

Waterworks Advisory Committee (WAC) Meeting Minutes

Webinar – WebEx
9:00 am, Wednesday, April 21, 2021

Draft

Members Participating: Dwayne Roadcap (ODW), Chair; David F. Van Gelder, Water Operator; Steven Herzog, PE, VWEA; Russ Navratil, VA AWWA; Mark Estes, VRWA; Skip Harper, Virginia Plumbing & Mechanical Inspectors Association; Brian Hilderbrand, DHCD; John Danielson; Bailey Davis, DCLS; Jesse L. Royall, PE, Sydnor; Ignatius Mutoti, VSPE

Guests Participating: Paul Nyffeler, Chem Law; Steve Edgemon and Jamie Hedges, Fairfax Water; Chris Pomeroy and Amanda Waters, AquaLaw; Adrianna Dimperio, Draper Aden Associates; Dave Tungate, Rivanna Water & Sewer; Joe Grist, DEQ; Robert A. Hopkins, PE, Executive Director, Amherst County Service Authority; Mike Ward and Scott Fisher, Henry County Public Service Authority; Yann LeGouellec, Newport News; Tom Fauber, VA ABPA; Jessica Edwards, Loudoun Water; Justin Pruitt; Josh Harris; Laura Bauer; Christopher Gill; Don Piron;

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, Aaron Moses, Kelly Ward, Mark Perry, Jason Yetter, Jarrett Talley

1. Meeting Overview

The Waterworks Advisory Committee (WAC) met by electronic communication means (WebEx) due to the ongoing public health emergency on Wednesday, April 21, 2021. Office of Drinking Water (ODW) Director Dwayne Roadcap started the meeting at 9:00 a.m. and requested all meeting attendees enter their name and affiliation in the chat box.

WAC members agreed to adopt the minutes from the February 19, 2021 meeting as final. A copy follows the minutes from this meeting and will be published on Town Hall

Steve Edgemon informed the WAC that he would be retiring at the end of June. Jamie Hedges will replace him as General Manager of Fairfax Water. Dwayne thanked Steve for his contributions, leadership, and insight on the drinking water program in Virginia.

Dwayne provided an overview of the meeting agenda. Steve Herzog asked to include some discussion about the Lead and Copper Rule Revisions (LCRR) in the agenda. ODW Division of Technical Services Director Bob Edelman said that he would provide information about the LCRR as part of the U.S. Environmental Protection Agency (EPA) updates.

2. Drinking Water Program

a. 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 final amendments have been going through the Executive Branch Review process since December 2020. To date, 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; the Secretary of Health and Human Resources approved them on March 16, 2021; and the Governor's Office approved them on April 15, 2021.

The next step is to submit the amendments to the Registrar for review and publication in the *Virginia Register of Regulations*. This will initiate a 30-day final adoption period during which the public can review the regulatory action and request another public comment period. If 25 or more persons request an opportunity to submit comments on a substantive change made between the proposed and final amendments, ODW will suspend the regulatory process and open another 30-day public comment period. If fewer than 25 people request a public comment period, the amendments will become effective 30 days after publication. ODW estimates the amendments will become effective in mid- to late-June if there isn't a need to open another public comment period.

Bob Edelman and Barry Matthews (Director of ODW's Division of Training, Capacity Development, and Outreach) are developing training for ODW staff on parts 1 and 2 of the Waterworks Regulations. They are also working on training opportunities for waterworks owners, operators, and other interested parties. The Virginia Section of the American Water Works Association is exploring opportunities to coordinate training with ODW. At this point, training will be through electronic communication means because of the ongoing public health emergency. ODW will notify the WAC when training becomes available. If members of the committee have any thoughts regarding education and training, please feel free to contact Dwayne, Bob, or Barry.

Responding to a question about the effective date of the amendments, Dwayne explained that the regulations that are in effect when ODW receives an application, plans, specs, etc. will be used to evaluate the submittal.

On the subject of regulations, Bailey Davis (DCLS) shared an update on the requirements to accredit commercial laboratories that analyze environmental samples used to determine compliance with the State Water Control Law, Virginia Waste Management Act, and the Virginia Pollution Control Law (1VAC30-46) and comparable requirements for non-commercial laboratories (1VAC30-45). The Governor's office approved the Chapter 45/46 regulatory package on Monday April 12, 2021. The package will be published in the *Virginia Register of Regulations* on Monday May 10, 2021 for a 60-day comment period ending July 9, 2021. DCLS' regulatory consultant will assist in emailing a notice to all affected laboratories, on behalf of DCLS, on the date of Virginia Register publication.

Link: <https://townhall.virginia.gov/L/ViewStage.cfm?stageid=8962>

b. 2021 General Assembly

Dwayne and Nelson updated WAC members on the 2021 General Assembly, noting that no bills directly affected the drinking water program. In the budget that passed, the General Assembly did not restore the \$482,400 (part of the required 20% match for the EPA's annual Drinking Water State Revolving Fund (DWSRF)), or \$250,000 for database upgrades that had been unallotted from the FY2021 budget. However, ODW will receive \$60,000 in FY 2022 (starting July 1, 2021) to continue research on emerging contaminants, focusing on per- and polyfluoroalkyl substances (PFAS). ODW is studying PFAS contamination in drinking water in response to HB586 (2020).

c. Virginia PFAS Workgroup

ODW Deputy Director Tony Singh provided an update on ODW's activities with the Virginia PFAS Workgroup. Tony's presentation follows the meeting minutes.

ODW, in conjunction with the Virginia PFAS Workgroup, plans to sample 50 waterworks and major sources of water to assess levels of PFAS contamination in drinking water in Virginia. VDH used a hybrid approach to identify the sample sites – including the 17 largest waterworks (by number of persons served) in the state; waterworks using groundwater sources that are in close proximity to large airports with the potential to have PFAS contamination (possible use of aqueous firefighting foam), and unlined landfills; and surface water sources downstream from potential PFAS contamination (permitted discharges based on industrial use codes and wastewater treatment facilities that serve potential PFAS users).

For waterworks that participate in the sampling program, ODW created an instructional video. ODW also has written sample collection procedures. To help waterworks and public health officials respond to inquiries about the sampling plan and results when they are available, ODW is also developing a "PFAS Communication Toolkit". The toolkit contains information about when and how ODW will share sample results, fact sheets for waterworks owners and the general public, messaging for consumers, and other resources for waterworks and the general public on PFAS in drinking water. ODW can share the toolkit with interested members of the WAC after it is complete.

ODW is working with waterworks to get their agreement to participate in the sampling program. 27 have returned an acknowledgement form to ODW. ODW will confirm point-of-contact and shipping address for sample kits with the waterworks that have returned acknowledgement and plans to ask the contract laboratory to ship sample kits by the end of the month.

d. WIIN Grants

Tony provided an update on the status of ODW's efforts to implement testing for lead and copper in schools and child day programs using funding from the Water Infrastructure Improvements for the Nation Act (WIIN). Lead and Copper testing has been delayed due to COVID. ODW has signed agreements with both Old Dominion University and Virginia Tech to support the testing program. The schools will provide schools and child day programs assistance with developing test plans and sampling, and will also perform some sample analysis. ODW has contracted with the University of Virginia to develop a data management tool for registration and sample results that schools and child day programs will submit (lead and mold). ODW anticipates sampling may begin in the summer and the WIIN grant is sufficient to pay for between 30,000 to 40,000 samples.

Dwayne noted that the budget amendments for the 2020 – 2022 biennium that passed in the 2021 General Assembly Session included \$250,000 for VDH beginning July 1, 2021 for three new positions to work in the lead program. The new employees will manage data and tasks associated with the legislation that passed in 2020 requiring sampling in child day programs and increased requirements for sampling in schools.

ODW estimates as many as 2,000 schools and 6,000 child day programs will perform testing and submit plans/results required by the 2020 legislation. Managing the data and evaluating results will require significant effort, which is not part of ODW's obligations to maintain primacy.

e. Office of State Inspector General (OSIG) Audit of the Drinking Water Program

After evaluating ODW's policies and procedures, OSIG provided 9 recommendations for ODW to implement. ODW has just received the last three but has not had time to review them.

Bob Edelman and ODW Enforcement Director Jennifer Coleman described ODW's evaluation and response to Recommendations 1 through 6.

Recommendations 1 through 3 related to enforcement policies and training. Jenn said that the recommendations are in line with what ODW has been working on, including publication of the Enforcement Manual in November 2020. OSIG would like more procedure and detail, emphasizing the need to use authority to issue civil penalties and administrative orders. Jenn is making revisions to the Enforcement Manual that addresses OSIG recommendations. The Manual is undergoing internal review with a goal of seeking public comment this summer. OSIG also wants more training for staff. Jenn is working through some nuances because of the need to address waterworks on case-by-case basis v. one size fits all.

