

**THE DEPARTMENT OF
ENVIRONMENTAL QUALITY**

***REPORT OF THE
WATER POLICY TECHNICAL
ADVISORY COMMITTEE***

TO THE GENERAL ASSEMBLY OF VIRGINIA

**COMMONWEALTH OF VIRGINIA
RICHMOND
DECEMBER 1, 2003**

Table of Contents

Executive Summary.....4

Introduction.....6

 Authority and Scope of Work.....6

 Methodology.....6

 Summary and Results.....8

 Consensus on Criteria.....8

 Preliminary State Water Resources Plan.....9

 Consensus on Continuing to Work Together.....11

WP-TAC Process.....12

 Large Group Work.....12

 Small Group Work.....13

 Drafting Process.....16

 Future Process.....16

 Phase Two.....18

 Process.....19

 Issues.....19

Appendix A: Text of SB 1221 (2003 Session).....24

Appendix B: List of WP-TAC Participants.....27

Appendix C: Guidelines for Discussion.....32

Appendix D: Guidelines Regarding Consensus.....34

*Report of the Water Policy Technical Advisory Committee
December 1, 2003*

Appendix E: List of Issues and Small Group Participants.....36

Appendix F: Draft Local and Regional Water Supply Planning Criteria.....41

Appendix G: Overarching Issues.....44

Appendix H: Partial Tentative Outline of Issues for State Plan.....46

Appendix I: Stakeholder Comments on This Report.....49

Executive Summary

Pursuant to Senate Bill 1221 (2003), the Department of Environmental Quality (“DEQ”) created the Water Policy Technical Advisory Committee (WP-TAC) to assist DEQ, the Virginia Department of Health (“VDH”), and the State Water Commission in addressing water planning issues. The WP-TAC was deliberately made up of widely divergent interests, with the intention of creating the most broad-based consensus possible on these issues. Meetings of the WP-TAC have been conducted with the assistance of outside facilitators.

Criteria for Local/Regional Planning

While it was thought at the outset of the process that the result of the WP-TAC’s work would be draft regulations to propose to the State Water Control Board, after a great deal of discussion it was apparent that the group was not ready to commit to draft regulations. This was in part due to a sense that there was not enough time to review and discuss them in adequate depth before the deadline for submission of criteria. The group feels that a number of key issues must still be discussed, including the fundamental issue of how the state plan itself will work. There are important policy and guidance “overarching” issues (see Appendix G) that need to be decided in order for the regulations to have context so that the regulations can be discussed in a meaningful fashion. Instead, the WP-TAC did reach consensus on general Criteria for the Development of Local/Regional Plans, with the understanding that there were still many open issues to be discussed in future meetings.

Preliminary State Water Resources Plan

The second component of Senate Bill 1221 was that DEQ was to begin work on a preliminary water resources plan. Unlike the comprehensive plan envisioned for completion in 2004, this year's task was to create a compilation of existing plans as a baseline and a means of determining where gaps currently exist in planning. The gaps, or deficiencies, identified in this process will allow DEQ to note policy issues that will need to be addressed as a more comprehensive planning process is designed and implemented. The WP-TAC also identified issues and began discussion of the state's role in water planning.

Future Steps

The WP-TAC remains committed to continuing work next year in this stakeholder-guided process in an effort to ensure that the needs of the citizens for water are served while the resources of the Commonwealth are protected.

The WP-TAC is committed to continuing its work to: begin development of a state plan, discuss major policy issues left unresolved during the previous phase of work, and continue work on the final draft regulations once the state plan framework has been clarified.

I. Introduction

A. Authority and Scope of Work

The Department of Environmental Quality (“DEQ”) created a stakeholder committee in 2002 to assist DEQ and the State Water Commission by looking at water planning issues. The committee met four times and the consensus reached was incorporated into Senate Bill 1221. That bill formalized the Water Policy Technical Advisory Committee (“WP-TAC”) and asked that DEQ and the Virginia Department of Health (VDH) work with the WP-TAC “on the development of the plan, criteria, guidelines and regulations” required by the bill. The complete text of the bill is included here as Appendix A.

In order to be as representative of the affected interests as possible, the original WP-TAC was expanded and additional members added. A list of the participants in the WP-TAC as constituted for its first meeting in April, 2003 is included as Appendix B.

B. Methodology

In an attempt to maximize the potential for this diverse group of stake-holders represented on the WP-TAC to have meaningful dialogue on these complex issues, DEQ hired professional facilitators through an RFP process to assist. At the first two meetings, the facilitators introduced certain key ideas to the group and discussed them. Guidelines for the conduct of the meetings themselves and information

regarding consensus are attached as Appendices C and D. At the first meeting, a statement regarding the mission of the WP-TAC, which had been set out in a report by DEQ Director Robert Burnley to the Governor and the General Assembly, was shared with the TAC. The mission was described as follows: *“To identify the roles and responsibilities of state and local governments to assure groundwater and surface water resources are used in a sustainable way that protects the environmental resources and meets citizen water needs (agricultural, business and residential) now and in the future.”*

During each of the full-group meetings, the facilitators led the discussion. In addition to managing the meeting itself, the facilitator was also responsible for maintaining the “common memory” of the group. The visual memory of the flip chart notes created during the course of the meetings was one tool, in addition to more traditional minutes to supplement the flip chart notes. The minutes of each meeting were posted on the DEQ website.

Given the size of the WP-TAC, it was apparent that significant work would need to be done in smaller groups. These groups were created based on interest expressed by members of the WP-TAC, as well as on DEQ staff’s and the facilitators’ assessment of the necessary composition of each group to ensure adequate representation of diverse interests. Each group was responsible for a set of issues, ranging from those which were seen as largely “water supply” issues to those which were more broadly “water resource” issues. The lists of the issues which were presented to the groups, as well as the composition of the groups themselves, are included as Appendix E.

Given the diverse interests intentionally represented in the make-up of the WP-TAC, it is not surprising that the depth of the divisions among interest groups on certain issues was significant. Everyone participated fully, and all have agreed to participate in what has come to be called “Phase Two.” While the process has been difficult, there has been open dialogue and the prospects for continuing and moving to a successful conclusion keep people at the table.

