses.

The regulation's level of complexity is appropriate to ensure that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible.

This regulation does not overlap, duplicate, or conflict with any state law or other state regulation. Information collected by this regulation is referenced in the Groundwater Withdrawal Regulations (9VAC25-610-10 et seq.) to document historical withdrawals of groundwater. It is also used as the basis for predicting future water needs in local water supply plans and in surface and groundwater withdrawal permits.

This regulation was last reviewed in 2001. Technology, economic conditions, and other factors have not changed in ways that would make this regulation less efficient and cost-effective in terms of protecting human health and the environment or meeting legal mandates.

The Department, through examination of the regulation and relevant public comments, has determined that the regulatory requirements currently minimize the economic impact of these regulations on small businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

It is not anticipated that this regulation will have a direct impact on families or family stability.