Recommendation 4 focuses on ODW's oversight and verifications of waterworks sampling/reporting. Bob said that he is working with others in ODW to address OSIG's concerns. He noted that sampling by the waterworks owners and operators is part of the program and staff are aware of the potential for problems (possibly data falsification, wrong sampling location, etc.), but that ODW needs to document direction better and also needs to develop more detailed policy on when staff would conduct sampling at a waterworks. Bob's workgroup is looking at what problem the OSIG recommendation is trying to solve; looking for ways to develop guidance; and giving field offices flexibility to respond, without being too directive. ODW is trying to think about categories of problems – fraud, lack of training, improper equipment, bad technique – to address by training staff, training operators, developing guidance to help staff set priorities, updating sanitary surveys to include triggers for doing additional inquiries if certain conditions are noted. Bob is also working on finding #6 (oversight of public notification requirements) to find ways for ODW to do more thorough tracking of all public notice requirements, including Tier 3 public notice. Bob's presentation follows the meeting minutes.

Dwayne summed up ODW's response to OSIG's recommendations by saying that the regulated community is likely to see changes in how ODW does enforcement and performs quality control. ODW will work with the WAC to get feedback as we develop guidance. ODW will accept OSIG's recommendations and provide them with a brief plan to meet each recommendation. Ultimately, Dwayne believes the audit will improve the drinking water program.

f. Procedures to Permit "Found" Transient Noncommunity Waterworks (TNC)

The Division of Training, Capacity Development, and Outreach's Noncommunity Waterworks Sustainability Coordinator Jarrett Talley provided an overview of the procedures he and other ODW staff have developed for permitting TNC waterworks that have been in operation, but do not have an operation permit. Jarrett's presentation follows the meeting minutes.

Jarrett started by providing information about ODW's prior effort to permit found TNCs under Action Memo 1725 and highlighted some of the results and procedures that made implementation difficult. He used this to justify changes and recommendations with the new procedures, which include:

- Issuing a 1-page permit (simpler form, easier to create and issue);
- Use of field-office approved plans for bacteriological sampling, cross-connection control, without requiring owner's signature (fewer steps, faster).

- Allowing the procedures in the Revised Total Coliform Rule (implemented through 12VAC5-590-370) to address bacteriological contamination (if present) in the short-term rather than requiring owners to begin sampling to determine if groundwater is under the influence of surface water (GUDI) at the time of permit issuance (i.e., ODW field offices would evaluate GUDI determinations once 10 consecutive routine samples are available instead of requiring owners to submit monthly/weekly MPN samples prior to permit issuance).

The procedures to identify, evaluate, and permit found TNCs will be incorporated in the Permit Manual as a stand-alone chapter. ODW will share an overview of the procedures, a permitting flow chart, and example of the one page permit with the WAC.

3. U.S. Environmental Protection Agency Actions that Impact the Drinking Water Program

a. Lead and Copper Rule Revisions

Bob updated the WAC on EPA's actions related to the Lead and Copper Rule Revisions (LCRR). His presentation follows the meeting minutes.

Following inauguration, the Biden administration froze all regulatory actions by the U.S. Environmental Protection Agency (EPA). The freeze affected the LRCC and other actions under the Safe Drinking Water Act. EPA used the freeze to evaluate how to align each action with the administration's objectives. For the LCRR, EPA is slowing implementation in order to conduct several listening sessions and seek more input from stakeholders on the rule. Public virtual listening sessions are scheduled for April 28 and May 5 with community focused virtual roundtables. After the conclusion of the meeting, ODW sent WAC members an email with information about the listening sessions.

Bob's main point – the whole rule is in flux. EPA needs to develop guidance for early implementation and requirements for waterworks before the LCRR's effective date, particularly the lead service line inventory requirements. ODW is waiting for guidance from EPA and is reluctant to issue policy that may be inconsistent with EPA's.

WAC members asked if there is a particular date, after which, waterworks can have some level of comfort that the pipes, connections, etc. that they installed do not have any lead (to help with inventorying service lines). Hanover County is thinking about using January 1, 1990. A WAC member noted that the plumbing code banned installation of lead lines in 1986. Anything installed after that, the plumbing code required it to be lead free. While helpful, comments suggested this was not definitive. Dwayne said the topic has come up in discussions within the Association of State Drinking Water Administrators (ASDWA) and that states could use better guidance from EPA. ODW will provide the WAC and waterworks with additional details about the lead service line inventory requirements as guidance becomes available.

Bob also talked about EPA's decision to begin the process to develop regulatory limits for Perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) in drinking water. He also mentioned EPA's recent questions about public notice and the Consumer Confidence Report (CCR). Section 2008 of America's Water Infrastructure Act amended the requirements for the content, form, manner, and frequency of the CCR, but EPA has not issued guidance or updated regulations to implement the new requirements.

4. Budget

Dwayne updated the WAC on the status of ODW's budget (for state fiscal year 2021, which ends June 30, 2021). His presentation follows the meeting minutes. He noted that some of the figures in the presentation are not exact or always consistent because two works units within the Department of Health, the Office of Financial Management (OFM) and Shared Business Services (SBS), both oversee ODW's budget and provide program area information about the budget. Generally, OFM monitors funding that comes in and out of the budget (federal funds, general funds), and SBS handles day-to-day transactions. He is also using averages because some funding sources vary year-to-year (in particular the Public Water System Supervision (PWSS) and Drinking Water State Revolving Fund (DWSRF) grants from EPA).

Regarding funds that were unallotted during the 2020 Special Session (\$482,400 from the state match to the DWSRF and \$250,000 for database upgrades), Dwayne said these funds didn't get restored because of an oversight in the budget process during the 2021 General Assembly Session. There is a possibility that these will be restored in future state budgets.

Once you remove funding for the DWSRF construction loans, ODW's operational budget is currently approximately \$13.5 million per year. Funding comes from DWSRF set-asides, the PWSS grant, the state match to the PWSS grant, operation fees, and a general fund allocation. Salaries and wages are the largest expense in the operational budget. Other significant expenses include rent and IT support. Additional details are in Dwayne's presentation.

ODW is holding 2 positions vacant to stay within its operational budget for the current fiscal year and the upcoming fiscal year. ODW also moved \$1.6 million in costs to the DWSRF set-asides, with a resulting impact to operator training, source water protection program, planning and design grants.

5. Waterworks Operation Fee Regulations

Nelson provided an update on the recently closed public comment period for the periodic review of the Waterworks Operation Fee regulation. His presentation follows the meeting minutes.

With the budget shortfalls, ODW will increase the annual fee from \$2.95 for each service connection to \$3.00. Currently, the annual operating fee cannot exceed \$160,000, so waterworks with more than 53,333 service connections will not be affected by the change in fees.

As a result of the periodic review, ODW plans to amend the Waterworks Operation Fee regulation. However, the amount of change ODW can implement through amendments is limited by the \$160,000 cap in the enabling law and the \$3.00 per connection fee limit in the budget. Even if ODW is able to amend the regulation and impose a fee on transient noncommunity waterworks (which are not paying a fee at this time), the total expected income will not be sufficient to cover the projected shortfall in ODW's operational budget.

Among the things ODW intends to consider in the process of amending the Waterworks Operation Fee regulation are the resources and effort field office staff put into technical assistance, inspections, permitting, etc. for different types and sizes of waterworks statewide. This will help the regulated community understand which waterworks are paying fees and what services they are receiving in return. ODW will work with stakeholders to develop proposed amendments. The next step will be to submit the response to periodic review and to issue a notice of intended regulatory action (NOIRA).

6. Public Comment Period

Chris Pomeroy thanked Dwayne for the budget presentation.

7. Other Business, Conclude Meeting

The next WAC meeting will be on Wednesday, July 21, 2021. For the rest of 2021, meetings are scheduled for September 22 (4th Wed), and December 15, 2021. Meetings will continue to be by electronic communication means (WebEx) as long as the Governor's Executive Orders related to the public health emergency remain in effect.

Dwayne concluded the meeting at 11:30 am.

WATERWORKS ADVISORY COMMITTEE MEETING

Via WebEx

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

Wednesday, April 21, 2021
8:30 AM (web link opens) – 11:30 PM

DRAFT AGENDA

Subject	Time
Connect to Webex and Meeting Instructions https://vdhoep.webex.com/vdhoep/j.php?MTID=m345e3392940a32339d9407211fa85478 Meeting number (access code): 132 470 4120 Meeting Password: a3dU29sZimj You can use your computer audio or join via telephone by calling 1-844-992-4726 United States Toll Free.	8:30 – 9:00 AM
Call to Order Meeting Overview Adoption of Minutes from the 2/17/21 meeting	9:00 – 9:10 AM
Drinking Water Program updates	9:10 – 10:30 AM
	(5 min break)
U.S. Environmental Protection Agency updates	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: July 21, 2021,

Meetings will continue to be by electronic communication means

WAC Meeting

April 21, 2021

Attachments and
PowerPoint
Presentations

Waterworks Advisory Committee (WAC) Meeting Minutes

Webinar – Webex

9:00 am, Wednesday, February 17, 2021

Final

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 6th 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).

