

## Waterworks Advisory Committee (WAC) Meeting Minutes

Webinar – Webex

9:00 am, Wednesday, February 17, 2021

Final

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Members Participating: Dwayne Roadcap (ODW), Chair; David F. Van Gelder, Water Operator; Steven Herzog, PE, VWEA; Russ Navratil, VA AWWA

Guests Participating: Tom Fauber, VA ABPA; Geneva Hudgins, AWWA; Paul Nyffeler, Chem Law; Steve Edgemon, Fairfax Water; Katie Krueger, HRPDC; Chris Pomeroy, Aqua Law; Amanda Waters, Aqua Law; Jamie Hedges, Fairfax Water; Katie Krueger, HRPDC; Josh Harris

ODW staff: Tony Singh, Robert Edelman, Christine Latino, Nelson Daniel, Holly Brown, Dan Horne, Jeremy Hull, James Reynolds, Brian Blankenship, Jeff Wells, Barry Matthews, Jennifer Coleman, Aaron Moses, Kelly Ward, Mark Perry, Jillian Galloway

### **1. Meeting Overview**

The Waterworks Advisory Committee (WAC) met remotely on Wednesday, February 17, 2020, using Webex. Office of Drinking Water (ODW) Director Dwayne Roadcap started the meeting at 9:00 a.m. and requested the participants write their name in the chat box. Dwayne noted that a quorum of the WAC was not present, but proceeded with the meeting since the WAC would not be making any decisions during the meeting.

WAC members (Roadcap, VanGelder, Herzog, and Navratil) agreed to adopt the minutes from the December 16, 2020 meeting as final. A copy follows the minutes from this meeting.

### **2. Waterworks Regulations**

ODW Policy and Program Director Nelson Daniel provided an update on the status of the final amendments to the Waterworks Regulations. Nelson's presentation follows the meeting minutes.

The Virginia Department of Health (VDH) submitted the final amendments to the Virginia Regulatory Town Hall on December 23, 2020, starting the Executive Branch Review process. Agency counsel certified the Board of Health's authority to amend the Regulations on January 21, 2021. The Department of Planning and Budget completed its review of the amendments on February 10, 2021 and moved them on to the Secretary of Health and Human Resources (HHR). Governor Northam's Executive Order 14 (July 16, 2018) gives the Secretary's office 14 days to complete its review. Wednesday, February 17 was day 7. Due to the pandemic and ongoing General Assembly session, the review period may extend beyond 14 days. The Governor's Office reviews the amendments following HHR. If the Governor's Office approves the amendments, they begin a 30-day public notice period.

The amendments are posted on the Town Hall website under Stage ID 9160 (enter "9160" in the search feature in the upper right corner of the website, two results come back – one of which is the final amendments).

Once the amendments complete public notice and become effective, ODW will provide training for staff and the regulated community on the changes. Training will probably consist of hour-long blocks on specific topics and be recorded and posted for easy access.

### **3. Drinking Water Program**

#### **a. ODW Budget Update**

Dwayne stated that ODW is facing some budget concerns. Changes to the State's 2020-2022 budget following the 2020 General Assembly session have impacted ODW. \$482,400 was unallotted from the state's required 20% match for the U.S. Environmental Protection Agency's (EPA) Drinking Water State Revolving Fund (DWSRF) grant that Virginia receives. For FY 2021, Virginia received \$17.9 million from EPA, which requires a \$3.6 million state match. The budget, as passed at the end of the 2020 Session, included sufficient funds for the match. Following amendment in the first Special Session, the budget was reduced to same funding level as in previous years - \$3.1 million for the match. ODW used existing resources to cover the unallotted amount, but will not be able to do so going forward without impacts to the drinking water program. The amended budget also removed \$150,000 in FY 21 and \$250,000 in FY 22 for ODW to make mandatory updates to its database software. ODW has modified some of its plans to address the database issues, but, without funding cannot fully comply with VDH's requirements. In addition, ODW is facing increasing rent costs in the central office and field offices, personnel costs associated with restoring the 6<sup>th</sup> field office (Richmond), salary adjustments, and new workload (PFAS (HB586, HB1257), lead (SB392/HB797, SB393/HB799), water management plans/legionella in schools (SB410), etc.) without budget support from the General Assembly.

ODW is facing a shortfall of approximately \$800,000 in the coming fiscal year. This year, ODW has reduced costs (staff training, travel, training for the regulated community, etc.), held three positions vacant, and moved several positions to other funding sources. ODW is continuing to look at short-term cost savings and programmatic changes to address the ongoing budget shortfall.

The three positions that are open include a District Engineer, Environmental Health Technical Specialist, and project engineer in the Financial and Construction Assistance Program (FCAP). ODW will continue to keep these positions open until there is more clarity with respect to the budget. The Operation Fee Regulations (a topic later in the meeting) are one way ODW is planning to address the budget issues.

#### **b. PFAS Workgroup**

ODW Deputy Director Tony Singh provided an update on the status of the work ODW is doing to meet the requirements of HB586 (2020 – study the occurrence of per- and polyfluoroalkyl substances (PFAS) in drinking water). Tony's presentation follows the meeting minutes.

ODW established a PFAS Workgroup in September 2020 and had its first meeting in October 2020. The Workgroup set up four subgroups: Health & Toxicology, Occurrence & Monitoring, Policy & Regulations; and Treatment & Technologies. The subgroups met in December and/or January and plan to meet monthly until the study is completed. They are making progress researching other states that have established regulatory limits for PFAS and are making great progress determining the best way to conduct a study of PFAS in the Commonwealth – within the limitations established by HB586.

ODW recently completed a purchase request for Old Dominion University (ODU) to conduct a literature review as part of the HB586 study. ODW is also seeking quotes from laboratories to perform analysis of

PFAS samples for the HB586 study. The Workgroup is asking laboratories to quote the cost to analyze samples by EPA Method 533 since it provides results for 25 specific compounds within the PFAS family and includes all of the specific PFAS listed in HB586.

Based on the limited funding and House Bill requirements, ODW will sample from 50 sources using a hybrid approach that balances the largest population that could be exposed to PFAS in drinking water (17 largest waterworks) along with selected locations that have the greatest potential for the presence of PFAS based on proximity to places where PFAS may have been used or discharged into water sources used by waterworks. These locations include unlined landfills, airports, industrial sites, and military facilities, along with water treatment facilities that may treat water that contains PFAS. Tony noted that ODW does not have data on actual PFAS usage – all are based on industry trends and factors seen in other states where PFAS have been studied in drinking water.

#### **c. WIIN (Water Infrastructure Improvements for the Nation) Act (2016) Grants**

Tony also provided an update on the status of the work ODW is doing to meet the requirements of HB797/SB392, HB799/SB393 (2020 – requiring schools and child day programs to test for lead in drinking water, report results to ODW). Specifically, VDH received a \$1.1 million grant through the WIIN Act (§ 2107) to pay for testing drinking water for lead in public schools and child day programs. ODW has plans to work with ODU and Virginia Tech for sampling, analysis, and other activities under the grant. Tony said he expects outreach to begin as early as March 2021.

The grant is not sufficient to meet testing requirements at all schools and child day programs in the state, but should be sufficient for 700-800 facilities. ODW will communicate with local health departments and health directors, the departments of Social Services and Education, and others to publicize the program and its requirements, and to implement the grant. Dwayne asked for ideas about how to collaborate with waterworks following a question about how this testing fits in with new requirements in the Lead and Copper Rule Revisions that call for testing in schools and child day programs.

ODW has also been selected to receive a little over \$1 million from EPA (under a different section of the WIIN Act, § 2105) to cover the cost of remediation where lead is found in drinking water in schools and child day programs. ODW has not yet received the funds or developed this program.

#### **d. FCAP/DWSRF Update**

FCAP Director Kelly Ward provided an update on ODW's construction assistance loan program. She noted the 2020 needs survey started in January and will last through September. The purpose of the survey is to determine infrastructure needs in Virginia. EPA uses this information to establish the state's allocation of funds under the Drinking Water State Revolving Fund (DWSRF). If Virginia waterworks establish a greater need, Virginia's percentage of the federal funds (currently 1.67%) could increase in the next funding cycle. Dwayne encouraged community waterworks to work with FCAP - the more detailed information FCAP receives from the waterworks community, the more opportunities the Commonwealth will have to increase our financial disbursements from the EPA.

FCAP is seeking applications for DWSRF loans. The current solicitation opened in early February and will last through April. FCAP has updated the funding application, reducing the number of attachments, and redefining the requirements for the proposed construction schedule. FCAP also changed small

construction projects (100% principal forgiveness – these will be for acute health conditions only... if the locality’s waterworks has issues related to chronic health conditions, contact the FCAP program directly – b/c of limited \$ available) and updated its program for waterworks serving disadvantaged communities, extending the loan period to 30 years. Larger waterworks that take over smaller waterworks serving disadvantaged communities (consolidation) may be eligible for 30-year loan terms under the revisions. Kelly said most DWSRF projects range from \$1 to \$3 million, but FCAP has done larger projects (up to \$35 million using leveraging); core program is 20yr loan at 1% below municipal bond rate (currently less than 2%); disadvantaged criteria goes to 30 yr term at about 2%, no interest rates below 1%.

The Lead Services replacement line program has been updated and is now called the Lead Elimination Assistance Program or “LEAP.” Since 2018, FCAP has used DWSRF money to fund 8 lead service line replacement projects. FCAP has dedicated \$2 million to LEAP this fiscal year and will provide it to communities/waterworks in grants of up to \$500,000.

Information about all of the FCAP programs and initiatives is available on the Drinking Water Program’s website (<https://www.vdh.virginia.gov/drinking-water/fcap/>). Also feel free to reach out to Kelly or the FACP staff ([Kelly.Ward@vdh.virginia.gov](mailto:Kelly.Ward@vdh.virginia.gov)).

#### **e. Vaccination Update**

Dwayne acknowledged waterworks concerns about getting operators and other staff vaccinated as soon as possible and said he has highlighted the possibility of a high risk, low probability event – COVID outbreak in large waterworks, with an inability to get replacement workers (because of the level of skill and specialization needed for the specific treatment facility), leading to water availability restrictions – but agency leadership continues to follow federal recommendations. Without other qualifying health or age conditions, waterworks personnel remain in Phase 1c for vaccination. Information about vaccinations in Virginia is available on the VDH website.

#### **f. General Assembly Update**

Nelson provided an update on bills of interest to ODW in the General Assembly – which is currently meeting in a special session. None of the legislation, except budget amendments, has a direct impact on the drinking water program. ODW is watching:

- HB2074 (Environmental Justice (EJ) – establishes an EJ working group; the Senate version, SB1318 also requires Secretaries to develop EJ guidelines for agencies)
- HB2213 (Workgroup to study gold mining in VA, current substitute does not prohibit DMME from issuing permits)
- HJ538 (Water as a basic human right)
- SB1291 (VWP permits, groundwater withdrawal permits must include leak management plans)
- Budget amendments - \$250K for lead testing (handling data, reports) and \$60 K for substances in drinking water) – both in Senate committee report, but not in the House committee report
- As of Feb 17, all of the legislation is moving through committees

#### **4. U.S. Environmental Protection Agency Actions that impact the Drinking Water Program**

- a. Biden Administration Review of Federal Environmental Rules, Actions, Guidelines, etc. Issued During the Previous Administration**

ODW Division of Technical Services Director Bob Edelman provided an update on EPA actions since the inauguration of President Biden. Bob's presentation follows the meeting minutes.

The Biden administration issued an Executive Order on Protecting Public Health and the environment and restoring science to tackle the climate crisis. Among the list of agency actions that EPA is reviewing are several of interest to the waterworks community, including:

- 1.) National Primary Drinking Water Regulations: Lead and Copper Rule Revisions
- 2.) Drinking Water: Final Action of Perchlorate
- 3.) Navigable Water Rule
- 4.) Strengthen Transparency in Pivotal Science Underlying Significant Regulatory actions and Influential Science Information.

With these items under review, current guidelines will remain as is until the review process is over.

#### **b. Lead and Copper Rule Revisions (LCRR)**

Culpeper Field Office Deputy Director Jillian Galloway provided an update on the Lead and Copper Rule Revisions (LCRR) that EPA published in the Federal Register on January 15, 2021. Jillian's presentation follows the meeting minutes.

Jillian mentioned a few significant changes from the Lead and Copper Rule related to the new trigger level, sampling requirements, and testing in schools and child day centers. Jillian focused on ODW's game plan for managing the LCRR, including how to implement the rule with existing staff, even though ODW said it would take additional staff to handle all of the rule's requirements. Top priorities are lead service line (LSL) inventory and replacement plans – originally had waterworks do materials survey, for LSL requirements, the LCRR requires more extensive reporting and records from waterworks. Jillian noted the timeline is vague, because we need guidance from EPA and need to learn from other states that have enacted LSL requirements. One concern is that ODW produces guidance before EPA, then EPA produces something that isn't consistent with VA. Nelson noted that ODW's objective is to finish the final amendments, then work on incorporating the LCRR in Waterworks Regulations. Amending the regulations to incorporate the LCRR will be through an exemption to the Administrative Process Act, not the full rulemaking process that ODW went through for the final amendments.

### **5. Drinking Water Policy**

#### **a. Waterworks Operation Fees**

Nelson discussed the Waterworks Operation Fee Regulations. The last time the Waterworks Operations Fee Regulations were reviewed was October 7, 2016. They are currently open for public comment as part of the periodic review requirements for regulations. The 30-day public comment period opened February 15, 2021 and closes March 17, 2021. With the budget issues ODW is currently facing and concerns staff have heard from waterworks owners, we invite comments and feedback on the Fee Regulations.