C. Summary of Results

1. Consensus on Criteria

After a great deal of discussion on draft regulations that were compiled by DEQ based on input from the small groups, it was apparent that the entire group was not ready to commit to the regulations as proposed. This was in part due to a sense that there was not enough time to review and discuss them in adequate depth before the deadline for submission of criteria, and in part due to the strong feeling of the group that a number of key issues had not yet been discussed at all. These “overarching issues” (see Appendix G) were things that were not necessarily appropriate to put into the regulations themselves, but were important policy and guidance issues which needed to be decided in order for the regulations to be in context. Without decisions on those issues, it was not possible for the group to move forward on the regulations.

DEQ staff was aware that the key issues in dispute related to many of the details in the regulations and that a number of general concepts were not in dispute. As a result, the Criteria for the Development of Local/Regional Plans

was proposed and presented at the final scheduled meeting of the WP-TAC on November 4.

At that meeting, the Criteria were revised slightly and then adopted by consensus. It was the understanding of the group that the Criteria were intended as the starting point for future discussions and that the issues which remained might make changes in the final criteria necessary. A copy of the Criteria, as revised by the group at its meeting on November 4, is attached as Appendix F.

2. *Preliminary State Water Resources Plan*

In addition to the Criteria for the development of local and regional plans, referred to above, Senate Bill 1221 directed the development of a preliminary state water resources plan. It was apparent that the task of the WP-TAC was too great to be accomplished in the timeframe established and that it would not be a productive use of time to ask the WP-TAC to be heavily involved, as a group, in the organizing of the preliminary plan.

Unlike the Comprehensive Water Resources Plan which will be developed in Phase Two of this process, the preliminary plan is simply a compilation of existing local and regional plans and an attempt to note areas of deficiencies. The compilation of existing plans will make some gaps evident, allowing DEQ to note key policy questions raised. During Phase Two of this process, those items will be added to the list of issues to be addressed by the WP-TAC, to the extent that they have not already been identified by the group or by DEQ itself.

i. Proposed Framework. DEQ provided several outlines of a proposed framework for a state plan to the WP-TAC. While the WP-TAC provided some initial feedback on the proposed framework, the preliminary plan is a partial listing of issues and remains a work in progress. It is hoped that with additional work, the Comprehensive State Water Resources Plan can provide a “living” policy umbrella for balancing and prioritizing water supply projects and water resource protection. The work on the plan to date has focused on addressing what needs to be included in this plan such as an identification of state and local roles, a repository of information needed for local and regional planning, an annual work plan for development of this information, and an acknowledgment of proposed water supply project alternatives that have met the water supply planning criteria. A copy of the partial listing of issues, as revised by the group at its meeting on November 4, is attached as Appendix H.

ii. Data Received. DEQ attempted to acquire information on the status of local and regional water supply planning through a variety of sources including the Virginia Chapter of the American Planning Association, the Virginia Association of Planning District Commissions, the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Chapter of the American Water Works Association (VA AWWA). It became apparent very early in the process that water supply planning was highly variable among local and regional entities and in some cases the “plan” represented many volumes of information and in others the “plan” constituted several pages of a local

comprehensive plan. DEQ staff ultimately decided to partner with the VA AWWA to survey 142 community water systems on some basic water supply planning issues. The survey was conducted during August and September. DEQ was provided with 66 responses, including responses from the Commonwealth's largest water providers. The surveys provided some useful information; however, work will need to continue with the VA AWWA to clarify some of the information so that the surveys can be useful in providing a snapshot of the status of local and regional water supply planning in the Commonwealth. The VA AWWA has indicated a willingness to continue working with DEQ to help make certain the survey results can be effectively used.

3. *Consensus on Continuing to Work Together*

As set out more fully in Section II.D., below, the WP-TAC has agreed that it will continue its work for approximately another year. This will allow time for working toward consensus on some of the major policy issues facing the state as it balances the beneficial in-stream and off-stream uses of water. The WP-TAC recognizes that responsible and sustainable provision of water for use by humans automatically includes protection of the environment. All interest groups represented also recognize that water must be provided to meet the needs of the human users. There is not yet agreement, however, as to how to balance all of the needs and desires of the interests represented. The WP-TAC is committed to additional small and large group work, and to try to accomplish its tasks as expeditiously as possible.

II. WP-TAC Process

A. Large Group Work

As stated above, the WP-TAC discussed at some length what it would mean to reach “consensus” in this process. The minutes of the first meeting, April 28, 2003, reflect that discussion and its conclusion:

The TAC also engaged in a discussion of the meaning “consensus” for the purpose of its work. The goal is to arrive at consensus products to meet the charge of the TAC. DEQ is committed to carrying a consensus work product forward if consensus can be reached. However, it is also clear that DEQ is charged with providing a draft regulation to the General Assembly even if consensus is not reached. It was clearly stated that presenting products derived through consensus was very much worth the effort it would take to do so.

Consensus was defined as a willingness of each member of the TAC to be able to say that he or she can live with the decisions reached and that he or she will not work against those decisions at higher levels of authority. Discussion was also had on the point that if all members of the TAC could not live with a particular decision then there would be no consensus on that point.

In order to reach consensus, it is important that all parties participate in good faith. Concerns were raised about previous efforts to carry the consensus product reached last year forward into the legislative process. The concept is to carry the spirit of consensus forward to in the face of not only potential opposition to the product of the TAC but also efforts to amend the consensus product. Good faith participation also includes transparency in the process. If a member feels that a particular point is a “deal breaker”, it is incumbent that the TAC be so informed. The TAC understood that if an issue is not raised within the TAC, it cannot be addressed and efforts made to meet the interest to achieve consensus.

The role of each TAC member as a representative of a specific group or interest was raised. Assistance was offered to insure that each TAC member kept his or her group well informed and further that the group’s collective voice could be heard clearly by the

TAC. In order to reach a consensus work product, each representative must be able to accurately reflect his or her group's final view of that product. Concerns were raised about the ability of some members to obtain consensus within the groups that they represent particularly for those who represent regional bodies or groups of local governments. The commitment is for members of the TAC to agree to do all they can to bring their groups along with the consensus and to be transparent about those constituent voices that are not a part of the consensus.

