

Waterworks Advisory Committee Meeting Minutes

All-Virtual Meeting via WebEx

10:00 am, Wednesday, March 8, 2023

Members Present: David Van Gelder (Chair), Water Operator; Bailey Davis, DCLS; Skip Harper, Virginia Plumbing & Mechanical Inspectors Association; Steve Herzog, PE, VWEA; Mark Estes, VRWA; Geneva Hudgins, VA AWWA; Russ Navratil, VA AWWA; Chris Pomeroy, Virginia Municipal Drinking Water Association; Joey Hiner, VA SERCAP; Tom Fauber, VA ABPA; Chloe Van Zandt, Virginia Health Catalyst.

Members Absent: Whitney S. Katchmark, PE Principal Water Resources Engineer; Caleb Taylor, VA Municipal League; Jesse Royall, PE, Sydnor; Andrea Wortzel, Mission H2O; Ignatius Mutoti, VA Society of Professional Engineers; Scott Kudlas, DEQ

Stakeholders: Ben Barber, VA Health Catalyst; John Kingsbury, Fairfax Water; Mitchell Smiley, Tanya Pettus, DPOR; Taylor Valencia, Stantec; Scott Morris, DEQ

Office of Drinking Water (ODW) Staff: Dwayne Roadcap, Tony Singh, James Reynolds, Barry Matthews, Aaron Moses, Jeremy Hull, Kelly Ward, Dan Horne, Brian Blankenship, Christine Latino, Ray Weiland, Jack Hinshelwood, Grant Kronenberg, Robert Edelman, Jane Nunn

Meeting Overview

This was an all-virtual meeting of the Waterworks Advisory Committee (WAC), held by electronic communication means through WebEx. Stakeholders, ODW staff, and the public also joined by electronic communication means via WebEx. Dwayne Roadcap called the meeting to order at 10:03 a.m. and David Van Gelder reviewed the agenda and led the meeting.

It was established that there were enough members present to establish a quorum.

Review and Adopt Minutes of Meeting

The WAC membership unanimously adopted the meeting minutes from the December meeting. No additions or corrections were made to the draft meeting minutes as presented.

Bylaws and Electronic Meeting Policies

Grant Kronenberg stated that the bylaws and two electronic meeting policies, as approved at the December 2022 meeting of the WAC, were included in the meeting packet for this WAC meeting for the information of the members.

Compliance, Enforcement & Policy Update

Grant Kronenberg introduced Jane Nunn, who has been hired as the Policy and Program Coordinator for ODW. Grant Kronenberg gave a bit of background information about Jane Nunn.

Grant Kronenberg announced that the Division of Compliance and Enforcement will now be called the Division of Compliance, Enforcement and Policy.

Grant Kronenberg reported that there was another good quarterly Enforcement Targeting Tool report from EPA in January. There were only two water systems that qualified as a serious violator because they had an ETT score of 11 or higher. The two systems are already under consent orders. ODW was able to close one consent order in the last month because that waterworks had completed all tasks required under the order.

The next quarterly ETT report will come out in April.

Grant Kronenberg provided an update on several items that are currently open for public comment on Town Hall.

The Waterworks Regulations are undergoing the quadrennial periodic review process. The Notice of Periodic Review was posted on Town Hall in late January or early February and the public comment period is open until March 20. There are currently no public comments. At the end of the periodic review process, ODW will have to make a recommendation to repeal, amend or keep the regulations as is.

The Field Operations Manual is also on Town Hall and open for public comment. So far, no comments have been received. The new Field Operations Manual consolidates and voids over 30 working memos.

The Policy on Administration of the Equitable Access to Drinking Water Fund is also on Town Hall and open for public comment. The public comment period closes on March 29. So far, no comments have been received. Once the public comment period closes, ODW should be in position to put the policy into action to distribute \$1 million that is in the fund for Fiscal Year 2023 to assist and promote small waterworks to consolidate with larger systems.

PFAS

Tony Singh provided an update regarding PFAS.

Updates:

- ODW is currently waiting on the PFAS regulations. With the completion of the OMB review, ODW should be getting the MCLs soon.
- ODW expects a 60-day comment period.

- PFAS Phase II sampling – ODW is in the process of training staff for the Phase II samples.
- ODW is also finalizing the PFAS workgroup.
 - o The objective of the workgroup will be shared with the group at the next meeting.
- Funding:
 - o The Bipartisan Infrastructure Law included \$5 billion for emerging contaminants nationwide including making available \$2 billion for small and disadvantaged communities.
 - o ODW is waiting for the EPA to let us know how the funding will be awarded.
 - o ODW is working internally to establish grant management personnel.

Lead and Copper Rule (LCR)

Robert Edelman provided an update on the Lead and Copper Rule Revisions. EPA has not changed the requirements or the compliance deadline. EPA issued guidance in August last year and to date EPA has not issued additional guidance.

The ODW has published guidance on our website. ODW is working on sampling protocols to identify lead service lines, and other guidance documents. (For the list of ODW guidance documents, please see the slides).

