

**TITLE 9. ENVIRONMENT****STATE WATER CONTROL BOARD**

**Title of Regulation:** 9 VAC 25-780. Local and Regional Water Supply Planning (adding 9 VAC 25-780-10 through 9 VAC 25-780-190).

**Statutory Authority:** §§ 62.1-44.15 and 62.1-44.38:1 of the Code of Virginia.

**Effective Date:** November 2, 2005.

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**Summary:**

*The regulation establishes a planning process and criteria that all local governments will use in the development of local or regional water plans. These plans will be reviewed by the Department of Environmental Quality and a determination will be made by the State Water Control Board on whether the plans comply with this regulation. Within five years of a compliance determination by the board, the plans will be reviewed to assess adequacy and significant changes will require the submission of an amended plan and review by the board. All local programs will be reviewed, revised and resubmitted to the Department of Environmental Quality every 10 years after the last approval.*

**Summary of Public Comments and Agency's Response:** A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

**CHAPTER 780.****LOCAL AND REGIONAL WATER SUPPLY PLANNING.****9 VAC 25-780-10. Application.**

*A. All counties, cities and towns (hereinafter "local governments") in the Commonwealth of Virginia shall submit a local water supply plan or shall participate in a regional planning unit in the submittal of a regional water supply plan to the board in accordance with this chapter.*

*B. The provisions of this regulation shall not affect any water supply project for which a permit application was submitted prior to January 1, 2003, to any state or federal agency. The provisions of this regulation shall not affect any water supply project for which an application for grant, loan or other funding has been made to a state or federal agency prior to January 1, 2003. All projects shall remain subject to applicable federal and state regulatory requirements.*

*C. Nothing in this chapter shall be construed as altering or authorizing any alteration of any existing surface, ground water or common law water rights of any property owner within the Commonwealth, except as required by federal or state law.*

*D. The review required by 9 VAC 25-780-140 shall not be a prerequisite for applying for a permit from the Commonwealth of Virginia for a water supply project.*

**9 VAC 25-780-20. Purpose of chapter.**

*The purpose of this chapter is to establish a comprehensive water supply planning process for the development of local, regional, and state water supply plans. This process shall 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.*

*This chapter establishes the required planning process and criteria that local governments shall use in the development of the local and regional plans.*

**9 VAC 25-780-30. Definitions.**

*Unless otherwise defined in this chapter or unless the context clearly indicates otherwise, the terms used in this regulation shall have the meanings ascribed to them by the State Water Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia; the Ground Water Management Act of 1992, Chapter 2.5 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia; the Virginia Water Protection Permit Regulation, 9 VAC 25-210 (2004); and the Surface Water Management Area Regulation, 9 VAC 25-220 (2004), including any general permits issued thereunder.*

*"Beneficial use" means both in-stream and off-stream uses. In-stream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Off-stream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural, electric power generation, and commercial and industrial uses.*

*"Board" means the State Water Control Board.*

*"Community water system" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents, and is regulated by the Virginia Department of Health Waterworks Regulation (12 VAC 5-590).*

*"Conservation" means practices, techniques, and technologies that improve the efficiency of water use.*

*"Department" means the Department of Environmental Quality.*

*"Local government" means a city, incorporated town or county.*

*"Local program" means the combined water plan, resource conditions, and drought response and contingency plan developed in compliance with this regulation. The term "local program" will be used in this regulation to mean either local or regional programs. The term "program" implies the institution of a continuous planning process for maintenance of these documents.*

"Planning area" means the geographical area as defined by local government boundaries that is included in a local or regional water supply plan.

"Planning period" means the 30- to 50-year time frame used by the locality to project future water demand in accordance with 9 VAC 25-780-100 B.

"Regional planning unit" means a collection of local governments who have voluntarily elected to develop and submit a regional water plan. A regional planning unit may be composed of all local governments located within the bounds of a planning district, any subset of local governments within the bounds of a planning district, or any group of local governments within multiple planning districts.

"Regional water plan" means a water plan developed and submitted by two or more cities or counties or both. A town and an adjacent county may develop a regional water plan. Two or more towns may develop and submit a regional water plan where the plan results in the proposed development of future water supply projects that supply the water supply demands of the affected towns. Such plans developed by two or more towns may be included in regional water plans developed and submitted by counties or cities. Regional water plans shall be developed and submitted in conjunction with all public service authorities operating community water systems within the regional planning unit, if applicable.