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

Policy and Program Briefing

Final Amendments to the Waterworks Regulations

Nelson Daniel

ODW Policy and Program Director

April 21, 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
- OAG approved 1/21/21
- DPB approved 2/10/21
- Secretary of HHR approved 3/16/21
- Governor's Office approved 4/15/21

Final Amendments to the Waterworks Regulations

Final Adoption Period:

Next step, submit to the Registrar for review and publication 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.



Home >

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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

Documents		
Final Text	12/23/2020 3:21 pm	
Agency Background Document	12/10/2020 (modified 3/12/2021)	
Attorney General Certification	1/21/2021	
Governor's Review Memo	4/15/2021	

Status	
Changes to Text	Changes have been made to the text since the proposed stage 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>
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
Secretary Review	Secretary of Health and Human Resources Review Completed: 3/16/2021
Governor's Review	Review Completed: 4/15/2021 Result: Approved
Virginia Registrar	Governor's office has completed its review - Next step is Submission to the Registrar.
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 email notification service , 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

← Stage 9160



Establishing Regulatory Limits for PFAS in Virginia Drinking Water

Tony Singh, Ph.D, MPH, PE

Virginia Department of Health

April 21 2021

VA PFAS Sampling/Monitoring Study

Approaches based on:

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

Strategy

1. Hybrid approach (Large waterworks + select potential high risk groundwater systems + select source waters (intakes))



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	2	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				19	12
Total EP + CC = 31					

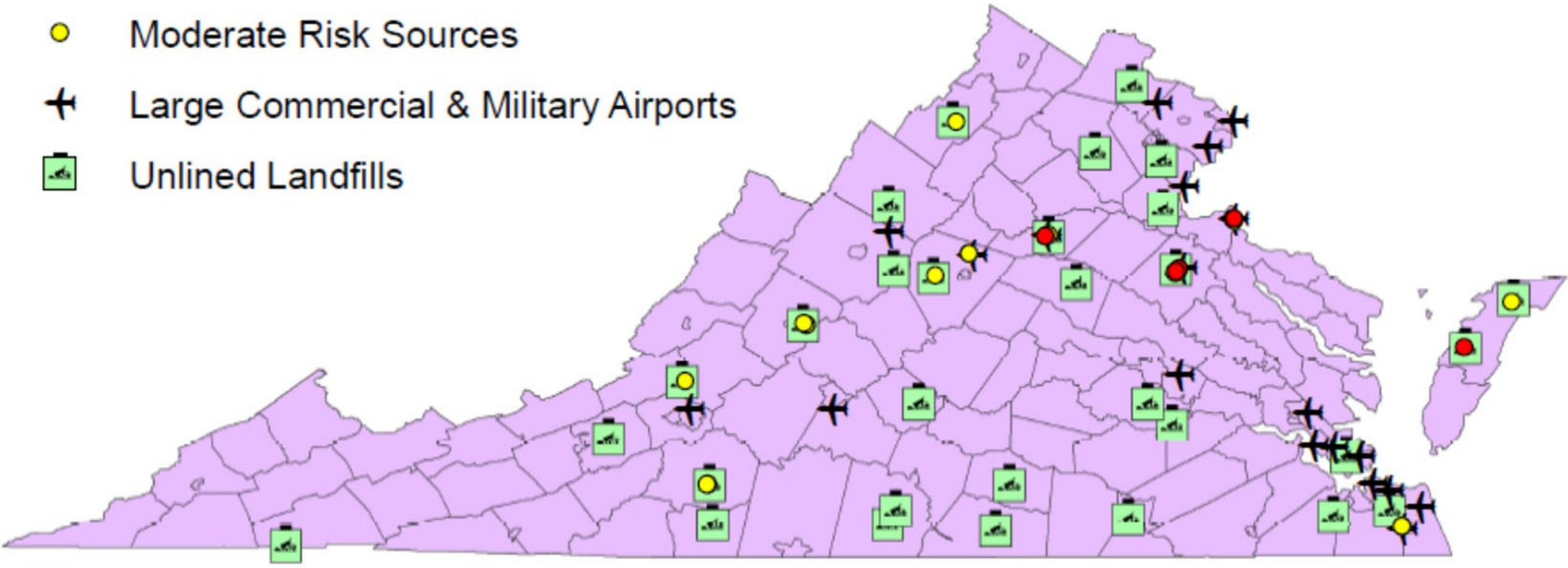
Potential PFAS Contamination - Heat Maps

- 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

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

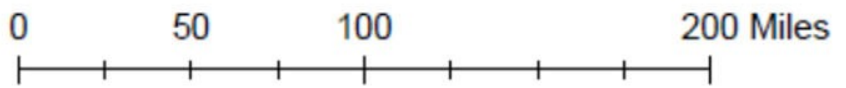


Potential High Risk: <math>< \frac{1}{2}</math> mile of large airport or unlined landfill

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

6 – Potential High risk wells --→ 5 Systems

13 – Potential Moderate risk wells. --→ 11 Systems





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	6 387
FT A PHILL - HEADQUARTERS	6033251	WELL HQ#2 (PWAT 28)	WL028	C	180
NAVAL SUPPORT FACILITY_DAHLGREN	6099340	WELL 2 -BLDG 1190 (CASKEY WELL)	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 PHILL - HEADQUARTERS	6033251	WELL HQ#1 (PWAT 29)	WL029	C	180
FRANKLIN COUNTY COMMERCE CENTER	5067137	WELL NO. 5	WL005	NTNC	103

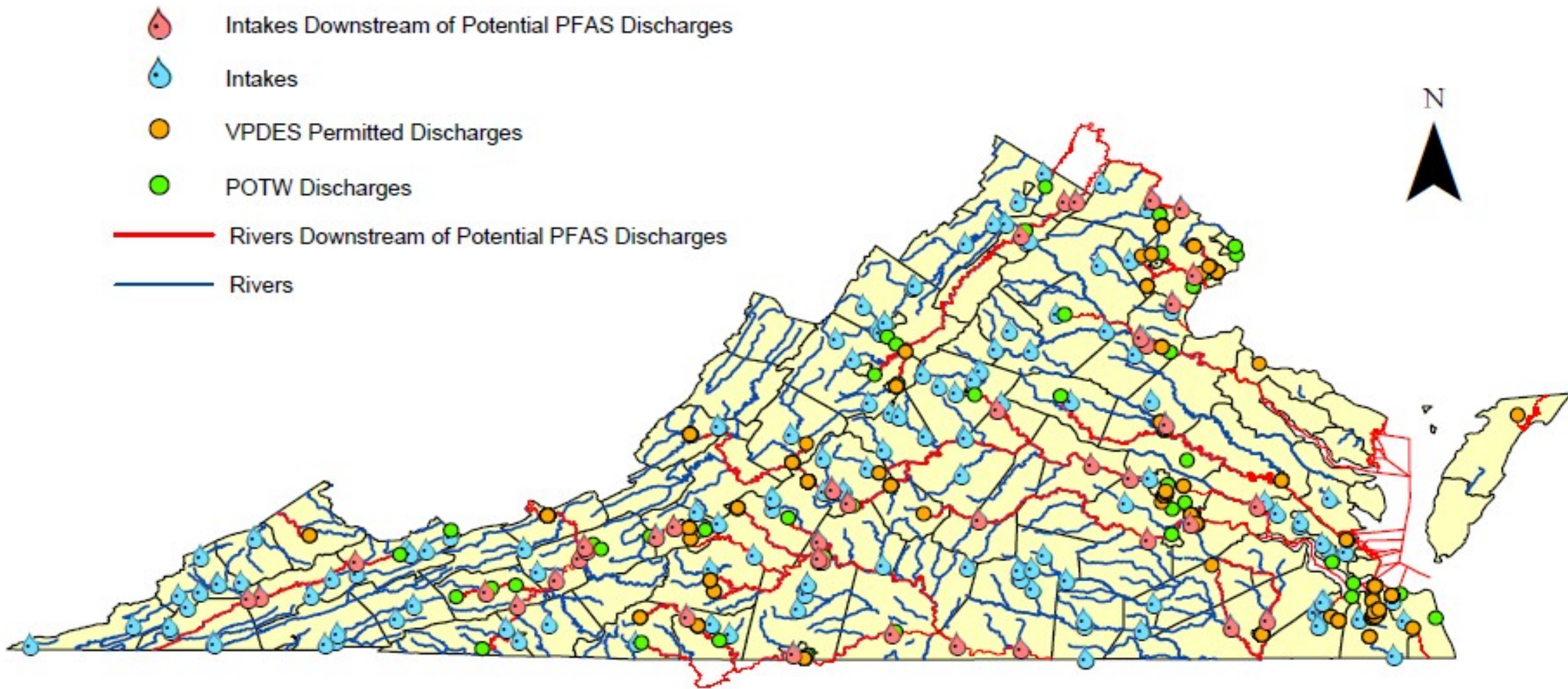
Major Water Sources

VDH-VDEQ 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

- 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 22 from this list
 - Preference based on vulnerable age groups; population served etc
 - DEQ and ODW input may adjust priority from this list