ODW also plans to increase the per-connection fee from \$2.95 to \$3.00 in the next billing cycle which begins in July 2021.

The WAC suggested that ODW present information about income and expenses at a future meeting and as part of the regulatory development process if we plan to amend the regulations. This will give the regulated community more information about the need to adjust fees and the basis for doing so.

## **6. Public Comment**

Geneva Hudgins congratulated Tamera Anderson (ODW FCAP) and Susan Miner (ODW Capacity Development) for a great presentation on funding assistance to assist small systems, part of a webinar the Virginia Section of the American Water Works Association (VA AWWA) hosted.

VA AWWA set up a web page with a recording and links to funding sources. Although the webinar focused on small systems, it is applicable to all waterworks.

<https://vaawwa.org/page/funding-opportunities-for-small-water-systems-resources>

## **7. Other Business, Conclude Meeting**

DPOR Final Report to the General Assembly (Backflow Prevention Workers) – DPOR is not recommending any changes to this licensing group, in part because of the changes to the Waterworks Regulations that require licensed backflow prevention workers.

Several field offices has received questions from waterworks regarding a letter from the Department of Military Affairs that says waterworks serving military facilities need to conduct PFAS sampling (a copy of one letter and a Department of Defense (DoD) policy dated 6/23/20 follow the meeting minutes). The sampling requirements are not from VDH or ODW and are not based on the Waterworks Regulations. Based on the DoD memo, PFAS sampling is at discretion of waterworks. DoD is asking for sampling, if the waterworks declines, DoD will ask the affected military facility to sample using its own operating budget. ODW is trying to learn more about the requirements and will follow up as needed.

The next meeting is scheduled for April 21, 2021. If WAC members have any topics, please send your suggestions to Dwayne Roadcap, Nelson Daniel, Bob Edelman, Tony Singh or Kris Latino.

Dwayne concluded the meeting at 11:00 am

WAC Meeting  
February  
17, 2021  
Attachments  
and  
PowerPoint  
Presentations

# WATERWORKS ADVISORY COMMITTEE MEETING

Via WebEx

Hosted by the Office of Drinking Water, 109 Governor Street, Richmond, VA 23219

Wednesday, February 17, 2021  
8:30 AM (web link opens) – 11:30 PM

## DRAFT AGENDA

Subject	Time
Connect to Webex and Meeting Instructions <a href="https://vdhoep.webex.com/vdhoep/j.php?MTID=mf11262e54be36429d3f3b92430023ea9">https://vdhoep.webex.com/vdhoep/j.php?MTID=mf11262e54be36429d3f3b92430023ea9</a> Meeting number (access code): 132 134 2343 Meeting Password: 3jHjDaUPq62 or join via telephone by calling <a href="tel:1-844-992-4726">1-844-992-4726</a>	8:30 – 9:00 AM
Call to Order Meeting Overview Adoption of Minutes from the 12/16/20 meeting	9:00 – 9:10 AM
WW Regulations	9:10 – 9:20 AM
Drinking Water Program	9:20 – 10:30 AM (5 min break follows)
EPA	10:35-11:00 AM
Drinking Water Policy	11:00 – 11:10 AM
Public Comment Period	11:10 – 11:15 AM
Other Business Conclude Meeting	11:30 AM

Next Meeting: April 21, 2021,

Meetings will continue to be by electronic communication means



## Waterworks Advisory Committee (WAC) Meeting Summary

Webinar – Webex

9:00 am, Wednesday, December 16, 2020

Final

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**Members Participating:** Dwayne Roadcap (ODW), Chair; David F. Van Gelder, Water Operator; Steven Herzog, PE, VWEA; Bailey Davis, DCLS; Skip Harper, Virginia Plumbing and Mechanical Inspectors Association; Joe Grist (Sub), DEQ; Geneva Hudgins, AWWA; Roger Cronin, ACEC

**Guests Participating:** Office of Drinking Water (ODW) staff – Tony Singh, Robert Edelman, Christine Latino, Nelson Daniel, Holly Brown, Dan Horne, Jeremy Hull, James Reynolds, Brian Blankenship, Jeff Wells, Barry Matthews, Jennifer Coleman, Jack Hinshelwood, Mark Perry

Tom Fauber, VA ABPA; Russ Navritil, AWWA; Laura Bauer, VA American Water Company; Paul Nyffeler, Chem Law; Steve Edgemon, Fairfax Water; Katie Krueger, HRPDC; Chris Gill, Christian Barton LLP; Christine Noonan, Amanda Waters, Aqua Law; Josh Harris, Aqua Law; Theresa O’Quinn, Prince William County Service Authority; Chris Pomeroy, Aqua Law; Jillian Terhune, City of Norfolk

### **1. Meeting Overview and Agenda**

ODW Director Dwayne Roadcap called the meeting to order at 9:04 a.m. and provided an overview of the meeting agenda.

Committee members voted unanimously to approve and adopt the minutes from the September 16, 2020 meeting. ODW will post the minutes as final on Town Hall.

### **2. Amendments to the Waterworks Regulations –**

On December 3, 2020, the Board of Health approved the final amendments to the Waterworks Regulations. ODW staff are in the process of submitting them to the Registrar to begin the Executive Branch review process. Policy and Program Director Nelson Daniel’s presentation (attached) contains a summary of the remaining steps for review and approval. Mid-2021 is the earliest expected date to complete review and public notice.

Dwayne expressed appreciation for all of the work the WAC and others put into getting the amendments to this point.

### **3. Drinking Water Program Updates –**

House Joint Resolution 92 (2020) requires ODW to study the drinking water infrastructure and report on it and the oversight of the drinking water program. In October, ODW staff submitted the report to the State Health Commissioner. Dwayne announced that the Governor’s Office has approved the report and said that it includes several recommendations from the Office of the State Inspector General (OSIG). OSIG reviewed ODW’s operations during 2020.

ODW will send the WAC members a copy of the approved report. It is also available on the Legislative Information System (LIS) website.

The report ODW submitted for HB1257 (2020; on the status of efforts to establish maximum contaminant limits for specified polyfluoroalkyl substances (PFAS), Chromium (VI) and 1,4-Dioxane) is still under review in the Governor's Office.

#### **4. ODW Budget –**

Following the 2020 General Assembly Session that concluded in March, the Governor amended the 2021-2022 state budget in response to the economic fallout from the coronavirus (the legislature subsequently approved most of the Governor's amendments). Two amendments affected ODW directly – unallotting \$482,400, a portion of the 20% state match for the Drinking Water State Revolving Fund grant from the U.S. Environmental Protection Agency (EPA), and \$150,000 (FY2021) / \$250,000 (FY2022) for data management costs. ODW has allocated other funds for the match and adjusted spending on data system updates. Still, the unallotted funds, along with expenses for staff, adding new positions for the Richmond Field Office, and other costs have created a budget shortfall. ODW will hold some positions vacant, reduce travel and training, and explore other options such as shifting several positions to other funding sources to meet budget needs. ODW has also submitted budget requests through the Commissioner's Office for consideration in the upcoming General Assembly Session.

#### **5. PFAS Updates –**

The General Assembly passed two bills in 2020, HB 586 and HB 1257, that require ODW to take action to evaluate the occurrence of PFAS in drinking water and develop maximum contaminant levels (MCLs) for specified PFAS. Deputy Director Tony Singh reported that ODW had convened a PFAS workgroup as required by HB586 and provided an update on the workgroup's activity. The slides from Tony's presentation follow the meeting minutes. Additional information and records from the workgroup meetings are on Town Hall.

#### **6. Lead in Drinking Water at Schools and Child Care Programs (WIIN Grants) –**

Tony told WAC members that ODW received two grants from EPA that will be used to support efforts to test for lead in drinking water at schools and child care programs and to pay for remediation efforts. ODW has received \$1.1M for testing and expects \$1.3M for remediation. The pandemic has delayed testing because so many schools are not open, or only serving small numbers of students. Neither grant is sufficient to cover testing and/or remediation at all schools/child care programs, so ODW will use EPA's guidelines for the grants to prioritize funding for those schools/programs with the greatest need.

Dwayne noted that the work staff are doing to support the two grants and PFAS bills are examples of the drinking water program being asked to take on additional responsibilities that are outside the scope of the Public Water Supplies Law.

#### **7. Division of Technical Services (DTS) Initiatives –**

DTS Director Robert Edelman presented information about several initiatives his team is working on:

Compliance Monitoring Data Portal (CMDP) – About a year ago, ODW asked labs to start using CMDP to submit analytical results directly to ODW in an electronic format. ODW set a target date of September 2020 for all labs to be using CMDP. Bob reported this has been a success – the majority of labs met the Sept. 2020 deadline. ODW is still working with a few labs to complete the transition; a few smaller labs are not going to transition and have made the business decision to not run samples for drinking water

compliance. Submitting through CMDP will reduce errors and staff time. It will also help ODW and EPA transition to updated versions of EPA's drinking water database, SDWIS. DTS staff requested EPA to facilitate cryptosporidium results entry through CMDP and EPA made the necessary changes. Separately, ODW is working on updating procedures for reporting consumer-requested lead sample results (when a waterworks collects the lead sample at the request of a customer).

Drinking Water Watch (DWW) – provides real time access to information in the SDWIS database. Registered users (waterworks) can see sample results as soon as they are added to SDWIS, sample schedules, and detailed information about their waterworks. The public can see sample results 45 days after entry (allowing waterworks time to review sample results) and general information about waterworks.

Dwayne indicated that ODW has a grant from EPA to make improvements to DWW, including removing lead and copper sample locations from public view because they are residential addresses. He asked registered users to review DWW and provide feedback about improvements while ODW has the grant. ODW will formally share an invitation for waterworks to register in the near future.

The slides from Bob's presentation follow the meeting minutes.

#### **8. Training, Capacity Development, and Outreach –**

Training, Capacity Development, and Outreach (TCDO) Division Director Barry Matthews provided an overview of ODW's TCDO program. The Capacity Development program provides training and assistance to help waterworks serving fewer than 10,000 consumers develop technical, managerial, and financial capability. Capacity Develop currently employs four Sustainability Coordinators, Julie Floyd, Tamara Anderson, Susan Miner and Jarrett Talley. Training and Outreach staff includes Jason Yetter and Susan Hinderliter. TCDO is supported by set-asides from the Drinking Water State Revolving Fund Grant and submits a number of reports to EPA and the Governor on their programs. The reports are available on ODW's website.

The slides from Barry's presentation follow the meeting notes and contain information about Planning and Design grants, operator training, and division accomplishments during 2020.

#### **9. Waterworks Updates / Coronavirus Pandemic –**

Dwayne reported that ODW has seen very little in the way of impacts to drinking water availability / quality during the pandemic. He recognized the Committee and waterworks owners statewide for the great work everyone has done to maintain a safe, reliable water supply. DCLS reported they have been affected by the Governor's latest Executive Order (Number 72, requiring DCLS staff to wear masks in the laboratories and offices), but noted they are continuing to maintain their workload and lab procedures.

Southeast Virginia Field Office Director Dan Horne mentioned efforts by the Hampton Roads Planning District Commission and area utility providers to spread the word about the availability of funds from the Cares Act to provide relief from delinquent utility bills.

#### **10. Drinking Water Program Policies –**

Compliance and Enforcement Director Jennifer Coleman discussed ODW's new Enforcement Manual (effective November 26, 2020, following a 30-day public comment period). It replaces older memos

which described enforcement tools, but didn't provide procedures. The new manual provides procedures which give field office staff more decision making power and ability to act proactively – keeping compliance issues from becoming bigger problems – allowing central office staff to focus more on consistency statewide and program/policy considerations. The new manual has procedures for use of civil charges and adding charges (penalties) to administrative orders. Jenn emphasized the manual is a work in process and it will continue to evolve, adapt and adjust based on what is working and what needs improvement.

Dwayne discussed OSIG's review of the drinking water program and their special interest in enforcement and the use of penalties – OSIG's recommendations included focusing more attention on penalties to ensure compliance. Jenn said ODW is seeing some success with this as several waterworks owners have signed orders and paid penalties. The manual does take ability to pay into account – considering type of violation, severity, potential health impact, culpability, economic benefit, compliance history, etc.

Bob provided an update on the Permit Manual. It also ended a public comment period on November 25. ODW received comments from three people. The comments were consistent. DTS staff have reviewed the comments and, where appropriate, have made revisions to the manual. The revisions are not expected to result in any substantive change, but staff will review and decide whether or not to put the manual back out for public comment, or make it effective.

Nelson described the periodic review process for regulations and noted the Operation Fee Regulations are due for review in 2020-2021. With ODW's focus shifting from the coronavirus response back to more routine business (manuals, CMDP, DWW as examples) and the amendments to the Waterworks Regulations going to Executive Branch review, Nelson said ODW will start the periodic review for the Fee Regulations as soon as January. Other priorities for 2021 will be PFAS and lead – EPA has not said when they will release the Lead and Copper Rule Revisions, but they are expected in the near future and, based on the draft revisions, will be significant.

The slides from Bob's presentation about the Permit Manual and Nelson's presentation about Periodic Review follow the meeting minutes.

#### **11. Public Comment Period –**

Dwayne invited any of the meeting participants who are not on the advisory committee if they would like to make any comments. No one commented.

#### **12. Other Business –**

Nelson review meeting dates for 2021 – February 17, April 21, July 21, September 22, and December 15. All are the third Wednesday of the month, except the September meeting which is on the fourth Wednesday to avoid the week that is traditionally used for Water Jam. Nelson reminded everyone that the General Assembly is scheduled to convene the 2021 session on January 13, 2021.