"Self-supplied user" means any person making a withdrawal of surface water or ground water from an original source (e.g., a river, stream, lake, aquifer, or reservoir fed by any such water body) for their own use. Self-supplied users do not receive water from a community water system.

"Service area" means the geographical area served by a community water system.

"Technical evaluation committee" means a committee of state agencies, including but not limited to the Department of Health, the Department of Conservation and Recreation, the Marine Resources Commission, the Department of Historic Resources, and the Department of Game and Inland Fisheries, convened by the Department of Environmental Quality in accordance with subdivision 8 of 9 VAC 25-780-60 to provide comments on the impacts to or conflicts among in-stream and off-stream uses resulting from proposed alternatives for meeting projected water demands.

"Unaccounted for losses" means the difference between a community water system's billing records for volumes of water distributed and production records for volumes of water treated.

"Water demand management" means plans for water conservation, reuse, and reducing unaccounted for water losses contained in a local program.

"Water plan" means a document developed in compliance with this regulation. The term "water plan" will be used in this regulation to mean either local or regional water plans.

"Water sources" means wells, stream intakes, and reservoirs that serve as sources of water supplies.

#### **9 VAC 25-780-40. Program development.**

Local governments shall develop programs for local or regional water plans that are necessary to comply with this chapter. Local governments shall consult and coordinate with all community water systems in the planning area during the preparation of local or regional programs. Community water systems within the planning area shall cooperate and participate with the locality during preparation of the local program. Counties, cities, and towns are encouraged to develop regional programs. Local programs shall be designed to (i) ensure that adequate and safe drinking water is available, (ii) encourage and protect all beneficial uses, (iii) encourage and promote alternative water sources, and (iv) promote conservation.

#### **9 VAC 25-780-50. Preparation and submission of a program.**

A. Local governments must adopt a local program as defined in this section, including any revisions to comprehensive plans, water supply plans, water and sewer plans, and other local authorities necessary to implement this chapter. A local public hearing consistent with § 15.2-1427 of the Code of Virginia is required during the development of the local program. The public hearing may be combined with other public hearings that may be required.

B. All local governments shall submit a local program to the department in accordance with the following schedule:

1. Local governments with populations in excess of 35,000 persons based on the most recent U.S. Census shall do so no later than November 2, 2008.
2. Local governments with populations in excess of 15,000 persons but no more than 35,000 persons based on the most recent U.S. Census shall do so no later than November 2, 2009.
3. Local governments with populations less than or equal to 15,000 persons based on the most recent U.S. Census shall do so no later November 2, 2010.
4. Notwithstanding the above, local governments may elect to participate in the submittal of regional water supply plans. By November 2, 2008, local governments participating in a regional plan shall provide notice to the department of the intent to participate in a regional plan and shall include the names of the other participating localities. Such regional plans shall be submitted no later November 2, 2011.

Nothing in this section shall be construed as limiting the submittal of local or regional water supply plans before the date when such plans are due.

C. Local programs shall contain the elements listed below. This information may be derived from existing, readily available information and additional detailed studies shall not be required.

1. A description of existing water sources in accordance with the requirements of 9 VAC 25-780-70;
2. A description of existing water use in accordance with the requirements of 9 VAC 25-780-80;

3. A description of existing water resource conditions in accordance with the requirements of 9 VAC 25-780-90;

4. An assessment of projected water demand in accordance with the requirements of 9 VAC 25-780-100;

5. A description of water management actions in accordance with the requirements of 9 VAC 25-780-110 and 9 VAC 25-780-120;

6. A statement of need in accordance with the requirements of 9 VAC 25-780-130;

7. An alternatives analysis that identifies potential alternatives to address projected deficits in water supplies in accordance with the requirements of 9 VAC 25-780-130;

8. A map or maps identifying important elements of the program that may include existing environmental resources, existing water sources, significant existing water uses, and proposed new sources;

9. A copy of the adopted program documents including any local plans or ordinances or amendments that incorporate the local program elements required by this chapter;

10. A resolution approving the plan from each local government that is party to the plan; and

11. A record of the local public hearing, a copy of all written comments and the submitter's response to all written comments received.