After much discussion, the following commitment to the TAC was *assented* to by the TAC members: "We can agree that if we say we will live with it, we will work toward its adoption and not undermine it." The TAC also discussed the importance of having clarity about which issues the group had agreed upon. The sense of the group was that consensus will be clearly stated and agreement expressly obtained before commitment to a consensus is deemed to have been reached.

The limits of the TAC's authority were also fully discussed. The members of the TAC recognize that it is an advisory body and does not have final decision making authority. The State Water Control Board, the Administration and the General Assembly all have a great deal to say about the ultimate plan and regulation. In addition, any regulation that is drafted must pass through the Administrative Procedure Act processes. At the same time, the members recognized the power that the results obtained by presenting consensus-based products to the General Assembly reached by the diverse interests on the TAC would have in its consideration at higher levels of authority.

On the basis of these discussions at its first meeting, the WP-TAC began its work. The charge, to reach agreement on these thorny and difficult issues, was a difficult one, but one to which the group made a commitment.

B. Small Group Work

Certain critical issues had been identified during the preliminary meetings of the WP-TAC predecessor group in 2002. These issues were put into categories

and divided into three groups, which were identified as “Water Resource Issues” (Group 1), “Water Use Issues” (Group 2), and “Governance Issues” (Group 3). As stated above, the WP-TAC was divided into three groups to work with these issues. People were asked their preference as to group, and DEQ staff and the facilitators then made small adjustments to ensure an appropriate distribution of interests across the three groups. The lists of issues and participants are included in Appendix E.

The groups were each led by a facilitator, and at least one DEQ staff person also attended each small group meeting. The goal of this part of the process was to have each small group make recommendations on the issues before it for the larger group to consider. It was understood that even if a small group reached consensus on a particular issue, the consensus would be limited to that small group and the rest of the WP-TAC would in no way be bound by the decisions or recommendations of one or more of the small groups.

Not surprisingly, the Water Resources Group (Group 1), had the greatest difficulty in reaching consensus on the issues before it, since it was charged with the responsibility for developing principles to guide water planning. Although there was a great deal of enthusiastic debate and discussion, members of the group continued to have fundamentally different opinions as to the key issues. The group did not even have consensus on whether the statements of principles currently in the law were appropriate. The discussion of the group was captured and shared with the WP-TAC as a whole.

The Water Use Group (Group 2) modified an outline of a water supply plan originally produced by the Rappahannock River Basin Commission which incorporated what the group considered the necessary elements of a good plan. The group did reach consensus on its recommendations to the WP-TAC.

The Governance Group (Group 3) did make a number of recommendations by consensus, as well, although their recommendations were necessarily somewhat less detailed than Group 2's, simply given the nature of the issues they were addressing.

Following the conclusion of the work of the three groups, which were limited in their ability to complete the work to their satisfaction because of the time constraints under which the process was operating, three new groups were constituted. The new groups (Group 4, Group 5, and Group 6) were made up of members of each of the first three groups, evenly divided. The work done by Groups 1, 2, and 3 was discussed by the three new groups and general agreement as to a number of issues was noted.

The discussion and the recommendations of the three groups are not included in this report because they did not result in consensus on the part of the WP-TAC as a whole and they are still considered open issues to be addressed by the WP-TAC in the next phase of this work. In addition to the issues listed in Appendix E, there were other issues considered by the WP-TAC that the group wanted to be able to address in more depth at the next phase of its work. A list of some of these "Overarching Issues" is included as Appendix G.

The process in which the WP-TAC is engaged is very intricate – it is akin to building a bridge or other structure in which each piece is able to maintain itself only in relation to each other piece. In the absence of several critical policy decisions, members of the WP-TAC are reluctant to accept any proposed language or regulation. As with any puzzle, however, once certain key pieces are resolved, it will become obvious where others – which now may appear impossible to place – will fit.

C. Drafting Process

Based on the discussions in both the small and large groups, DEQ staff drafted a document intended to serve as a vehicle for further discussion. By definition, such a document is subject to significant modification as the review process continues. As of this point in the process, the entire document has been reviewed once. There is consensus among the TAC that further review must be suspended until issues broadly characterized as state plan issues are resolved. Upon resolution of those issues, work can resume on the draft document with the goal of producing a draft regulation which will then proceed through the required administrative process for review.

D. Future Process

As stated above, the group decided that it wanted to continue to assist DEQ and the Commission with its work on the development of the planning process for a comprehensive water resources plan. As a part of its discussions

about continuing to work together, Deputy Secretary of Natural Resources David Paylor spoke to the group regarding the state's commitments to: an on-going stakeholder process to develop a comprehensive water resources plan to meet the Commonwealth's responsibilities to provide adequate water supplies while protecting both in-stream and off-stream uses of water; an annual work plan with clear priorities set for establishing the information base necessary to achieve this end; a transparent process of development; and, an annual input process with a product outlining the state of the resources every year.

The group reiterated its commitment to continuing to work in partnership with the Commonwealth to begin the development of a state plan, the discussion of major policy issues the WP-TAC was not able to resolve during the previous phase of its work, and the final draft of regulations to be proposed to the Commission.¹

¹ As is evident in the minutes of the WP-TAC's first meeting on April 28th, 2003, the group is well aware that its work is the first step in a very complex process of drafting the regulations:

The limits of the TAC's authority were also fully discussed. The members of the TAC recognize that it is an advisory body and does not have final decision making authority. The State Water Control Board, the Administration and the General Assembly all have a great deal to say about the ultimate plan and regulation. In addition, any regulation that is drafted must pass through the Administrative Procedure Act processes. At the same time, the members recognized the power that the results obtained by presenting consensus-based products to the General Assembly reached by the diverse interests on the TAC would have in its consideration at higher levels of authority.

1. Phase Two

For a variety of reasons, the second phase of this work will begin in a slightly different way than the first phase. In the Spring of 2003, calls were made to virtually every member of the WP-TAC, by the facilitators, to prepare the ground for the large group meetings. This time, the needs of the group are a little different. During the final stages of meetings in 2003, it became apparent that the groups needed to have opportunities to get together with like-minded people and share their joint perspectives. A facilitator met with each of these interest groups to discuss with them their desires for the rest of the process, their willingness to proceed with Phase Two, and their particular concerns with the draft regulations that had been discussed.