Water systems should know that ODW is procuring services of a technical assistance provider to provide in person training sessions at 12 locations across Virginia to prepare water systems for the EPA compliance deadline. ODW is procuring technical assistance for the waterworks to help with understanding the service line inventory, lead service line replacement plan, consumer notification and school lead sampling programs. The contractor will develop and shoot a lead and copper tap sampling video which ODW plans to post to our website.

Water systems should focus on the lead service line inventory and prepare to submit their data. They will need to prepare a lead service replacement plan if lead service lines, galvanized requiring replacement or unknown service lines are present. Water systems will need to compile a list of school and childcare facilities served, update their LCR compliance tap sampling locations, and prepare for the enhanced consumer notifications. If financial assistance is needed, water systems should apply using the Lead Elimination Assistance Program (LEAP) application.

Centralized Plan Review Program –

Aaron Moses provided an update on the Centralized Plan Review implementation. Staff for the Centralized Plan Review Program include one partial full-time employee and one part-time employee. ODW is working to hire a supervisor and two project engineers. One should be starting March 27th. ODW's plan is to repost the supervisor and project engineer position. ODW will expand upon the coverage area to include all of Virginia.

The Centralized Plan review coverage includes Culpeper since April and now Lexington.

Questions –

Once the program is statewide what does ODW need to do? The information will initially go to the field offices then move to the Centralized program.

Is there an estimated plan or date? ODW expects to branch out in the next week or two.

Late/Erroneous Reporting Memorandum

Aaron Moses provided an update on the late/erroneous reporting memorandum to waterworks. ODW was not issuing notices of alleged violation for late lab results. The EPA has pushed ODW to ensure that labs are reporting on a timely basis. Since Bob Edelman discussed at the last meeting, ODW has worked to provide a memo to the waterworks to avoid violations. Along with that, ODW is preparing to issue reporting as required next month.

Questions:

- What is the follow up for step B – Aaron Moses is working on the next steps now.
- Do you have an enforcement response plan? On wastewater system you have a series of steps if it continues. ODW is still having discussions about that. The closest ODW has is the ETT report. ODW is determining if it will be entering the information into the database and if it will be a state or federal violation. If they are federal violations, that would trigger the ETT score.
- Is there a waiver or extension? ODW has not discussed any such extension process. The laboratories are required to use the portal. The waterworks would need to be in compliance, so the waterworks will need to work with the laboratories to ensure everything is on time.
- What if they take a sample that takes time? Included in the memo is that the waterworks work with the laboratories to ensure that samples will be on time.

GEC Software

Aaron Moses provided an update on GEC software updates. ODW is planning to decommission the R&R software; it does not meet security requirements. ODW is discontinuing use of this software soon.

ODW has also procured 3 new software from GEC. (See attached slides)

- Questions –
- Is ODW going to be doing any training for the software? The Abingdon Field Office and Danville Field Offices are going to be doing presentations. ODW will make the presentations available on our website and record additional videos.

Training Opportunities 2023

Barry Matthews provided an update on training and certification for waterworks. Available courses are located (please see slides) or go to: www.VT.EDU/water. ODW is also working with the Virginia Waterworks Association. (Please see slides)

When providing training courses, ODW asks for feedback. With this, ODW has found that the broadcast courses show a lower percentage of feedback than the in-person ones. ODW is now trying to make courses face to face whenever we can. Barry also presented a graph of persons attending courses and the pass rates of the courses. David Van Gelder has asked to work with Barry on this matter.

Waterworks Fee Regulations

Barry Matthews provided an update on the Waterworks Operation Fee regulations. Staff is currently working to finish the Waterworks Fee Regulations amendments. ODW has found that the modifications require additional work, and the revenue analysis is taking some time to put together. Staff are currently working through all the strikethroughs, comparing it to existing language and ensuring the revenue analysis falls in line. The package will need to be sent to the Government and Regulatory Affairs Office, then presented in June for a vote from the Board of Health. If it gets approval, then there will be an AG review, budget review, and Governor's review before it goes into the Register for public comments.

FCAP

Kelly Ward provided an update on funding and the DWSRF Intended Use Plan. Solicitations period for the 2024 SRF fund is currently open. ODW will be closing the solicitation period on May 5th. The biggest news is that ODW has reevaluated our scoring criteria and have made changes highlighting the infrastructure. ODW plans to post on Town Hall for 30 days review soon and are reevaluating old applications against the new scoring card. If you have any questions or thought, please contact Kelly. Currently, she does not have the exact amount of grants right now.

There is other funding that is handled out of the Office of Water and will be administered through the small system grants. The Governor submitted his letter of intent to apply for this

grant. It will be run in conjunction with the infrastructure side of the House. Currently, they are waiting on a little more guidance, but ODW thinks that Virginia will get roughly \$27 million.

ODW Budget and Programs

Dwayne Roadcap provided an update on the ODW budget and hiring.

Currently:

- The General Assembly has given ODW Lead Testing funds for schools and childcare. ODW has hired 3 FTEs for that program.
- A grant for remediation of lead is found in the above program.
- New sampling verification program for 7 FTEs. ODW has three hired. Staff will work to ensure quality control on how sampling is taken.
- Equity in Drinking Water – ODW has been given \$1 million for consolidation of small systems that have been abandoned by their owner.

ODW is learning to lean on to technology more by decommissioning some of our old databases and Kelly and Aaron are working with establishing new ones.

