

# Waterworks Operation Fee Regulations Stakeholder Meeting Minutes

3075 River Road West  
Goochland, Virginia 23063  
Pamunkey Regional Library- Goochland Branch

1:00 pm, Thursday May 19, 2022

---

Stakeholders Participating In-Person: Mark Estes, Halifax PSA; Steven Herzog, VMDWA; Deborah Kendall, Town of Gordonsville; Eric Lasalle, Smithfield Foods; Dawn Lipscomb, Virginia DCR; Dwayne Schwartz, City of Waynesboro; and Mitchell Smiley, VA Municipal League

Stakeholders Absent: John Aulbach, Aqua Virginia; Jamie Hedges, Fairfax Water; Robert Melvin, Virginia Restaurant Lodging and Travel Association; Tim Mitchell, VA AWWA; Doug Towne, Richmond DPU; Robert Wilson, Appomattox River Water Authority

Guests Participating: Russ Navratil, Virginia AWWA

ODW Staff Participating In-Person: Barry Matthews, Moderator, Julie Floyd, Diedre Forsgren, Theresa Hewlett, Jodi Jeanes, Jarrett Talley, Jason Yetter

VDH Staff Absent: Dwayne Roadcap, Tony Singh, Robert Edelman, Jennifer Starkey

## **A. Meeting Overview**

The Waterworks Operation Fee Regulations Stakeholder Meeting #3 met in person at the Pamunkey Regional Library- Goochland Branch on Thursday May 19, 2022.

Mr. Barry Matthews, Director of the Division of Training, Capacity Development, and Outreach of the Office of Drinking Water, called the meeting to order at 1:00 p.m. and reviewed the agenda. Stakeholders did not request changes or additions to the agenda. He went over “ground rules” (see presentation attached to these minutes). He invited public comment during the meeting, noting that input is not limited to the stakeholders, but any member of the public is welcome and encouraged to participate in the process. There was an in-person quorum of the stakeholder group and a simple majority vote defined consensus. The Group did not use roll call votes. He requested that members and guests provide written feedback after the meeting with additional comments.

## **B. Comments Received**

Mr. Matthews shared that he had received emailed comments from two individuals:

- Comment from a stakeholder who would support a base fee for wholesale waterworks.
- Comment from a stakeholder who recommends that the fee consist of a base rate plus a fee based on water production (gallons). This would encourage conservation and attention to leakage.

Mr. Matthews observed that the Notice of Intended Regulatory Action (NOIRA) limits what the stakeholder group can modify within the Fee Regulations. The NOIRA did not include base rate + production.

## **C. Waterworks Operation Fee Regulations : Presentation of Costs**

Mr. Matthews presented information on the following topics:

- Operations Fee Invoicing Costs
- Information about the terms “customer accounts” and “service connections”
- Non-community System’s Technical Assistance Costs
- Wholesale Waterworks definition and Technical Assistance Costs

Highlights from Mr. Matthews’ presentation (see attached) included the following:

- Operations Fee Invoicing Costs: The cost to process a single invoice is approximately \$16 per Public Water System ID (PWSID) or \$21 per owner having multiple PWSIDs on one invoice.
- At present there are 8 CWSs that are billed <\$10.00, 47 that are billed <\$50.00, and 138 that are billed <\$100.00
- Non-community Systems Technical Assistance Costs: The estimated cost to ODW to provide the current level of technical assistance to Non-Transient Noncommunity (NTNC) and Transient Noncommunity (TNC) waterworks. Mr. Matthews presented estimates of hours per trackable task, doubling that amount to account for administrative and deskwork, and applying an average ODW hourly salary rate of \$28.00/hour. For NTNC waterworks, staff spends approximately 28 hour/system/year for an annual cost of \$1,570.00 per NTNC. For TNC waterworks, staff spends approximately 14 hours/system/year for an annual cost of \$780 per TNC.
- Wholesale Waterworks: Definition of Wholesale Waterworks and the count of waterworks that fall into this category. The staff will incorporate the definition as written in the Virginia *Waterworks Regulations*.
- There are currently 15 wholesale waterworks that are not invoiced a Technical Assistance Fee since they are classified as a CWS but have zero “end user accounts”.
- Wholesale Waterworks Technical Assistance Costs: The estimated cost to ODW to provide the current level of technical assistance to Wholesale Waterworks. At present, staff spends approximately 28 hours/system/year. At an average staff salary rate of \$54.00/hour, the cost for ODW to provide technical assistance is approximately \$3,020 per wholesale waterworks.

#### **D. Discussion of the Proposed (Draft) Fee Regulations and Amendments**

Mr. Matthews provided an overview of proposed changes to the Fee Regulations. See attached document.

