

Waterworks Advisory Committee Meeting Minutes

Electronic Meeting via WebEx

Tuesday, December 10, 2024, 1:00 p.m.

Members Present: David Van Gelder (Chair), Water Operator; Chris Pomeroy, Virginia Municipal Drinking Water Association; Jesse L. Royall, Jr., P.E. Sydnor Hydro; Michelle Caruthers, VWEA; Andrea Wortzel, Troutman Pepper; Ben Barber, Virginia Catalyst; Caleb Taylor, Virginia Municipal League; Joey Hiner, VA SERCAP; Tom Fauber, VA ABPA; Skip Harper, Virginia Plumbing and Mechanical Inspectors Association; Shane Wyatt, DCLS; Scott Morris, DEQ; Russ Navratil, VA AWWA

Members Absent: Ignatius Mutoti, VSPE; Geneva Hudgins, VA AWWA; Whitney Katchmark, Principal Water Resources Engineer; Mark Estes, VRWA

Stakeholders and Public: Charlie Paulin, Sarah Ramsey, Barbara Walsh, Ivy Ozmon. Mark Titcomb, Mitchell Smiley, Vincent Gray, Taylor Valencia, Tanya Pettus, TJ Gordon, Chris Gill, Brian Redder

Virginia Department of Health (VDH) Staff: Anthony Hess, Barry Matthews, Dwayne Roadcap, Fiora DeBorous, Grant Kronenberg, Jane Nunn, Julie Floyd, Rebecca Bliley, Robert Edelman, Ray Weiland, Bailey Davis, Daniel Horne, Jeremy Hull, James Reynolds, Jessica Coughlin, Dan Horne, Mark Wise, Steve Kvech, Dwight Flammia, Amy Hayes

Introductory Remarks

The Waterworks Advisory Committee met online via WebEx on Tuesday, December 10, 2024, at 1:00 p.m. In addition to the WAC members in attendance, ODW stakeholders, Virginia Department of Health staff, and the public also joined. WAC Chair David Van Gelder presided at the meeting.

Dwayne Roadcap, Director, Virginia Department of Health, Office of Drinking Water (ODW), recognized newly appointed WAC member Ben Barber, Virginia Catalyst. Mr. Barber previously served on the WAC.

Chair David Van Gelder provided a brief overview of the agenda.

Review and Adopt Minutes of Meeting

The WAC unanimously approved the September meeting minutes on a voice vote.

Source Water Manual Revisions

Bob Edelman introduced the Source Water Manual and the policy on harmful algal blooms (HAB). He provided an overview of the waterworks owner's responsibilities and process required in the event of a HAB occurrence. Mr. Edelman discussed plans to update the policy to simplify health advisory levels for Microcystins and Cylindrospermopsin and to add levels for

Anatoxin-a and Saxitoxins. Mr. Edelman introduced Ms. Amy Hayes, VDH toxicologist, to present recommendations on Anatoxin-a and Saxitoxins.

Ms. Amy Hayes, Ph.D., introduced herself to meeting participants. Dr. Hayes discussed notable bloom levels in the Shenandoah region and potential effects to the surrounding areas when levels rise. Dr. Hayes reviewed slides detailing information on Anatoxin-a and Saxitoxins. Dr. Hayes reviewed slides showing advisory level calculations. Dr. Hayes reviewed a slide comparing levels for Anatoxin-a and Saxitoxins by several states, the World Health Organization, and New Zealand. The slides presented by Dr. Hayes can be found within the WAC meeting materials.

Ms. Michelle Caruthers pointed out the December 2023 HAB toolkit indicates Ohio and Iowa have an Anatoxin-a advisory level of 20 ppb. Dr. Hayes advised that Ohio currently has 0.3 and 1.6 ppb and suggested that 20 ppb could be the recreational advisory level. Dr. Hayes was not familiar with the HAB Toolkit published on VDH's website and would need to review it further. Ms. Caruthers requested VDH to look into the advisory levels in the HAB toolkit, including why they are different.

Mr. Chris Pomeroy requested Mr. Edelman expand or clarify what is the effect of the health advisory level numbers, how are they put into force, are they mandatory or advisory, and do they go through an administrative process or the committee like the WAC?