Budget –

The EPA has awarded \$11.4 million instead of \$17.9 million due to congressional earmarks. The loss of funding will affect ODW's SRF program. In the past, the SRF program has supported as many as 51 FTEs. With the reduction in funding, ODW will be forced to put seven positions on hold. ODW plans to look at the harder to fill positions to hold at this time.

ODW has been actively trying to hire and currently has a 20 to 25% vacancy rate. There is a workload analysis coming out from the EPA that ODW will share in the near future. This report should ask for additional resources for the program.

Public Comment

None

Conclusion:

The next WAC meetings are scheduled for June 14, 2023, September 6, 2023, and December 13, 2023.

WATERWORKS ADVISORY COMMITTEE MEETING AGENDA

ALL-VIRTUAL PUBLIC MEETING

WebEx Meeting

March 8, 2023
10:00 AM – 12:30 PM

| Subject | Time |
|---|------------------|
| <ul style="list-style-type: none">Welcome message, establishment of quorum, appointment of Chair, and introductions – Dwayne Roadcap | 10:00 – 10:10 AM |
| <p style="text-align: center;">Waterworks Advisory Committee Administrative Matters</p> <ul style="list-style-type: none">Introduction and review of agenda items – Chair David Van GelderReview and adoption of minutes from December meeting – Grant KronenbergUpdate on bylaws, all-virtual meeting policy, and individual electronic participation policy – Grant Kronenberg <p style="text-align: center;">Drinking Water Program Discussion</p> <ul style="list-style-type: none">Compliance, Enforcement & Policy update – Grant KronenbergPFAS study implementation update – Dr. Tony SinghLead and Copper Rule revisions update – Bob EdelmanCentralized Plan Review implementation update – Aaron MosesLate/Erroneous Reporting Memo – Aaron MosesGEC Software updates – Aaron MosesTraining and Certification for Waterworks update – Barry MatthewsWaterworks Operation Fee Regulations update – Barry MatthewsFunding and DWSRF Intended Use Plan (ARPA, BIL, DWSRF) – Kelly WardODW budget and hiring – Dwayne Roadcap | 10:10 – 11:45 AM |
| <p style="text-align: center;">Public Comment Period</p> | 11:45 – Noon |
| <p style="text-align: center;">Other Business</p> <ul style="list-style-type: none">Planned upcoming meeting dates: June 14, 2023, September 13, 2023, December 13, 2023. | Noon – 12:30 PM |

Information and Protocol for All-Virtual Public Meeting

The method by which the Waterworks Advisory Committee chooses to meet shall not be changed unless the Waterworks Advisory Committee provides a new meeting notice in accordance with Code of Virginia § 2.2-3707.

Access to the meeting can be achieved via computer, phone or mobile device with the meeting link below:
<https://vdhoep.webex.com/vdhoep/j.php?MTID=m3b3d2d795b41a3db2518ab5fdab0f8c2>

If accessing via a mobile device, you will need to download the WebEx Meet app prior to joining the meeting.

When joining the meeting, please use the meeting number and password below:

Meeting number (access code): 2631 799 7714

Meeting Password: 2ntTWG7dt3v

You can use your computer audio or join via telephone by calling [1-844-992-4726](tel:1-844-992-4726) United States Toll Free.

Please log into the meeting at least 10 minutes before the meeting begins.

If you have problems logging in or if there is any interruption in transmission, please call Kris Latino at 804-664-4403.

Please sign into the meeting and identify yourself so we can verify that you are attending the meeting.

After you have identified yourself, please mute your phone to reduce any unwanted noise.

Lead and Copper Rule Revisions (LCRR)

Waterworks Advisory Committee
March 2023 Briefing

Lead and Copper Rule Revisions (LCRR)

- Effective Date 12/16/21
 - Entered into the CFR
- Compliance Date 10/16/24
 - Water systems must comply beginning this date
- *Guidance for Developing and Maintaining a Service Line Inventory*
 - Issued by EPA on August 4, 2022
- No other guidance issued by EPA

ODW LCRR Guidance

<https://www.vdh.virginia.gov/drinking-water/lcrr-guidance/>

- Consumer Notification templates
- Service Line Replacement Plan FAQs
- Monitoring Requirements for Lead and Copper in Tap Water FAQs
- Sampling at Schools and Child Day Centers FAQs
- Lead Ban Guidance and Chronology

ODW is working on guidance:

- Sampling protocol for identifying LSLs
- Service Line Inventory Template
- School and Child Day Center notification templates
- LSL Replacement Plan template
- Pitcher Program template
- Find and Fix FAQs
- Modeling and Machine Learning Criteria

Training and Technical Assistance

Targeting small water systems (serving < 500)