It was during these interest group meetings that a great deal of productive work was done and these meetings serve as the model for some of what will transpire during the next phase. The interest groups and any individuals who desire to do so will meet with one or more of the facilitators to discuss the key issues as they see them, to discuss the major concerns they have about what they may lose, and to find out what potential “deal breakers” exist and how to deal with them. These meetings allow the facilitators to help the interest groups move into the large group meetings more productively.

A second kind of meeting will also take place during Phase Two: meetings between individuals and groups who, far from being “like-minded,” have differing views on the issues. It is hoped that these meetings will accomplish two things: first, they will allow some narrowing of the issues on which there is

genuine disagreement and, second, they will allow an opportunity for people on each side of the issue to get a sense of the other's perspective. It is believed that it would be useful for the two groups to talk with each other in smaller numbers to allow the open exchange of these perspectives. From such exchange, understanding may grow.

2. Process

It is anticipated that the same rules governing the process (Appendices B and C) will hold in Phase Two as well. Large group meetings will follow the small group process, and are expected to begin at the conclusion of the General Assembly session (March, 2004). The preparatory work that will be done in the interim, however, will help to make those large group meetings as productive as possible. It is anticipated that there will be large group meetings between April and September, with continuing smaller group (interest group and cross-interest group) meetings in-between.

3. Issues

A great deal of thought and time has gone into the development of issues to be discussed. Some of these issues are captured in the list of "Overarching Issues" attached as Appendix G, others are reflected in preliminary drafts of regulatory language and still others in a partial tentative draft of what might be contained in a state plan (attached as Appendix H).

As stated in Robert Burnley's 2002 Water Resources Report to the Governor and the General Assembly, and to the WP-TAC at its first meeting, the issues to be addressed can be broadly stated as:

- 1. clarification of the roles and responsibilities of state government;*
- 2. clarification of the roles and responsibilities of local government;*
- 3. assurance that ground water and surface water are used in a sustainable way; and,*
- 4. assurance that environmental resources and citizen water needs (agricultural, business and residential) will be protected now and in the future.*

The TAC discussions raised a number of areas within these broadly stated issues that reflect very strong interests of the parties. As in any consensus-building process, the articulation of these interests provides the opportunity for collaborative problem solving.

All parties agree that it is most important for both the Commonwealth and localities to plan for the use of water resources. The Commonwealth has indicated a desire to do this planning for many years, but resource and policy issues have not allowed this to occur. Planning is necessary both to assure an adequate water supply for Virginia citizens and to protect the natural resources of the Commonwealth. The severe drought brought the need for planning to the forefront. While the recent rains are welcome, they have not diminished the need for planning.

The parties further agree that planning should be a locally-driven effort. The state clearly has a significant role in the planning process but, at its most fundamental level, planning must be done locally. Localities should be encouraged to join with other

localities to plan regionally. All parties agree that incentives should be created to encourage regional cooperation for a broad array of reasons, including economies of scale and the ability to view water resources more broadly. While there is not consensus on what entities should be able to submit plans, there is agreement that the local and regional focus is appropriate.

Planning is necessary and worthwhile, but it is expensive. Many of the larger localities already engage in extensive planning efforts, at great expense. Most smaller localities do not have institutionalized planning efforts and lack the resources to do so. All of the parties agree that planning should not become an “unfunded mandate” on local governments. Finding creative solutions to the funding issue in a time of tight budgets is essential to the success of this effort.

The parties also agree that existing property rights to water as set forth in current law should be preserved.

There is broad agreement that there is a lack of necessary data, particularly in regard to groundwater. It goes without saying that planning is difficult when the water resources cannot be accurately characterized. The WP-TAC is clear that efforts should be made to gather existing data in one place so that it is more accessible to planners and, in addition, to begin the difficult process of gathering data where none currently exists. It is understood, however, that long-delayed planning efforts should not be delayed further while data collection and processing systems are improved.

The “Water Supply Planning Criteria” attached as Appendix F represents consensus on the broad outlines of a local water supply plan. However, many issues within this outline are yet to be resolved. There is agreement among the parties that it is

necessary to suspend further work on the local plan regulation until funding issues are addressed and questions as to how these local plans will be used are answered.

A major area of future discussion is how the local plans will be utilized. One question is how the planning process relates to the permitting process. There is general agreement that the existing permitting process is cumbersome and expensive. Consequently, members of the WP-TAC are interested in exploring ways to streamline the permitting process, while preserving the statutory role of the agencies to raise issues within their respective expertise and function.

It is also recognized that the planning process, if appropriately executed, may also have an effect on the permitting process. Preparing a plan is not the same as applying for a permit; approving a plan is not the same as granting a permit. However, there may be an opportunity for a project to benefit in the permitting phase when it is consistent with a local plan that has already met certain planning criteria. Characterizing the appropriate relationship between planning and permitting will have a significant impact on the detail and extent of what should go into a local plan.

There will be localities for whom planning is a relatively truncated process, given the nature of their use of water and its availability. This, too, will affect the extent of required planning.

All of these issues require much more discussion than time has allowed to this point in the process.

These considerations begin to raise issues about the role of the state in the planning process. The parties understand that conflicts have arisen, and will continue to arise, regarding the use of water resources. Significant issues concerning the state's role

in resolving these conflicts remain for discussion. The definition of this role also affects the nature and extent of information that should be contained in a local plan.

Another issue that has arisen is whether the state has a role to play vis-à-vis the federal government and conflicts with other states once all required Virginia permits have been granted. Coordination and facilitation roles have been discussed; some parties desire a stronger role, while others have reservations about the state intervening at all.

The above summary of issues is not intended to be comprehensive or exhaustive, but rather merely illustrative. Future discussions will require extensive healthy debate among all of the stakeholders. The WP-TAC is committed to improving and broadening the planning function by seeking collaborative solutions that promote the Commonwealth's welfare.

Appendix A:
Text of SB 1221 (2003 Session)

CHAPTER 227

An Act to amend the Code of Virginia by adding a section numbered 62.1-44.38:1, relating to development of state, regional and local water supply plans.

[S 1221]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [62.1-44.38:1](#) as follows:

§ [62.1-44.38:1](#). *Comprehensive water supply planning process; state, regional and local water supply plans.*

A. 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 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.

B. Local or regional water supply plans shall be prepared and submitted to the Department of Environmental Quality in accordance with criteria and guidelines developed by the Board. Such criteria and guidelines shall take into account existing local and regional water supply planning efforts and requirements imposed under other state or federal laws.