Mr. Edelman advised that the advisory levels for Anatoxin-a and Saxitoxins are proposed and would become policy, not regulation. VDH would expect waterworks to take action if finished water concentrations are above the advisory levels. Mr. Roadcap advised that as this would become policy, and it would need to go through the public vetting process, posting on the Virginia Regulatory Town Hall for public input and VDH would respond to feedback. It would also go through Executive Branch review, including a review by the Office of Regulatory Management. If a water system detection of cyanotoxins exceeding the advisory levels in the finished water for over 10 days, VDH would recommend the water system issue advisories based on the policy. It would not be regulatory per se. The EPA does not have data to support maximum contaminant levels (MCLs) and has issued health advisories for two cyanotoxins.

Mr. Pomeroy observed the policy is serious and nearly or practically has the force of regulation and has some judgment calls on the degree of stringency. Mr. Roadcap advised that if a water system felt that a different advisory level would be appropriate, this could cause problems with the communication to the public if the messaging is not consistent.

Mr. Pomeroy questioned the stringency in comparison to other states. Dr. Hayes advised that VDH is generally similar to other states. For Anatoxin-a, EPA is currently carrying out a toxicity study and the results will be out this summer and there would be an opportunity to review and update VDH's calculations.

Ms. Caruthers asked about the Anatoxin-a and Saxitoxins testing at the North Fork of the Shenandoah River. Dr. Hayes advised that the water testing was by another VDH program and showed that Anatoxin-a was detectable in the North Fork of the Shenandoah River. Saxitoxins were detected elsewhere in subsequent blooms.

Mr. Pomeroy asked about cyanotoxin data for the Shenandoah River bloom and the cyanotoxins levels of stream water in comparison to finished water. Dr. Hayes advised the VDH Waterborne Hazards has the data, but if she recalls correctly, the finished water cyanotoxin levels were less than half of the untreated water.

Mr. Pomeroy asked if a “do not drink” advisory would be expected under this guidance. Mr. Edelman stated that a “do not drink” advisory would be expected if the advisory levels are exceeded for 10 or more days, based on the finished water. Water treatment plants can make adjustments to optimize removal of cyanotoxins. EPA has published some guidance on this topic.

Mr. Pomeroy questioned if this is a widespread or common issue, for example using surface water data across Virginia and how often this might be triggered. Dr. Hayes advised that the VDH Waterborne Hazards program has water sampling data to support recreational use advisories. Where there is no bloom happening, detecting cyanotoxins is not likely. Mr. Roadcap advised that VDH has observed blooms in the North Fork of the Shenandoah River, and as a result of this experience, VDH is proactively looking to provide a clear policy.

Mr. Pomeroy observed that this proposal represents a significant change, with potential significant impacts. He requested to understand the statewide impacts and the process going forward to implement the policy. Mr. Roadcap advised that VDH will update the Source Water Manual, ask the Waterworks Advisory Committee to provide input, submit the policy to the Office of Regulatory Management, and publish it on the Virginia Regulatory Town Hall for a public comment period. Depending on the public comments, the policy would be implemented. Even without a formal policy, VDH still has recommended advisory levels and would still make recommendations to waterworks regarding the advisories to the public. Mr. Edelman commented that as a next step, VDH will prepare an updated draft of the policy.

Mr. Russ Navratil questioned if the 10-day period of exposure for the health advisories is new. Mr. Edelman advised that this is not new, and it is based on the cyanotoxin health advisories issued by the U.S. Environmental Protection Agency.

Mr. Grant Kronenberg advised that a discussion will be held internally to determine how to proceed with the creation of the policy. VDH could send out a draft of the policy and WAC members could provide written feedback. Based on the extent of the feedback, VDH could make a decision if to bring it back to the WAC.

Mr. Pomeroy asked for more information on incident occurrences of the cyanotoxins in source water in Virginia. Mr. Roadcap advised that water systems do not routinely sample for cyanotoxins and if they did sample, VDH does not necessarily have the cyanotoxin data. Mr. Edelman advised that Anatoxin-a and Saxitoxins are new, so water systems have not been sampling for these on a routine basis.

Waterworks Regulations

Ms. Jane Nunn presented an update on the draft proposed amendments to the Waterworks Regulations. The WAC members present provided feedback on the draft proposals. The slides presented by Ms. Nunn as to each item can be found with the WAC meeting packet.