1. Training - In-person - 12 sessions
 - Preparing Lead Service Line Inventory
 - Preparing Lead Service Line Replacement Plan
 - Preparing for monitoring for lead in schools and child care facilities
 - Related reporting, public notification, and recordkeeping
2. Technical assistance - site visits, video conferencing, telephone consulting to targeted small systems
 - Service Line Inventory
 - Lead Service Line Replacement Plan, including a Pitcher Program
 - Consumer Notification of Service Line Material for persons with a lead service line, galvanized requiring replacement or lead status unknown.
 - List of schools and child day program
 - Public education to schools and child care facilities
 - Consumer Confidence Report Language
3. Lead and Copper Rule - Tap Sampling Video

| Required Records Review | |
|--|---|
| Category | Description |
| Previous Materials Evaluation (4.1) | Information used for initial tap sampling inventory, special monitoring for corrosivity characteristics. |
| Construction and Plumbing Codes and Records (4.2) | All construction and plumbing codes, permits, and existing records or other documentation which indicates the service line materials used to connect structures to the distribution system (40 CFR §141.84(a)(3)(i)). |
| Water System Records (4.3) | All water system records, including distribution system maps and drawings, historical records on each service connection, meter installation records, historical capital improvement or master plans, and standard operating procedures (40 CFR §141.84(a)(3)(ii)). |
| Virginia Requirements (6.1.1) | Most recent approved LCR material survey. Lead Ban Guidance and Chronology (posted on ODW's website). |
| Ongoing Updating Required (3.4) | Systems must identify and track information on service line material as they are encountered during normal operations (e.g., checking service line materials when reading water meters or performing maintenance activities) (40 CFR §141.84(a)(5)). |
| | Any service line replacements or materials inspections. (40 CFR §141.84(a)(6)). |

Service Line Material Investigation Methods

| Allowed | Review and approve |
|---|--|
| Visual inspection of service line material at meter setting | Water quality sampling (ODW to publish a protocol) |
| Visual inspection inside home/building | Predictive modeling (New Jersey guidance) |
| Customer self-identification | Statistical methods (Michigan EGLE protocol) |
| CCTV inspection (external) | Emerging methods |
| Magnet and Scratch Test | Other methods |
| Excavation - vacuum and mechanical | |

What should waterworks do now?

Items due October 16, 2024, subject to change by LCRI:

- Lead Service Line Inventory (major focus)
- Lead Service Line Replacement Plan (Required if LSLs, Galvanized Requiring Replacement, “Unknown” are present)
- Compile a list of schools and childcare facilities served by the system (Community only)
- Update compliance tap sampling locations (LSLs, Galvanized Requiring Replacement, “Unknown” may trigger re-evaluating tap sampling locations)
- Prepare for enhanced customer notifications (new requirements, shorter deadlines)

Service Line Inventory Assistance

Apply now for funding for Service Line Inventory Assistance

- Limited to the 2023 Grant Solicitation
- Intend to accept applications through 2023
- Quarterly review of SL Inventory Applications (normally due ~ April)
- No funding discussion is required
- BIL requires at least 49% principal forgiveness to disadvantaged communities
- BIL dedicates approximately \$45M/yr through FY 2026 for LSLI or LSLR
- Lead Elimination Program (LEAP) is \$2M/year (100% principal forgiveness)
- LEAP can address lead joints in water mains
- Use the LEAP application

Plan Review Program - Overview

- Paperless program with dedicated staff to review all plans and specs
- Utilizes certification statement and checklists
- Objectives to improve:
 - Customer service - turn around times
 - Efficiency
 - Consistency

Plan Review Program - Status

- 1 partial FTE, 1 part time contractor
- Covering 2 Field Offices - Culpeper and Lexington
- Hiring for:
 - 1 Supervisor
 - 2 Project Engineers
- Interviewed and selected candidates for each, 2 declined, 1 starting 3/27
- Reposting Supervisor and Project Engineer

Late Erroneous Reporting Memo

- EPA File Review, Preliminary Conclusions - ODW is not issuing NOAVs for late or incorrect laboratory reports
- Going forward, ODW will issue reporting NOAVs
- Waterworks should:
 - Discuss timeliness of reporting with their laboratory and sampling staff
 - Collect samples earlier if necessary
 - Monitor timeliness of laboratory reporting through Drinking Water Viewer

Late Erroneous Reporting Memo

- ODW issued a memo to inform waterworks of their responsibilities and provide recommendations early March.
- ODW is preparing to issue reporting NOAV's as required in April 2023.

GEC Software Updates

- Decommissioning ODW's R&R Access Database at end of March
 - Completes a long-term project to comply with VITA security requirements
 - Reduces potential for service interruption due to failure of outdated data system

GEC Software Updates

- Completed procurement for 3 additional software modules:
 - Compliance Assistance tool - Late March
 - LSLI Portal - In development, implementation late spring, early summer
 - MOR Portal - To be developed, implementation 2024

Training Opportunities 1st Quarter 2023

Virginia Tech Courses

Basic Groundwater Course for Small Systems- February 7 - 9, 2023

Broadcast Topic: Water System Hydraulics - February 15, 2023

Water Operations Math - March 6, 7, 13, 14, & 20, 2023

Broadcast Topic: Sampling: Collection, Monitoring and Interpretation -
March 15, 2023

Hands-on Training at a Full Scale Water Plant - March 23 - 24, 2023

Training Opportunities 1st Quarter 2023

Virginia section of American Water Works Association

Cross Connection Devices: Inspection, Maintenance, and Testing- 40 Hours
3/13-17/2023

Cross Connection Devices: Inspection, Maintenance, and Testing- 16 Hours
7/10-12/2023

