

Waterworks Operation Fee Regulations Listening Session

Electronic by WebEx

1:30 pm, May 12, 2022

Stakeholders Participating via WebEx: Barry Matthews (VDH-ODW), Moderator; John Aulbach, Aqua Virginia; Steven Herzog, VMDWA; Dawn Liscomb, Virginia DCR; Robert Melvin, Virginia Restaurant Lodging and Travel Association; Robert Wilson, Appomattox River Water Authority

Stakeholders Absent: Mark Estes, Halifax PSA; Deborah Kendall, Town of Gordonsville; Mitchell Smiley, VA Municipal League; Doug Towne, Richmond DPU; Dwayne Schwartz, City of Waynesboro; Eric Lasalle, Smithfield Foods; Tim Mitchell, VA AWWA

Guests Participating: Michael O'Connor, Virginia Petroleum and Convenience Marketers Association (VPCMA)

VDH-ODW Staff Participating: Julie Floyd, Denise Houchins, Jodi Jeanes, Jarrett Talley

A. Meeting Overview

The Waterworks Operation Fee Regulations Listening Session met via WebEx on Thursday May 12, 2022. The link was available on Town Hall, with participants able to log in to the webinar at 1:15 p.m.

Mr. Barry E. Matthews, Director of the Division of Training, Capacity Development, and Outreach of the Office of Drinking Water (ODW), opened the listening session at 1:30 p.m. He welcomed all attendees and invited them to unmute their microphones and comment during the meeting. He indicated that VDH will record the meeting and will note comments during the discussion. If anyone has additional comments, they may send them to him via email. He noted that the purpose of meeting was to allow additional parties the opportunity to learn about and comment on the proposed Waterworks Fee Regulation revision at the request of Mr. Melvin.

B. Waterworks Operation Fee Regulations : Presentation of Background and Terms

Mr. Matthews provided a brief slide presentation that included the following:

- A summary of the portions of the existing Waterworks Operations Fee Regulations that are being considered for change
- Definition of Nontransient Noncommunity Waterworks (NTNC)
- Definition of Transient Noncommunity Waterworks (TNC)
- Current fee structure for NTNC (\$90/year) and TNC waterworks (no fee)

- Invoicing costs
- Regulated waterworks by type and percent: 1,080 Community Waterworks (CWS) (38%); 506 NTNC waterworks (18%); 1,248 TNC waterworks (44%).
- Programmatic costs to VDH for oversight of the regulatory and technical assistance programs serving NTNC (est. \$1,570/year) and TNC (est. \$780/year)

C. **Discussion and Public Comment**

Mr. Matthews opened the public comment and discussion portion of the meeting. During the discussion, he referred back to the slides for clarification of terms and concepts for attendees.

There was discussion of the following specific items:

- There was concern expressed about significant fees charged on the hospitality industry (including restaurants, hotels, etc.) where “significant” was defined by the participant as any amount greater than \$50/year
- Participants were surprised that The Virginia Department of Health (VDH) does not charge TNCs a fee, whereas NTNCs and CWSs are being charged fees. Mr. Matthews noted that the fee for NTNCs was set in 1992 and has not changed since then. Mr. Talley added that in 1992, VDH was likely not regulating TNCs, which could explain why they were not included in the fee regulations.
- There was general discussion about the number of TNCs. Mr. Matthews and Ms. Jeanes observed that among the three types of regulated waterworks, TNCs are showing the most growth and that VDH anticipates this trend to continue.
- Multiple participants expressed support for a fee for TNCs.
- One participant suggested that the amount of the TNC fee be one-half of the NTNC fee. The participant referred back to the numbers presented in the slides, specifically that the programmatic cost for regulating TNCs is approximately one-half that of the costs to regulate NTNCs. There was general concurrence among participants that this approach seemed reasonable.
- A participant expressed concern with setting a single, fixed fee, as fees would not adjust with increased programmatic costs. Mr. Matthews responded that VDH leadership had indicated that they would only support a fixed fee. Any changes in the future would require regulatory revision.
- A participant suggested a fee of \$50/year for TNCs. There was discussion about if this would present a hardship. Participants observed that there are current issues with inflation that are specifically affecting profitability of some restaurants and some businesses that purchase and re-sell fuel. He observed that TNCs are in the business to make money, though the impact would mostly be on small businesses.
- Mr. Matthews asked the group if a fee of \$120/year for NTNCs would be a hardship. The consensus was that it would not be a hardship. A participant observed that VDH had not adjusted the fee for 30 years; making this change would be reasonable.