D. All local programs shall be reviewed no later than five years after a compliance determination by the board in accordance with 9 VAC 25-780-140 F. Revised plans shall be submitted when this review indicates that circumstances have changed or new information has been made available that will result in water demands that will not be met by alternatives contained in the water plan. These circumstances may be caused by changes in demands, the availability of the anticipated source, cumulative impacts, in-stream beneficial uses, or other factors. In the case where the review by the local government or regional planning unit indicates that the circumstances have not changed sufficiently to warrant a revision of the water plan after five years, the locality shall notify the department that the existing plan is still in effect.

E. Notwithstanding subsection D of this section, all local programs shall be reviewed, revised and resubmitted to the department every 10 years after the date of last approval.

#### **9 VAC 25-780-60. State role in program preparation.**

To assist local governments in the development of local programs, the board will:

1. Provide technical and financial assistance;

2. Provide guidance on compliance options;

3. Facilitate acquisition of existing resource conditions (the department shall prepare and post on its website a list of readily available sources for the items identified in 9 VAC 25-780-90 B);

4. Facilitate acquisition of existing use information that has been reported to the department;

5. Facilitate acquisition of water management information (the department shall prepare and post on its website a list of acceptable practices that are used with regard to the topics in 9 VAC 25-780-110);

6. Identify acceptable methods for the projection of future water demands as per 9 VAC 25-780-100;

7. Provide any information regarding known conflicts relating to the development of alternatives;

8. At the request of the applicant, convene a technical evaluation committee meeting; and

9. Provide notice of local public hearings on the local program upon notification by the locality.

#### **9 VAC 25-780-70. Existing water source information.**

A. A water plan shall include current information on existing water sources.

B. A water plan shall include, for community water systems using ground water, the name and identification number of the well or wells, the well depth, the casing depth, the screen depth (top and bottom) or water zones, the well diameter, the design capacity for the average daily withdrawal and maximum daily withdrawal, the system capacity permitted by Department of Health, and the annual and monthly permitted amounts contained in ground water withdrawal permits for all wells located within ground water management areas.

C. A water plan shall include, for community water systems using surface water reservoirs, the name of the reservoirs, the sub-basins in which the reservoirs are located, the drainage area, the amount of on-stream storage available for water supply, the design capacity for average daily and maximum daily withdrawals from the reservoirs, the safe yield of the reservoirs, the capacity of any associated water treatment plant, the Department of Health permitted capacity of the systems, and any limitations on withdrawal established by permits issued by the board. For a community water system that operates a system of interconnected reservoirs, the reporting of the design capacity for withdrawals, designed average daily withdrawal, the designed maximum daily withdrawal and the safe yield may be for the entire system or may be reported as subsets of the system. The plan shall designate which reservoirs and which intakes constitute a system for the purposes of this paragraph. The plan must report the drainage area and amount of storage available for water supply from each reservoir independently.

D. A water plan shall include, for community water systems using stream intakes, the name of the stream or river, the drainage area of the intake, the sub-basin in which the intake is located, the design capacity for average daily and designed maximum daily withdrawal from the stream, the safe yield, the lowest daily flow of record the design capacity of the pump station, the design capacity of the water treatment plant, the capacity of the system permitted by the Department of Health, and any limitation on withdrawals established by permits issued by the board.

E. To the extent that information is available, a water plan shall include a list of all self-supplied users of more than 300,000 gallons per month of surface water for nonagricultural uses, the name of the water body utilized, the design capacity for the average daily and maximum daily withdrawal, and any limitation on withdrawals established by permits issued by the board, the Department of Health or any other agency.

F. To the extent that information is available, a water plan shall include, for all self-supplied users of more than 300,000 gallons per month of ground water for nonagricultural uses, the name and identification number of the well or wells, the well depth, the casing depth, the screen depth (top and bottom) or water zones, the well diameter, the design capacity for the average daily and maximum daily withdrawal and any limitation on withdrawal established by permits issued by the board.

G. A water plan shall include the amount of ground or surface water to be purchased from water supply systems outside the geographic boundaries of the planning area on a maximum daily and average annual basis, any contractual limitations on the purchase of the water including but not limited to the term of any contract or agreement, the recipient(s) or areas served by the water purchased, and the name(s) of the supplier(s).