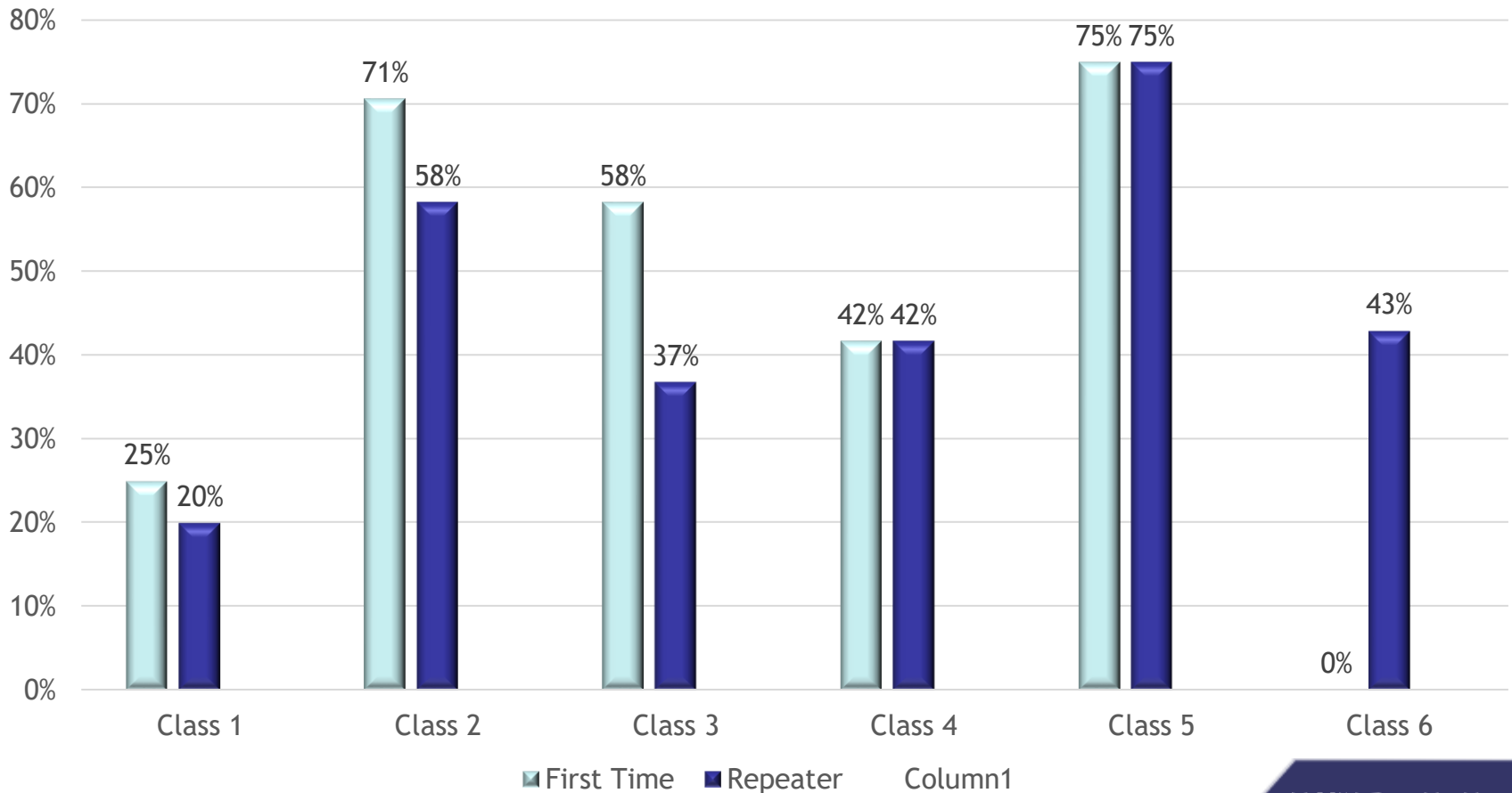
Cross Connection Devices: Inspection, Maintenance, and Testing- 16 Hours
10/2-4/2023

Training Feedback



Water Operator Licensure Testing

1/2/2023-2/28/2023



Waterworks Operation Fee Regulations

VDH-ODW staff is currently working to finish all necessary documents related to this modified Regulation.

Documentation includes the TH-02 Proposed Regulation Agency Background Document, and an economic impact analysis of both revenues and expenses for the agency and any impacted state or local governmental entities.

“This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code.”

Waterworks Operation Fee Regulations

Staff is finishing the regulation document with correct strike-through and added language updated to reflected all reviews, input and current regulation language.

These must be sent to the VDH - Office of Government and Regulatory Affairs by April 20, 2023, in preparation for the June Board of Health meeting, where the regulations will be presented for approval to move forward.

Waterworks Operation Fee Regulations

If the Board of Health approves 12 VAC 5-600 - Waterworks Operation Fee regulations modifications, then there is an Office of Attorney General review, a Department of Planning and Budget review, Secretary's review, Governor's review, and then publishing in the Virginia Registrar which activates the public comment period.

