



## Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 5-590-505
<b>Regulation title</b>	Waterworks Regulations
<b>Action title</b>	Amendments requiring development of emergency management plans for community waterworks during extended power outages.
<b>Document preparation date</b>	October 1, 2004

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

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*.

### Preamble

*The APA (Code of Virginia § 2.2-4011) states that an “emergency situation” is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.*

- 1) Please explain why this is an “emergency situation” as described above.*
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.*

---

1) House Bill 1198 (2004) requires that these emergency regulations be effective 280 days from the date of enactment (April 12, 2004).

2) Key provisions in the regulations are the development and maintenance of an emergency management plan by community waterworks 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.

**Legal basis**

*Other than the emergency authority described above, 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 number(s), 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.

**Purpose**

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

---

In preparation for another event such as was seen during the aftermath of Hurricane Isabel, this regulation will 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 detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons why the regulation is essential to protect the health, safety, or welfare of Virginians. Delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

---

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	12VAC 5-590-505	None.	This amendment will require owners of community waterworks to develop and maintain an emergency management plan in accordance with the revisions in § 32.1-170 of the <u>Code of Virginia</u> .

### Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.*

---

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

### Family impact

*Please assess the impact of the emergency regulatory action on the institution of the family and family stability.*

---

This emergency 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.