H. A plan shall include the amount of water available to be purchased outside the planning area from any source with the capacity to withdraw more than 300,000 gallons per month of surface and ground water, reported on a maximum daily and average annual basis and any contractual limitations on the purchase of the water including but not limited to the term of any contract or agreement, the geographic region(s) that receive the water purchased, and the name(s) of the supplier(s).

I. A water plan shall include, to the extent possible, a list of agricultural users who utilize more than 300,000 gallons per month, an estimate of total agricultural usage by source, whether the use is irrigation or nonirrigation, and whether the source is surface or ground water.

J. A water plan shall include an estimate of the number of residences and businesses that are self-supplied by individual wells withdrawing less than 300,000 gallons per month and an estimate of the population served by individual wells.

K. When available, a water plan shall include a summary of findings and recommendations from applicable source water assessment plans or wellhead protection programs.

#### **9 VAC 25-780-80. Existing water use information.**

A. A water plan shall include, at a minimum, current information documenting existing water use as listed below. Water use information shall be obtained from Department of Health waterworks permit compliance reports, the department ground water permit compliance reports or department water use reports. Information shall be reported for the most recent previous annual compilation of such data that is available on the date of submission of the water plan.

B. A water plan shall include the following information for community water systems:

1. The population within the planning area served by each community water system.

2. The number of connections within the planning area for each community water system.

3. The average and maximum daily withdrawal for each community water system within the planning area.

4. The amount of water used within the planning area on an annual average basis, and on an average monthly basis for each community water system expressed in terms of million gallons per day.

5. The peak day water use by month for each community water system within the planning area.

6. An estimate of the water used on an average annual basis by self-supplied nonagricultural users of more than 300,000 gallons per month of surface and ground water within the service area of each community water system.

7. An estimate of the amount of water used on an average annual basis by self-supplied agricultural users of more than 300,000 gallons per month of surface and ground water within the service area of each community water supply.

8. An estimate of the number of self-supplied users of less than 300,000 gallons per month of ground water and an estimate of the total amount of water used by them on an annual average basis within the service area of each community water supply.

9. For each community water system included in the water plan, the plan shall include an estimate of the disaggregated amounts of water used in categories of use appropriate for the system. Typical categories may include:

a. Residential use;

b. Commercial institutional and light industrial (CIL) use;

c. Heavy industrial use;

d. Military water use;

e. Water used in water production processes;

f. Unaccounted for losses;

g. Sales to other community water systems and the names of such systems; or

h. Subtotals of the above categories for all community water systems

10. To the extent that information is available pursuant to 9 VAC 25-780-60 and other sources, for each community water system included in the water plan using stream intakes, the plan shall include a qualitative description of existing in-stream beneficial uses within the planning area or outside the planning area that may be affected by the point of stream withdrawal.

C. A water plan shall include an estimate of the water used on an average annual basis by self-supplied nonagricultural user of more than 300,000 gallons per month of surface and

ground water outside the service areas of community water systems.

D. A water plan shall include an estimate of the amount of water used on an average annual basis by self-supplied agricultural users of more than 300,000 gallons per month of surface and ground water outside the service areas of community water systems.

E. A water plan shall include an estimate of the number of self-supplied users of less than 300,000 gallons per month of ground water and an estimate of the total amount of water used by them on an annual average basis outside the service areas of community water systems.

**9 VAC 25-780-90. Existing resource information.**

A. A program shall include a description of existing geologic, hydrologic, and meteorological conditions within the planning area, and in proximity to the point of withdrawal if it is outside the planning area.

B. A program shall include a description of existing environmental conditions that pertain to, or may affect, in-stream flow, in-stream uses, and sources that provide the current supply. This description of conditions may be provided in a distinct section of the plan document or as a part of the existing water sources information required pursuant to 9 VAC 25-780-70. This information may be derived from existing, readily available information and additional detailed studies shall not be required. The description of conditions shall include the following items, as they are applicable:

1. State or federal listed threatened or endangered species or habitats of concern;
2. Anadromous, trout and other significant fisheries;
3. River segments that have recreational significance including state scenic river status;
4. Sites of historic or archaeological significance;
5. Unusual geologic formations or special soil types;
6. Wetlands;
7. Riparian buffers and conservation easements;
8. Land use and land coverage including items such as percentage of impervious cover within a watershed and areas where new development may impact water quality of the source;
9. The presence of impaired streams and the type of impairment;
10. The location of point source discharges; and
11. Potential threats to the existing water quantity and quality, other than those from above.