Dwayne concluded the meeting at 11:00 am.

# Policy and Program Briefing

## Final Amendments to the Waterworks Regulations

Nelson Daniel

ODW Policy and Program Director

February 17, 2021

# Final Amendments to the Waterworks Regulations

The Board of Health approved the Final Amendments to the Waterworks Regulations at their December 3, 2020 meeting.

VDH submitted the regulatory package to Town Hall on December 23, 2020.

- Initiated the Executive Branch Review process.

# Final Amendments to the Waterworks Regulations

Executive Branch Review consists of:

**Department of Planning and Budget (DPB) review** - ensures the regulation complies with the requirements of Governor Northam's Executive Order 14 and assess the effect of any substantive changes made since the publication of the proposed regulation and ODW's responsiveness to public comment

- 21 days;

**Health and Human Resources (HHR) review**

- 14 days; and

**Governor's Office review**

- no time limit.

# Final Amendments to the Waterworks Regulations

December 23, 2020: submitted to Town Hall.

January 21, 2021: OAG certified the Board had legal authority to amend the regulations.

February 10, 2021: DPB completed its review the amendments.

- DPB policy analysis is “Governor’s Confidential Working Papers”

February 17, 2021: Secretary of Health and Human Resources, “review in progress, day 7”



# Final Amendments to the Waterworks Regulations

## Final Adoption Period:

If the Governor approves the final amendments, the Registrar will publish them in the *Virginia Register of Regulations*,

- Initiates a 30-day final adoption period
- The public can review, request opportunity to submit oral & written comments.

If at least 25 persons request an opportunity to submit comments on any substantive changes to the regulations between proposed and final amendments, ODW will suspend the regulatory process for 30 days to solicit comments...

Otherwise the regulations become effective at the end of the 30-day final adoption period.



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- Sign up

**Agency** Virginia Department of Health

**Board** State Board of Health

**Chapter** Waterworks Regulations [12 VAC 5 - 590]

**Action:** Amend and update the Waterworks Regulations

**Final Stage** ▶ Action 4854 / Stage 9160

← Stage 9160

Documents		
Final Text	12/23/2020	3:21 pm
Agency Background Document	12/10/2020	
Attorney General Certification	1/21/2021	

Status	
Changes to Text	Changes have been made to the text since the <a href="#">proposed stage</a> was last published in the Register.
Exempt from APA	No, this stage/action is subject to article 2 of the <i>Administrative Process Act</i> and the standard executive branch review process.
Attorney General Review	Submitted to OAG: 12/23/2020 Review Completed: 1/21/2021 Result: Certified
DPB Review	Submitted on 1/21/2021 Review Completed: 2/10/2021 <i>DPB's policy memo is "Governor's Confidential Working Papers"</i>
Secretary Review	<b>Secretary of Health and Human Resources review in progress.</b> Day 6
Governor's Review	Not yet submitted
Virginia Registrar	Not yet submitted
Comment Period	You may comment on this stage in a Town Hall comment forum as soon as it is published in <i>The Virginia Register of Regulations</i> .  If you sign up for the Town Hall <a href="#">email notification service</a> , you will be notified when the comment forum opens.  The regulatory information regarding this stage is subject to change until 10 days before it is published in the Register.
Effective Date	Not yet determined

# Establishing Regulatory Limits for PFAS in Virginia Drinking Water Status Update

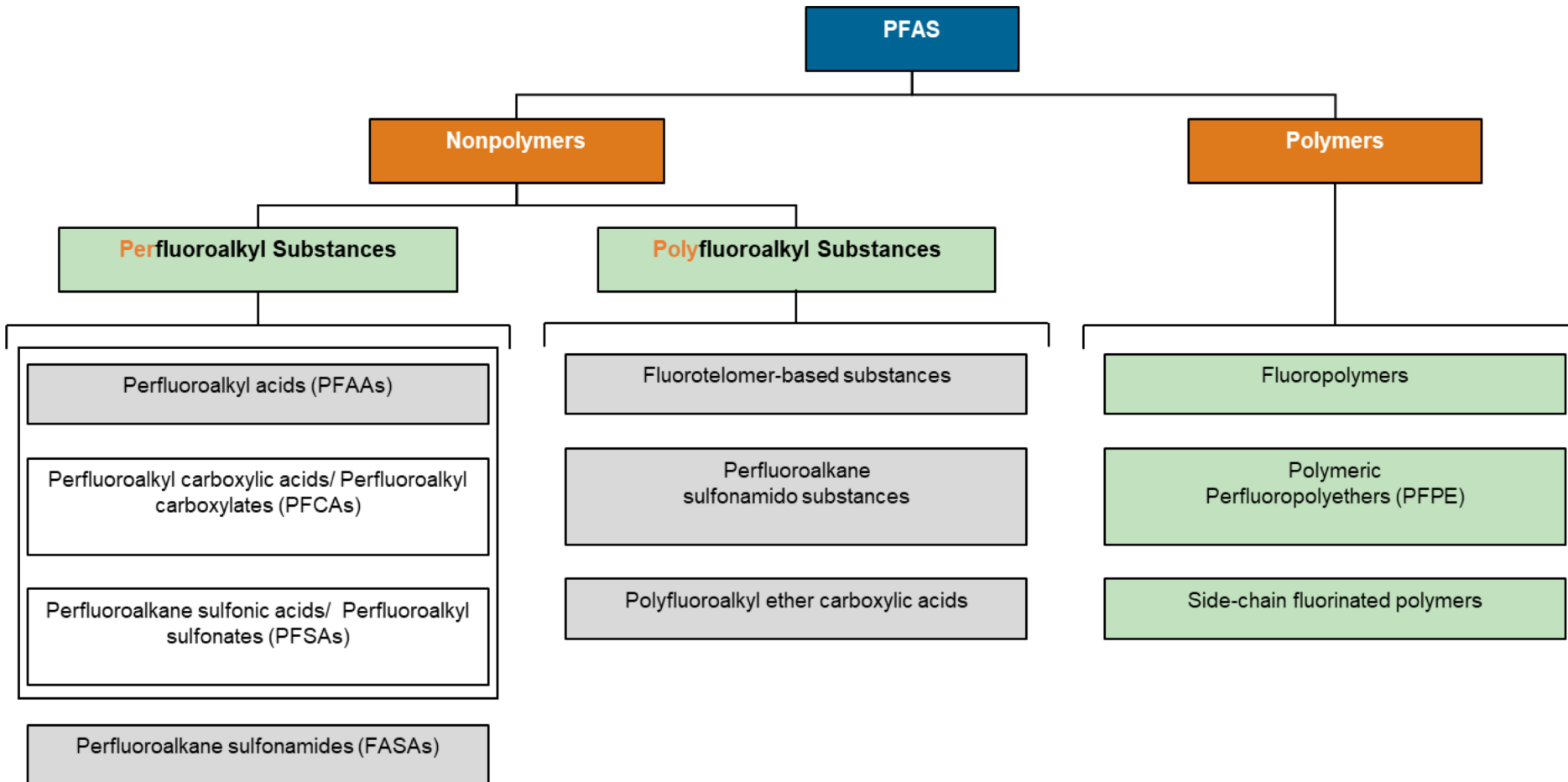
**Tony Singh, Ph.D., MPH, PE**  
WATERWORKS ADVISORY COMMITTEE MEETING

Virginia Department of Health  
February 17 2021

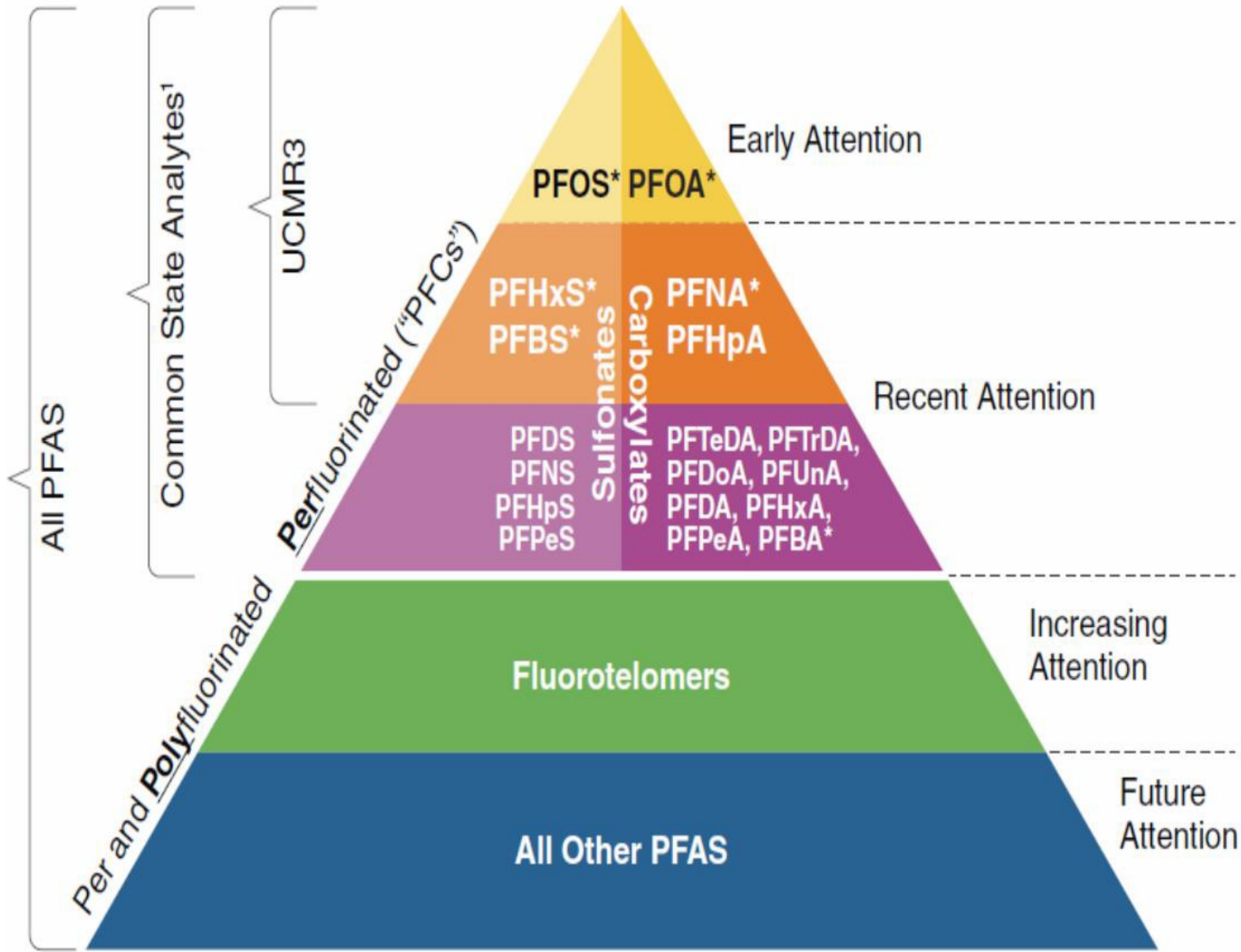
# Per- and Poly Fluoroalkyl Substances (PFAS) Family

## Facts

- PFAS family may contain about **5,000-10,000** compounds (USEPA 2018)
- At least one of the six PFAAs listed in UCMR3 were detected in 194 out of 4,920 PWSs tested (~4%), which serve about 16.5 million people in 36 states and territories ([Hu et al. 2016](#))
- Analytical methods can detect only 20-30 (unapproved methods up to 70 - 80)



