



Fast Track Proposed Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation	9VAC25-780
Regulation title	Local and Regional Water Supply Planning Regulation
Action title	Revisions to correct regulations referenced in regulation
Date this document prepared	July 1, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The regulation is being amended to update the names of two regulations referenced with this regulation.

Statement of final agency action

Please 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 September 29, 2014, the State Water Control Board promulgated the proposal for public comment using the fast-track process with the understanding that the authorization constitutes board adoption of the amendments provided (i) the proposal completes the fast-track process as provided in § 2.2-4012.1 of the APA and (ii) DEQ does not find it necessary to make any changes to the proposal; and set an effective date 15 days after close of the 30-day public comment.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. The identification should include a reference to the agency/board/person's overall regulatory authority, as well as a specific provision authorizing the promulgating entity to regulate this specific subject or program; and a description of the extent to which the authority is mandatory or discretionary

Section 62.1-44.15 of the Code of Virginia, as amended, authorizes the State Water Control Board to promulgate this regulation.

This regulation was developed 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." The State Water Control Board adopted the Local and Regional Water Supply Planning regulation in 2005 and amended it in 2006.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This regulation was last amended in 2006. Since that time, other regulations referenced by this regulation have been updated. This regulation needs to be amended to reference the regulations that are currently in effect to avoid confusion concerning which regulations are applicable. This regulatory change will make the Local and Regional Water Supply regulation reference current versions of other water regulations.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If either an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules; or the Department finds it necessary, based on public comments or for any other reason, to make any changes to the proposal, the Department shall (i) file notice of the objection/reason with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The Board anticipates that this rulemaking will be noncontroversial since the changes to this regulation will update the Local and Regional Water Supply Planning regulation to include references to other water regulations that the Board has previously adopted that are currently effective. The regulated community

is required to comply with versions of regulations that are currently in effect. This change will eliminate confusion concerning which versions of regulations are referenced by the Local and Regional Water Supply Planning Regulation.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. Note, more detail about all provisions or changes is provided in the "Detail of changes" section.

The revisions to the regulation are minor. The regulation is being updated to remove the effective year of the Virginia Water Protection Permit Regulation and the Surface Water Management Area Regulation referenced in the regulation. Both the Virginia Water Protection Permit Regulation and the Surface Water Management Area Regulation have been amended since 2004, and the year 2004 is being stricken from the regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantages to the public, agency and Commonwealth will be that the regulation will reference the current version of the Virginia Water Protection Permit Regulation and the Surface Water Management Area Regulation. This will avoid confusion concerning the version of the regulation the regulated community should comply with. The regulated community must comply with the current effective versions of the Virginia Water Protection Permit Regulation and the Surface Water Management Area Regulations; however, since the regulation references the 2004 versions of these regulations, the regulated community may interpret this to mean they must comply with the requirements of both versions of these regulations. There are no disadvantages to the public, agency or Commonwealth associated with these regulatory revisions.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

Water Supply Planning requirements are state only requirements, and no applicable federal requirements for this activity exist. 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.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality would be particularly affected by this regulation.

Public Participation

Please include a statement that in addition to any other comments on the regulation, the agency is seeking comments on the costs and benefits of the proposal, the potential impacts on the regulated community and the impacts of the regulation on farm or forest land preservation.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the potential impacts on the regulated community and on any impacts of the regulation on farm and forest land preservation. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reported, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Melissa Porterfield, Office of Regulatory Affairs, P.O. BOX 1105, Richmond, VA 23218, phone: 804-698-4238, FAX: 804-698-4346, email: melissa.porterfield@deq.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: www.townhall.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>Since the regulatory amendment only corrects the name of two regulations in the regulation the proposed amendments do not change the cost for the state to implement and enforce the proposed regulation.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>Since the regulatory amendment only corrects the name of two regulations in the regulation the proposed amendments do not change the cost for</p>

	localities to implement the proposed regulation.
Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.	Since the regulatory amendment only corrects the name of two regulations in the regulation the proposed amendments, there will be minimal impact if any impact on individuals, businesses, or other entities. Localities develop water supply plans and coordinate with larger water users when developing these plans.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	It is not anticipated that this regulatory change will impact any small businesses.
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	It is not anticipated that this regulatory change will impact costs with complying with this regulation.
Beneficial impact the regulation is designed to produce.	The regulatory amendment will reference the current version of the Virginia Water Protection Permit Regulation and the Surface Water Management Area Regulation. This will avoid confusion concerning the version of the regulation the regulated community should comply with.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation

The alternative is to retain the regulation as is. This alternative was rejected since it would potentially be confusing to the regulated community to have the regulation reference previous versions of the Virginia Water Protection Permit Regulation and the Surface Water Management Area Regulation which are no longer effective and are not readily available online.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while

minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulatory amendment is to update referenced versions of the Virginia Water Protection Permit Regulation and the Surface Water Management Area Regulation. Updating references to these regulations within this regulation should avoid confusion concerning requirements that must be met. This regulation establishes requirements for Water Supply Plans which are developed by localities, therefore this regulation should not impact small businesses. Reporting requirements for localities have been minimized and updated plans are not required to be submitted until 2023.

Family impact

Please assess the 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.

This regulation will not have any impact on the institution of the family or family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the pre-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
30	30	Regulation references the Virginia Water Protection Permit Regulation (2004) and the Surface Water Management Area Regulation (2004).	References to the year the referenced regulations were adopted have been removed. The regulation now only references the titles of the following regulations- the Virginia Water Protection Permit Regulation and the Surface Water

			Management Area Regulation.
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Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

The document does not contain any acronyms.