There was discussion of the following specific items:

- *12VAC5-600-10. Definitions*: The current Fee Regulations include the following definitions:
  - o “Customer account” means (i) a metered or unmetered potable water service connection to the customer that is billed in any way by the waterworks owner or (ii) where any community waterworks sends no billing, the customer accounts shall be defined as equal to the population divided by four.
  - o “Service connection” [updated to reflect the most current version of the *Waterworks Regulations*] means the point of delivery of finished water from a waterworks to a consumer’s water system, fire protection system, irrigation system, and to all other points where finished water is delivered through the distribution system to a consumer. Generally, the service connection occurs at the water meter, or at the distribution main if no water meter is installed, or in the case of an owner of both the waterworks and the building supplied, the point of entry to the building. Service connections may be permanent, temporary, or emergency.

Mr. Matthews indicated that a fee inconsistency in the Regulations existed. The inconsistency relates to the number of customer accounts while ODW tracks service connections in SDWIS, the online database

of regulated waterworks information. A consistent means of calculating the waterworks operations fee for community waterworks (CWS) is the better approach. There was discussion about how the number of service connections is calculated. The Division of Technical Services suggested that if a meter base has a lateral to a building, then it should count as a service connection. Another problem is when a waterworks has one metered connection that serves hundreds of buildings and thousands of people. There was additional discussion about the impacts of removing “customer accounts” from the definition section and changing references within the Fee Regulations to “service connections.” With a vote of the members present, there was consensus to leave the definition of “customer account” in the Waterworks Fee Regulations.

- *12VAC5-600-50. Community waterworks operations fee:* A stakeholder asked whether a minimum fee for all community waterworks could be established. From a listening session on May 12, 2022, stakeholders suggested that the fee for TNCs be one-half of the fee charged to NTNCs, and for the fee for NTNCs to be set at \$120 with the fee for TNCs to be set at \$60. There was discussion about the potential impact of setting a minimum fee for CWSs, which would affect the smallest waterworks the most. A stakeholder observed that the smallest waterworks get a lot of help and can set their rate schedule to cover this fee. A stakeholder suggested setting the minimum fee for community waterworks to be equal to the fee charged to NTNC waterworks. With a vote of the members present, there was consensus to set a minimum Waterworks Operations Fee of \$120 for all community waterworks, with the intent that a community waterworks would still be charged \$3 per connection or \$120, whichever is greater.

- *12VAC5-600-60. Nontransient noncommunity (NTNC) waterworks operation fee AND 12VAC5-600-65. Transient noncommunity (TNC) waterworks operation fee:* While a large portion of ODW funding comes through EPA “set-asides,” those funds cannot assist TNCs. ODW uses funds raised through fees and the Public Water Systems Surveillance (PWSS) grant to cover staffing costs associated with assistance to TNCs. There was discussion about the potential fee. A stakeholder observed that TNCs and NTNCs require a lot of help from ODW and should be paying a reasonable fee. There was general agreement amongst those present. With a vote of the members present, there was unanimous consensus to set the Waterworks Operations Fee for NTNC waterworks at \$120 and for TNCs at \$60.

*12VAC5-600-55. Wholesale waterworks:* The group discussed to the definition and fees for wholesale waterworks. One stakeholder had recommended a flat fee charge of \$2,500 per wholesale waterworks, based on the amount of effort ODW puts into regulating wholesale waterworks. A waterworks wholesales water that has 15 or more residential customer connections would be classified as a community waterworks. All wholesale waterworks are “large.” Another stakeholder suggested raising the fee to \$5,000 for a large wholesaler. There was additional discussion about the services that ODW provides to wholesalers. With a vote of the members present, there was consensus to set a flat operations fee of \$2,500 for waterworks that wholesale water and have fewer than 15 residential customer connections.

- The group discussed environmental justice and equality. These are difficult concepts to capture. Many of the communities impacted by environmental justice or equality issues are in the middle of large municipal waterworks. As long as the fees to the waterworks are reasonable, then the burden on those impacted communities would likely be equitable.
- *12VAC5-600-50(B). Community waterworks operation fee:* There was discussion about the option for quarterly payments. The group agreed that the minimum invoice eligible for quarterly payments should be increased. Staff noted that this would only affect a few systems. With a vote of the members present,

there was consensus to change the minimum waterworks operation fee eligible for quarterly payments from \$400 to \$1,600.