# Per- and Polyfluoroalkyl Substances (PFAS)



# Per- and Polyfluoroalkyl Substances (PFAS)

*Drinking water* - surface water or groundwater

*Biota* - fish and shellfish

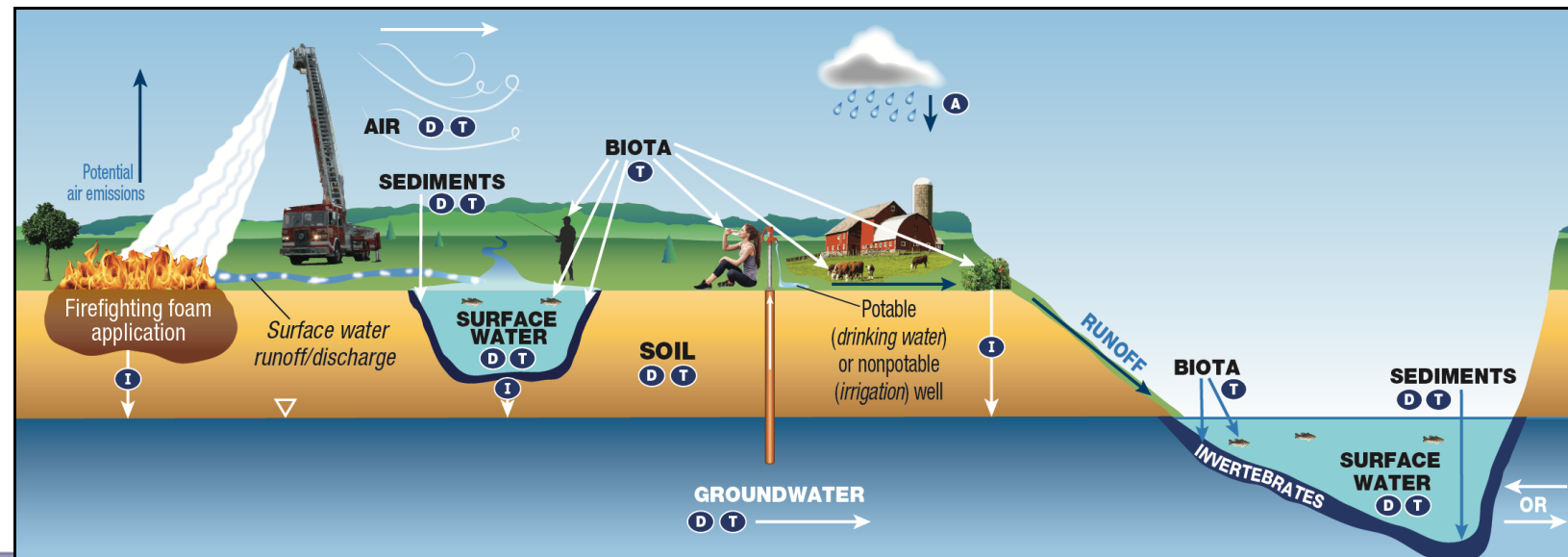
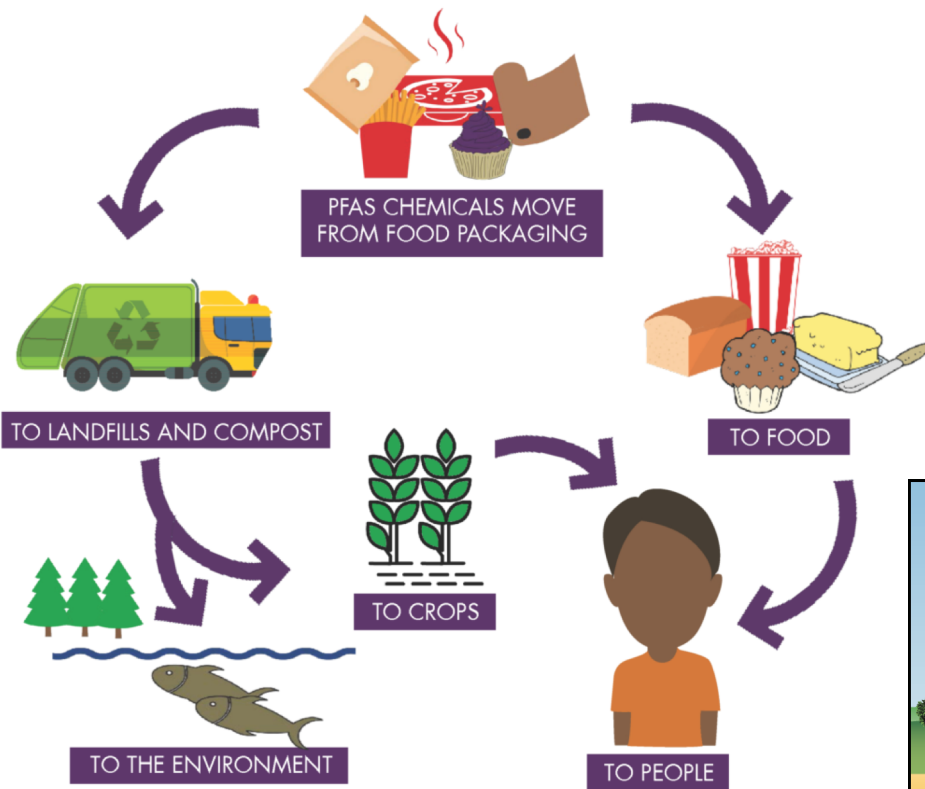
*Biosolids* - uptake in livestock and plants

*Landfill* - potential to impact groundwater

*Food* - Food products and packaging

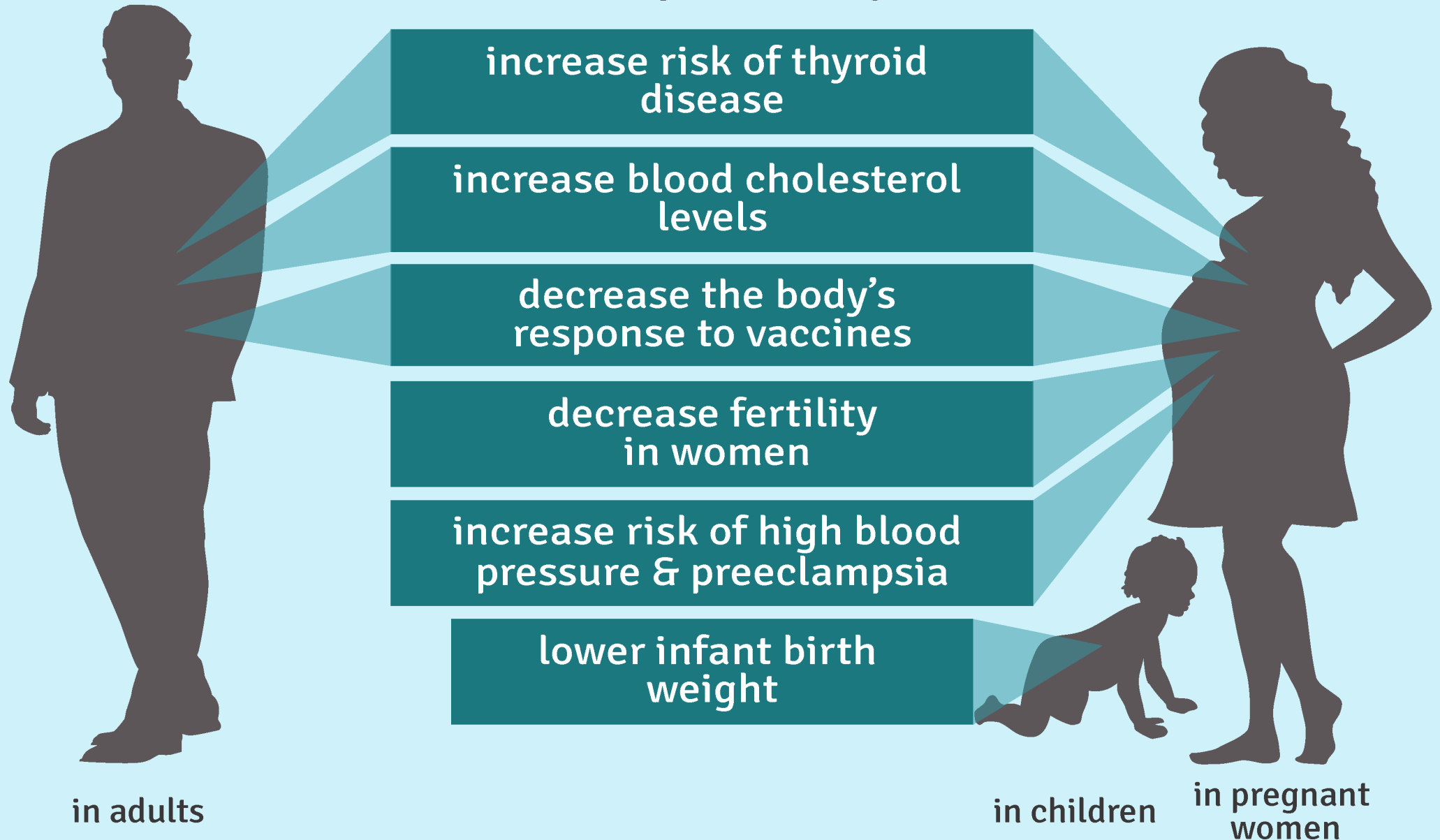
*Industrial* - Commercial products found in home

*Proximity* - Living next to industry that uses PFAS



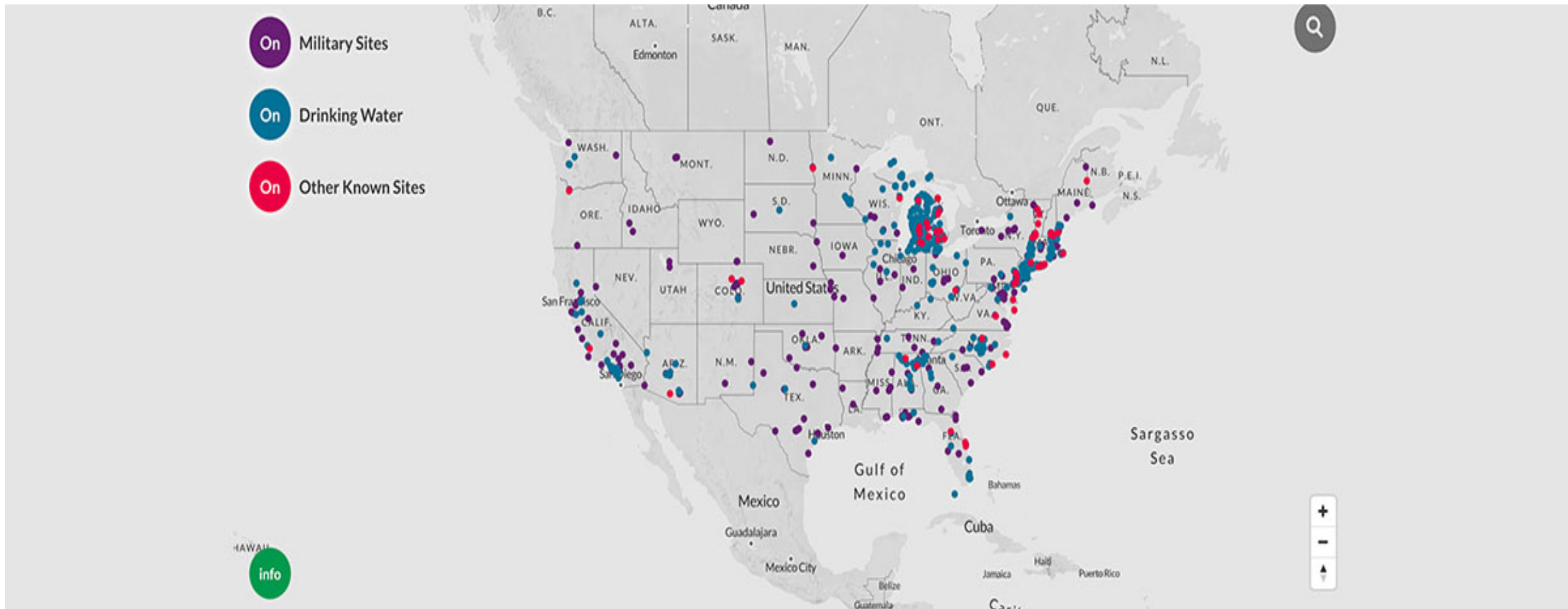
# PFAS Health Effects

## Human studies suggest PFAS exposure may...



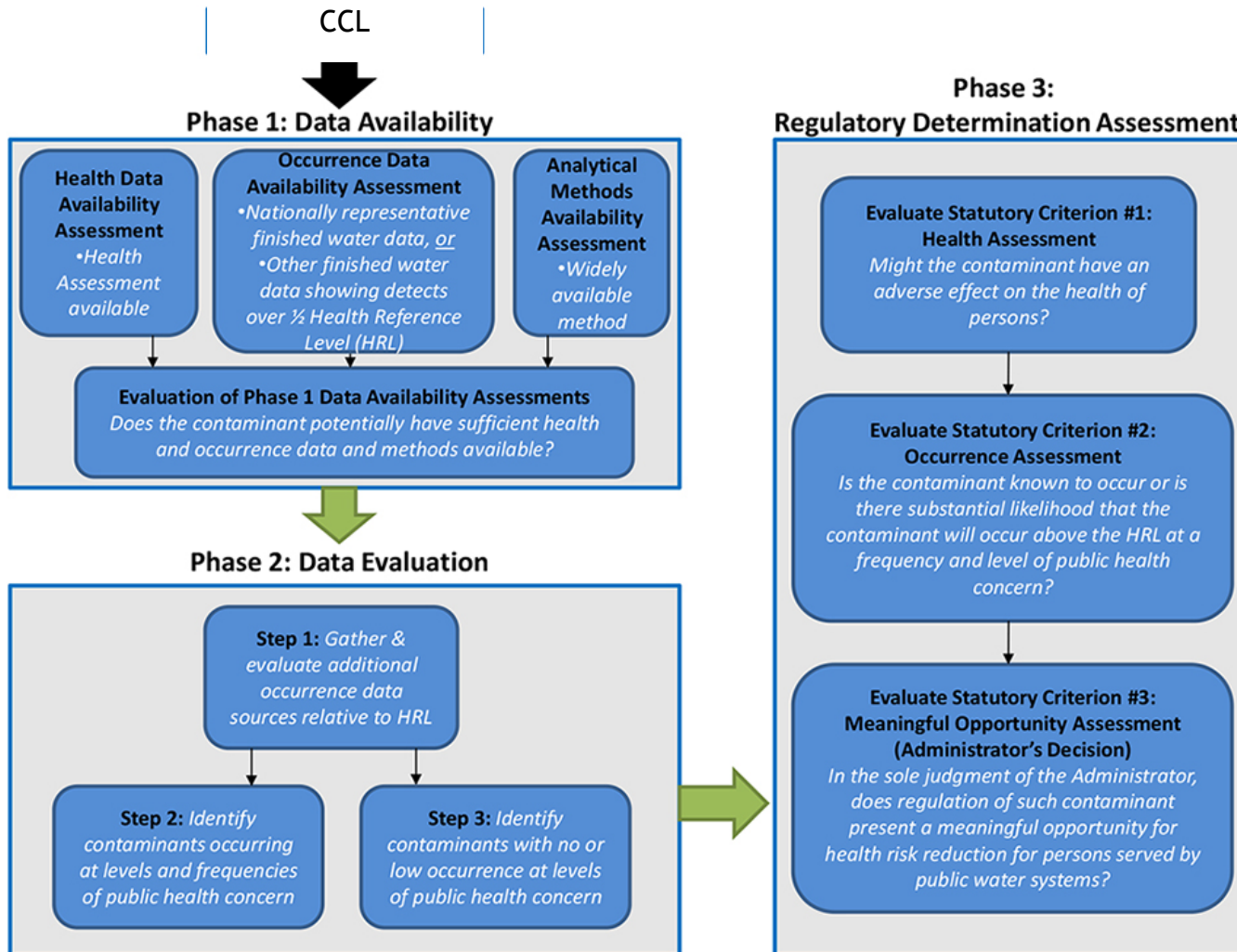
# PFAS - If you Sample it, you will find it

PFAS detection in water supplies serving more than 110 Million people





# EPA PFAS Regulatory Process (PFOA & PFOS)



On January 19, 2021, EPA announced final regulatory determinations for contaminants on the fourth Contaminant Candidate List ([CCL 4](#)). EPA is making final determinations to regulate two contaminants, perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA), in drinking water.