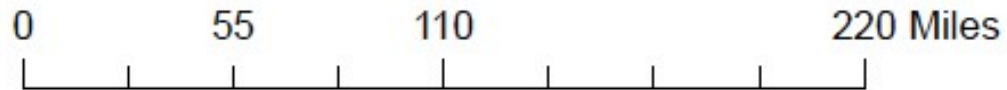
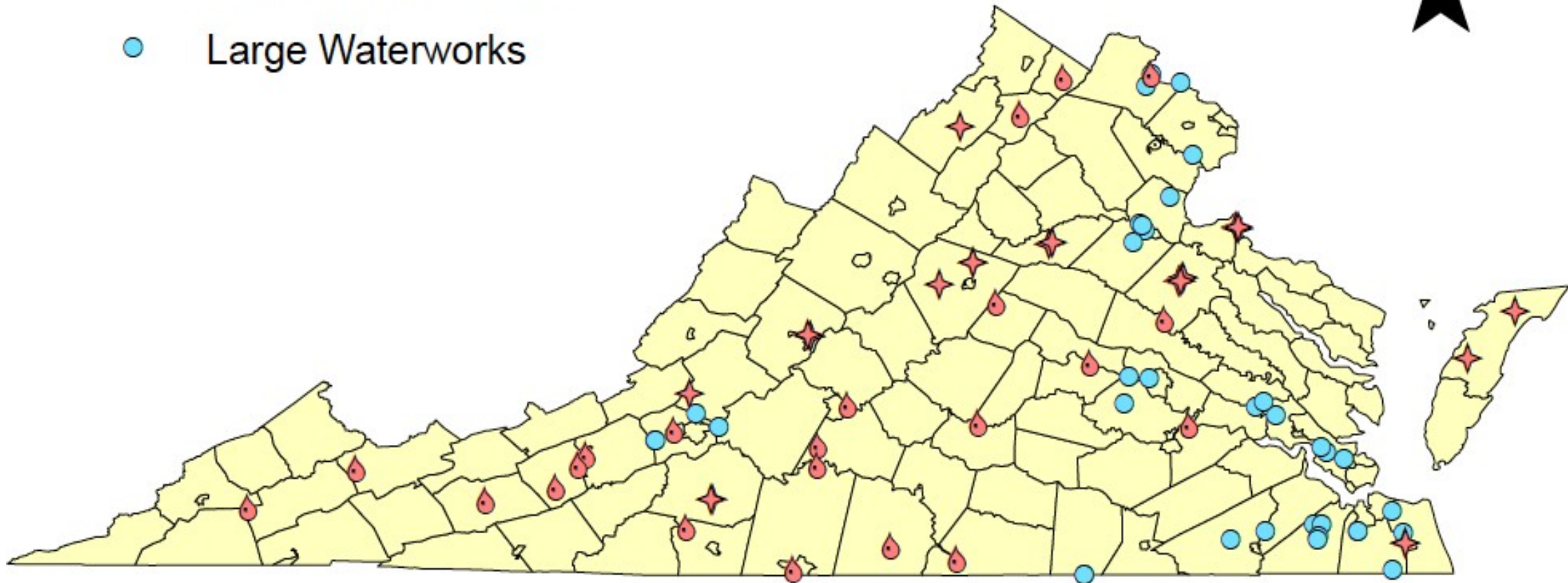
5680200	LYNCHBURG, CITY OF	JAMES RIVER-ABERT
4085398	HANOVER SUBURBAN WATER SYSTEM	NORTH ANNA RWI
6107300	LEESBURG TOWN OF	POTOMAC INTAKE
5590100	DANVILLE, CITY OF	DAN RIVER INTAKE
5089852	UPPER SMITH RIVER WATER SUPPLY	SMITH RIVER INTAKE
3670800	VIRGINIA-AMERICAN WATER CO.	APPOMATTOX RIVER
2775300	CITY OF SALEM WTP	ROANOKE RIVER
5031150	CAMPBELL COUNTY CENTRAL SYSTEM	BIG OTTER RIVER
6153675	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 (Intakes)

VA PFAS Sampling Sites

- ✦ Groundwater Systems
- 💧 Source Water Intakes
- Large Waterworks





Hybrid Approach Summary

	# Samples	# Systems	Population
17 Large Waterworks	31	17	4,541,619
GW – Potential High Risk	6		13,329
GW – Potential Medium Risk	13	11	2,124
Major Water Sources	22	22	
Total	72	50	4,557,072

Sampling Procedure

- Waterworks personnel will collect PFAS samples from:
 - Entry points to the distribution system
 - Consecutive Connections
 - Intakes (raw water sample taps)
- VDH-ODW will provide written PFAS sampling instructions
- A VA PFAS Sampling webinar was organized on April 14, 2021, and is available on VDH-ODW PFAS webpage and VDH youtube channel <https://youtu.be/YJ63us3RS0U>



Selection of Analytical Method

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

VDH-ODW will monitor for 25 analytes using EPA Method 533 (Isotope dilution method)

VDH contracted a lab that is certified for both EPA Method 533 and PFAS by LCMSMS
Compliant w/ QSM 5.3 Table B-15 (DoD method)

Communications with Stakeholders

1. ODW Regional Field office staff reached out to owners (via telephone)
 - Heads-up, initial conversation
2. Formal letter to Waterworks owners/operators (via email)
 - Informs owners
 - Requests owners to indicate willingness to participate
 - Requests point of contact and shipping address for sample kits
 - Included PFAS sample study design document
3. Formal letter to Local Health Districts/Environmental health Managers (via email)
 - General awareness
 - Local point of contact for PFAS informational material at LHDs
 - Included PFAS sample study design document

Feedback from Stakeholders

- Overall very positive
- 27 Waterworks have responded “Yes” so far
- 1 declined
- Rest still waiting & Responding.

- Some concerns about sharing the PFAS results & need for more support/information

Information Handling/Sharing

VDH-ODW is working on a "PFAS Communication Toolkit"

- Plans for how and when to share the results.
- Fact sheets for waterworks owners and general public
- Messaging for customers
- Available resources for Waterworks and general public on PFAs in Drinking Water

We need to report to the General Assembly (report due to VDH by August 15, 2021)

Sampling Results

- Laboratory reports emailed to ODW and waterworks
- Electronic Data Deliverable (EDD) emailed to ODW

ODW will maintain results in a searchable database

- Reports for Subgroup & Workgroup Meetings
- Not in SDWIS; Not available on Drinking Water Watch (DWW)

Quality Assurance Project Plan (QAPP)

- Specifies project quality assurance requirements
- Evaluate if data meets Quality Control (QC) criteria
- Evaluate usability and bias of data not meeting criteria
- Discard data if it fails QA/QC requirements

In-depth Data Validation

Reviewing laboratory records

Method 533 requirements:

Preservation and holding times;

Instrument performance check;

Initial calibration;

Quality Control of Samples;

Continuing Calibration Check

Field Duplicates;

Field Reagent Blanks;

Laboratory Fortified Sample Matrix;

Blanks

Surrogate Analyte Standard percent recovery

Laboratory Fortified Blank

Matrix spike and matrix spike duplicate analysis

Internal Standard

Target Analyte Identification

Target Analyte Quantification

System Performance

Performance Evaluation Sample

Regional Quality Assurance and Quality Control

Overall Assessment of Data

Data Validation

- Compare laboratory report to database records (Electronic Data Deliverable)
- ODW will conduct in-depth validation activities on at least 5% of the samples.
- Review all laboratory reports for:
 - Data qualifiers,
 - Confirm field reagent blanks are clean, and
 - Surrogates are within tolerances.

ODW will conduct validation activities on all results with data qualifiers.

All data will go through this data validation before it becomes public facing.