**9 VAC 25-780-100. Projected water demand information.**

A. A water plan shall include projections of future water demand as listed below. Population in aggregate and disaggregate formulations should be estimated according to information from the U.S. Census Bureau, Bureau of

Economic Analysis, the Virginia Employment Commission, or other accepted source of population information, including but not limited to, local or regional sources. Demand projection methodologies should be consistent with those outlined in the American Water Works Association or American Society of Civil Engineers manuals. Sources of information and methodologies used in projecting future water demand shall be documented.

B. A water plan shall estimate water demand within the planning area for a minimum of 30 to a maximum of 50 years into the future. While not required, localities are encouraged to plan for the maximum planning period to ensure that the most appropriate and sustainable alternatives are identified.

C. A water plan shall include an estimated future water use projected at the beginning of each decade (2010, 2020, 2030, etc.) within the planning period.

D. A water plan shall include the following projections for community water systems:

1. An estimate of population within the planning area served by each community water system;
2. A map depicting the proposed service area of each existing or proposed community water system;
3. Estimated water demand for each existing or proposed community water system on both an annual average and peak monthly basis;
4. Estimated water demand for each existing or proposed community water system disaggregated into categories of use appropriate for the system. Typical categories may include:
  - a. Residential use;
  - b. Commercial institutional and light industrial (CIL) use;
  - c. Heavy industrial use;
  - d. Military water use;
  - e. Water used in water production processes;
  - f. Unaccounted for losses;
  - g. Sales to other community water systems and the names of such systems; or
  - h. Subtotals of the above categories for all community water systems; and
5. Total projected water demand for all existing or proposed community water systems disaggregated into the categories used in subdivision 4 of this subsection.

E. A water plan shall include a projection of water demand within the planning area on an annual average basis for each existing and any proposed self-supplied nonagricultural user of more than 300,000 gallons per month of surface and ground water located outside the service areas of community water systems.

F. A water plan shall include a projection of the amount of water use on an annual average basis for each existing and any projected self-supplied agricultural user of more than

300,000 gallons per month of surface and ground water located outside the service areas of community water systems.

G. A water plan shall include a projection of the number of self-supplied users of less than 300,000 gallons per month of ground water and a projection of the amount of water used on an annual average basis outside the service areas of community water systems.

H. A water plan shall include, if available, any cumulative demand, use conflict, or in-stream flow information developed pursuant to 9 VAC 25-780-140 G.

I. A water plan shall explain how the projected needs of domestic consumption, in-stream uses, and economic development have been accounted for in the demand projection for the planning period.

### **9 VAC 25-780-110. Water demand management information.**

A. As part of a long-term strategy, a water plan shall address conservation as a part of overall water demand management in accordance with the following requirements:

1. A water plan shall include information that describes practices for more efficient use of water that are used within the planning area. The type of measures to be described may include, but are not limited to, the adoption and enforcement of the Virginia Uniform Statewide Building Code sections that limit maximum flow of water closets, urinals and appliances; use of low-water use landscaping; and increases in irrigation efficiency.

2. A water plan shall include information describing the water conservation measures used within the planning area to conserve water through the reduction of use. The types of measures to be described may include, but are not limited to, technical, educational and financial programs.

3. A water plan shall include information that describes, within the planning area, the practices to address water loss in the maintenance of water systems to reduce unaccounted for water loss. The types of items to be described may include, but are not limited to: leak detection and repair and old distribution line replacement.

B. Current conservation practices, techniques, and technologies shall be considered in projecting water demand pursuant to 9 VAC 25-780-100 D.

### **9 VAC 25-780-120. Drought response and contingency plans.**

A program that includes community water systems and self-supplied users who withdraw more than an average of 300,000 gallons per month of surface water and ground water shall contain drought response and contingency plans in accordance with the following requirements:

1. Drought response and contingency plans shall be structured to address the unique characteristics of the water source that is being utilized and the nature of the beneficial use of water.