EPA will now initiate the process to develop an NPDWR for these two per- and polyfluoroalkyl substances (PFAS), which will include further analyses, scientific review, and opportunity for public comment.



# PFAS – We still need to learn more

- Scientific evidence/ Better understanding on:
  - human health effects
  - ecological toxicity information
  - PFAS occurrence data in soil, water and air in Virginia



## HB586

**Patron:** Delegate Guzman (GA 2020)

- The State Health Commissioner to convene a PFAS workgroup,
- Conduct a detailed investigation on current literature and what other states are doing,
- Conduct PFAS occurrence study at no more than 50 waterworks and source waters,
- May develop MCL guidelines
- **Timeline:** December 01, 2021

**Potential Issues:** No state funding

## HB1257

**Patron:** Delegate Rasoul (GA 2020)

- Establish MCLs for PFOA, PFOS, and other PFAS compounds, 1,4-Dioxane, and Chromium (VI)
- Provide status report by 11/01/2020
- Provide detailed report by 10/01/2021
- Effective Date: 01/01/2022

### **Potential Issues:**

- No comprehensive PFAS, 1,4-dioxane, or Cr(VI) occurrence data in VA
- No funding

# Office of Drinking Water - Priorities

## HB586 Implementation require –

- (1) Form a Virginia PFAS Workgroup
- (2) A literature review on what other State have done on regulating PFAS
- (3) PFAS Sampling/Monitoring study
- (4) Workgroup may develop recommendations for MCLs

**Funding & Resources:** US EPA under PWSS Emerging Contaminant Grant

## HB586 Deliverables –

- Reports Due 12/01/2021
- Recommendation to the Board of Health on PFAS MCLs

# VA PFAS Workgroup Major Objective

May develop recommendations for specific maximum contaminant levels (MCLs) for:

- Perfluorooctanoic acid (PFOA)
- Perfluorooctane sulfonate (PFOS)
- Perfluorobutyrate (PFBA)
- Perfluoroheptanoic acid (PFHpA)
- Perfluorohexane sulfonate (PFHxS)
- Perfluorononanoic acid (PFNA)

And other PFAS “as deemed necessary”



# Virginia PFAS Workgroup - Scope

**Scope:** PFAS contamination in Drinking Water (including source waters)



# VA PFAS Workgroup - Outreach

ODW reached out to stakeholders via:

- Waterworks Advisory Committee (WAC)
- VA Water/Wastewater Agency Response Network (VA WARN)
- Other VDH communications
- Through ODW Field offices/Regional contacts

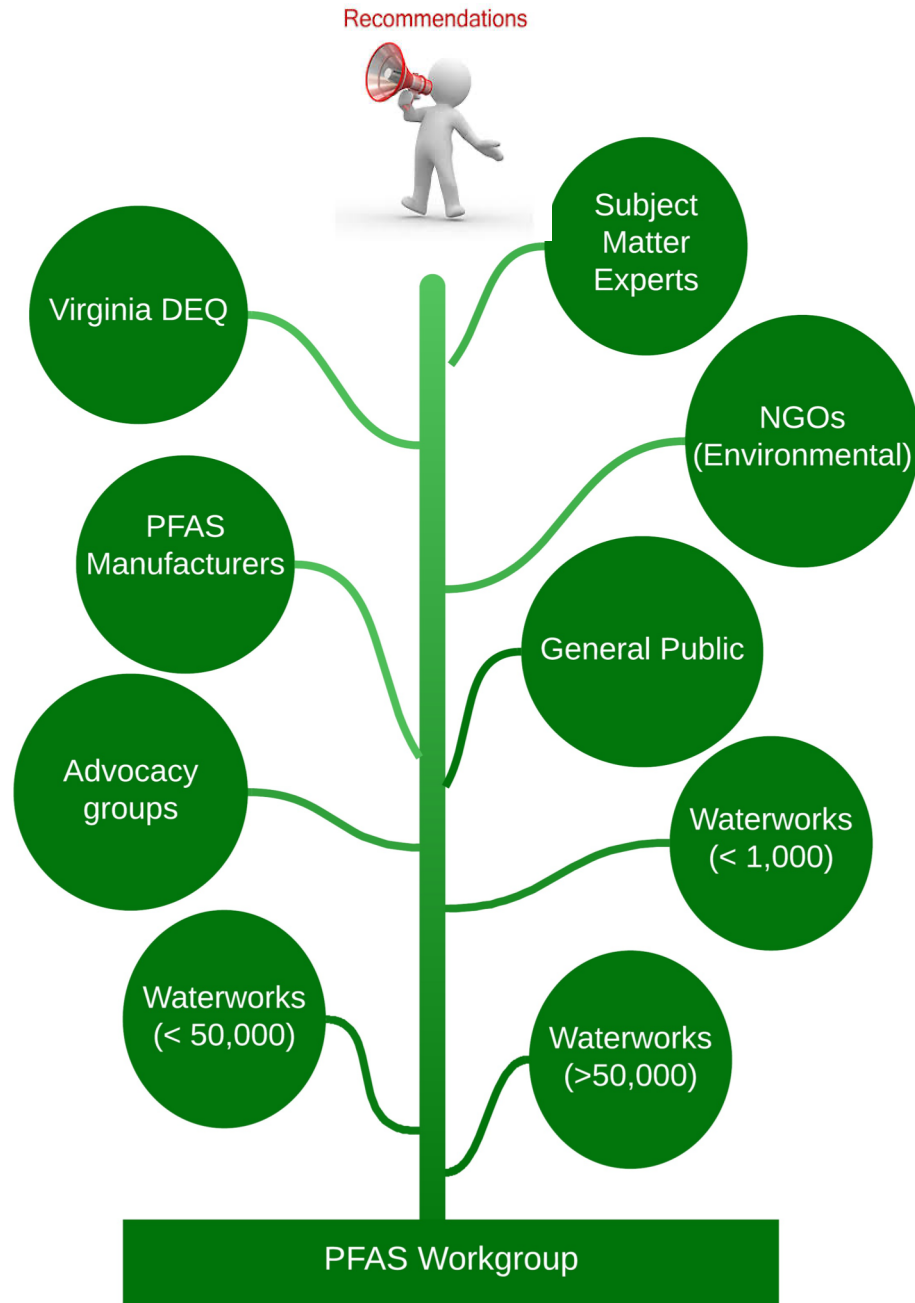




# PFAS Workgroup Member Expectations

- Possess knowledge / expertise in “emerging contaminants in the environment”
- Participate and contribute to the topic of interest (PFAS and emerging contaminants in drinking water) at meetings (3 - 4 hours)
- Commitment of 5-10 hours per month to study, review, interpret and develop new documents / guidelines / recommendations
- Participate and contribute to at least one sub-workgroup

# Virginia PFAS Workgroup



4 people - Community waterworks that serve >50,000 persons.\*  
1 person - Community waterworks that serves < 50,000 persons.\*  
1 person - Community waterworks that serves < 1,000 persons.\*  
2 people - Advocacy groups that represents waterworks in VA.

1 person - A manufacturer with chemistry experience.  
2 people - Non-governmental environmental organizations.  
1 person - A consumer of public drinking water.

1 person - ODW's technical staff  
1 person - Commonwealth of Virginia State Toxicologist.  
1 person - VDH local health department (District Health Director)  
1 person - The Virginia Department of Environmental Quality (DEQ).

\*At least one representative from community waterworks from a private company that operates waterworks.



"Water is the only drink for a wise man."  
-Henry David Thoreau



An Essential Utilities Company



WESTERN VIRGINIA  
WATER AUTHORITY  
540.853.5700 | info@westernvawater.org

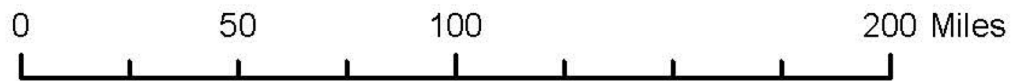
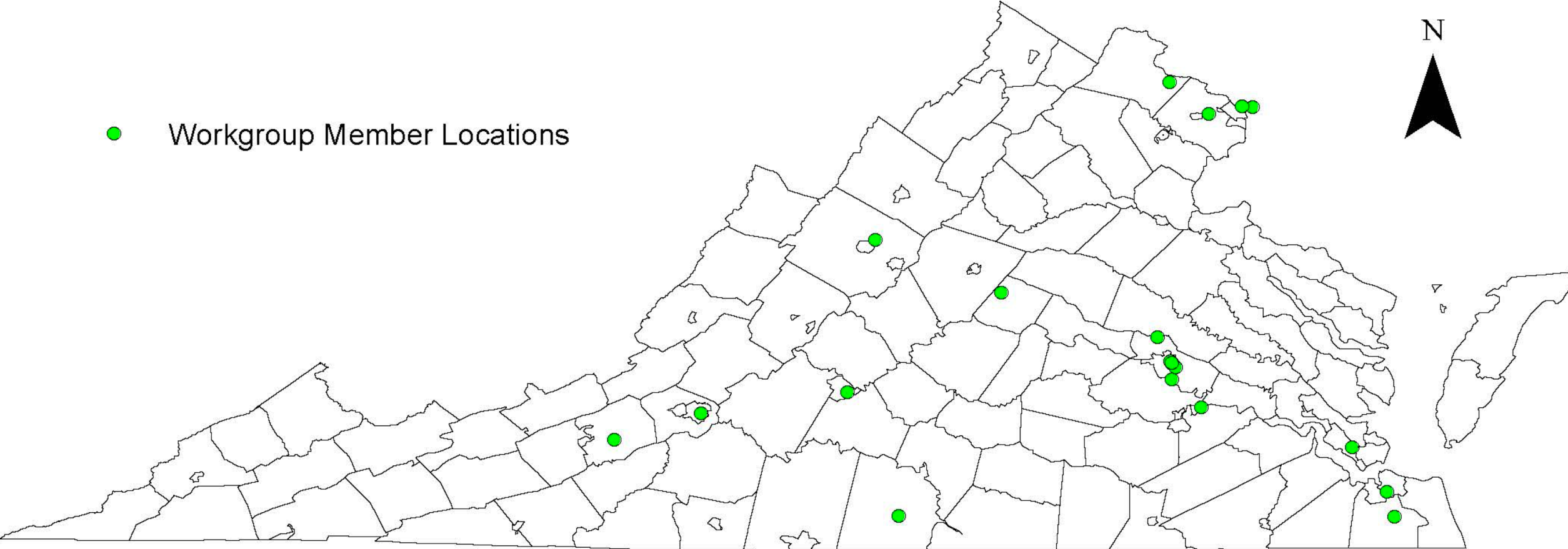


HALIFAX COUNTY  
*Virginia*



# Geographical Coverage

● Workgroup Member Locations



# Proposed - Workgroup Logistics

Data sharing - An electronic file sharing platform (MS Teams/SharePoint)

Meeting information on Town Hall ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)).

