§ 15-1107. Plans; approval; changes, modifications and rescission.

1. Plans submitted pursuant to section 15-1105:

a. Shall in all cases be so drawn and of such scope as is best calculated to assure prompt or orderly development of the water resources for the beneficial use of the people of the region involved and of the state as a whole;

b. Shall show the available and feasible sites for the installation and operation of protective, conservation and regulatory works, and the benefits estimated to be derived from such installation and operation. The plan or plans shall be accompanied by such maps, profiles and other data and descriptions as will set forth and show the location and character of the works and of the property required to be taken for or to be damaged by such installation or operation or for the protection and maintenance of the works to be installed, together with an estimate of the cost thereof;

c. Shall estimate the minimum annual amount of water which would be available for all purposes if the plan or plans were to be put in operation;

d. Shall not, in the computations of water estimated to become available as a result of the execution of the plan or plans, include any amount of water, the use of which has theretofore been duly acquired or authorized pursuant to approval, license, permit or other official sanction;

e. Shall, whenever feasible and economically justified, provide for the storage of sufficient water for distribution and use for all the purposes and uses contemplated by this article;

f. Shall not include in any plan or plans, any proposal or project providing for any action or steps which would impair or diminish any right protected by section 15-1113;

g. Shall list possible sources of income, including the sale of water, from the operation of such works, and estimate the amount thereof; and

h. Shall recommend whether the plan or plans should be carried out as a single or multiple stage project, and shall also recommend an agency, existing or proposed, to undertake the project.

2. Upon receipt of a plan from the board, the department shall cause public notice to be given that on a day therein named it will hold a public hearing at such a place as is specified in the notice and within the region covered by the plan, for the purpose of hearing all persons, public corporations and agencies of the state which may be affected by the plan. Such notice shall be published pursuant to subdivision 1 of section 15-0903. In addition to such publication, the department shall give written notice of the public hearing, as required by subdivision 3 of section 15-1103, and may give written notice thereof to additional persons, public corporations or agencies of the state, as authorized by such subdivision. At any time prior to the day specified in such notice, specified objections in writing to the plan or parts thereof may be filed in the office of the department. The department shall, upon the day specified in the notice, or upon such subsequent day or days to which it may adjourn the hearing, proceed to take testimony and proof and to hear arguments submitted in support of and in opposition to the plan, but no objectors shall be heard unless they have filed written objections as authorized by this section. At the close of the hearing, the department may fix a date or dates for the filing of briefs.

3. The department within ninety days after the last date fixed for the filing of briefs and with all convenient speed shall render its decision. The department, upon the proofs and evidence submitted at the public hearing:

a. Shall determine whether the plan as proposed by the board conforms to and complies with the purposes of title 11 of this article and would serve the public interest and benefit, or whether it should be modified in any respect, detail or part to accomplish such purposes;

b. Shall determine whether the plan as proposed by the board interferes or conflicts with the plans of any other regional water resources planning board, and would be just and equitable to the interests of other areas of the state;

c. Shall approve such plan as submitted by the board or as modified by the department; or shall disapprove the plan; or shall remit the proposal to the board for further investigation, study, survey and planning; and

d. Shall recommend with public corporations, private corporations or agencies of the state, existing or proposed, would, in its opinion, be best qualified to carry out expeditiously and efficiently the project proposed by the plan, as approved by the department, and to construct, maintain and operate the works in connection therewith. If the department recommends that a new public corporation or state agency should be established for such purposes, it shall transmit a recommendation to the legislature and the Governor for the enactment of legislation to create and establish such body or agency, or to grant authority to existing public corporations or state agencies.

4. Upon the filing of the departments decision or, in the event such decision is reviewed in the manner provided by article seventy-eight of the Civil Practice Law and Rules, upon the final determination of such review proceeding, the plan as approved by the department or as approved or modified by the court in a review proceeding, shall be the general plan for the conservation, development and utilization of the water resources of the region, and such general plan shall be given consideration by the department in any future application before it and over which it has jurisdiction by virtue of this article or other provision of law. None of the works or projects, included in the general plan, nor any part or parts thereof shall be undertaken, constructed or put into operation until detailed and specific maps and plans therefor have been submitted to the department for approval upon the petition of an agency authorized to undertake or construct such works or projects or parts thereof. The department shall determine, after public hearing, if the detailed and specific plan before it for approval conforms to and is

consistent with the general plan, and whether it is in the public interest to undertake the construction and operation of the works or projects as proposed. The department shall have the power to approve or disapprove the detailed and specific maps and plans, or to so modify them as will, on the evidence presented, bring them into conformity with the general plan.

5. Any municipality or combination of municipalities may, except as provided in subdivision 7 of section 15-1103, file with the department a verified petition requesting the department to modify, change or rescind any general plan approved by it. The petition shall set forth the facts on which the petitioner or petitioners rely to show that it is necessary and would be in the public interest to change or modify such plan as requested in the petition, or to rescind such plan. Upon receipt of such a petition, the department shall give public notice of hearing, shall give written notice of hearing to parties and persons, shall hold a public hearing on such petition, and shall take testimony and proof, in the same manner as if the department were holding a public hearing on the original submission of the plan which such petition seeks to change, modify or rescind. The department, within ninety days after the last date fixed for the filing of briefs and with all convenient speed, shall render its decision changing, modifying or rescinding such plan, or denying the petition, as the public interest shall require.

6. The department may, on its own motion, initiate proceedings to change, modify or rescind any approved plan. The proceedings and procedure with respect to any such proposal, including notice, hearing and judicial review, shall be the same as in the case of a petition for change, modification or rescission of a plan.

7. Except as hereinafter in this subdivision provided, the provisions of sections 15-1109 and 15-1111 shall apply to the sharing and apportionment of costs and expenses incurred by the department under this section. In any case where an application under this section is filed with respect to any plan by any municipality or municipalities outside of the region specified in such plan, the share of the department costs and expenses which would otherwise be paid by the

county or counties of such region, shall be paid by such municipality or municipalities.