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Periodic Review and Small Business Impact Findings Where Result is “Retain the Regulation As Is”

Agency name	Virginia Department of Health (VDH)
Virginia Administrative Code (VAC) citation	12VAC5-600-10 et seq.
Regulation title	<i>Waterworks Operation Fee</i>
Date	January 18, 2017

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

The Virginia Waterworks Operation Fee regulations are mandated by Article 2, Chapter 6, Title 32.1 of the *Code of Virginia* titled “Public Water Supplies” (§ 32.1-167 et seq.), which empowers and directs the State Board of Health (Board) to adopt and promulgate regulations governing waterworks, water supplies and pure water to protect the public health and promote the public welfare. Section 32.1-171.1 of the *Code of Virginia* requires all waterworks operators to pay an annual operation fee to VDH and establishes a Waterworks Technical Assistance Fund. 12VAC5-600-10 et seq. established the annual waterworks operation fee and fee schedule to be paid by each waterworks owner.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

Funding alternatives considered for the program were annual requests of approximately \$4.5 Million (general fund) in the Appropriation Act. This alternative was rejected due to significant uncertainty as to whether such funding requests would be approved and sustained. The Waterworks Operation Fee regulations were considered more consistent with the fee for service funding model. Under this model the waterworks assist in supporting the program as they are the beneficiaries of the direct technical services provided by VDH.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
	No public comments were received	

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

Minimal intrusion- The regulations only apply to those who have assumed the responsibility for providing safe drinking water to the consuming public.

Protection of public health- The fees help provide funding to implement Virginia's drinking water protection program (12VAC5-590-10 et seq.) which provides oversight to more than 2700 waterworks in the Commonwealth.

Clearly written- The regulations attempt to use common, everyday language that is readily understandable to the regulated entities. No public comments were received concerning the ability to understand the intent of the regulations.

Cost effective manner- The VDH assumes the responsibility of notifying the waterworks owners when payment is due. Additionally, a single due date (with payment options) is provided.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

VDH believes the continuation of this regulation, without amendment or change, will provide for the ongoing existence of an important public health protection program.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

Continuing need- A number of small business owners provide public drinking water to their customers. A well regulated drinking water oversight program helps protect these owners from experiencing waterborne disease outbreaks within their waterworks.

Public complaints/comments- No public comments were received.

Complexity of the regulation- This regulation has been in effect for a number of years with no complaints concerning any complexities.

Federal laws- The regulations complement the federal Safe Drinking Water Act by helping provide for necessary funding to maintain this program.

Evaluation of regulation- The regulation is evaluated on an on-going basis to ensure that its effect on small businesses is fair and properly administered.