- *12VAC5-600-50(A). Community waterworks operation fee:* There was discussion about how VDH applies the \$160,000 cap to CWS invoices. ODW has been improperly applying the \$160,000 fee cap for an owner with multiple PWSIDs. The group discussed charging the fee per PWSID. A stakeholder observed that this appears to be a housekeeping change, not a substantial regulatory change.
- *12VAC5-600-120. Non-payment considerations:* The group discuss nonpayment and language in Code. This draft section would make the requirements more clear. There were no objections. With a vote of the members present, there was consensus to include the proposed wording regarding non-payment.
- *12VAC5-600-100. Payments:* There was discussion about adding a “convenience fee” to those payments remitted electronically. The group was unclear whether the State Code addressed this matter. Staff will consider the proposed Fee Regulations should address situations for a fee by the third party transaction vendor. Waterworks could pay their bills without being charged the convenience fee if they use check or fund transfer.
- *12VAC5-600-10. Definitions:* A stakeholder observed a discrepancy in the definitions of wholesaler and waterworks in that wholesaler has the word “potable water” and waterworks has the word “pure water.” The group did not take action on this topic.

#### **E. Public Comment**

There were no further questions or discussions.



#### **F. Other Business / Conclude Meeting**

Staff will integrate the recommended language into the Draft Waterworks Operations Fee Regulations and will distribute the draft to the stakeholders for final comments. Depending on feedback, another meeting could be scheduled. Mr. Matthews adjourned the meeting at 3:17 pm.

**Virginia Department of Health**  
Office of Drinking Water

**Waterworks Operation  
Fee Regulations**

Barry E. Matthews, CPG  
[barrymatthews@vdh.virginia.gov](mailto:barrymatthews@vdh.virginia.gov)  
804 477-5171





**Office of Drinking Water**

Introductions


Ground Rules

- Everyone attending meeting will have a voice
- Issues decided by consensus
- Vote by members, if consensus cannot be reached
- All comments should be recorded in the meeting
- Provide written suggestions or recommendations




**Office of Drinking Water**

- No gatherings to discuss Fee Regulations
- Focus on the fee regulations
- Cost is fair and equitable to all regulated groups
- Four meetings:
  - 1) Introduction, Background, Data, Issues (**Completed**)
  - 2) Recommended Modifications Discussion (**Completed**)
    - 2.5) NTNC and TNC Interested Parties (**Completed**)
  - 3) Consensus on draft Regulatory Modifications (In-person)
  - 4) If needed to review final draft Modifications




**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



**Customer Accounts**

- 12VAC5-600-20 and 50 to use the term customer accounts. VDH-ODW does not track customer accounts and wants to replace that with service connections.
- Service connections is what we have been using historically.



**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.)



**Wholesale Waterworks**

- Definition
 

"Wholesale waterworks" means a waterworks that treats source water as necessary to produce potable water and then delivers some or all of that potable water to another waterworks. Delivery may be through a direct connection or through the distribution system of one or more consecutive waterworks
- 15 Wholesalers that have no "end-user accounts"




**Wholesale Waterworks**

420 hrs/15 systems = 28 hrs/Wholesaler\*

Assuming average salary, benefits and indirect costs = \$54.00/hr


\$3,020 / Wholesaler

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



**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.

VDH

#### Amendments Discussion

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

VDH

#### Next Steps

Set Next Meeting

Adjourn

VDH

## PROPOSED REVISIONS

### Chapter 600. Waterworks Operation Fee

#### 12VAC5-600-10. Definitions.

As used in this chapter, unless otherwise defined, words and terms are the same as those in §32.1-167 of the Code of Virginia or in 12VAC5-590-10 (Waterworks Regulations) and shall have the following meanings unless the context clearly indicates otherwise:

"Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner, who is the executive officer of 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.

"Consecutive waterworks" means a waterworks that receives some or all of its finished water from one or more waterworks. Consecutive waterworks may provide additional treatment to finished water. Delivery may be through a direct connection or through the distribution system of one or more consecutive waterworks.

"Customer account" means (i) a metered or unmetered potable water service connection to the customer that is billed in any way by the waterworks owner or (ii) where any community waterworks sends no billing, the customer accounts shall be defined as equal to the population served divided by four.

"Department" means the Virginia Department of Health.

"Due" means received or postmarked by the stated date.

"End-User" means any person that uses the water from a waterworks for its business or personal use that is unrelated to the wholesale, resale, distribution, or treatment of the drinking water.

"Fiscal year" means the year from July 1 to June 30.

"Non-payment" means any fee owed to the Virginia Department of Health's Technical Assistance Fund that is 60 days or greater past due.

"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.

"Owner" means an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity, or the federal government that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, or instrumentality thereof.

"Public Water System Identification Number" (PWSID) means a unique identifying number used by the Virginia Department of Health that is specific to each waterworks.

"Safe Drinking Water Information System" (SDWIS) means the Environmental Protection Agency's (EPA) electronic database that contains information about waterworks and their violations of EPA's drinking water regulations.

"Service connection" means the point of delivery of finished water from a waterworks to a consumer's ~~building service line~~ water system, fire protection system, irrigation system, and to all other points where finished water is delivered through the distribution system to a consumer. ~~as follows: 1. If a meter is installed, the service connection is the downstream side of the meter; 2. If a meter is not installed, the service connection is the point of connection to the waterworks; or 3. When the waterworks owner is also the building owner, the service connection is the entry point to the building.~~ Generally, the service connection occurs at the water meter, or at the distribution main if no water meter is installed, or in the case of an owner of both the waterworks and the building supplied, the point of entry into the building. Service connections may be permanent, temporary, or emergency.