- A participant asked if the revenue from the fee would pay for additional services or defray the expenses to the agency. Mr. Matthews responded that the TNCs currently get services at no cost to them and that technical assistance would not change. He noted that funding that VDH receives from the Environmental Protection Agency is restricted and the grant cannot directly fund programs specifically for TNCs. VDH has been covering the costs technical assistance to NTNCs through the Capitalization Grant. TNCs can and will be able to contact VDH for assistance at their waterworks (i.e. issues with water quality, training on sample collection, troubleshooting) and staff will help them. Costs to VDH have increased since 1992 without any change to the fee regulations and any fees generated from this regulatory review will help offset those expenses.
- A participant observed that the proposed annual fee is substantially less than the cost to secure a consultant for the same type of assistance. They also observed, and Mr. Matthews concurred, that TNCs are not required to have a licensed operator, which is a substantial savings.
- A participant asked if private insurance coverage requires a waterworks to assure that the water provided is a safe product. Mr. Matthews responded that he is not aware of that requirement and has not had questions from insurance companies that cover these types of systems.
- A participant asked for clarification on the proposed amount of fees. Mr. Matthews responded that, based on discussion today, what he is hearing is support of a fee of \$60/year for TNCs and \$120/year for NTNCs. He reminded the group that any changes to the fee regulations, including any amount charged is up to the Stakeholder Group to take action. The next meeting of the Stakeholder Group is May 19, 2022.

D. Conclude Meeting



Mr. Matthews told the participants that the next Stakeholder meeting will be May 19, 2022, at the Goochland Public Library and will be in-person. He reminded participants that if they had additional comments or suggestions to please email them to him at Barry.Matthews@vdh.virginia.gov.

Mr. Matthews adjourned the meeting at 2:25pm.

Virginia Department of Health
Office of Drinking Water


**Waterworks Operation
Fee Regulations**

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Office of Drinking Water

- Everyone attending meeting will have a voice
- Listening Session
- All comments recorded in the meeting
- Provide written suggestions or recommendations




Amendments Discussion

1. Amend 12VAC5-600-10 as needed to define terms used in the chapter.
2. Amend 12VAC5-600-20 to **expand the purpose of the regulation to include TNCs**, wholesale waterworks, fair distribution of the costs of the drinking water program among all beneficiaries, and considerations of equity and environmental justice as they relate to fees waterworks pay.
3. Amend 12VAC5-600-50 to establish a minimum annual operation fee for all community waterworks, adjust the fee for each customer account, and adjust the schedule for charges and payment of fees.




Amendments Discussion

4. Amend 12VAC5-600-60 to **adjust the NTNC operation fee** and the schedule for payment of fees.
5. Add a section that establishes an operation fee and schedule for payment of fees for TNC.
6. Add a section that establishes an operation fee and schedule payment of fees for wholesale waterworks.
7. Amend 12VAC5-600-90 to distinguish between wholesale waterworks and community waterworks that have service connections (which serve as the basis for their operation fees) and also sell or deliver water to another waterworks.




Amendments Discussion

8. Other amendments to consider equity and environmental justice issues related to waterworks fees.




Nontransient noncommunity waterworks

- or "NTNC" means a waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six months out of the year. When used in the context of an NTNC, "regularly serves" means four or more hours per day, for four or more days per week, for 26 or more weeks per year.



Transient noncommunity waterworks

- or "TNC" means a noncommunity waterworks that is not a nontransient noncommunity waterworks (NTNC).
- A TNC serves at least 25 persons daily for at least 60 days out of the year




Current Fee Structure

- Waterworks Operation Fee Regulations
 - Sets the Nontransient Noncommunity Fee at \$90.00 per system


The 2021 billing was:

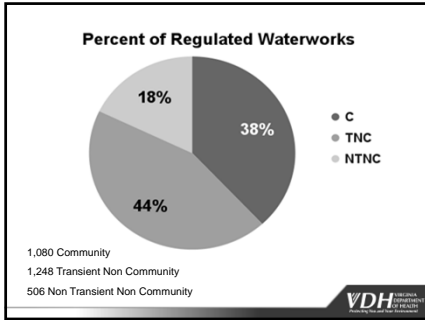
\$90.00 per NTNC system
TNCs have not been charged a fee to date



Operations Fee Invoicing Costs

- Billing Software – SBS has no funding
- Processing Invoices Cost
 - per PWSID \$16.00
 - per Invoice \$21.00
- Community Systems
 - 8 accounts under \$10.00
 - 47 accounts under \$50.00
 - 138 accounts under \$100.00





Non-community System's Technical Assistance Costs

14,250 hrs/506 systems = 28 hrs/system NTNC*

17,150 hrs/1,248 systems = 14 hrs/system TNC*

Assuming average salary, benefits and indirect costs = \$28.00/hr

\$1,570 / NTNC \$780 / TNC

* Note: These are the captured hours in ODW reporting systems, estimates based on 2x average multiplier (based on TA experience.)

VDH VERMONT DEPARTMENT OF HEALTH
Protecting the Health of the State