2. That the State Water Control Board shall promulgate regulations necessary to carry out the provisions of this act, including criteria for the development of local and regional water supply plans. Such regulations shall not become effective prior to July 1, 2004. Draft criteria for the development of local and regional water supply plans shall be prepared and submitted to the Governor, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Agriculture, Chesapeake and Natural Resources, and the State Water Commission by December 1, 2003.

3. That the State Water Control Board shall prepare and submit to the Governor, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Agriculture, Chesapeake and Natural Resources, and the State Water Commission, by December 1, 2003, a preliminary state water resources plan in accordance with § [62.1-44.38](#), which includes information from existing local and regional water supply plans. The Department of Health and all other state agencies shall

assist in the preparation of the state water resources plan, and water supply systems shall provide available information, including existing water supply plans, as needed to develop the preliminary state plan.

4. That the Water Policy Technical Advisory Committee, established jointly by the State Water Commission and the Department of Environmental Quality in 2002, shall work with the Department of Environmental Quality and the Virginia Department of Health on the development of the plan, criteria, guidelines and regulations required by this act and shall advise these agencies on any further changes needed to the Commonwealth's water resources policies and programs.

5. That the provisions of this act shall have no effect, positive or negative, on 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 act shall have no effect, positive or negative, on 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 such applications shall remain subject to existing federal and state regulatory requirements.

Appendix B:
List of WP-TAC Participants

Conservation Interests

The Nature Conservancy

Ms. Judy Dunscomb
490 Westfield Road
Charlottesville, VA 22901
(434) 295-6106
Fax: (434) 979-0370
jdunscomb@tnc.org

James River Association

Ms. Patricia Jackson
P.O. Box 909
Mechanicsville, VA 23111
(804) 730-2898
pjackson@jamesriverassociation.org

Rev. Shelton Miles
P.O. Box 175
Long Island, VA 24569
(434) 283-1972
Fax: (434) 283-3229
riverblufffarm@lynchburg.net

Mr. Ed Imhoff
1450 Bremerton Lane
Keswick, VA 22947
(434) 923-0696
eaibmi@ecoisp.com

Piedmont Environmental Council

Mr. Chris Miller
45 Horner Street
Warrenton, VA 20186
(540) 347-2334
cmiller@pecva.org

Agriculture

Virginia Agribusiness Council

Mr. Samuel E. Hamilton
P.O. Box 718
Richmond, VA 23218
(804) 643-3555
Fax: (804) 643-3556
sam.agribusiness@att.net

Virginia Farm Bureau Federation

Mr. Wilmer N. Stoneman, III
P.O. Box 27552
Richmond, VA 23261
(804) 290-1024
Fax: (804) 290-1099
wston@vafb.com

Trade Organizations

VA Section AWWA

Mr. Terrell J. Reid
Wiley & Wilson
2310 Langhorne Road
Lynchburg, VA 24503
(434) 947-1901
treid@wileywilson.com

*Mr. Mike McEvoy (AWWA alternate)
Director of Utilities
Roanoke County
(540) 853-2831
mike_mcevoy@ci.roanoke.va.us*

VAMWA

Mr. Guy Aydlett
HRSD
1436 Air Rail Avenue
P.O. Box 5911
Virginia Beach, VA 23471
(757) 460-4220
gaydlett@hrsd.com

*Mr. Christopher D. Pomeroy (VAMWA
alternate)
Aqualaw P.C.
(804) 716-9021 ext. 2
chris@aqualaw.com*

VA Rural Water Association

Mr. Josh Rubinstein
2138 Sycamore Avenue
Buena Vista, VA 24416
(434) 964-1072
Josh@bzfoundation.org

VA Manufacturers Association

Mr. Thomas G. Botkins, Jr.
Environmental Manager
MeadWestvaco
104 E. Riverside Street
Covington, VA 24426-0950
(540) 969-5547
Fax: (540) 969-5554
tgbotki@meadwestvaco.com

*Mr. Tom Roberts (VMA alternate)
Smurfit-Stone Container Corp
P.O. Box 100
West Point, VA 23181-0100
(804) 843-5484
Fax: (804) 843-5757
tjroberts@smurfit.com*

Virginia Water Well Association

Mr. Robert Royall
Royall Pump and Well Co. Inc.
2958 Anderson Highway
Powhatan, VA 23139
(804) 598-8147
RobertWRoyall@aol.com

Home Builders Association of Virginia

Mr. Mike West
R.D. Wade Builder, Inc.
P.O. Box 7506
Charlottesville, VA 22906
(434) 973-7841
Fax: (434) 973-9672
westmc@msn.com

Power Generation

AEP

Mr. Mike Thacker
5428 Grandin Road Extension SW,
Roanoke, VA 24018
aepretired@aol.com

Dominion Virginia Power

Ms. Cathy Taylor
Director, Electric Environmental
Services
Dominion
5000 Dominion Boulevard
Glen Allen, VA 23060
(804) 273-2929
Cathy_Taylor@dom.com

Deputy Secretary of Natural Resources

Mr. David K. Paylor
(804) 786-0044
dpaylor@gov.state.va.us

VA DEQ

Mr. Robert G. Burnley
Director
DEQ
(804) 698-4020
Fax: (804) 698-4019
rgburnley@deq.state.va.us

VA Board of Health

Robert Taylor
Director
VDH Office of Drinking Water
(804) 786-5566
rtaylor@vdh.state.va.us

*Mr. Tom Gray (VDH alternate)
VDH Office of Drinking Water
(804) 786-1768*

Regional Interests

Planning District Commissions

Mr. Dan Kavanagh
Executive Director
Middle Peninsula PDC
Saluda Professional Ctr.
Bowden St. P.O. Box 286
Saluda, VA 23149
(804) 758-2311
mppdc@inna.net

*Mr. John M. Carlock (PDC alternate)
Deputy Executive Director,
Physical Planning
Hampton Roads PDC
723 Woodlake Drive
Chesapeake, VA 23320
(757) 420-8300
Fax (757) 523-4881
jcarlock@hrpdc.org*