Data Reporting

- Laboratory will use LOQ as MRL
- Results in the range of 2 to 4 ng/L will be “estimated” and will receive an I or J qualifier
- Results less than the LOD will receive a U qualifier
- Analyte in both sample and method blank will receive a V qualifier and is invalid

Plan – April – June 2021

- PFAS sampling activities are underway
- VA PFAS Workgroup Meeting – April 29, 2021
- PFAS Communication Toolkit will be shared with waterworks
- PFAS webpage - <https://www.vdh.virginia.gov/drinking-water/pfas/>

Have any Question, Comment or Suggestion, contact Us

Tony S. Singh

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804-864 7517 / 804-310 3927

Dwayne Roadcap

Dwayne.Roadcap@vdh.virginia.gov

804-864 7522

Lead in VA Drinking Water

WIIN 2107 (1.1Million) - Lead testing in drinking water at Schools & Child day programs

- Sampling delayed due to COVID19 (schools were closed)
- MOU signed with ODU and Virginia Tech
- Actual sampling may start this summer

WIIN 2105 (\$1.3 Million) - Lead remediation in drinking water sources at schools and child day programs

- Grant awarded; fund not yet recieved
- Planned to start in Fall 2021

General Funds (\$195,000) – Development of a Data Management Tool for lead and Mold results in VA schools and child day programs

- MOU signed with University of Virginia
- Mold testing in schools only
- Expected to be ready by fall 2021

OSIG Finding #4

Oversight and Verification of the Water Sampling by Public Water Systems is Limited

April 21, 2021

Stakeholder workgroup

- Field Office Directors
- Division of Technical Services
- Division of Training, Capacity Development and Outreach

- Sampling by Waterworks is baked into the program
- We know the problems, know how to respond to them
- Written guidance is limited - need to formalize
- No mandate, limited funding for collecting samples

But before we go much further, we should ask:

- What problems are we solving?
- Can we prioritize the problems?
- Can we give the field offices a mandate to take action but also discretion when not really necessary?
- Prioritize responses? Take samples?
- Can we generate some policy and guidance?
- What can we do with current resources? What could we do if we had more?

What problems are we trying to solve?

Fall into one of three categories:

1. Fraud or willful falsification, hiding a problem
2. Operational issues, bad equipment
3. Lack of knowledge, bad analysis, bad sample technique

Working on ideas:

ODW Staff training on sampling

Policy Framework:

- Field Office Response
- Priorities and flexibility - based on category and problem
- Permission/mandate for water quality sampling

Sanitary Surveys: Incorporate sampling and testing - triggered approach

Current resources vs. future resources

OSIG #6 Improve Public Notice Oversight

ODW management should make improvements to ensure PWS's have issued required public notices to consumers and that those notices are timely, especially for health based violations.

- ODW will change policy to track all required Public Notices, run compliance determinations, and issue all Notices of Alleged Violations
- ODW will examine policy on enforcement escalation for repeat violators of the Public Notification Rule

Found Transient Noncommunity (TNC) Waterworks Permitting Procedures

WAC Meeting
April 21, 2021

Background

- Action Memo 1725 (2016)
 - Tiered action plan to identify and permit previously unregulated waterworks, mainly TNC systems.
 - ODW worked in conjunction with the local health departments and Department of Social Services
 - Over 1,000 systems investigated, and approximately 500 were permitted.
 - The majority of found waterworks were given temporary permits until they met the requirements of the Waterworks Regulations.

Project Scope

- The proposed procedures only apply to “found” TNC waterworks.
- “Found” means a, owner, typically a business, is operating a water system to serve the facility/business, using that water system to provide water for human consumption to 25 or more people for 60 or more days per year, and at the time of ODW identifying those conditions, does not have a permit to operate the waterworks.

Objectives

- Create a permitting process for “found” TNC waterworks that is more efficient for staff time than the process used in AM1725.
- Achieve uniformity across field offices for onboarding found TNC waterworks.
- Improve customer service for owners of “found” TNCs by streamlining the permit process.
- Foster a positive relationship between ODW and owners of “found” TNCs.

Objectives continued

- Protect public health by ensuring that people in Virginia that use water from a waterworks for human consumption are using water that meets applicable water quality standards.
- Coordinate with the Virginia Department of Agriculture and Consumer Services (VDACS) to expand the effort to identify other facilities and businesses that may be operating waterworks without a permit, to include breweries, wineries, distilleries, gas/service stations, and wedding/special event venues that approach the regulatory threshold.
- Develop memorandums of agreement with partner agencies (VDACS, DSS, etc.) for routine reporting of potential new waterworks during the permitting process.

Recommendations

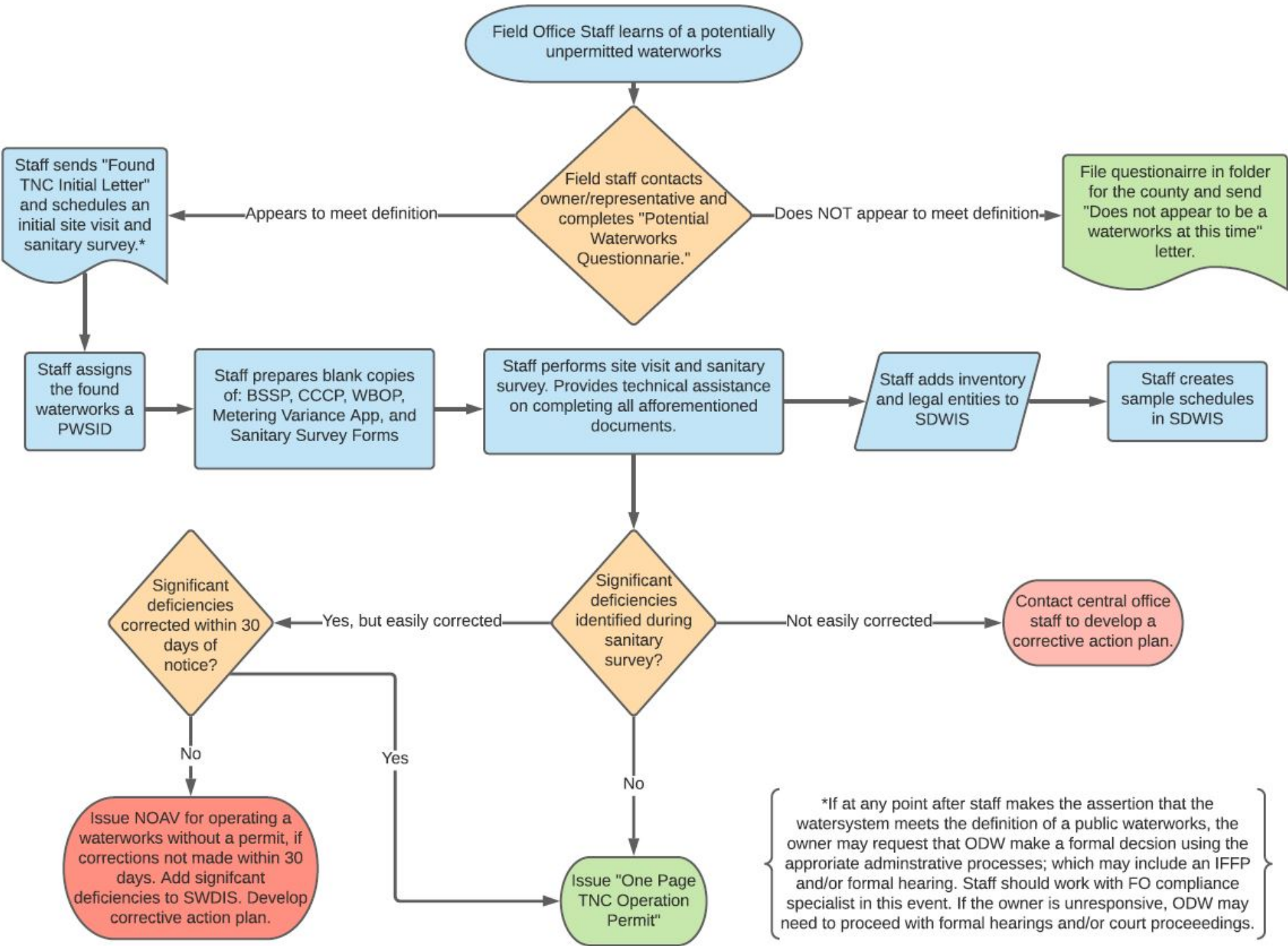
1. Issue a one page waterworks operations permit that will serve as the waterworks description sheet (WDS) and contain permit conditions, monthly operations reporting requirements, and, if applicable, a metering variance.
2. ODW issue field office approved Safe Drinking Water Act plans (Bacteriological Site Sampling Plan (BSSP), Cross-Connection Control Plan (CCCP) for found TNC systems without requiring the owner's signature on the final, field office approved plan.

Recommendations

3. Field offices evaluate GUDI determinations once results from 10 [consecutive] routine compliance samples are available for analysis. GUDI determination will not be required for standard operation permit.
4. Does not recommend imposing a requirement for found TNC owners to install a dedicated raw water sample tap at waterworks with no treatment (if one does not already exist).

Implementation Plan

- These procedures will be added as a stand alone chapter to the Permit Manual (V.4)



*If at any point after staff makes the assertion that the watersystem meets the definition of a public waterworks, the owner may request that ODW make a formal decision using the appropriate administrative processes; which may include an IFFP and/or formal hearing. Staff should work with FO compliance specialist in this event. If the owner is unresponsive, ODW may need to proceed with formal hearings and/or court proceedings.