Waterworks Advisory Committee Meeting Minutes

In person and by WebEx

10:00 am, Wednesday, December 14, 2022

Members Present: Bailey Davis, DCLS; Skip Harper, Virginia Plumbing & Mechanical Inspectors Association; Jesse Royall, PE, Sydnor; David Van Gelder, Water Operator; Steve Herzog, PE, VWEA; Mark Estes, VRWA; Geneva Hudgins, VA AWWA; Russ Navratil, VA AWWA; Chris Pomeroy, Virginia Municipal Drinking Water Association; Joey Hiner, VA SERCAP; Tom Fauber, VA ABPA; Scott Kudlas, DEQ, Chloe Van Zandt, Virginia Health Catalyst; Andrea Wortzel, Mission H2O; Ignatius Mutoti, VA Society of Professional Engineers

Steven Herzog left at approximately 11:00 a.m.

Members Absent: Whitney S. Katchmark, PE Principal Water Resources Engineer; Caleb Taylor, VA Municipal League

Stakeholders: Chris Gill, Josh Harris, Aqua; Roger Arnold, Hazen & Sawyer; Dr. William Mann; Mark Imboden, Imboden Environmental

Office of Drinking Water (ODW) Staff: Dwayne Roadcap, Tony Singh, James Reynolds, Barry Matthews, Aaron Moses, Jeremy Hull, Kelly Ward, Dan Horne, Brian Blankenship, Christine Latino, Ray Weiland, Jack Hinshelwood, Grant Kronenberg, Robert Edelman

Meeting Overview

The Waterworks Advisory Committee (WAC) met in person at the Tuckahoe Library, 1901 Sterling Drive, Richmond, VA. Stakeholders, ODW staff, and the public also joined in person and by electronic communication means via WebEx. Dwayne Roadcap called the meeting to order at 10:05 a.m. and reviewed the agenda.

The WAC members introduced themselves and it was established that there were enough members in person to establish a quorum.

ODW staff present introduced themselves as well.

Grant Kronenberg led a discussion of draft proposed bylaws and two draft proposed electronic meeting policies for the WAC's consideration.

Proposed Bylaws:

- The Secretary of the WAC is a member of VDH staff, which is Dwayne Roadcap.

The Members discussed the bylaws, including making motions to amend the proposed bylaws, as follows:

- There was a question regarding bylaws and if there was a conflict between the bylaws and Code of Virginia or Waterworks Regulations, what would take precedence. The Code of Virginia and the Waterworks Regulations control.
- Article I – delete “latter” and add “Code of Virginia or the Waterworks Regulations, as applicable.” The WAC unanimously approved by voice vote a motion to amend the proposed bylaws in this manner.
- Article VI – after the first sentence, add, “The WAC may make recommendations to the Commissioner for candidates for the position of Chair.” The WAC unanimously approved by voice vote a motion to amend the proposed bylaws in this manner.
- Article IX – a suggestion was made to insert “at least” after “shall be held.” An alternative was suggested by Joey Hiner to instead state “no less than” rather than “at least.” The WAC unanimously approved by voice vote a motion to amend the proposed bylaws to insert “no less than.”
- Article IX – third paragraph, insert a comma between “WAC” and “shall.” The WAC unanimously approved by voice vote a motion to amend the proposed bylaws in this manner.
- Article VIII – a motion was made to, in the second sentence, delete the word “sponsoring” and after “organization” insert “or member’s employer”; and to delete “their representative” and replace it with “a member.” The WAC unanimously approved by voice vote a motion to amend the proposed bylaws in this manner.

The WAC unanimously approved by voice vote a motion to adopt the proposed bylaws as amended during the meeting.

All-Virtual Meetings Policy –

Grant Kronenberg explained that the General Assembly has allowed for greater allowance for electronic meetings of public bodies. In order to conduct meetings electronically, the WAC must adopt a policy.

Grant Kronenberg discussed some of the requirements for all-virtual meetings of the WAC as allowed under the Virginia Freedom of Information Act:

- The numbers of all virtual meetings is limited to 25% of the meetings, rounded up, or 2 per year, whichever is greater.
- Consecutive meetings cannot be all virtual.
- ODW staff will need to provide contact information so they can be notified if electronic transmission is lost and the meeting needs to be paused.

There was a question about establishing a subcommittee.

- Grant Kronenberg noted that a subcommittee would need to give public notice if three or more members are in attendance. One-to-one communication between members is not considered a WAC meeting under the Freedom of Information Act. It was also discussed that a subcommittee would be considered a separate public body for purposes of counting the number of electronic meetings allowed.

A member suggested amending the proposed policy to make it clear that the proposed policy's requirement that "[n]o more than two members of the WAC shall be gathered at any one remote location unless that remote location is open to the public to physically access it," is only referring to all-virtual public meetings of the WAC. In response to the suggestion, the WAC considered a motion to amend the draft policy to add "During an all-virtual public meeting of the WAC," to the beginning of the fourth-to-last paragraph of the policy. The WAC unanimously approved the motion to amend the proposed policy by voice vote.

The WAC unanimously approved by voice vote a motion to adopt the proposed policy as amended during the meeting.