Ms. Nunn presented on two amendments, well abandonment and Remote Monitoring Credits.

Item #1 – 12VAC5-590-475 B

Ms. Nunn reviewed the updated language changes relating to well abandonment. Ms. Nunn advised that a clean copy of the changes would be made available for review and consensus. The WAC did not raise concerns with the proposed language.

Item #2 – § 32.1-172.1(B), Remote Monitoring Credit

Ms. Nunn reviewed the remote monitoring credit policy and proposed amendment to the Waterworks Regulations: 12VAC5-590-461.F.

Remote monitoring attendance credit. Ms. Nunn provided an overview of the subsection. The WAC provided feedback. Mr. Pomeroy provided feedback, including noting an email he sent to Ms. Nunn and Mr. Kronenberg during the meeting with specific suggested edits to the proposed regulatory language. Mr. Van Gelder and Mr. Pomeroy discussed aligning the need for a cybersecurity assessment or reassessment with the AWIA assessment, which has a five-year requirement.

Ms. Nunn advised an updated document with suggested updates will be forthcoming.

Item #3 – Regulatory Amendments for PFAS and CCR3

Ms. Nunn provided a brief update on amendments for the Consumer Confidence Report Rule Revisions and PFAS. An updated packet will be available for review during the March 2025 WAC meeting.

Licensed Operator Temporary Waiver Policy and Remote Monitoring Policy

Mr. Kronenberg reviewed the draft proposed licensed operator temporary waiver policy and remote monitoring policy. The presentation slides are included in the WAC meeting packet.

Mr. Kronenberg reviewed changes that had been made since the last version of the licensed operator temporary waiver policy that had been shared with the WAC. These changes included decoupling the regulatory requirement that a waterworks owner notify ODW of a waterworks' inability to meet its operator requirements from eligibility for the waiver; changing the focus of what qualifies as a "vacancy" from the operator's perspective to the owner's perspective; highlighting that a variance may be applied for even if the waterworks does not qualify for a waiver; and the addition of language about ODW's tracking of waivers.

Mr. Kronenberg reviewed changes that had been made since the last version of the remote monitoring policy. Mr. Kronenberg noted that if a waterworks owner chooses not to use ODW's template application, they must still provide the verification set forth in the template. The new draft policy includes a list of cybersecurity tools that are acceptable to ODW, which includes a catch-all for other tools approved by ODW. The new draft policy removes the distinction between "active" and "passive" monitoring, based on prior feedback from the WAC that there is an active aspect to all remote monitoring. The new draft policy requires certification of the existence of a cybersecurity risk mitigation and response plan.

Mr. Kronenberg noted that the feedback received from the WAC about the draft proposed regulation concerning remote monitoring will be taken into account when considering further edits to the draft remote monitoring policy.

WAC Finances Subcommittee

Mr. Roadcap discussed the WAC Finances Subcommittee and presented an overview of the topics discussed.

Mr. Kronenberg advised that the Subcommittee and ODW will be generating talking points to outline the risk associated with the impending 2027 financial cliff and outlining the fiscal challenges that may potentially occur.

Mr. Van Gelder mentioned the timeframe as imminent and expressed the importance in understanding that this needs to be discussed in 2025 per the Commonwealth's biannual budget.

Mr. Kronenberg agreed and advised that additional information would be available after the conclusion of the next Subcommittee meeting, which is in January.

Hurricane Helene: An Emergency Response Case Study

Ms. Jessica Coughlin presented on ODW's emergency response surrounding Hurricane Helene. The presentation slides are available in the WAC meeting packet.

Ms. Coughlin reviewed the extensive damage incurred throughout the affected areas in Southwest Virginia. Ms. Coughlin discussed the extensive number of hours and resources used to aid and assist in the recovery needs following Hurricane Helene. Ms. Coughlin discussed the need to increase technical trainings and staffing to maintain the appropriate level of coverage and care for future emergency preparedness needs. Ms. Coughlin advised that ODW is currently working to update the current response plan, which will also include additions to the policy.

