

Office of Regulatory Management  
Economic Review Form

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12 VAC 5-590
<b>VAC Chapter title(s)</b>	Waterworks Regulations
<b>Action title</b>	Amend Guidance Document: Enforcement Manual (currently identified as WTR-2020-02(W), to be reidentified as ODW-2023-03)
<b>Date this document prepared</b>	10/4/2023
<b>Regulatory Stage (including Issuance of Guidance Documents)</b>	Amend existing guidance document: Enforcement Manual

**Cost Benefit Analysis**

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

**Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)**

<p>(1) Direct &amp; Indirect Costs &amp; Benefits (Monetized)</p>	<p>This action is to amend the Office of Drinking Water’s (ODW) Enforcement Manual. The Enforcement Manual provides ODW staff with a methodology for using enforcement tools to return waterworks to compliance, including pursuit of formal enforcement measures such as administrative orders and court actions when other efforts, including informal enforcement measures, as not successful in achieving compliance. The tools discussed in the Enforcement Manual are pursuant to statutory and regulatory authority as set forth in Title 32.1 of the Code of Virginia and the Waterworks Regulations (12VAC5-590). The proposed revisions to the Enforcement Manual are intended to provide greater direction to staff and to implement improvements in ODW’s enforcement program in response to an Office of the State Inspector General (OSIG) audit of ODW as contained in a 2021 report.</p> <p>Direct Costs: No direct costs are associated with this action.</p> <p>Indirect Costs: No indirect costs are associated with this action.</p> <p>Direct Benefits: No direct benefits are associated with this action.</p> <p>Indirect Benefits: No indirect benefits are associated with this action.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct &amp; Indirect Costs</p>	<p>Direct &amp; Indirect Benefits</p>
	<p>(a) \$0</p>	<p>(b) \$0</p>
<p>(3) Net Monetized Benefit</p>	<p>\$0</p>	
<p>(4) Other Costs &amp; Benefits (Non-Monetized)</p>	<p>Adoption of revisions to the Enforcement Manual will benefit ODW by providing further direction to ODW staff on how to carry out compliance and enforcement obligations with the goal of protecting public health in a manner that is logical, consistent, and timely.</p> <p>Adoption of revisions to the Enforcement Manual are expected to benefit the public by providing greater direction and specificity to the manner in which ODW carries out its compliance and enforcement obligations. This is expected to lead to enforcement actions being more uniform and timely, which should help better protect the public health.</p>	
<p>(5) Information Sources</p>	<p>Staff input</p>	

**Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: No direct costs are associated with this action.</p> <p>Indirect Costs: No indirect costs are associated with this action.</p> <p>Direct Benefits: No direct benefits are associated with this action.</p> <p>Indirect Benefits: No indirect benefits are associated with this action.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	<p>Failure to adopt the proposed revisions to the Enforcement Manual will mean that ODW will continue to operate under the current Enforcement Manual. This will result in ODW staff not having improved and expanded guidance, including not implementing improvements in the Enforcement Program pursuant to the recommendations of the OSIG audit.</p>	
(5) Information Sources	Staff input	

**Table 1c: Costs and Benefits under Alternative Approach(es)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: No direct costs are associated with this action.</p> <p>Indirect Costs: No indirect costs are associated with this action.</p> <p>Direct Benefits: No direct benefits are associated with this action.</p> <p>Indirect Benefits: No indirect benefits are associated with this action.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	

(4) Other Costs & Benefits (Non-Monetized)	<p>One alternative is a revision of the Enforcement Manual that is solely in response to the OSIG audit report. A more limited revision along those lines would be of some benefit and would strengthen the enforcement program overall. OSIG’s recommendations included, for instance, that ODW update the Enforcement Manual to provide a framework for appropriate enforcement timelines, institute a flowchart and process for escalating enforcement actions, and eliminate inconsistencies among and within field offices with respect to compliance and enforcement efforts.</p> <p>Only revising the Enforcement Manual in accordance with OSIG’s recommendations, however, would result in a loss of some of the increased specificity of the proposed revisions, such as a deeper discussion of the receivership process and revisions to certain attachments such as updated warning letters. The expanded discussion of the receivership process, which was not addressed by the OSIG audit report, goes through this specific statutory process in a level of depth that the current Enforcement Manual does not. This revision is a benefit because it provides clearer guidance to ODW staff about the receivership process, including factors to consider and parties with which to engage concerning receivership. This more complete guidance is the product of ODW having gone through several receivership actions since 2022, while receivership had not been used by ODW when the current Enforcement Manual was drafted.</p>
(5) Information Sources	OSIG Audit of Office of Drinking Water – June 24, 2021