**Rappahannock River Basin
Commission**

Eldon James
Coordinator
P.O. Box 863
Fredericksburg, VA 22404
(540) 775-5422
Fax: (540) 899-4808
ejames@crosslink.net

**Roanoke River Basin Advisory
Committee/Brunswick County**

Mr. Robert H. Conner
P. O. Box 52
Ebony, VA 23845
(434) 636-2025
Fax: (434) 636-2033
connercs@buggsnet.com

Local/Regional Managers

Tidewater

Mr. Brian Ramaley, P.E.
Director of Public Utilities
City of Newport News
P. O. Box 76
Newport News, VA 23607
(757) 926-1146
Fax: (757) 926-1170
bramaley@nngov.com

*Ms. Kristen Lentz, P.E. (Tidewater
alternate)
Director of Utilities
City of Norfolk*

400 Granby Street
Norfolk, VA 23510
(757) 664-6701
Fax: (757) 664-6707
kristen.lentz@norfolk.gov

Valley

Mr. Frank Sanders, Jr., P.E.
Director of Utilities
City of Winchester
15 N. Cameron Street
Winchester, VA 22601
(540) 667-1815, ex 407
Fax: (540) 662-3351
fsanders@winchester-utilities.com

Richmond Area

Mr. Arthur D. Petrini
Public Utilities Director
Henrico County
P.O. Box 27032
Richmond, VA 23273-7032
(804) 501-4280
Fax: (804) 501-7395
pet12@co.henrico.va.us

Southwest

Mr. Gerard Higgins, General Manager
Blacksburg, Christiansburg, VPI Water
Authority
3515 Peppers Ferry Road
Radford, VA 24141-5613
(540) 639-2575
h2o4u@usit.net

Northern

Mr. Charlie C. Crowder, Jr.
General Manager
Fairfax Country Water Authority
8570 Executive Park Avenue
P.O. Box 1500
Merriemfield, VA 22116-0815
(703) 289-6011
Fax: (703) 698-1759
Ccrowder@fcwa.org

VAPA Planner

Mr. Jesse J. Richardson, Jr.
Assistant Professor
Department of Urban Affairs and
Planning
Virginia Tech
Blacksburg, Virginia 24061-0113
(540) 231-7508
Fax: (540) 231-3367
jessej@vt.edu

*Mr. David Kovacs (VAPA alternate)
Director for Policy and Legislation
VA Chapter, American Planning
Association
(804) 644-0283*

Army Corps of Engineers

Mr. Jeffrey Irving
Chief, Civil Branch
Programs and Project Management
U.S. Army Corps of Engineers
Norfolk District
803 Front Street
Norfolk, VA 23510
(757) 441-7222
Fax: (757) 441-7036
Jeffrey.c.irving@usace.army.mil

U.S.G.S.

Mr. Ward Staubitz
US Geological Survey
1730 E. Parham Road
Richmond, VA 23228
(804) 261-2639
Fax: (804) 261-2659
Dc_va@usgs.gov

Academic

Dr. William E. Cox
Dept. of Civil & Environmental
Engineering
VPI-SU
Blacksburg, VA 24061
(540) 231-7152
Fax: (540) 231-7532
cox@vt.edu

Recreational Interests

Mr. Thomas A. Miller
Float Fisherman of Virginia
Chester, VA 23831
(804) 765-1788

Appendix C:
Guidelines for Discussion

Guidelines for Discussion

1. Listen with an open mind and heart – it allows deeper understanding and, therefore, progress.
2. Speak one at a time; interruptions and side conversations are distracting and disrespectful to the speaker. “Caucus” or private conversation between members of the audience and people at the table may take place during breaks or at lunch, not during the work of the Committee.
3. Be concise and try to speak only once on a particular issue, unless you have new or different information to share.
4. Simply note your agreement with what someone else has said if you feel that it is important to do so; it is not necessary to repeat it.
5. If you must miss a meeting, get up to speed before the next one – the group cannot afford the luxury of starting over.
6. Disagree respectfully and openly, not in private.
7. Focus on the issue, not the speaker – personalizing makes it impossible to listen effectively.
8. Present options for solutions at the same time you present the problems you see.
9. Stay positive; despairing of the group’s inability to reach agreement will almost certainly make it so.
10. Those at the table are stakeholders and are the only active participants. If an observer feels that a critical point is being overlooked, the observer may come to the “empty chair” and be recognized in turn.
11. Turn off all beepers and cell phones; take or make all calls outside the room.

Appendix D:
Guidelines Regarding Consensus

Guidelines Regarding Consensus

Consensus means different things to different people – ranging from unanimity to a “super-majority” to an agreement among a group of people that the dissenters will simply bite their tongues and, essentially, agree *not* to disagree. Entering into a consensus-based process, it is necessary that everyone on the TAC understand the goals of the process, the nature of the process itself, and the limitations, if any, on the results of the process.

For purposes of this process, consensus has been defined as a willingness of each member of the TAC to be able to say that he or she *can live with* the decisions reached and will not actively work against them at higher levels of authority within the Administration or the General Assembly. This is not to say that everyone will be completely satisfied by the results of the process; in fact, it is anticipated that no one group or individual will be completely satisfied. It is recognized, however, that this process is taking place within a political and practical environment which will require that each participant come prepared to negotiate in good faith around these complex and sensitive issues.

At the same time, it is clear that people at the table are there, in most cases, as representatives of organizations or groups that have a vested interest in the outcome. Part of the obligation of participation is to be sure that the organizations and groups whose representatives sit at the table are kept apprised of what is happening over the course of the negotiations. One of the most common causes of problems in a consensus-based process occurs *away* from the table, when participants who have become persuaded by another’s perspective during the process are unable to convince their own constituencies of the merits of the collaborative solution that’s been adopted (and to which the representative has agreed). Thus, in order for the process to be successful and the consensus reached at the table to have any value, the organizations and groups involved must agree to be similarly bound by the agreement not to lobby against the consensus-based result.

The process employed to help the group reach consensus is multi-faceted and will most likely include large and small group discussion, between-meeting calls and dialogue, a willingness to put aside representational issues for the sake of the greater good, and other fundamental components – both practical and philosophical – of a consensus-based facilitation. At no time will there be voting, which is antithetical to a consensus-based process, but people may be asked to demonstrate their strength of feeling for or against a particular idea, and may be asked to help the TAC set priorities during the course of the process.