PFAS Webpage: [www.vdh.virginia.gov/drinking-water/pfas/](http://www.vdh.virginia.gov/drinking-water/pfas/)

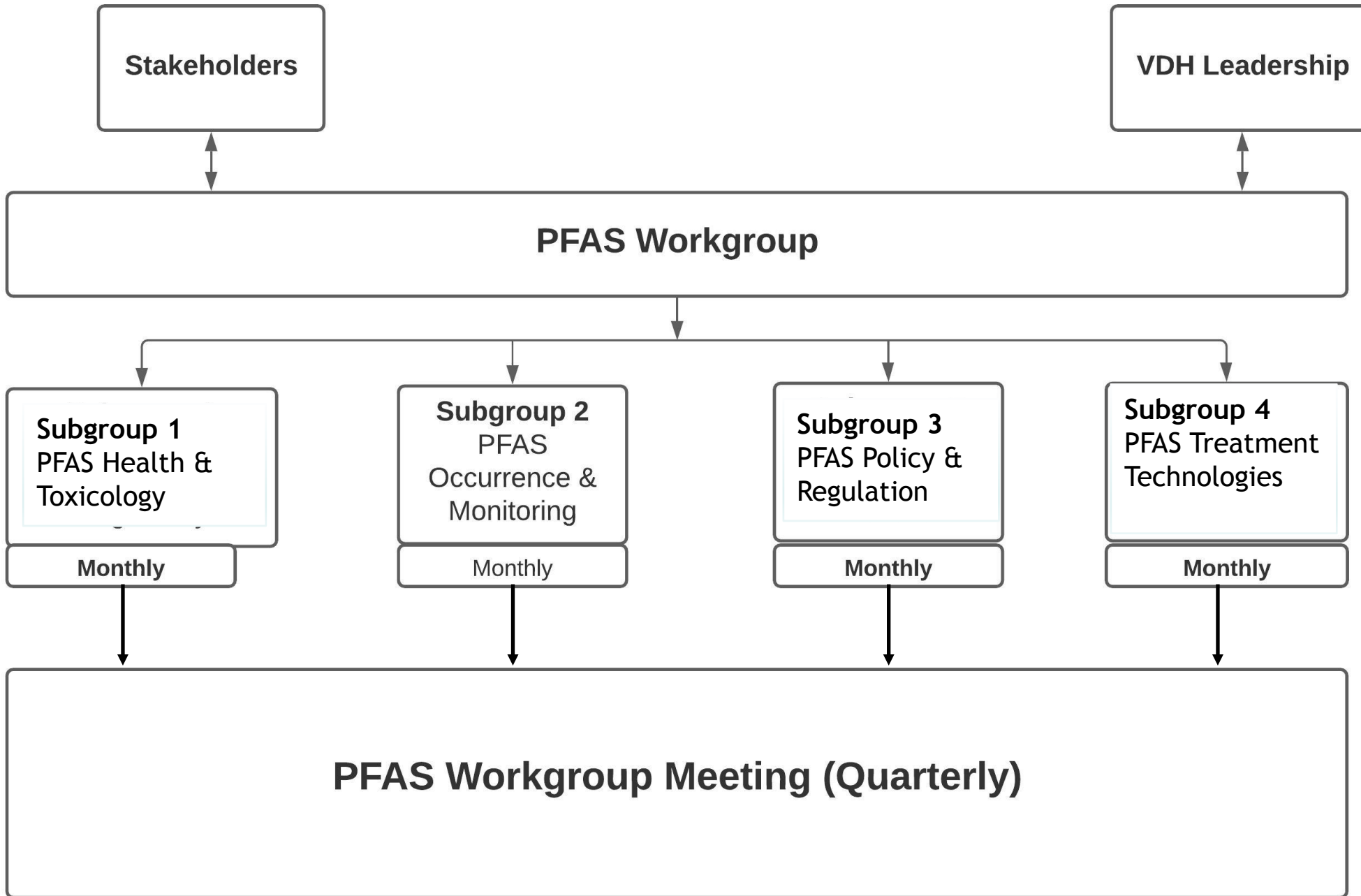
Tech and Admin support - Office of Drinking Water (ODW) staff

Meeting Information -

Meeting #	When (Tentative)	Where
1	October 2020	Virtual
2	January 2021	Virtual
3	March 2021 (Interim)	Virtual
4	April 2021	Tidewater (or Virtual)
5	July 2021	Northern Virginia
6 (If needed)	October 2021	Southwest Virginia

# Virginia PFAS Subgroups

- **PFAS Health & Toxicology**
  - Health impact/Risk Assessment; Selection of PFAS
- **PFAS Occurrence & Monitoring**
  - Design and Coordinate a PFAS Sampling & Monitoring Study
- **VA Policy and Regulatory**
  - How the above data/info could be used for Virginia?
- **PFAS Treatment Technologies**
  - Best Available Treatment Technologies, economics & relevance to VA



**PFAS in  
in VA Drinking  
Water**

# Ongoing & Proposed PFAS Activities

- PFAS Literature Review May 2021
  - Old Dominion University (ODU) Faculty
  - Summarized literature review will be shared with the Workgroup
- Subject Matter Expert Talks - through December 2021
- PFAS Sampling & Monitoring Study - March - May 2021



# PFAS Analytical

- **PFAS Analytical**
  - RAP is approved & Quick quotes are out
  - EPA Method 533 and approved method for source waters
  - EPA Method analyzes 25 analytes (14 Method 537.1 compounds, plus 7 additional compounds that are on DoD and other compound lists, as well as 4 totally new PFAS compounds that were previously not on any PFAS analytical list)

# Proposed PFAS Sampling/Monitoring Study

Approaches based on:

- Available funding → number of sampling sites
- Maximum public health risk reduction
- Proximity to potential PFAS contamination

Proposed strategy (depends on budget):

1. Largest waterworks (17) in Virginia serve appx. 4.5 million consumers
2. Sampling - based on potential for PFAS contamination - VDH - DEQ data/risk maps
3. Major water supplies - James River, Potomac River, etc.
4. Hybrid approach (17 large + select potential high risk waterworks + select source waters)
5. Statewide comprehensive PFAS occurrence study (Not considering in this study)



# 17 Large Waterworks

PWSID	PWS name	City / County	Population	# EPs	#CCs
6059501	FAIRFAX COUNTY WATER AUTHORITY	FAIRFAX COUNTY	1074422	2	1
3810900	VIRGINIA BEACH, CITY OF	VIRGINIA BEACH	446067	0	1
3700500	NEWPORT NEWS, CITY OF	NEWPORT NEWS	407300	2	0
4041845	CHESTERFIELD CO CENTRAL WATER SYSTEM	CHESTERFIELD	320658	1	2
4087125	HENRICO COUNTY WATER SYSTEM	HENRICO	292000	1	1
6107350	LOUDOUN WATER - CENTRAL SYSTEM	LOUDOUN	286202	1	1
3710100	NORFOLK, CITY OF	NORFOLK	234220	2	0
6013010	ARLINGTON COUNTY	ARLINGTON	215000	0	1
4760100	RICHMOND, CITY OF	RICHMOND CITY	197000	1	0
3550051	CITY OF CHESAPEAKE - NORTHWEST RIVER SYS	CHESAPEAKE	166704	2	0
2770900	WESTERN VIRGINIA WATER AUTHORITY	ROANOKE CITY	155000	4	0
6153600	PWCSA - EAST	PRINCE WILLIAM	153000	0	1
6510010	ALEXANDRIA, CITY OF	ALEXANDRIA	146970	0	2
6153251	PWCSA - WEST	PRINCE WILLIAM	130001	0	2
3740600	PORTSMOUTH, CITY OF	PORTSMOUTH	120400	1	0
6179100	STAFFORD COUNTY UTILITIES	STAFFORD	112285	2	0
6177300	SPOTSYLVANIA COUNTY UTILITIES	SPOTSYLVANIA	84390	2	0
Totals				21	12
Total EP + CC = 33					

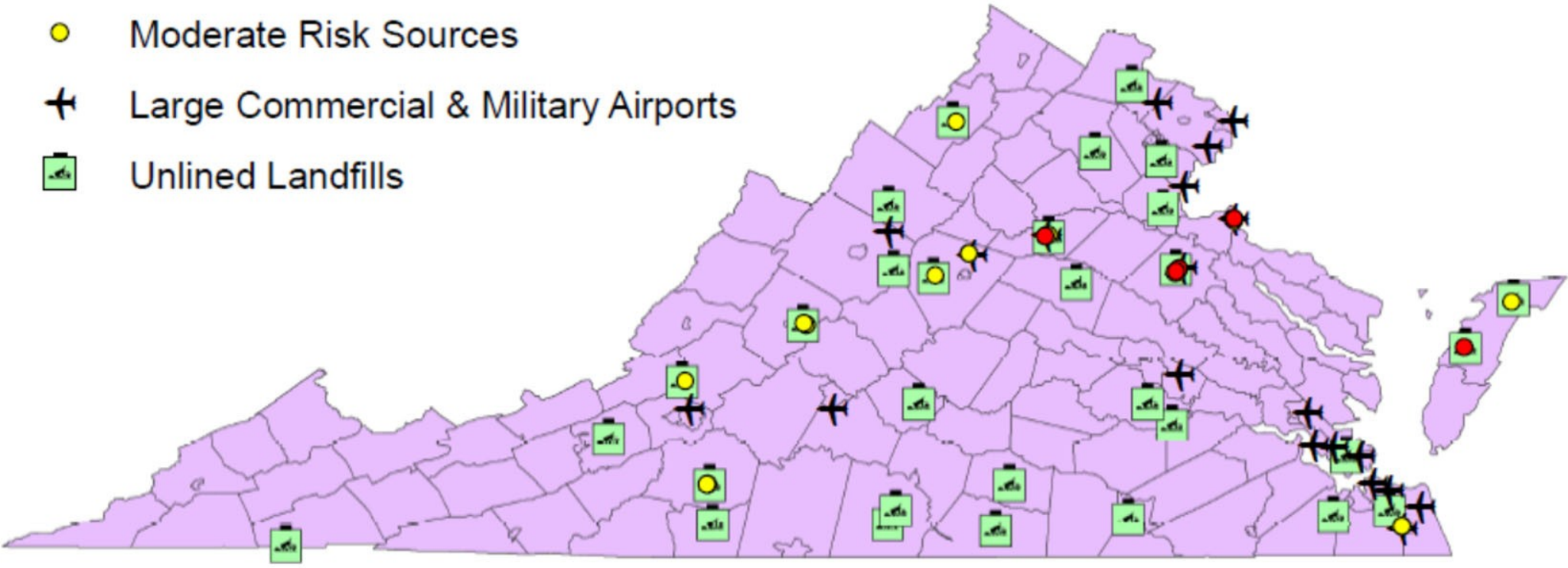
# Potential PFAS Contamination - Heat Maps

- Focus on “community and NTNC” waterworks
- Prioritize based on risk due to proximity to certain activities:
  - Landfills
  - Airports
  - Industrial sites
  - Military usage and discharge of fire fighting foams
- Known or suspected contamination
- Any previous available data



# Groundwater Systems Approach

- High Risk Sources
- Moderate Risk Sources
- ✈ Large Commercial & Military Airports
- 🗑 Unlined Landfills

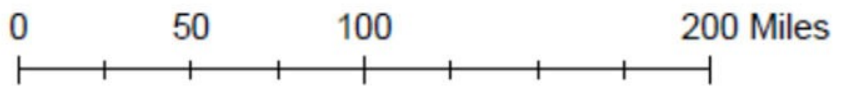


**Potential High Risk:** <math>< \frac{1}{2}</math> mile of large airport or unlined landfill

**Potential Moderate Risk:** <math>< 1</math> mile of large airport or unlined landfill

6 - High risk wells --→ 5 Systems

15 - Medium risk wells. --→ 11 Systems





# Proposed Groundwater Systems

System Name	PWSID	Facility Name	ID	System Type	Population Served
NAVAL SUPPORT FACILITY_ DAHLGREN	6099340	WELL 3 - BLDG 274A (RESERVOIR WELL)	WL003	C	11000
NAVAL SUPPORT FACILITY_ DAHLGREN	6099340	WELL 1 - BLDG 1288 (BRONSON WELL)	WL001	C	11000
BOWLING GREEN_ TOWN OF	6033550	WELL 4	WL004	C	1152
PUNGOTEAGUE ELEMENTARY SCHOOL	3001790	WELL	WL001	NTNC	610
RSAROUTE 20	6137120	WELL #2 (MAY LANE)	WL002	C	387
FT A P HILL - HEADQUARTERS	6033251	WELL HQ #2 (PWAT 28)	WL028	C	6 180
NAVAL SUPPORT FACILITY_ DAHLGREN	6099340	WELL 2 - BLDG 1190 (CASKEYWELL)	WL002	C	11000
BOWLING GREEN_ TOWN OF	6033550	WELL 5	WL005	C	1152
BOWLING GREEN_ TOWN OF	6033550	WELL 1A	WL01A	C	1152
LONG HOLLOW	2163400	LHWDC WELL 1	WL001	C	578
LONG HOLLOW	2163400	LHWDC WELL 2	WL002	C	578
EARLYSVILLE FOREST	2003255	WELL 6	WL006	C	488
EARLYSVILLE FOREST	2003255	WELL 5	WL005	C	488
PEACOCK HILL SUBDIVISION	2003650	WELL 8	WL008	C	475
RSAROUTE 20	6137120	WELL #1 (PORTER RD)	WL001	C	387
MOUNTAIN VIEW ELEM SCHOOL	2163560	MTN VIEW WELL	WL001	NTNC	250
ROANOKE CEMENT COMPANY	2023180	WELL - ROANOKE CEMENT COMPANY	WL001	NTNC	190
FT A P HILL - HEADQUARTERS	6033251	WELL HQ #1 (PWAT 29)	WL029	C	180
FRANKLIN COUNTY COMMERCE CENTER	5067137	WELL NO. 5	WL005	NTNC	103
NALF FENTRESS FIELD	3550615	WELL NO. 2	WL002	NTNC	40
NALF FENTRESS FIELD	3550615	WELL NO. 1	WL001	NTNC	40

