



Final Regulation Agency Background Document

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| Agency name | Virginia Department of Health |
| Virginia Administrative Code (VAC) citation | 12 VAC 5 -590-505 |
| Regulation title | Waterworks Regulations |
| Action title | Emergency management plan for extended power outages. |
| Date this document prepared | May 15, 2006 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The final regulation requires community waterworks to develop and maintain an emergency management plan (EMP) to provide pure water during extended power outages of no less than five days. The plan will address procedures for obtaining and distributing potable water; notification procedures to public officials, customers and the media; emergency disinfection procedures; and telephone numbers for state regulatory personnel, waterworks personnel, and energy suppliers to the waterworks.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On May 11, 2006, the State Health Commissioner, vested with the authority of the State Board of Health pursuant to Section 32.1-20 of the Code of Virginia, adopted final amendments to the *Waterworks*

Regulations § 12 VAC 5-590-505.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 32.1-12 of the *Code of Virginia* provides that the State Board of Health “may...promulgate...such regulations...as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by it, the Commissioner, or the Department.” Section 32.1-170 (9) of the *Code of Virginia* requires “...the development and maintenance of an emergency management plan for each community public water supply for the provision of pure water during any extended power outage.” This requirement was enacted by HB1198 of the 2004 General Assembly.

Purpose

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

The purpose of this amendment is to better prepare the community waterworks in Virginia to respond to an extended power outage. Although some community waterworks have emergency standby power, there is no requirement for community waterworks to develop and maintain an emergency management plan to verify they are prepared for an extended power outage.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

The final regulation requires owners of community waterworks to develop and maintain an emergency management plan in accordance with the revisions in § 32.1-170 (9) of the *Code of Virginia* (enacted through HB1198 of the 2004 General Assembly).

Issues

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

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

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

The primary advantage of the final regulatory action is to better protect public health by preparing the community waterworks owners in Virginia to respond to extended power outages, which will decrease the likelihood of issuing boil water advisories or other emergency declarations involving the state’s drinking water. The final regulatory action will also improve the Virginia Department of Health’s and the Commonwealth’s ability to monitor and manage extended power outage events, which in turn will allow for better allocation of resources. Additionally, the final regulation will facilitate better communication between community waterworks owners and public and government officials in times of emergency to help ensure safe drinking water.

The final regulatory action poses no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|----------------|-------------------------------|------------------|----------------------|
| | | | |

No changes have been made to this regulation since it was published in its proposed form.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

| Commenter | Comment | Agency response |
|---|--|---|
| Mike McEvoy, Executive Director of Wastewater Services for the Western Virginia Water Authority | Mr. McEvoy wanted to know what, if any, changes were made to the proposed regulations published on February 20, 2006 in comparison to the previous version of the regulations. | VDH responded by providing a highlighted copy of the proposed regulations showing the minor changes and revisions made. |

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
|------------------------|--|---------------------|-------------------------------|
| | | | |

N/A

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

No viable alternatives are available. This regulatory action provides for enhanced public health protections and economic stability during natural and manmade disasters.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action will have no anticipated or associated impacts on family rights to educate and supervise children, nor will it discourage economic self-sufficiency and family responsibilities and commitments or decrease disposable family income. On the contrary, the provision of safe drinking water to the home will increase economic self-sufficiency by making this resource readily available and will decrease the number of illnesses which lead to lost productivity and personal income.