Appendix E:
List of Issues and Small Group Participants

Group #1: Water Resource Issues

Members: Judy Dunscomb, Eldon James, Bob Burnley, Terry Reid, Patti Jackson, Ward Staubitz, Mike Thacker, Shelton Miles, Jesse Richardson, Jerry Higgins

1. Need for a set of principles to use in planning for and siting new water supplies
2. Need to evaluate alternative sources to meet needs with least impact
3. Need to address the concept of inter-basin transfers
4. Need to identify appropriate in-stream flows
5. Need to minimize any impact on the existing groundwater
6. Need to address identification, protection, conservation and development of future resources
7. Need to identify future threats to water resources and supplies
8. Need to protect water sources

Please use the following questions as a guide in considering each of these issues and developing recommendations for the full TAC to consider.

Is this issue important to the planning process?

What elements of this issue need to be considered in planning?

What are the benefits to the citizens of Virginia of including this issue in planning?

What are the risks to the citizens of Virginia of not including this issue in planning?

Is there a discrete, specific policy decision that needs to be made before this issue can be considered in planning?

Who will make that decision?

Group # 2: Water Use Issues

Members: Sam Hamilton, Art Petrini, Guy Aydlett, Mike West, Bob Taylor, Cathy Taylor, Brian Ramaley, Ed Imhoff, Jeffery Irving

9. Need to address gaps in our understanding of the nature of all water use in the state, not just drinking water
10. Need to address what methodology and what planning timeframe should be used for demand projections
11. Need to identify a means to provide for in-stream and off-stream uses
12. Need to ensure water efficient use of water resources and implementation of conservation measures, including demand management and water re-use for non-potable purposes
13. Need for water suppliers and users to plan for drought
14. Need to protect water use by existing water users

Please use the following questions as a guide in considering each of these issues and developing recommendations for the full TAC to consider.

Is this issue important to the planning process?

What elements of this issue need to be considered in planning?

What are the benefits to the citizens of Virginia of including this issue in planning?

What are the risks to the citizens of Virginia of not including this issue in planning?

Is there a discrete, specific policy decision that needs to be made before this issue can be considered in planning?

Who will make that decision?

Group #3: Governance Issues

Members: Josh Rubinstein, Robert Royall, Dave Paylor, Tom Botkins, Dan Kavanagh, Bill Cox, Charlie Crowder, Frank Sanders, Chris Miller, Wilmer Stoneman, Robert Conner

15. Need to address the concept of inter-basin transfers
16. Need to determine what tools will promote regionalization of supplies
17. Need to obtain data regarding the relative costs of differing water treatment approaches
18. Need to establish a mechanism to recognize implementation of these tasks
19. Need to understand and promote the multiple benefits of water development projects
20. Need to protect water use by existing water users
21. Need to improve our definition of safe yield
22. Need to define the appropriate planning (unit) area of analysis for this work

Please use the following questions as a guide in considering each of these issues and developing recommendations for the full TAC to consider.

Is this issue important to the planning process?

What elements of this issue need to be considered in planning?

What are the benefits to the citizens of Virginia of including this issue in planning?

What are the risks to the citizens of Virginia of not including this issue in planning?

Is there a discrete, specific policy decision that needs to be made before this issue can be considered in planning?

Who will make that decision?

Group #4

Members: Ward Staubitz, Frank Sanders, Judy Dunscomb, Mike West, Charlie Crowder,
Guy Aydlett, Josh Rubinstein, Jerry Higgins, Tom Gray, Bob Burnley,

Group #5

Members: Dave Kovacs, Brian Ramaley, Patti Jackson, Bill Cox, Eldon James, Jeffrey
Irving, Dan Kavanaugh, Wilmer Stoneman, Cathy Taylor

Group #6

Members: Art Petrini, Shelton Miles, Terry Ried, Dave Paylor, Tom Botkins, Mike
Thacker, Robert Royall, Bob Conner, Sam Hamilton

Appendix F:
Draft Local and Regional
Water Supply Planning Criteria

Draft Local and Regional Water Supply Planning Criteria

In establishing a comprehensive water supply planning process for the development of local and regional water supply plans, the planning process should (i) ensure that adequate and safe drinking water is available, (ii) encourage and protect all beneficial uses, and (iii) encourage, promote and develop incentives for alternative water sources, (iv) protect any existing surface or groundwater right. Water supply plans should include information regarding public and privately owned Public Water Supplies as well as individual water supplies.

Allowances in the level of detail required should be made depending on the complexity of the water use within the locality or region.

A water supply plan should include:

Current and historical information on existing water sources. This known information should describe the types and amounts of water available from groundwater, surface water and contractual sources, including water transferred from outside the planning unit.

Current and historical information documenting existing water use. Water use information should describe the scope of all water uses within each planning unit to the extent practicable and to the extent that information is available.

Projections of future water use. All future water use within the planning unit should be projected for a minimum of thirty years to a maximum of 50 years. Sources of information and methodologies used in projecting future water use shall be documented in water supply plans.

Existing and historical resource conditions. This summary should include existing background information on environmental and cultural features and resource conditions within the planning unit that may be relevant to the consideration of existing and future water sources. This information should be derived from existing, readily available information and additional studies should not be required.

Water conservation measures. All short-term and long-term water conservation measures implemented within the planning unit, including drought contingency measures, should be described in the water supply plan.

Alternatives to increase the water supply or reduce the water demand to meet future needs. An alternatives analysis that identifies proposed alternatives to

meet needs, including consideration of non-traditional means of increasing supplies such as interconnection, desalination, and non-potable reuse should be included in water supply plans. The evaluation of alternatives should include an analysis of impacts on beneficial uses. This alternative analysis should result in a listing of the most practicable, least environmentally damaging means of providing an adequate supply of water.

Mapping. Mapping of certain information outlined above should be included in water supply plans.

Appendix G:
Overarching Issues

Overarching Issues

By what criteria or guidelines should a plan be evaluated?

What is the role of VDH and other agencies in approving local plans? Agencies besides VDH?

Scalability questions among localities?

What are the benefits of an “approved” plan? Should they be outlined in the regulation?

What should happen if a locality refuses to prepare a plan?