2. Drought response and contingency plans shall contain, at a minimum, the following three graduated stages of responses to the onset of drought conditions:

a. Drought watch stage responses are generally responses that are intended to increase awareness in the public and private sector to climatic conditions that are likely to precede the occurrence of a significant drought event. Public outreach activities shall be identified to inform the population served by a community water system of the potential for drought conditions to intensify and potential water conservation activities that may be utilized.

b. Drought warning stage responses are generally responses that are required when the onset of a significant drought event is imminent. Voluntary water conservation activities shall be identified with the goal of reducing water use by 5-10%.

c. Drought emergency stage responses are generally responses that are required during the height of a significant drought event. Mandatory water conservation activities shall be identified with the goal of reducing water use by 10-15%.

3. Drought response and contingency plans shall include references to local ordinances, if adopted, and procedures for the implementation and enforcement of drought response and contingency plans.

### **9 VAC 25-780-130. Statement of need and alternatives.**

A. A water plan shall determine the adequacy of existing water sources to meet current and projected demand by preparing a clear statement of need that is derived from an evaluation of the information required by 9 VAC 25-780-70 through 9 VAC 25-780-110. The statement of need shall contain, at a minimum, a determination of whether the existing source(s) is adequate to meet current and projected demands.

B. If the determination is that the existing source is inadequate to meet projected demands during the planning period, the program shall include an alternative analysis of potential sources that includes the following information:

1. A description of potential water savings from water demand management actions including an estimated volume for each action;

2. A description of potential sources for new supplies including an estimated volume from each source; and

3. A description of potential resource issues or impacts, identified in accordance with 9 VAC 25-780-140 G, known for each potential new source that any future water project will need to consider in its development.

C. Potential alternatives considered shall include water demand management alternatives as well as more traditional means of increasing supply, i.e., wells, reservoirs, impoundments and stream intakes. Where appropriate, the program shall consider nontraditional means of increasing supplies such as interconnection, desalination, recycling and reuse. The analysis of potential alternatives may include a

combination of short-term and long-term alternatives. The result of this analysis shall be provided as part of the submission required by 9 VAC 25-780-50 C 7.

**9 VAC 25-780-140. Review of local programs.**

A. The board shall review all programs to determine compliance with this regulation and consistency with the State Water Resources Plan. The board will review adopted elements of a local program according to review policies adopted by the board. Copies of the adopted local program documents and subsequent changes thereto shall be provided to the board.

B. To assist in the review of the program, the board shall provide the Department of Health and other agencies listed in 9 VAC 25-780-150 B along with any other agency the board deems appropriate, 90 days to evaluate the program. Comments must be received from the Department of Health or other agency by the deadline stipulated in the written notification from the board.

C. The board will assess the compliance of submitted programs with these regulations. The board shall prepare a tentative statement of findings on whether the program has demonstrated compliance with the following:

1. All elements of a local program identified in 9 VAC 25-780-50 have been submitted;
2. The program was developed through a planning process consistent with this chapter;
3. The results of any evaluation conducted pursuant to subsection G of this section have been appropriately accommodated;
4. The existing sources information complies with 9 VAC 25-780-70;
5. The existing water use information complies with 9 VAC 25-780-80;
6. The existing resources information complies with 9 VAC 25-780-90;
7. The projected water demand is based on an accepted methodology and complies with 9 VAC 25-780-100;
8. The water demand management information complies with 9 VAC 25-780-110;
9. The drought response and contingency plan complies with 9 VAC 25-780-120;
10. The statement of need complies with 9 VAC 25-78-130 A;
11. When required, the alternatives comply with 9 VAC 25-780-130;
12. The local program is consistent with 9 VAC 25-390-20, § 62.1-11 of the Code of Virginia and Chapter 3.2 (§ 62.1-44.36 et seq.) of Title 62.1 of the Code of Virginia.

D. If the board's tentative decision is to find the local program in compliance with subsection C of this section, the board

shall provide public notice of its findings pursuant to 9 VAC 25-780-150.

E. If the tentative decision of the board is to find the local program in noncompliance with subsection C of this section, the board shall identify (i) the reason for the finding of noncompliance, (ii) what is required for compliance, and (iii) the right to an informational proceeding under Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of the Virginia Administrative Process Act.