**Impact on Local Partners**

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 2: Impact on Local Partners**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: No direct costs are associated with this action.</p> <p>Indirect Costs: No indirect costs are associated with this action.</p> <p>Direct Benefits: No direct benefits are associated with this action.</p> <p>Indirect Benefits: No indirect benefits.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	<p>The revisions are intended to promote greater uniformity in ODW’s approach to compliance and enforcement, including continued emphasis on addressing health-based violations as a first priority while also bringing other violations into compliance with the regulations in a consistent, timely, and appropriate manner.</p> <p>Local partners that are waterworks owners may be indirectly impacted by the proposed amendments to the Enforcement Manual in the event that they are the subject of enforcement for failure to comply with the Waterworks Regulations. As a group they should be treated similarly in the case of similar facts.</p>	
(4) Assistance	No assistance to local partners is required as a result of the amendment of the Enforcement Manual.	
(5) Information Sources	Staff input	

**Impacts on Families**

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 3: Impact on Families**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: No direct costs are associated with this action.</p> <p>Indirect Costs: No indirect costs are associated with this action.</p> <p>Direct Benefits: No direct benefits are associated with this action.</p> <p>Indirect Benefits: No indirect benefits are associated with this action.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	The proposed revisions to the Enforcement Manual may result in indirect benefits to families, as well as all other consumers of drinking water supplied by waterworks. Adopting guidance that seeks to achieve a more consistent and well-defined compliance and enforcement program is	

	intended to promote the public health through necessary enforcement measures for those waterworks that violate the Waterworks Regulations.
(4) Information Sources	Staff input

**Impacts on Small Businesses**

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 4: Impact on Small Businesses**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: No direct costs are associated with this action.</p> <p>Indirect Costs: No indirect costs are associated with this action.</p> <p>Direct Benefits: No direct benefits are associated with this action.</p> <p>Indirect Benefits: No indirect benefits are associated with this action.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	<p>A more robust Enforcement Manual is intended to lead to more predictable and consistent actions by ODW with respect to its enforcement program. Some waterworks owners are small businesses and some small businesses are served by waterworks. Greater predictability in process should lead to greater predictability in outcome in enforcement actions.</p>	
(4) Alternatives	<p>Alternatives to this action include retaining the Enforcement Manual as is. The current Enforcement Manual is less specific and expansive in nature than the proposed revised Enforcement Manual. Retaining the current Enforcement Manual will result in ODW staff looking to, and relying upon, a guidance document that is less specific and therefore more open to variation in application. This can lead to more disparate outcomes. Additionally, the proposed revisions to the Enforcement Manual reflect, in part, recommendations by OSIG in a 2021 report on ODW’s operations, including ODW’s enforcement program. Failure to adopt the proposed revisions to the Enforcement Manual means that ODW will not be responding to certain observations and recommendations made by the OSIG.</p>	
(5) Information Sources	Staff input and OSIG Audit of Office of Drinking Water – June 24, 2021	

**Changes to Number of Regulatory Requirements**

**Table 5: Regulatory Reduction**

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

*Change in Regulatory Requirements*

VAC Section(s) Involved	Initial Count	Additions	Subtractions	Net Change
12VAC5-590	0	0	0	0

*Cost Reductions or Increases (if applicable)*

VAC Section(s) Involved	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
12VAC5-590	The guidance document does not contain any regulatory requirements not already contained in the applicable regulations.	No change in cost of the enforcement program	No change in cost of the enforcement program	\$0

*Other Decreases or Increases in Regulatory Stringency (if applicable)*

VAC Section(s) Involved	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden

*Length of Guidance Documents (only applicable if guidance document is being revised)*

Title of Guidance Document	Original Length	New Length	Net Change in Length
Enforcement Manual	146 pages	201 pages	55 pages