Virginia Department of Health
Office of Drinking Water

Waterworks Operation Permit

<Jamie Doe> is granted permission to operate the <Jamie Doe's Home Brew Company> waterworks, an unclassified transient noncommunity waterworks located in Albemarle County, in accordance with Title 32.1 of the *Code of Virginia* and 12VAC5-590-10 *et seq.* of the *Virginia Waterworks Regulations*. The waterworks has a capacity <to serve a <restaurant and brewery> with an occupancy limit of 150 people and seating for 50 people in the restaurant>. The owner understands the operation of the waterworks shall be in compliance with Part II of the *Virginia Waterworks Regulations* titled "Operation Regulations for Waterworks." This permit does not suspend, minimize, or otherwise alter the owner's obligation to comply with other applicable federal, state, or local laws and regulations or permits. Notify the Office of Drinking Water immediately upon change of ownership. The State Health Commissioner may revoke this permit at any time upon determining that the waterworks can no longer be depended upon to furnish pure water, or meets other criteria in *Code of Virginia* § 32.1-174. The waterworks may not be changed, altered, or improved without prior approval from the Office of Drinking Water, consistent with the requirements in 12VAC5-590-190 *et seq.* of the *Virginia Waterworks Regulations*.

All required sampling must be completed in accordance with the *Virginia Waterworks Regulations* and associated sampling plans.

Inventory: One drilled well, One <x gallon> bladder tank, Softening treatment <(x gpm)>, UV disinfection unit <(x gpm)>, <(x")> totalizing water meter, etc.

Operating Conditions: Submit monthly operations reports <if applicable>, Metering Variance - do not exceed 10,000 gallons per day <if applicable>.

PERMIT NO.: 2003669

EFFECTIVE DATE: August 21, 2020

APPROVED _____

Mark D. Perry, PE, Engineering Field Director, Lexington Field Office
for the State Health Commissioner pursuant to VA Code § 2.2-60

Questions?

Jarrett Talley

Noncommunity Sustainability Coordinator
VDH-Office of Drinking Water
Division of Training, Capacity Development
and Outreach

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Richmond, VA 23219

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804-317-0140 (cell)



EPA Regulatory Update

April 21, 2021

Robert D. Edelman, PE

Director, Division of Technical Services

Biden Administration Initiatives

- 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.
- Memo dated January 20, 2021 for the Heads of Executive Departments and Agencies
- Resulted in a “Regulatory Freeze”

Lead and Copper Rule Revisions - Freeze Update

- Published in the January 15, 2021 Federal Register
- Proposed changes published in the March 12, 2021 Federal Register:
 - Effective date - March 16, 2021 - proposed delay to December 16, 2021
 - Compliance date - January 16, 2024 - proposed delay to September 16, 2024
- Earthjustice, NRDC have filed lawsuits - seeking to speed up LSL replacement, lower the action level
- Under review, likely delay LCRR implementation, possibly change rule.
- EPA Listening Sessions for community and stakeholder input:
 - Public virtual listening sessions - April 28, 2021, May 5, 2021
 - Community-focused virtual roundtables - May 2021
 - Roundtables - other stakeholders - June 2021
 - Written comments - Docket ID: EPA-HQ-OW-2021-0255 - June 30, 2021

Lead and Copper Rule Revisions - ASDWA Comments

ASDWA's comments focused on three major issues:

1. The date for the submission of primacy packages must be delayed by the same length of time as the delay of the LCRR effective date (six months).
2. Any potential additional changes being considered for the LCRR should also result in a January 1st start of LCRR compliance sampling.
3. A change in the definitions for lead service lines and galvanized service lines, or additional information and guidance is needed to clarify the requirements for water systems so that primacy agencies can provide appropriate oversight.

Regulatory Freeze - Update

Affordability Guidance - Sent to Office of the Federal Register but not yet published in the Federal Register

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

UCMR 5 - Published in the Federal Register (3/11)

- Moving forward
- Requires monitoring of 29 PFAS compounds and lithium.
- All PWSs serving $\geq 3,300$ customers + 800 representative smalls systems
- Stakeholder meetings held on April 6 and 7
- Public comment period open until May 10, 2021

Regulatory Freeze Update

Regulatory Determination 4 - Published in the Federal Register March 3, 2021

- 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
- SDWA requires EPA to make regulatory determinations every five years on at least five unregulated contaminants
- Decision whether or not to begin the process to propose and promulgate a national primary drinking water regulation for an unregulated contaminant

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 (due: October 2020)

EPA Region 3 Surveys

Consumer Confidence Rule

- Capacity to review Consumer Confidence Reports (CCRs)
- Enforcement Approach
- Why waterworks have trouble producing reports
- Suggestions to craft Rule revisions for twice a year delivery

EPA Region 3 Surveys

Public Notification (PN) Rule

- Enforcement Approach
- Tier 1 PN timeframe and when the 24 hour clock starts
- ODW completing PNs on behalf of owners
- Multilingual requirements - PN translations
- PN review and tracking
- Common problems with PNs
- Best practices

Questions?

Robert D. Edelman

Robert.Edelman@vdh.virginia.gov

804-864-7490 / 434-466-4012

ODW Budget Overview

Office of Drinking Water/VDH

April 21, 2021

Program Funding

1. EPA Grants:

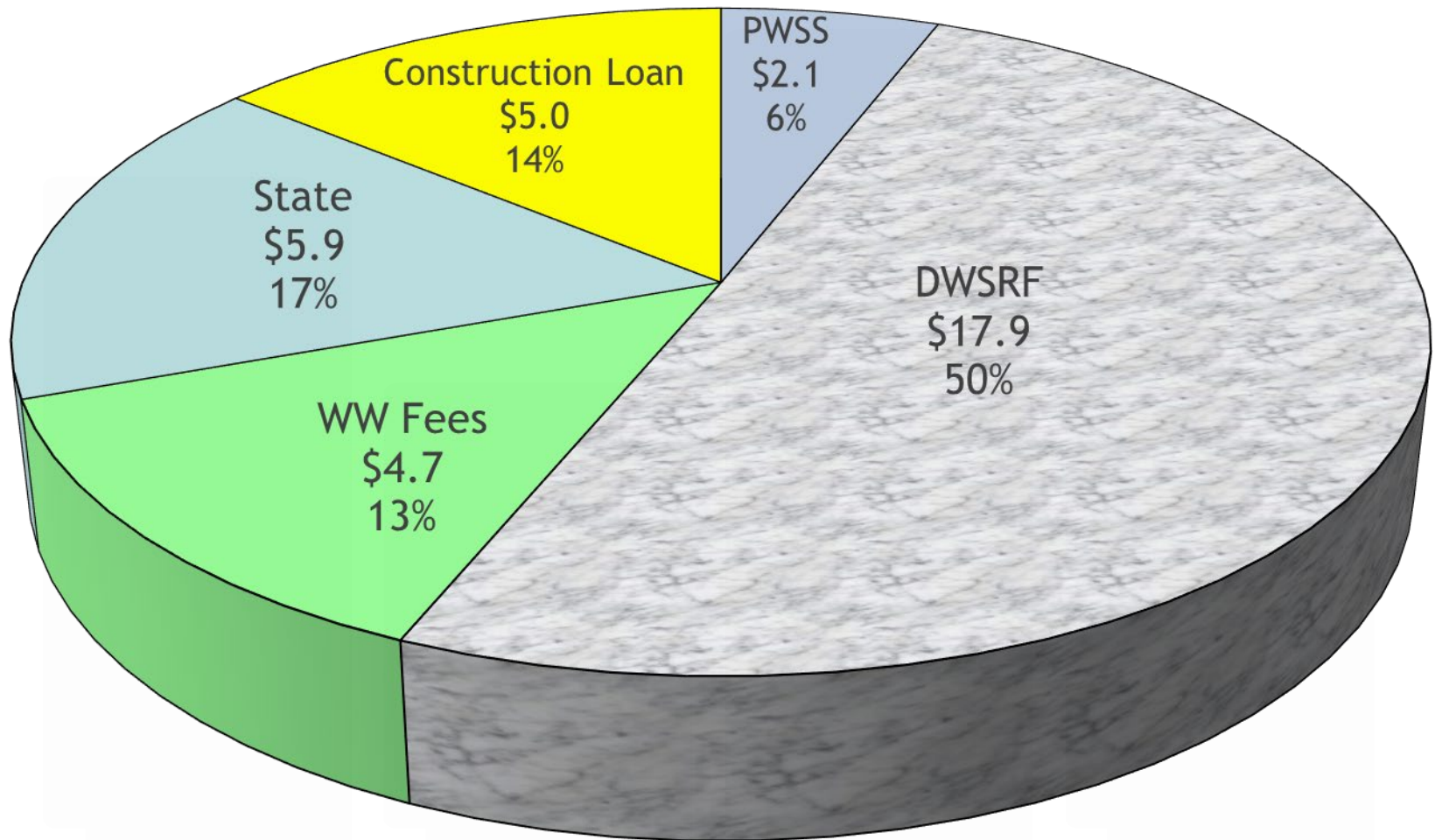
- DWSRF: \$17.9 - \$18.1 million
- PWSS: \$2.0 - \$2.3 million
- Lead: \$2.8 million (one time)
- Construction Loan: \$4.5 million