Individual Participation by Electronic Means Policy

Grant Kronenberg provided background information regarding the allowance for individual members of a public body to participate in a meeting of the public body by electronic communication means pursuant to the Virginia Freedom of Information Act. Grant Kronenberg explained that the allowable grounds for a member joining a meeting by electronic means are that the member has a medical issue or disability that prevents them from attending in person; a family member has a medical condition that requires the WAC member to provide care for them, thereby preventing the WAC member from attending in person; the WAC member's personal residence is more than 60 miles from the meeting location; or due to a personal matter. The distance from personal residence is a new allowance. If the grounds for joining by electronic means is a personal matter, the specific nature of the personal matter will have to be stated. There is a limit as to the number of meetings you can attend virtually due to a personal matter. It is the greater of 25% of the meetings for the year, rounded up, or two. Under the draft policy, if the request for electronic participation does not violate the Virginia Freedom of Information Act or the policy, then the request would be approved. A member can raise an objection if they feel there is a problem with the request to join electronically. The WAC would then need to vote on the request to join electronically. There will still need to be an in-person quorum and the minutes will need to reflect the member's attendance electronically, including the nature of the conflict if joining electronically due to a personal matter.

Skip Harper said he doesn't see mentions regarding weather –

- The response was that this falls into being a personal matter.

It was asked what if you have already attended two meetings virtually, what would the third be considered?

- The response was that you would be considered a participant.

Cancellation – there was discussion of a suggestion to require more advance notice of needing to attend electronically than the day of the meeting so ODW could prepare for electronic participation.

- The response was that ODW plans to have all of the meetings available electronically so a member providing notice of a request to participate by electronic means should not be an issue.
- It was noted that ODW can contact members the day of the meeting to cancel a meeting due to weather.

No motions were made to amend the proposed policy. The WAC unanimously approved by voice vote a motion to adopt the proposed policy.

Grant Kronenberg provided a short explanation of what qualifies as a meeting of a public body under the Virginia Freedom of Information Act.

Recommendation for Appointment of a WAC Chair

The WAC discussed recommending to the State Health Commissioner (Commissioner) a member as a candidate for Chair of the WAC. A motion was made to recommend to the Commissioner that David Van Gelder be a candidate for Chair of the WAC. The WAC unanimously approved by voice vote the motion to recommend David Van Gelder as a candidate for the position of Chair of the WAC. ODW will inform the Commissioner of this. The Commissioner appoints the Chair of the WAC.

A motion was made for Jesse Royall to be elected as Vice Chair of the WAC. The WAC unanimously approved by voice vote the motion to elect Jesse Royall as Vice Chair of the WAC.

Skip Harper stated he would like a revised letter addressing whom he represents in his position as a member of the WAC.

Compliance and Enforcement

Grant Kronenberg provided an update on ODW's Division of Compliance and Enforcement.

The Division of Compliance and Enforcement will be revising the Enforcement Manual during the first half of 2023.

The quarterly Enforcement Targeting Tool (ETT) from the U.S. Environmental Protection Agency (EPA) came out in October. There were only three serious violators. Virginia's number of serious violators is very low. The ETT report from January showed three serious violators. The ETT report from April showed three serious violators. Only two serious violators were on the ETT report from July. In total, seven different waterworks have been listed as serious violators on the 2022 ETT reports. This continues a downward trend in the number of serious

violators as in the January 2021 ETT report there were seven serious violators, and in the January 2019 ETT report there were 28.

Going forward, Compliance and Enforcement is focused on looking at issues of violations of operator requirements and how they are being addressed, and focusing on state violations.

The operator staffing levels is continuing to be a real challenge. Grant Kronenberg is looking at the issues and taking this on a case-by-case basis. Chris Pomeroy asked whether there is a change in the approach to operator violations with respect to enforcement. Grant Kronenberg stated that he is looking at what violations are continuing to occur. He is trying to gain information and working with the field offices on this issue. The goal is to find solutions. Sometimes ODW has to seek enforcement as part of protecting the public. At a minimum, ODW will give notice of the alleged violation. Once ODW announces there is a violation, the next step is how to work together on resolving the situation.

Jesse Royall asked about enforcement especially regarding monetary fines. It was noted that the fines are based on the severity of the violation, the length of time of the violation, and ability to pay. The civil penalties come directly from the Office of the State Inspector General who has requested a more robust compliance program.

The EPA has been coming in and conducting inspections. The EPA is keen on this topic of operator attendance. They have asked about the use of remote attendance. ODW is exploring a variance or deviation that can be implied. Another thing that could be done is to change the regulations. The reality is that we are in a constant under supply of operators.

An issue was raised as to whether there is anything ODW is doing to increase the number of people who can be operators. ODW has a program through its Division of Training, Capacity Development, and Outreach (TCDO) regarding operator training. Barry Matthews, TCDO Director, has indicated that we have more operators this year over last year. The problem isn't the number but the numbers in certain classes. Class 4 operators are more limited. We are having more issues with Class 1 and 2 because they are in more demand.

There has historically been issues with test scores and pass rates and going virtual due to the pandemic did not help. The good news is that the pass rates for Classes 1 through 4 have been increasing. ODW continues to be in conversation with the Department of Professional and Occupational Regulation (DPOR) and technical assistance providers to help training to the tests and are anticipating in person learning coming back in August. (The issue of ensuring waterworks could anticipate cost increases was noted.) Jesse Royall would like to continue to allow virtual learning because he feels taking the staff away from the work is more difficult. Barry Matthews suggested reaching out to Caleb Taylor and letting him know the importance of virtual learning. Virginia Tech is the one who puts on the schooling.