Lead and Copper Rule Revisions/Lead and Copper Rule Improvements and Lead Service Line Inventory Update

Mr. Edelman provided an update on activities related to the Lead and Copper Rule Revisions (LCRR). Mr. Edelman presented statistics on the Initial Service Line Inventories submitted by Virginia waterworks and VDH's progress in reviewing the submittals. VDH is sharing the

inventory status information with EPA Region 3, who will undertake enforcement since VDH does not have primacy. Mr. Edelman outlined requirements effective October 16, 2024, and identified some items in the LCRR that EPA has deferred to the Lead and Copper Rule Improvements (LCRI), with a compliance deadline of November 1, 2027.

Mr. Edelman provided additional details on the requirement to notify customers of known or potential service lines containing lead, revised health effects language for public notices and public education, a new requirement for a Tier 1 (24-hour) public notice upon a lead action level exceedance, and changes to the Consumer Confidence Reports due in 2025. Mr. Edelman provided recommendations for waterworks to prepare for the LCRI with a compliance deadline of November 1, 2027. The presentation slides are available in the WAC meeting packet.

PFAS Update

Mr. Bailey Davis discussed PFAS and the planned changes to the regulations. Mr. Davis discussed pending regulation deadlines for initial sample monitoring, April 26, 2027, with compliance monitoring to commence immediately following this deadline. Waterworks are required to meet the MCLs by April 2029.

Mr. Davis reviewed the EPA policy on use of previously collected data and covered the requirements for monitoring and sampling, which advises that samples collected after June 24, 2024, must be from an EPA or Virginia certified laboratory. Mr. Davis advised that once the initial compliance inventories are received, compliance frequency will be determined. Mr. Davis recommended all waterworks develop a plan to sample for initial monitoring requirements and ensure the required number of samples and timeframes are met with enough time to resample in one of those timeframes should the need arise.

Mr. Davis advised that a cost study was completed relating to the implementation of LCRR and PFAS. He stated that the study is complete and is currently under Executive review. Additional information on approvals or adjustments will be forthcoming.

The presentation slides are available in the WAC meeting packet.

Compliance, Enforcement & Policy Update

Mr. Kronenberg provided an update on Compliance and Enforcement. Mr. Kronenberg stated the number of “serious violators” under the EPA’s scoring system declined from 11 in the prior quarter to five in the current quarter. Of those five serious violators, three of them have returned to full compliance and another serious violator is the subject of a proposed consent order.

Mr. Kronenberg advised that eight Consent Orders have been issued for the year thus far and one administrative order has been issued by the Commissioner.

Plan Review and Data Management Update

Mr. Aaron Moses advised the group of the recent hiring of two Plan Review Engineers. Mr. Moses advised that the average plan review time maintains its average of a 25-day cycle.

Mr. Moses discussed the future implementation of two new software products that will be used to aid in project tracking and reporting. Mr. Moses advised that in addition to the software updates, ODW will be transitioning to the new federal database which will replace the SDWIS database. The anticipated roll-out date is the end of 2026. EPA assistance will secure help secure the transition.

ODW Staffing

Mr. Roadcap advised meeting participants that ODW has staffed the multiple vacant Field Director positions, which were filled with internal applicants.

Mr. Roadcap further discussed the turnover and vacancy rates, stating that ODW's 10% turnover and 16% vacancy rates align with other state agencies. Mr. Roadcap stated that ODW will continue to fill vacancies as resources are available.

Public Comment

Ms. Sarah Ramsey, a member of the public, discussed her concerns on water fluoridation. Ms. Ramsey reviewed and cited several articles addressing the potential harmful effects of the use of fluoride in the public drinking water supply. Ms. Ramsey requested the reconsideration of fluoride usage.

Mr. Van Gelder thanked Ms. Ramsey for her input.

Mr. Ben Barber, WAC member, discussed the positive effects of fluoride in the public drinking water supply.

Mr. Van Gelder thanked Mr. Barber for his input.

Mr. Van Gelder questioned if any additional concerns needed to be addressed.

Several meeting participants requested a copy of the meeting recording. Mr. Kronenberg advised that the meeting recording, packet and chat will be made available and shared for requestors and the public.

Other Business

Mr. Kronenberg asked the WAC about how it prefers to have meetings scheduled for 2025. Mr. Kronenberg said that historically meetings have been set by ODW, but for the Finances Subcommittee and for the December WAC meeting, a poll was sent to the WAC members. Mr.

Van Gelder noted that scheduling polls are regularly used and expressed a preference for scheduling through a poll.

Mr. Van Gelder adjourned the meeting at 3:29 p.m.