2. State Match Funds:

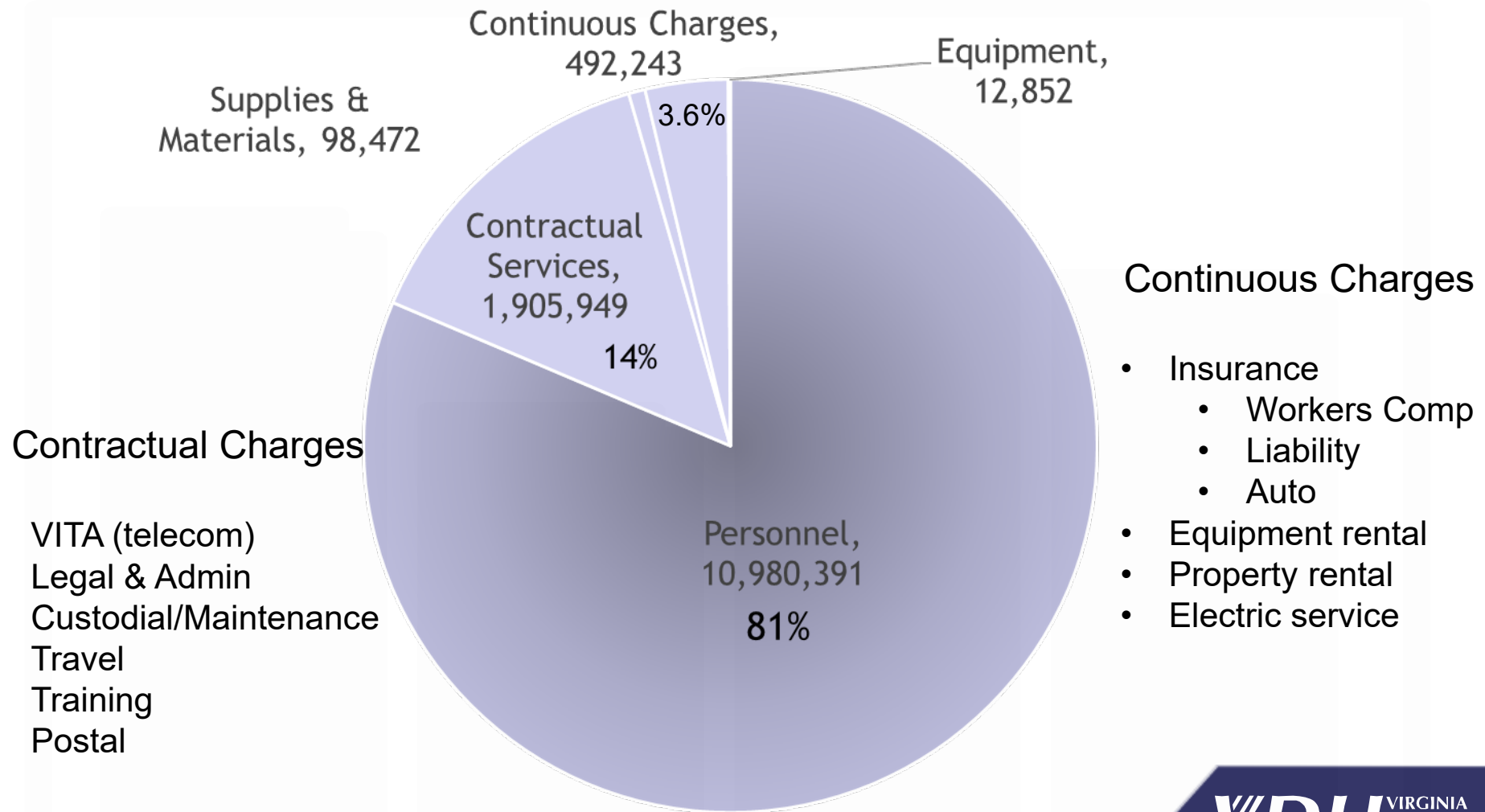
- \$3.58 million DWSRF match (20%)
 - * \$0.484 million unallotted
- \$0.73 million PWSS (>25%)
- \$1.55 million General Funds (3 New FTEs = \$250,000)
 - * \$0.250 million unallotted

3. Operation Fees from waterworks - \$4.647 million

Sources of Funds: \$35.6 Million/Yr



Taking out Construction: \$13.489 Million



DWSRF Set-Asides (31%)

2%	Small System Technical Assistance	\$358,000
4%	Administrative Support	\$716,000
10%	Support PWSS Grant	\$1,700,000
15%	Training, Source Water Protection, Technical Assistance	\$2,685,000
	Total:	\$5,549,000

Auto-Split Account

- Each source of fund insufficient to cover expenses

Source	Yearly Amount (Millions)
PWSS	\$2.1
General Funds	\$1.3
State Match	\$0.73
Technical Assistance Fees	\$4.6

Approximate Revenue = \$8.73 million

Expenses through January 2021

Technical Assistance Fees

Major Object	FY21 Budget	YTD Expenditures FY21	2021 Expenditures YTD %	Straightline Projection	Difference: Budget minus projection
Personal Services	\$ 4,502,774	\$ 3,531,687	78%	\$ 5,650,699	\$ (1,147,925)
Contractual Services	\$ 620,804	\$ 288,179	46%	\$ 494,021	\$ 126,783
Supplies & Materials	\$ 49,099	\$ 52,369	107%	\$ 89,775	\$ (40,676)
Transfer Payments	\$ -	\$ -	0%	\$ -	\$ -
Continuous Charges	\$ 217,621	\$ 149,260	69%	\$ 255,874	\$ (38,253)
Equipment	\$ -	\$ 5,097	0%	\$ 8,738	\$ (8,738)
Plant & Improvements	\$ -	\$ -	0%	\$ -	\$ -
Total	\$ 5,390,298	\$ 4,026,592		\$ 6,499,108	\$ (1,108,810)
		Resources:	\$ 5,390,298		
		Projected Exp:	\$ 6,499,108		
			\$ (1,108,810)		

Expenses through January 2021

General Funds

Major Object	FY21 Budget	YTD Expenditures FY21	2021 Expenditures YTD %	Straightline Projection	Difference: Budget minus projection
Personal Services	\$ 1,234,908	\$ 664,888	54%	\$ 1,063,821	\$ 171,087
Contractual Services	\$ 306,954	\$ 67,148	22%	\$ 115,111	\$ 191,843
Supplies & Materials	\$ -	\$ 3,628	0%	\$ 6,219	\$ (6,219)
Transfer Payments	\$ -	\$ -	0%	\$ -	\$ -
Continuous Charges	\$ -	\$ 32,808	0%	\$ 56,242	\$ (56,242)
Equipment	\$ -	\$ -	0%	\$ -	\$ -
Total	\$ 1,541,862	\$ 768,472		\$ 1,241,393	\$ 300,469

Resources: \$ 1,541,862
 Projected Exp: \$ 1,241,393
\$ 300,469

Expenses through January 2021

DWSRF

Major Object	FY21 Budget ¹	YTD Expenditures FY21	2021 Expenditures YTD %	Straightline Projection	Difference: Budget minus projection
Personal Services	\$ 3,601,384	\$ 1,775,453	49%	\$ 2,840,725	\$ 760,659
Contractual Services	\$ 1,219,784	\$ 669,038	55%	\$ 1,146,922	\$ 72,862
Supplies & Materials	\$ 1,261	\$ 361	29%	\$ 619	\$ 642
Transfer Payments	\$ 12,680,006	\$ 5,679,369	45%	\$ 9,736,061	\$ 2,943,945
Continuous Charges	\$ 315,628	\$ 62,466	20%	\$ 107,085	\$ 208,543
Equipment	\$ 844	\$ 2,400	284%	\$ 4,114	\$ (3,270)
Plant & Improvements	\$ -	\$ -	0%	\$ -	\$ -
Total	\$ 17,818,907	\$ 8,189,087		\$ 13,835,526	\$ 3,983,381

Resources: \$ 23,462,332

Projected Exp: \$ 13,835,526

\$ 9,626,806

- Construction Funding creates the appearance of a large positive balance.
- Concept of “banked dollars” at play too.
- Workplans for set-asides describe use of 31% outside of construction.

