



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC25-780
<b>Regulation title</b>	Local and Regional Water Supply Planning Regulation
<b>Document preparation date</b>	June 9, 2014

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.*

Section 62.1-44.15 of the Code of Virginia, as amended, authorizes the State Water Control Board (Board) to promulgate regulations. The Board previously adopted this regulation to implement the mandate of § 62.1-44.38:1 of the Code of Virginia which requires that: "The Board, with the advice and guidance from the Commissioner of Health, local governments, public service authorities, and other interested parties, shall establish a comprehensive water supply planning process for the development of local, regional and state water supply plans consistent with the provisions of this chapter." This regulation became effective in 2006.

### 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.*

Statute directs the Board to establish a comprehensive water supply planning process for the development of local, regional and state water supply plans. Statute also allows for localities to choose whether to plan individually or as part of a regional group.

One alternative would be for the Board to establish which localities would collectively submit a regional water supply plan, based on specified criteria such as planning district area, metropolitan area, or watershed boundary. This alternative has been rejected since localities have already complied with developing water supply plans, thus making changes to who is required to plan together regionally would not be beneficial to the comprehensive water supply planning process. Dictating the membership of localities to be included in a specific water supply plan would be more burdensome on localities and the Board.

Based on current statute, there are no alternatives to this regulation that are less burdensome.

### 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.*

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No comments were received during the public comment period.

An informal advisory group was not formed for the purpose of assisting in the periodic review.

### 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.*

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The regulation is necessary for the protection of public health, safety and welfare. The requirements for water supply planning assist with the development of water supplies for use by the public while maintaining beneficial uses of state waters. 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.*

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The agency is recommending the regulation be retained. There are a few editorial changes that were identified during the review that need to be made to make the regulation consistent with current regulations. Section 30 of the regulation references two other agency regulations (9VAC25-210 and 9VAC25-220) and specifies an effective date of those specific regulations

(2004). Both 9VAC25-210 and 9VAC25-220 have been updated since 2004, and the regulation needs to be updated to reference the versions of the regulation that are currently effective. The agency plans to ask the State Water Control Board to take a final action at a future board meeting to correct these regulatory references.

### 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.*

Water supply is a critical factor for the economic vitality and public health of the Commonwealth and its political subdivisions. Meeting the demand for water is complex and the amount available to meet these needs is finite. This regulation seeks to balance the water supply needs of localities with the promotion of water conservation and water reuse to minimize the demand on finite water supplies. This regulation continues to be needed to ensure adequate water supplies for use by the public while maintaining beneficial uses of state waters.

No comments were received concerning this regulation.

The regulation's level of complexity is appropriate to ensure that the regulated entities are able to develop and implement a water supply plan as efficiently and cost-effectively as possible. Details are provided concerning required plan contents to assist localities with developing plans that meet the requirements of the regulation. This information continues to be necessary and valid over time.

The regulation does not overlap, duplicate, or conflict with any federal or state law or regulation.

The regulation was adopted in 2005 and revised in 2006. The regulation contains a schedule for when water supply plans were to be developed and submitted to the Department of Environmental Quality for review. The schedule was based on the population of the community or communities included in the water supply plan. The last group of localities was required to submit water supply plans by November 2011. These plans were all approved by the Department with conditions. The conditions must be met through plan revisions by the end of 2018. New plans must be resubmitted in 2023.

The Department does not believe these regulations should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses. When the regulation was originally adopted, flexibility was included in the regulation to allow localities to select how they would create their water supply plans, either

individually or with other localities. This allows localities to collaborate on the development of water supply plans and share the costs of developing the plans with other localities included in the plan. The Department has highlighted for the localities and regional planning groups where there are water supply challenges to meeting their 2040 water expectations. This information forms the basis of ongoing work among localities and the Department in developing solutions to meeting these future water needs.

### Family impact

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

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This regulation does not have an adverse impact on the institution of the family and family stability. It requires water supply plans to be developed, thus families will receive the benefit of having adequate water supplies available to them.