



Virginia  
Regulatory  
Town Hall

## Notice of Intended Regulatory Action Agency Background Document

<b>Agency Name:</b>	State Water Control Board
<b>VAC Chapter Number:</b>	9VAC25-780
<b>Regulation Title:</b>	Local and Regional Water Supply Planning
<b>Action Title:</b>	Adoption of the Local and Regional Water Supply Planning Regulation

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

### Purpose\*

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The regulatory action will address the need for improved local and regional water supply planning. The recent drought highlighted the need to require that localities be prepared to plan for and implement contingency plans during unusual climatic events. The goal of the new regulation is to establish a basic set of criteria that each local or regional water supply plan must contain so that they may plan for and provide adequate water to their citizens in a manner that balances the need for environmental protection and future growth.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

The newly enacted section 62.1-44.38:1.A requires the State Water Control Board to establish a comprehensive water supply planning process for the development of local, regional and state water supply plans. This process will be designed to (i) ensure that adequate and safe drinking water is available to all citizens of the Commonwealth, (ii) encourage, promote, and protect all other beneficial uses of the Commonwealth's water resources, and (iii) encourage, promote, and develop incentives for alternative water sources, including but not limited to desalinization. See <http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+CHAP0227>

### Need\*

*Please detail the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied*

Providing a safe and adequate supply of drinking water is essential to public health and welfare. The need for water supply planning regulations became apparent with the culmination of four years of drought conditions in the late summer of 2002. Reservoirs and streams in the state experienced record low levels during this time and as a result, some local water supplies were within days of complete failure. The lack of preparedness by some Virginia communities during this drought period highlighted the need for a state role in ensuring that drinking water is available and that the need for drinking water supply is appropriately balanced with the needs for other beneficial in-stream and off-stream uses. On August 30, 2002, The Governor issued Executive Order 33 declaring a State of Emergency due to extreme drought conditions throughout the Commonwealth. This State of Emergency persisted throughout the summer and into the early winter months. As a result of this declaration, certain non-essential outdoor water uses were prohibited.

Issues to be addressed during this process include evaluating existing local and regional supply plans, determining the nature of preferred water supply plan and planning process, planning for future supplies, maintaining beneficial uses, and determining the nature and extent of the State Water Control Board review process.

### Substance\*

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed.*

These proposed regulations will establish standards for local and regional water supply planning and establish a process for review of said plans by the State Water Control Board.

### Alternatives\*

*Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action, and the reasoning by which the agency has rejected any of the alternatives considered.*

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Alternatives considered are limited. The General Assembly directed the development of regulations for this purpose.

### Public Participation\*

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a meeting because the agency has authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate where information on the public meeting (i.e., date, time and place) may be found.*

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The Board is seeking comments on the intended regulatory action, including (i) ideas to assist in the development of a proposal, (ii) the costs and benefits of the alternatives stated in this notice or other alternatives and (iii) impacts of the regulation on farm or forest lands. Anyone wishing to submit written comments for the public comment file may do so at the public meeting, by mail, or by email to [swkudlas@deq.state.va.us](mailto:swkudlas@deq.state.va.us). Written comments must include the name and address of the commentor. In order to be considered comments must be received by the close of the comment period.

A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

### Participatory Approach\*

*Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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The Board is using the participatory approach to develop a proposal through an established advisory committee. The Water Policy Technical Advisory Committee will be working over the next eight months to develop draft regulations to meet the requirements of section 62.1-44.38:1.

## Family Impact Statement

*Please provide a preliminary analysis of the potential impact of the proposed 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.*

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The Board does not expect any direct impacts on the institution of the family and family stability.