Expenses through January 2021

PWSS Grant

Major Object	FY21 Budget	YTD Expenditures FY21	2021 Expenditures YTD %	Straightline Projection	Difference: Budget minus projection
Personal Services	\$ 1,524,857	\$ 890,735	58%	\$ 1,425,176	\$ 99,681
Contractual Services	\$ 627,554	\$ 87,439	14%	\$ 149,895	\$ 477,659
Supplies & Materials	\$ -	\$ 4,712	0%	\$ 8,078	\$ (8,078)
Transfer Payments	\$ 101,816	\$ 132,228	130%	\$ 226,677	\$ (124,861)
Continuous Charges	\$ 22,506	\$ 42,608	189%	\$ 73,042	\$ (50,536)
Equipment	\$ -	\$ -	0%	\$ -	\$ -
Total	\$ 2,276,733	\$ 1,157,722		\$ 1,882,868	\$ 393,865

Resources: \$ 2,374,260
 Projected Exp: \$ 1,882,868
\$ 491,392

Projected Annual Shortfall - April 2021

Technical Assistance Fees

- Does not include keeping 2 FTES vacant.
- Negative balance more likely around \$600,000 by moving positive cash flow from GF and PWSS grant match (prior slides).
- 5% pay raise has estimated \$175,000 negative effect.

	YTD Expenditures FY21	Straightline Projection
Personnel Services	\$3,685,476	\$4,655,338.11
Non Personnel	\$663,974.40	\$885,299.00
Total	\$ 4,349,451	\$5,540,637.11
Additonal Proj. Costs		
Central Office Rent	\$79,360.00	
VITA*	\$142,608.00	
Total	\$221,968.00	
Total Proj. Costs	\$5,762,605.11	
Avg Annual Rev.	\$4,775,968.00	
FY22 Deficit	-\$986,637.11	

Response to Shortfall

- Shifted \$1.6 million from costs in the Auto-Split Account to the DWSRF 15% set-asides.
 - Corresponding impact to:
 - operator training
 - Source water protection
 - Planning & Design grants
- Asking for return of unallotted funding
- Revisiting Fee Regulations
- Increasing fee from \$2.95/connection to \$3.00/connection

Response to Shortfall

- Holding 3 positions vacant
- Eliminating vacant wage positions (6 to date)
- Reducing rent footprint at central office
- Not renewing rental contract at Danville Field Office
- Requiring 1 phone & computer device per employee
- Asking for recurring inflation increases in budget
- Continuing Process Improvements
 - CMDP
 - Electronic mailing

Waterworks Operation Fees

Authority (COV)

§ 32.1-171.1. Waterworks operation fee required. Established in 1992.

- A. Every owner of a waterworks shall pay a fee to the Department based on 12VAC5-600.
- B. The income and principal used only for technical assistance, which shall include, but is not limited to:
 - (i) training for operator certification,
 - (ii) engineering evaluation and advice,
 - (iii) sample collection for laboratory analysis, and
 - (iv) educational seminars.

Authority (VAC)

12VAC5-600-50. Community Waterworks (CWW) Operation Fee.

- A fee not to exceed \$160,000 is charged on July 1 each year to each community waterworks.
 - The number of customer accounts multiplied by no more than **\$3.00**. (Currently **\$2.95**)
 - The number of customer accounts is based on best available data six months prior to the close of business on June 30 each year.
- If the fee is \$400 or less, then a lump sum payment is due August 1;
- If the fee is > \$400, then can pay in quarterly payments or lump sum.

12VAC5-600-60. Nontransient Non-community (NTNC) Waterworks Operation Fee.

- * A fee of **\$90** per NTNC waterworks is due November 1.

There is no charge for Transient Non-community (TNC) Systems

Current Fee Structure

CWWs: 12 paying the max fee of \$160,000.
1,085 paying less than \$160,000.

NTNCs: 519 paying \$90

TNCs: 1,187 not paying a fee.

The 12 Largest CWWs

Owners Billed at the 160K Level				
		1,276,509		\$1,845,700.10
Count	name	Connections	bill amount (w/o the \$160k cap)	Difference over \$160K
1	VIRGINIA AMERICAN WATER	58,860	\$173,637.00	\$13,637.00
2	RICHMOND, CITY OF	62,346	\$183,920.70	\$23,920.70
3	WESTERN VIRGINIA WATER AUTHORITY	66,194	\$195,272.30	\$35,272.30
4	CHESAPEAKE, CITY OF	66,249	\$195,434.55	\$35,434.55
5	NORFOLK, CITY OF	69,308	\$204,458.60	\$44,458.60
6	LOUDOUN WATER	74,367	\$219,382.65	\$59,382.65
7	PRINCE WILLIAM CO SERVICE AUTH	89,126	\$262,921.70	\$102,921.70
8	HENRICO COUNTY	95,816	\$282,657.20	\$122,657.20
9	CHESTERFIELD CO. UTILITIES DEPT	121,610	\$358,749.50	\$198,749.50
10	NEWPORT NEWS, City of	128,957	\$380,423.15	\$220,423.15
11	VIRGINIA BEACH, CITY of	157,281	\$463,977.50	\$303,977.50
12	FAIRFAX COUNTY WATER AUTHORITY	286,395	\$844,865.25	\$684,865.25

$\$160,000 / \$3.00 = 53,333$ connections

The next ten largest CWWs

Second Tier (near the 160K Level)			
Count	name	Connections	Amount Billed
1	DANVILLE, CITY OF	17,511	\$51,657.45
2	HANOVER CO-DEPT OF PUB UTILS	19,700	\$58,115.00
3	WASHINGTON COUNTY SERVICE AUT	20,866	\$61,554.70
4	JAMES CITY SERVICE AUTHORITY	21,771	\$65,245.15
5	LYNCHBURG, CITY OF	22,786	\$67,280.65
6	SUFFOLK DEPT PUBLIC UTILITIES	24,678	\$72,800.10
7	Spotsylvania Co. - Utilities	30,476	\$92,777.50
8	PORTSMOUTH, CITY OF	32,380	\$95,521.00
9	STAFFORD COUNTY	35,711	\$105,347.45
10	ARLINGTON CO GOVERNMENT	37,462	\$110,592.55

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: 30 day public comment period closed March 17, 2021



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Agency Virginia Department of Health
Board State Board of Health
Chapter Waterworks Operation Fee [12 VAC 5 - 600]

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Commenter: Matthew

2/25/21 10:12 am

TNC Waterworks

Why isn't there a fee charged to TNC waterworks? The regs only have fees for community waterworks and NTNC waterworks.

CommentID: 97259



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Board State Board of Health
Chapter Waterworks Operation Fee [12 VAC 5 - 600]

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Commenter: Steven Herzog, Hanover County Department of Public Utilities

2/17/21 11:09 am

Regulated community that does not currently pay fees

Having served on the ODW's Waterworks Advisory Committee for several years I am aware of the resources that ODW invests in regulating smaller waterworks that do not pay fees to support ODW's activities. I suggest that this be looked at as part of the periodic review.

I also recommend that the fees paid by larger waterworks be revisited to determine if they are appropriate or if changes should be considered.

A properly funded ODW is necessary to protect the public health.

CommentID: 97246

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

TH07_PeriodicReview_WAC draft_4.19.21.docx - Word

File Home Insert Design Layout References Mailings Review View Add-ins Acrobat Tell me what you want to do...

Daniel, Nelson (VDH) Share

Form: TH-07
December 2020



townhall.virginia.gov

Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC 5-600
VAC Chapter title(s)	Waterworks Operation Fee
Date this document prepared	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"Board" means the State Board of Health.
 "Community waterworks" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
 "Department" and "VDH" mean the Virginia Department of Health.
 "ODW" means the Office of Drinking Water, an operational unit in the Virginia Department of Health.
 "NTNC" means **nontransient noncommunity** waterworks. A NTNC waterworks serves at least 25 of the same persons daily for at least 4 or more hours, 6 or more months out of the year. The 25 or more people are not year-round residents served by the waterworks.
 "TNC" means transient noncommunity waterworks. A TNC waterworks serves at least 25 persons daily

Town Hall Agency Background Document

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Virginia *Waterworks Operation Fee* regulations, 12VAC5-600, 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.

Code of Virginia § 32.1-167 defines a "waterworks" as a system that serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year. "Waterworks" includes all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building where such water is delivered.

Code of Virginia § 32.1-169 provides that the Board (acting through the Virginia Department of Health (Department or VDH), see *Code of Virginia* § 32.1-16) shall have general supervision and control over all water supplies and waterworks in the Commonwealth insofar as the bacteriological, chemical, radiological, and physical quality of waters furnished for human consumption may affect the public health and welfare and may require that all water supplies be pure water.

Code of Virginia § 32.1-171.1. A. and C. state that every owner of a waterworks shall pay to the Department a waterworks operation fee of no more than \$160,000 per year. Based upon the number of persons served, the number of connections, or the classification of the waterworks, the Board shall, pursuant to its regulations, establish the fee to be charged each such owner and may exempt sizes and classes from the required fee. Revenues from the operation fees cover costs necessary to operate the Waterworks Technical Assistance Program which includes, but is not limited to (i) training for operator certification, (ii) engineering evaluation and advice, (iii) sample collection for laboratory analysis, and (iv) educational seminars. *Id.*

Code of Virginia § 32.1-171.1 B. establishes a Waterworks Technical Assistance Fund which is to be used by the Department to conduct the Waterworks Technical Assistance Program.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

Page 1 of 6 2403 words