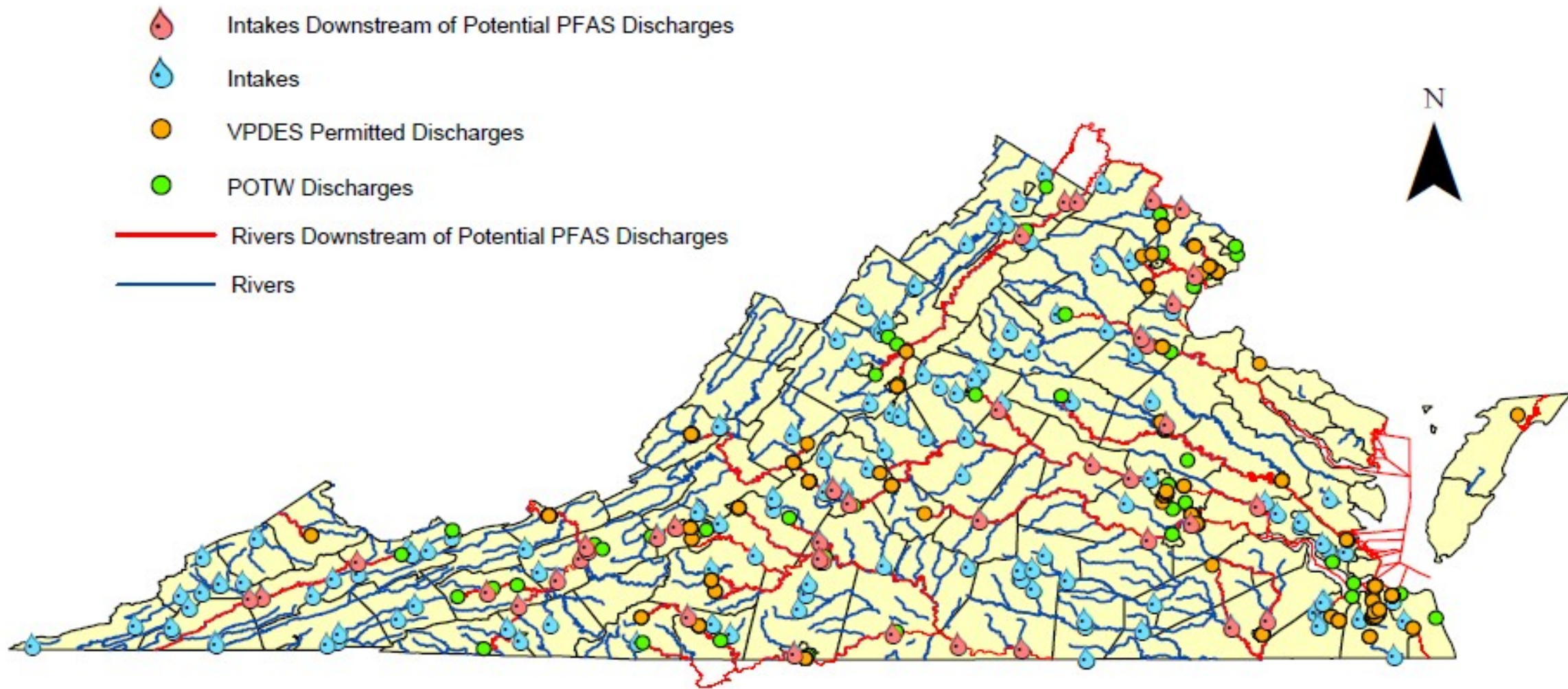
# Major Water Sources

VDH-DEQ lists of potential sources of PFAS:

- VPDES discharge permits (Potential **direct dischargers**)
- POTWs with **Significant Industrial Users**
- Based on **Standard Industrial Classification (SIC) Codes** for
  - Significant Industrial Users
  - Direct Dischargers
  - Potential use and/or discharge PFAS

Approach: Use these to identify major water sources potentially impacted by PFAS

# Major Water Sources





# Major Water Sources - Approach

- Traced potentially impacted drinking water intakes (**45 intakes**)
- Excluded intakes from 17 large systems - covered by entry point sampling
- Sorted the remaining list (largest to smallest population served)
- Select one intake for each PWS
  - Yielded 29 intakes; Proposal is to select 17 from this list
  - DEQ and ODW input may adjust priority from this list

PWSID	System	Facility
5680200	LYNCHBURG, CITY OF	JAMES RIVER-ABERT
4085398	HANOVER SUBURBAN WATER SYSTEM	NORTH ANNA RWI
6107300	LEESBURG_ TOWN OF	POTOMAC INTAKE
5590100	DANVILLE, CITY OF	DAN RIVER INTAKE
5089852	UPPER SMITH RIVER WATER SUPPLY	SMITH RIVER INTAKE
3670800	VIRGINIA-AMERICAN WATER CO.	APPOMATTOX RIVER
2775300	CITY OF SALEM WTP	ROANOKE RIVER
5031150	CAMPBELL COUNTY CENTRAL SYSTEM	BIG OTTER RIVER
<b>6153675</b>	QUANTICO MARINE BASE-MAINSIDE	BRECKINRIDGE RESERVOIR
1750100	RADFORD_ CITY OF	INTAKE ON NEW RIVER
2187406	FRONT ROYAL_ TOWN OF	SOUTH FORK SHENANDOAH RIVER
2065480	LAKE MONTICELLO	RIVANNA RIVER
1195900	WISE COUNTY REGIONAL WATER SYSTEM	CLINCH RIVER INTAKE
1155641	PULASKI COUNTY PSA	CLAYTOR LAKE
5780600	HCSA- LEIGH STREET PLANT	RAW WATER INTAKE
5147170	FARMVILLE_ TOWN OF	APPOMATTOX RIVER
1197810	WYTHEVILLE_ TOWN OF	REED CREEK
4075735	JAMES RIVER CORRECTIONAL CTR	JAMES RIVER INTAKE
1185695	RICHLANDS_ TOWN OF	IN001 - CLINCH RIVER INTAKE
2043125	BERRYVILLE_ TOWN OF	SHENANDOAH RIVER
5031050	ALTAVISTA, TOWN OF	STAUNTON RIVER
1121643	RADFORD ARMY AMMUNITION PLANT	NEW RIVER
5117310	CLARKSVILLE_ TOWN OF	KERR RESERVOIR INTAKE
1195700	ST PAUL_ TOWN OF	CLINCH RIVER
5117707	ROANOKE RIVER SERVICE AUTHORITY	LAKE GASTON INTAKE
2043634	MOUNT WEATHER EMERGENCY OPERATIONS CENTE	SHENANDOAH RIVER
1121057	NRV REGIONAL WATER AUTHORITY	NEW RIVER (RAW WATER) PUMP STATION
1197435	NEW RIVER REGIONAL WATER AUTHORITY	INTAKE - NEW RIVER
4041035	APPOMATTOX RIVER WATER AUTHORITY	LAKE CHESDIN RAW WATER INTAKE



# Major Water Sources



# Hybrid Approach Summary

	# Samples	# Systems	Population
17 Large Systems	33	17	4,541,619
GW - High Risk	6	5	13,329
GW - Medium Risk	15	11	2,124
Major Water Sources	17	17	
Total	71	50	4,557,072

# Virginia PFAS Activities - Summary

- Form a Workgroup
- Conduct a detailed investigation on current literature and what other states are doing,
- Conduct PFAS occurrence study at no more than 50 waterworks and source waters,
- Develop MCL guidelines/recommendations
- **Completed** ✓
- Ongoing - via a State University (\$10k)
- Ongoing - Preliminary study design
- **Not yet started**

# WIIN Lead Grants

- VDH-ODW is collaborating with State Universities in implementing this program
  - RAP is approved (VDH internal procurement approval process)
  - Currently in the process of signing MOU with ODU and Virginia Tech
- ~700 – 800 facilities are expected to join
- Outreach to schools and childcare centers is expected to start in March 2021
- Sampling may start in April 2021 and continue till April 2022
  - VDH is awarded WIIN 2105 on remediation of Lead sources in schools and child care centers (\$1.3M). Funds not received yet.

# Have any Question, Comment or Suggestion, contact Us

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804-864 7517 / 804-310 3927

**Dwayne Roadcap**

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804-864 7522

# Regulatory Update

## Biden Administration Initiatives

February 17, 2021

Robert D. Edelman

Director, Division of Technical Services

# Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

Memo dated January 20, 2021

- Immediate Review of Agency Actions Taken Between January 20, 2017, and January 20, 2021 against Administration policy:
  - listen to the science;
  - improve public health and protect our environment;
  - ensure access to clean air and water;
  - limit exposure to dangerous chemicals and pesticides;
  - hold polluters accountable, including those who disproportionately harm communities of color and low-income communities;
  - reduce greenhouse gas emissions;
  - bolster resilience to the impacts of climate change;
  - restore and expand our national treasures and monuments; and
  - prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.



# Non-exclusive list of agency actions under review

- “National Primary Drinking Water Regulations: Lead and Copper Rule Revisions,” 86 Fed. Reg. 4198 (January 15, 2021).
- “Drinking Water: Final Action on Perchlorate,” 85 Fed. Reg. 43990 (July 21, 2020).
- “The Navigable Waters Protection Rule: Definition of ‘Waters of the United States,’” 85 Fed. Reg. 22250 (April 21, 2020).
- “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information,” 86 Fed. Reg. 469 (January 6, 2021).

# Regulatory Freeze Pending Review

Memo dated January 20, 2021 for the Heads of Executive Departments and Agencies

President's appointees or designees review and approval of new or pending rules:

1. Sent to OFR but not yet published - withdraw for review and approval
2. Published but not yet effective - consider postponing effective date for 60 days, consider opening a 30-day comment period, consider further delaying, or publishing for notice and comment, beyond 60 days
  1. For those rules that raise no substantial questions of fact, law, or policy, no further action needs to be taken.
  2. For rules that raise substantial questions of fact, law or policy, take appropriate action...

# Subject to Regulatory Freeze

Affordability Guidance - Sent to OFR but not published in the Federal Register

- Subject to regulatory freeze
- EPA expressly acknowledges drinking water burden when establishing CWA compliance schedules

UCMR 5 - Signed but not yet published in the Federal Register

- Subject to regulatory freeze
- Requires monitoring of 29 PFAS compounds and lithium.
- All PWSs serving  $\geq$  3,300 customers + 800 representative smalls systems

# Subject to Regulatory Freeze

## Regulatory Determination 4 - Signed but not yet published in the Federal Register

- Subject to regulatory freeze
- Final regulatory determinations for CCL 4
  - Regulate: PFOS and PFOA
  - Not regulate: 1,1-dichloroethane, acetochlor, methyl bromide (bromomethane), metolachlor, nitrobenzene, and RDX.
- Would lead to standards for PFOS and PFOA

# Subject to regulatory freeze

CERCLA/RCRA Advanced Notice of Proposed Rulemaking - prepublication version released by EPA, not published in the Federal Register

- Subject to regulatory freeze
- Soliciting comments on how to regulate PFOA and PFOS contamination under CERCLA and RCRA.
- EPA started the process of designating PFOA and PFOS as hazardous substances.
- EPA is reconsidering regulating under CERCLA and RCRA.

# Consumer Confidence Report (CCR) Rule Revisions

AWIA (2008) requires changes to the content, form, manner, and frequency of CCRs

- CWS serving >10,000 persons must deliver CCRs biannually
- Increase the readability, clarity, understandability, accuracy of information and risk communication of CCRs
- Allows electronic delivery
- CWS must include additional information on:
  - corrosion control efforts, and
  - any lead action level exceedances that required corrective action

Consultation

- EPA will consult with stakeholders, PWS, States, and others during the revisions

Timeline: Required within two years of AWIA enactment (October 2020)

# NRDC Lawsuit Against EPA for CCR Delay

Natural Resources Defense Council (NRDC) filed a lawsuit

- January 19, 2021 - United States District Court, Southern District of New York
- For violating a nondiscretionary duty by failing to meet a statutory deadline
- To compel EPA to issue revisions to the CCR regulations as soon as practicable

Status:

- EPA has not consulted with stakeholders
- Not proposed the regulations

Relief: Court to establish a deadline for EPA to issue regulations

# Bottom Line

- Multiple actions are under review
- Effective date of items published in the FR may be deferred 60 or more days
  - Remain as-is
  - Subject to changes
- Items not published in the FR: withdraw for review, possible revisions
- We don't know likely outcomes and timeframes



# Questions?

Robert D. Edelman

[Robert.Edelman@vdh.virginia.gov](mailto:Robert.Edelman@vdh.virginia.gov)

804-864-7490 / 434-466-4012

# Lead and Copper Rule Revisions

## Changes and Implementation

Jillian C. Galloway, PE  
Deputy Field Director, CFO

February 17, 2021

# Lead and Copper Rule Revisions

- The US EPA published the Lead and Copper Rule Revisions in the January 15, 2021, edition of the Federal Register
- The compliance date for the Rule is January 16, 2024.
  - However, the Biden Administration is reviewing new rules, may delay LCRR implementation, or change rule.
  - Earthjustice, NRDC have filed lawsuits - seeking to speed up LSL replacement, lower the action level
  - Impact is uncertain at this point.
- ODW, waterworks must be complete significant work before the compliance date.
- Final Rule Revisions aim at getting the lead out and protecting public health.

reference\_guide\_for\_pwss\_12.21.20.pdf - Adobe Acrobat Pro DC

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Home Tools final LCRR in fed re... reference\_guide\_for... x

96.7%

**EPA**

### Reference Guide for Public Water Systems Lead and Copper Rule Comparison

This table compares the major differences between the current Lead and Copper Rule (LCR) and the final Lead and Copper Rule revisions (LCRR). In general, requirements that are unchanged are not listed. For existing rule requirements visit: <https://www.epa.gov/dwreginfo/lead-and-copper-rule>. For more information on the new LCR visit: <https://www.epa.gov/ground-water-and-drinking-water/final-revisions-lead-and-copper-rule>.