Is conflict resolution part of the regulation? Is this where it should go?

Is triggering mechanism for plan preparation addressed in the draft in a manner the TAC supports (issue: when does one have to prepare a plan?)?

Does the projected water use address the planning horizon (issue: think broadly about how to do things in a 50-year window)?

Should plans be developed at all?

Who is going to pay for this planning?

How will source water protection be addressed?

What is the interrelationship between local plans and the state plan?

What should be the relationship between this planning and state and federal permitting?

How should we address Inter-Basin Transfer issues?

How should incentives be addressed? Can they be addressed in the regulation? If so How?

Should source water protection be included in the regulations? Under what circumstances?

Where are unpermitted (grandfathered) withdrawals addressed in the local or state plan?

How do we address protection of existing water rights?

Appendix H:
Partial Tentative Outline of
Issues for State Plan

Partial Tentative Outline of Issues for State Plan:

1. Vision
 - 1.1. Statement of Commonwealth's vision for use and protection of water resources
 - 1.2. Policy guidance which supports achievement of vision
 - 1.3. Statutory basis

2. Role of the State
 - 2.1. Ensure adequate water supply by establishing regulation guiding development of local/regional plans
 - 2.1.1. Promotion of the development of alternative sources (desalinization, waste water re-use)
 - 2.1.2. Promotion of regionalization
 - 2.2. Ensure adequate protection of all in-stream and off-stream beneficial uses
 - 2.3. Water quality and conservation matters
 - 2.3.1. Water Resource Management Program Descriptions (VWP, GWMA, SWMA)
 - 2.4. Approval of local plans
 - 2.5. Facilitate Process
 - 2.5.1. Facilitate access to data necessary for development of local and regional plans
 - 2.5.2. Coordinating among competing interests at local/regional/interstate level (including dispute resolution mechanisms and methodology for determining what plans support policy and vision described above)
 - 2.5.3. Coordinate agency review and input
 - 2.5.4. Recognize local plans that have met criteria as they move into implementation of planned projects to permitting
 - 2.6. Research and facilitation regarding the development of alternative sources such as desalination and reuse
 - 2.7. Acquire and compile information
 - 2.7.1. Base information
 - 2.7.1.1. Physiography
 - 2.7.1.2. River basins
 - 2.7.1.3. Water sources
 - 2.7.2. Known withdrawals/supplies
 - 2.7.2.1. Groundwater
 - 2.7.2.2. Surface water
 - 2.7.2.3. Precipitation
 - 2.7.2.4. Use type
 - 2.7.2.5. Connection between water quality and water resources and supplies
 - 2.7.2.6. Population /demand projections

- 2.7.3. Resource planning issues
 - 2.7.3.1. Stream flow information established
 - 2.7.3.2. Establish needs for beneficial uses
- 2.7.4. Incorporation of local and regional plans
 - 2.7.4.1. Future supply planning (who, where, how)
 - 2.7.4.2. Identify conflicts and establish conflict resolution for preferred sources
- 3. Expectations for local planning
 - 3.1.1. Locally projected needs/demand
 - 3.1.2. Locally planned preferred future withdrawals/supplies
 - 3.1.3. Local drought contingency plans
 - 3.1.4. Locally identified problem areas due to known conflicts among users

Appendix I:
Stakeholder Comments on this Report

Comments Provided by Utility Interests

As members of the WP-TAC who represent water providers, be it through our role in local government utility departments or through independent water authorities we would like to offer the following comments on the WP-TAC Report.

First, the utility group appreciates the extraordinary effort that DEQ staff has put into the TAC process over the last year. As the Report astutely points out at the end of Section B, the WP-TAC's task is very complicated and involves working with stakeholders who often have widely divergent points of view. Without the hard work of the DEQ staff and the facilitators, the level of difficulty would have been exponentially increased.

Our first comment on the Report is related to the difficulty of the task before the WP-TAC. Specifically, while we agree with the statement in Section 3 that "the WP-TAC has agreed that it will continue its work for approximately another year" we would make that broader and state that we are committed to working towards a workable state water planning framework for the next year and beyond. These are very complicated issues and it may take more than the next year to resolve the issues in a way that allows for the divergent stakeholders to agree on the solutions. As long as progress is being made, we will continue working towards the goal of an effective state water planning process.

Our final comment is general in nature, but it is at the very heart of the WP-TAC process. It is our strong feeling that the WP-TAC has lost sight of why this process began – to ensure that the citizens of the Commonwealth have a safe and adequate **supply** of water (emphasis added). The priority of human use/drinking water has been lost, and replaced with "balancing" all competing uses. This is not consistent with the state code which places a priority on safe and adequate drinking water, while **maximizing** that available for other uses. We would like to add this very fundamental issue as one of the "overarching issues" listed in Appendix G. There are, of course, water resources components of ensuring that there is a safe and adequate supply of water. Water supply planning cannot be done in a vacuum and resource issues, such as the maintenance of in-stream flows for fishery protection and recreational use must be considered and the effects of water supply planning on water quality must be evaluated. These are valid and necessary components of the water planning process. However, our concern is that the WP-TAC process has made the water supply planning process merely a part of a larger water resource planning process, rather than the reverse. This focus affects many aspects of the entire process, from the question of who prepares the plans at the local levels, when the plans must be prepared and how often they must be updated and how much "water resource inventory" study is being forced onto local governments even when not related to water supply needs. It is, of course, absolutely legitimate for a state to perform comprehensive water resource planning, but it is not legitimate to do so by placing the responsibility and burden of such an effort down to the local level in the form of state water planning.

Again, we do appreciate the hard work of the Department of Environmental Quality, and we understand the importance of trying to develop a state water planning

process. We do have concerns about what the final result will be, but we are committed to working to find reasonable compromises where possible.

Mr. Charlie C. Crowder, Jr., General Manager, Fairfax County Water Authority

Mr. Terrell J. Reid – VA Section AWWA

Mr. Arthur E. Petrini – Public Utilities Director, Henrico County

Mr. Brian Ramaley, P.E. – Director of Public Utilities, City of Newport News

Mr. Frank Sanders, Jr., P.E. – Director of Utilities, City of Winchester

Mr. Gerard Higgins, General Manager, Blacksburg, Christiansburg, VPI Water Authority

(This page left intentionally blank)