F. The board shall make a final decision on whether the local program is in compliance with this chapter after completing review of the submitted program, any agency comments received, and any public comment received from a public meeting held pursuant to 9 VAC 25-780-160.

G. In conjunction with the compliance determination made by the board, the state will develop additional information and conduct additional evaluation of local or regional alternatives in order to facilitate continuous planning. This additional information shall be included in the State Water Resources Plan and used by localities in their program planning. This information shall include:

1. A cumulative demand analysis, based upon information contained in the State Water Resources Plan and other sources;
2. The evaluation of alternatives prepared pursuant to 9 VAC 25-780-130 B and C;
3. The evaluation of potential use conflicts among projected water demand and estimates of requirements for in-stream flow; and
4. An evaluation of the relationship between the local plan and the State Water Resources Plan.

H. The board may facilitate information sharing and discussion among localities when potential conflicts arise with regard to demands upon a source.

I. A local program's information shall be included in the State Water Resource Plan when determined to be in compliance by the board.

**9 VAC 25-780-150. Public notice and public comment period.**

A. The board shall give public notice on the department website for every tentative and final decision to determine local program compliance.

B. The board shall give public notice to the Department of Health, the Department of Conservation and Recreation, the Marine Resources Commission, the Department of Historic Resources, and the Department of Game and Inland Fisheries for every tentative and final decision on program compliance. The agencies shall have 90 days to submit written comment. At the request of the applicant, the board will convene a technical evaluation committee meeting to facilitate receipt of these comments.

C. The board shall provide a comment period of at least 30 days following the date of the public notice for interested persons to submit written comments on the tentative or final

decision. All written comments submitted during the comment period shall be retained by the board and considered during its final decision.

D. Commenters may request a public meeting when submitting comments. In order for the board to grant a public meeting, there must be a substantial public interest and a factual basis upon which the commenter believes that the proposed program might be contrary to the purposes stated in 9 VAC 25-780-20.

E. The contents of the public notice of a proposed program compliance determination shall include:

1. Name(s) and address(es) of the locality(ies) that submitted the local or regional water plan;
2. Brief synopsis of the proposed plan including any identified future alternatives;
3. The name(s) of the principal water supply sources;
4. A statement of the tentative determination to certify or deny consistency with the regulation;
5. A brief description of the final determination procedure;
6. The address, e-mail address and phone number of a specific person at the state office from whom further information may be obtained; and
7. A brief description on how to submit comments and request a public meeting.

#### **9 VAC 25-780-160. Public meetings.**

A. Public notice of any public meeting held pursuant to 9 VAC 25-780-150 shall be circulated as follows:

1. Notice shall be published on the department website;
2. Notice shall be published once in a newspaper of general circulation in the county, city, or town where the local or regional water plan is in effect; and
3. Notice of the public meeting shall be sent to all persons and government agencies that requested a public meeting or have commented in response to the public notice.

B. Notice shall be effected pursuant to subdivisions A 1 through 3 of this section at least 30 days in advance of the public meeting.

C. The content of the public notice of any public meeting held pursuant to this section shall include at least the following:

1. Name and address of the localities who prepared the program;
2. The planning area covered by the program;
3. A brief reference to the public notice issued for the comment period including the date of issuance unless the public notice includes the public meeting notice;
4. Information regarding the time and location for the public meeting;
5. The purpose of the public meeting;

6. A concise statement of the relevant water resources planning, water quality, or fish and wildlife resource issues raised by the persons requesting the public meeting;

7. Contact person and the address, e-mail address and phone number of the department office at which the interested persons may obtain further information or request a copy of the draft statement of findings prepared pursuant to 9 VAC 25 780-140 D; and

8. A brief reference to the rules and procedures to be followed at the public meeting.

#### **9 VAC 25-780-170. Appeals.**

All appeals taken from actions of the board or the director relative to the provisions of this chapter shall be governed by the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

#### **9 VAC 25-780-180. Enforcement.**

Enforcement of this chapter will be in accordance with §§ 62.1-44.15, 62.1-44.23, and 62.1-44.32 of the Code of Virginia.

#### **9 VAC 25-780-190. Delegation of authority.**

The executive director, or his designee, may perform any action of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.