CURRENT LCR	FINAL REVISED LCRR
<i>Action Level (AL) and Trigger Level (TL)</i>	
<ul style="list-style-type: none"> <li>90<sup>th</sup> percentile (P90) level above lead AL of 15 µg/L or copper AL of 1.3 mg/L requires additional actions.</li> </ul>	<ul style="list-style-type: none"> <li>90<sup>th</sup> percentile (P90) level above lead AL of 15 µg/L or copper AL of 1.3 mg/L requires more actions than the previous rule.</li> <li>Defines lead trigger level (TL) of 10 &lt; P90 ≤ 15 µg/L that triggers additional planning, monitoring, and treatment requirements.</li> </ul>
<i>Lead and Copper Tap Monitoring</i>	
<b>Sample Site Selection</b> <ul style="list-style-type: none"> <li>Prioritizes collection of samples from sites with sources of lead in contact with drinking water.</li> <li>Highest priority given to sites served by copper pipes with lead solder installed after 1982 but before the state ban on lead pipes and/or LSLs.</li> <li>Systems must collect 50% of samples from LSLs, if available.</li> </ul>	<b>Sample Site Selection</b> <ul style="list-style-type: none"> <li>Changes priorities for collection of samples with a greater focus on LSLs.</li> <li>Prioritizes collecting samples from sites served by LSLs –all samples must be collected from sites served by LSLs, if available.</li> <li>No distinction in prioritization of copper pipes with lead solder by installation date.</li> <li>Improved tap sample site selection tiering criteria.</li> </ul>
<b>Collection Procedure</b> <ul style="list-style-type: none"> <li>Requires collection of the first liter sample after water has sat stagnant for a minimum of 6 hours.</li> </ul>	<b>Collection Procedure</b> <ul style="list-style-type: none"> <li>Requires collection of the fifth-liter sample in homes with LSLs after water has sat stagnant for a minimum of 6 hours and maintains first-liter sampling protocol in homes without LSLs.</li> <li>Adds requirement that samples must be collected in wide-mouth bottles.</li> </ul>

1

December 2020

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# Rule Comparison

# ODW's Game Plan

- Use existing LCR team:
  - Jillian - team lead
  - Representatives from each field office
  - Central office support
- For each component of the rule, our team will be breaking it down into the following questions:
  - What *\*specifically\** is the rule asking for?
  - What can ODW accept to cover the rule's requirements?
  - How will documents/results be accepted, logged, reviewed, approved?
  - What training is required?

# Priorities

- Top Priorities
  - LSL inventories
  - LSL Replacement Plans

# Timeline



Jan. 2021

Jan. 2024

Jillian C. Galloway, PE  
[Jillian.Galloway@vdh.virginia.gov](mailto:Jillian.Galloway@vdh.virginia.gov)  
540-829-7317



# Policy and Program Briefing

## Operation Fee Regulations - Periodic Review

Nelson Daniel

ODW Policy and Program Director

February 17, 2021

# Waterworks Operation Fee Regulations

## Periodic Review:

Every four years to determine whether they should be continued without change or be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact on small businesses in a manner consistent with the stated objectives of applicable law.

# Waterworks Operation Fee Regulations

## Periodic Review:

- Last review: 10/7/2016 - no comments received
- Agency Findings (TH-07): 3/1/2017 “VDH believes the continuation of this regulation, without amendment or change, will provide for the ongoing existence of an important public health protection program.”
- Current review: February 15, 2021  
30 day public comment period closes March 17, 2021

## Periodic Review of this Chapter

Includes a Small Business Impact Review

Date Filed: 1/26/2021

### Review Announcement

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review.

The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).  
<http://TownHall.Virginia.Gov/EO-14.pdf>.

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

In order for you to receive a response to your comment, your contact information (preferably an email address or, alternatively, a U.S. mailing address) must accompany your comment. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

### Contact Information

<b>Name / Title:</b>	Nelson Daniel / <i>Policy and Program Director</i>
<b>Address:</b>	Virginia Department of Health 109 Governor Street Richmond, VA 23219
<b>Email Address:</b>	<a href="mailto:nelson.daniel@vdh.virginia.gov">nelson.daniel@vdh.virginia.gov</a>
<b>Telephone:</b>	(804)864-7210 FAX: (804)864-7521 TDD: (-)

### Publication Information and Public Comment Period

Published in the Virginia Register on 2/15/2021 [Volume: 37 Issue: 13]

Comment Period [In Progress](#) and ends on 3/17/2021

Comments Received: 0

## Public Comment Forum

On this [Periodic Review](#)

### Review Announcement

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review.

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◆ **In Progress!** Opened on **2/15/2021** and closes at 11:59pm on **3/17/2021**

[More about public comment forums and policies](#)



● [Enter a comment](#)

No Comments have been entered yet on this forum.

# Waterworks Operation Fee Regulations

The review shall include:

- (1) the continued need for the rule;
- (2) the nature and 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.

# Waterworks Operation Fee Regulations

Procedural requirements:

No later than 120 days after close of the public comment period, the agency shall publish a report of the findings of the regulatory review in the *Register* and post the report on Town Hall. (Form TH-07)

# Waterworks Operation Fee Regulations

Expectations:

Based on budget needs, possibility of public comment on existing requirements...

- Publish Notice of Intended Regulatory Action (NOIRA)
- Initiate stakeholder engagement to develop amendments to the regulations.





**COPY**

# COMMONWEALTH of VIRGINIA

MG TIMOTHY P. WILLIAMS  
THE ADJUTANT GENERAL

**DEPARTMENT OF MILITARY AFFAIRS**  
**OFFICE OF THE ADJUTANT GENERAL**  
**VIRGINIA NATIONAL GUARD**

JOINT FORCE HEADQUARTERS  
8000 JEFFERSON DAVIS HWY  
BUILDING 430  
RICHMOND, VA 23297

February 5, 2021

Subject: Request for Per- and Polyfluoroalkyl Substances Sampling Data from Finished Drinking Water Provided to Military Installations By Non-Department of Defense Drinking Water Purveyors

Town of Woodstock  
Attention: Mr. Daniel Bailey  
135 North Main Street  
Woodstock, VA 22664

Dear Mr. Daniel Bailey,

On July 23, 2020, the Department of Defense (DoD) issued a Policy on monitoring for per- and polyfluoroalkyl substances (PFAS) at military installations where drinking water is provided by a non-DoD purveyor. As part of DoD's PFAS strategy to ensure drinking water provided to our installation consumers does not contain PFOA/PFOS **above 70 parts per trillion** for either compound or combined total, Virginia Army National Guard, Department of Military Affairs (VDMA), in regards to Woodstock Readiness Center/Armory, is requesting the Town of Woodstock to provide all finished drinking water sampling data for PFAS to VDMA within 30 days from the date of this letter.

If no PFAS sampling data is available, or previous sampling data is greater than one (1) year old and showed detections of PFAS above the method reporting limit, VDMA is requesting the Town of Woodstock to conduct sampling for PFAS in the finished drinking water that is provided to VDMA using the approved Environmental Protection Agency Method, i.e. 537.1, and provide those results to VDMA within 90 days from the date of this letter.

Once the results of sample analyses are received, VDMA would like to discuss future sampling of finished drinking water for PFAS with the Town of Woodstock to ensure the health and safety of consumers. Thank you for your careful consideration in this matter as the Army/DoD leans forward to protect our communities.

If you have any questions, please contact Katy Overby, VDMA, VANG-FMO-ENV, at 434-294-0481 or by email at [kathryn.h.overby.nfg@mail.mil](mailto:kathryn.h.overby.nfg@mail.mil).

Sincerely,

COLEMAN.PAMELA.  
WALKER.1287530648

Digitally signed by  
COLEMAN.PAMELA.WALKER.1287  
530648  
Date: 2021.02.04 13:13:25 -05'00'

Charlton T. Dunn  
Construction & Facilities Management Officer  
Assistant Chief of Staff, VaARNG  
Facilities Engineering and Management



## ASSISTANT SECRETARY OF DEFENSE

3500 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3500

JUL 23 2020

### SUSTAINMENT

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (INSTALLATIONS,  
ENERGY AND ENVIRONMENT)  
ASSISTANT SECRETARY OF THE NAVY (ENERGY,  
INSTALLATIONS AND ENVIRONMENT)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(INSTALLATIONS, ENVIRONMENT AND ENERGY)  
DIRECTOR, DEFENSE LOGISTICS AGENCY (INSTALLATION  
MANAGEMENT)

SUBJECT: Monitoring of Per- and Polyfluoroalkyl Substances Sampling for Installations with  
Non-Department of Defense Drinking Water Systems

#### 1. Purpose

This policy identifies requirements for monitoring of drinking water for potential per- and polyfluoroalkyl substances (PFAS) impact at military installations where the Department of Defense (DoD) is not the drinking water purveyor.

#### 2. Applicability

This policy shall apply to all military installations<sup>1</sup> where DoD receives drinking water from a non-DoD drinking water purveyor.

#### 3. Assessment of Non-DoD Purveyor's PFAS Sampling Data

Each military installation that receives drinking water from a non-DoD purveyor<sup>2</sup> shall:

- a. If the non-DoD purveyor's PFAS sampling status is not already known, or cannot be determined by reviewing Consumer Confidence Reports, the military installation will request the most recent finished drinking water sampling data for PFAS from the non-DoD purveyor providing drinking water to the installation.
- b. If the non-DoD purveyor has not conducted drinking water sampling for PFAS in the past three years; or the most recent sample results are more than one year old and showed detection(s) above the method reporting level, the military installation will request in writing (template at Attachment 1) that they collect a new sample.

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<sup>1</sup> The term 'military installation' means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Secretary of a military department or the Secretary of Defense, including any leased facility, or, in the case of an activity in a foreign country, under the operational control of the Secretary of a military department or the Secretary of Defense, without regard to the duration of operational control. For this policy, such term does not include any leased facility used exclusively for recruiting activities.

<sup>2</sup> A drinking water system not owned by DoD that supplies drinking water to a military installation

- c. If the non-DoD purveyor indicates they will not provide drinking water sampling data or conduct drinking water sampling for PFAS, provide notice to the non-DoD purveyor (template at Attachment 2) that the military installation will sample finished drinking water at a location nearest the entry point to its drinking water system. The military will then collect at least one sample at each entry point to the distribution system and submit for laboratory analysis of all PFAS analytes specified in EPA Method 537.1. If applicable, samples shall be taken prior to any additional treatment provided by the military installation. Operation and Maintenance (O&M) funds shall be used for sampling and analysis costs.

#### **4. Results**

If results of sampling conducted by the non-DoD purveyor or the military installation indicate exceedance of the U.S. Environmental Protection Agency (EPA) PFOS, PFOA, or PFOS + PFOA lifetime Health Advisory (HA) level of 70 parts per trillion (ppt), the military installation will request the purveyor take immediate action to decrease the PFAS levels to below 70 ppt. If the purveyor is unwilling to take such action, document this information, and coordinate with appropriate chain of command and legal office to immediately pursue actions to address exposure to drinking water with levels of PFOS/PFOA above 70 ppt on the military installation. Additionally, military installations shall notify, through the appropriate chain of command, the Office of the Deputy Assistant Secretary of Defense for Environment.

#### **5. Notification of Results**

- a. If sampling conducted by either the non-DoD purveyor or the military installation exceeds the HA level, the military installation will post a public notice on its public webpage as soon as practical but no later than 30 days from receipt of validated sampling results. For those military installations that produce their own Consumer Confidence Report, these results will be included in that report as well.
- b. Military installations with PFOA, PFOS, or PFOS + PFOA results less than the HA level, including results less than the method reporting limit, will include the public notice in the Consumer Confidence Report (if the installation is required to complete one) posted on the military installation's public webpage.

#### **6. Timeline**

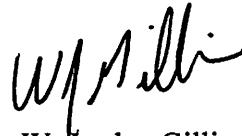
Each military installation will implement this memorandum immediately and shall complete the required actions as soon as possible, but no later than 18 months from the date of this memorandum.

#### **7. Additional Requirements and Waivers**

- a. The DoD Components may exercise reasonable discretion to go beyond these requirements.

- b. The Deputy Assistant Secretary of Defense for Environment may approve waivers to this policy.

My point of contact for this matter is Mr. Terry Bowers at [terry.l.bowers14.civ@mail.mil](mailto:terry.l.bowers14.civ@mail.mil) or (703) 693-9447.



W. Jordan Gillis

Attachments:  
Template for 3b  
Template for 3c

cc:  
Chief, National Guard Bureau

TO: [POC]  
[Municipality or Municipal Drinking Water Utility]  
[Municipality Address]

FROM: [POC]  
[Military Installation]

DATE: [Today's Date]

SUBJECT: Request for Per- and Polyfluoroalkyl Substances Sampling Data from Finished Drinking Water Provided to Military Installations By Non-Department of Defense Drinking Water Purveyors

To Whom It May Concern,

In accordance with Department of Defense (DoD) Policy on monitoring for per- and polyfluoroalkyl substances (PFAS) at installations where drinking water is provided by a non-DoD municipality, [military installation] is requesting all finished drinking water sampling data for PFAS from [municipality or municipal drinking water utility] which provides [military installation]'s drinking water.

If no PFAS sampling data is available, [military installation] is requesting [municipality or municipal drinking water utility] to conduct sampling for PFAS on the finished drinking water that is provided to [military installation].

If you have any questions, please contact [POC] from [Military Installation] at [phone] or by email at [email].

Signed,  
[POC], [military installation]

TO: [POC]  
[Municipality or Municipal Drinking Water Utility]  
[Municipality Address]

FROM: [POC]  
[Military Installation]

DATE: [Today's Date]

SUBJECT: Military Installation-Conducted Sampling for Per- and Polyfluoroalkyl  
Substances in Finished Drinking Water Provided By Non-Department of Defense  
Drinking Water Purveyors

To Whom It May Concern,

In accordance with Department of Defense (DoD) Policy on monitoring for per- and polyfluoroalkyl substances (PFAS) at installations where drinking water is provided by a non-DoD purveyor, [military installation] will conduct PFAS sampling of finished drinking water at the entry point to [military installation's] drinking water distribution system. [military installation] will provide a copy of the results to [non-DoD purveyor].

If you have any questions, please contact [POC] from [Military Installation] at [phone] or by email at [email].

Signed,  
[POC], [military installation]