There was also discussion regarding the test taking guidance documents. ODW is also interested in finding the issues in the testing, what sections of the tests are missed. By learning what sections are missed, ODW would be able to work to increase training. Dwayne Roadcap would be happy to invite DPOR to future meetings to discuss further.

Compliance and Enforcement is hoping to have a new employee in January, who will be the Policy and Program Coordinator. The position is in the process of being filled.

PFAS – Multiple activities.

- Tony Singh reported on this item.
- The report required by HB919 has been submitted and it is under executive review.
- ODW will be forming a new PFAS workgroup, which was to be formed on or after July 1, 2022. ODW started PFAS Phase 2 during the summer. ODW pushed back forming the PFAS workgroup for various reasons and ODW hopes to form the workgroup in January 2023. ODW thinks this will match well with EPA's draft regulations that are expected by the end of 2022.
- Started Phase 2 PFAS monitoring study during the summer. ODW partnered up with Southeast Rural Community Assistance Project. Due to some staff changes, ODW hasn't been able to complete the study yet. With the help of field office staff, we should complete that study.
- Mentioned the emerging contaminants grant funding available and to reaching out to ODW's Drinking Water State Revolving Fund (DWSRF) staff or Dwayne Roadcap if interested.
- PFAS is being detected in some source waters. DEQ has plans to take samples of ground and surface water. ODW is working with DEQ on those efforts. Where ODW detects PFAS in finished water, we are working with DEQ to find those sources and have had some good success. ODW will continue to work collaboratively with DEQ.
- Dwayne Roadcap noted that we are expecting EPA to come out soon with the regulatory proposal for PFOA and PFAS. We expect that to be out at the end of the year.

Centralized Review Program –

ODW is reorganizing the plan review and permit process. ODW is working on key objectives of decreasing review and approval times, streamlining reviews for standard project elements, prioritizing review for ODW staff and increasing consistency across the state. ODW is making some progress in implementing the programs. The program website is no longer password protected and we are now having engineers submit documents electronically. ODW is still in the pilot phase but expect to expand it. ODW is currently hiring a new engineer and looking to advertise two other positions for staff. The next step is to incorporate the Lexington Field Office into the pilot phase.

EPA File Review

In 2021, the EPA completed a virtual file review. There were multiple conclusions in the draft report. EPA pointed out that ODW has been exercising regulatory forbearance for laboratory reporting that is late or incorrect. The EPA is calling ODW out on that. Going forward, ODW intends to issue reporting notices of alleged violation for late or incorrect laboratory sample reports. Waterworks should discuss timeliness of reporting with their laboratory and sampling staff. Waterworks should modify sampling timelines as necessary to facilitate timely laboratory reporting. Waterworks that sample at the end of the month could end up with late reports. Waterworks can monitor timeliness of laboratory reporting through Drinking Water Viewer. If waterworks gets login credentials, they can see when labs are reporting in real time.

There was discussion surrounding the idea of having ODW notify waterworks when ODW is aware of an issue with a laboratory. ODW's field office staff will notify the waterworks of a problem with the waterworks' data. A lack of incentive for the laboratories to do better was discussed. Laboratories are required to report to both the water system and ODW, and ODW has no way to know if the laboratories are reporting to both at the same time. A water system might receive a report and assume ODW has also received it, but ODW may not. There was discussion of reporting requirements for laboratories.

A second preliminary conclusion is that EPA observed some waterworks are sampling at locations not on approved sampling plans. Waterworks must sample at approved locations. If a waterworks finds an approved location is unavailable and must sample at another location, it must update the sampling plan and obtain written approval from ODW. EPA did not comment on situations where a waterworks has multiple approved bacteriological sample sites and skips a sample site because it is unavailable.

Public Comment

A question was raised as to whether any regulations apply to biowaste solids from wastewater plants. The response provided was that biowaste solids are under the domain of DEQ.

Drinking Water Viewer

Aaron Moses has sent out notice to waterworks letting people know of the transition to Drinking Water Viewer. ODW may need help getting people to sign up. If assistance is needed, please email Aaron Moses (Aaron.moses@vdh.virginia.gov). He will be putting together a video or providing training.

Funding

ODW's DWSRF program has had two hires for dedicated ARPA staff. They are sending out notifications, which should be completed by the end of the week. The DWSRF and Bipartisan Infrastructure Law letters have already been sent out. The other funding should be completed,

and rewards will be sent out soon. There was a huge amount of money requested – over \$1 billion. We received over 203 applications. Due to the number of applications, DWSRF is working to figure out what works best. The Intended Use Plan for Fiscal Year 2022 is on the website. Working on Fiscal Year 2023. ODW will be opening Fiscal Year 2024 applications after the first of the year. EPA does not know what awards will be until March/April.

Conclusion:

The meeting concluded at 12:06 p.m.

The next WAC meetings are scheduled for March 15, 2023, June 14, 2023, September 20, 2023, and December 13, 2023.