"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.

"Waterworks" means 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 ~~potable~~ pure water except the piping and fixtures inside the building where such water is delivered.

"Wholesale waterworks" means a waterworks that treats source water as necessary to produce potable water and then delivers some or all of that potable water to another waterworks. Delivery may be through a direct connection or through the distribution system of one or more consecutive waterworks.

## **12VAC5-600-20. Purpose of the regulation.**

The regulation establishes a waterworks operation fee schedule where the number of customer accounts of a community waterworks is the basis for assessing charges to the community waterworks. The fee schedule for nontransient noncommunity waterworks is based on the waterworks being classified as a nontransient noncommunity waterworks. The fee schedule for



transient noncommunity waterworks is based on the waterworks being classified as a transient noncommunity waterworks. The fee schedule for wholesale waterworks is based on a waterworks that sells water to another waterworks, and has fewer than 15 end-user accounts. No owner shall pay more than \$160,000 per year per waterworks Public Water System Identification Number (PWSID) nor is it the intent that an owner be charged this fee on water transferred to another waterworks. The Board of Health will determine the rates charged for each billing cycle, based on program need, regulated community benefit, cost equity, and other considerations, while not exceeding the maximum fee as described herein.

#### **12VAC5-600-30. Compliance with the Administrative Process Act.**

The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern the promulgation and administration of this chapter.

#### **12VAC5-600-40. Powers and procedure of regulation not exclusive.**

The commissioner may enforce this chapter through any means lawfully available including, but not limited to, the revocation of the waterworks operation permit (see §32.1-174 of the Code of Virginia).

#### **12VAC5-600-50. Community waterworks operation fee.**

A. An annual waterworks operation fee, not to exceed \$160,000 per community waterworks (PWSID), shall be ~~charged as of due for payment beginning~~ July 1 of each fiscal year ~~to~~ by the owner of each ~~community waterworks~~ PWSID in an amount as follows:

For each fiscal year: the number of customer accounts for each PWSID is multiplied by no more than \$3.00, or a minimum annual administrative fee for each PWSID will be assessed of \$00, whichever is greater.

B. The fee shall be paid to the department and be due as follows:

1. If the fee established in subsection A of this section is \$00 or less, the fee shall be due in a lump sum on or before August 1;
2. If the fee established in subsection A of this section is more than \$00, the fee shall be due in a lump sum or equal quarterly installments each year as follows:
  - a. No later than August 1—The lump sum or first quarterly installment.
  - b. No later than November 1—The second quarterly installment.
  - c. No later than February 1—The third quarterly installment.
  - d. No later than May 1—The fourth quarterly installment.

C. Data verification. The number of customer accounts will be based on the best available data stored in SDWIS for a maximum period of ~~six~~ twelve months prior to ~~the close of business on June 30~~ July 1. ~~Each~~ Every year as ~~provided by~~ the owner or chief administrative officer shall provide updated data to the department. ~~This~~ Data verification shall be provided to the department ~~by the owner of~~ for each community waterworks at the address specified in 12VAC5-600-100 and is due by no later than August 1 of each year with the appropriate payment.

#### **12VAC5-600-55. Wholesale Waterworks**

A. An annual waterworks operation fee, not to exceed \$00 per wholesale waterworks (PWSID), shall be due for payment beginning July 1 of each fiscal year by the owner of each PWSID that does not have end-user accounts. For each fiscal year, an amount of \$00 per wholesale waterworks shall be assessed. Wholesale waterworks that have 15 or greater end-user accounts shall be billed as a community waterworks (see 12VAC5-600-60).

B. The fee shall be due to the department no later than every August 1 of each year.

#### **12VAC5-600-60. Nontransient noncommunity (NTNC) waterworks operation fee.**

A. An annual waterworks operation fee, not to exceed \$00 per nontransient noncommunity (NTNC) waterworks (PWSID), shall be charged due for payment as of beginning July 1 of each fiscal year ~~to~~ by the owner of each NTNC waterworks PWSID. For each fiscal year, an amount of ~~no more than \$90~~ \$00 per NTNC waterworks PWSID shall be assessed.

B. The fee shall be due to the department ~~every November 1~~ no later than August 1 of each year.

#### **12VAC5-600-65. Transient noncommunity (TNC) waterworks operation fee.**

A. An annual waterworks operation fee, not to exceed \$00 per transient noncommunity (TNC) waterworks (PWSID), shall be due for payment beginning July 1 of each fiscal year by the owner of each TNC PWSID. For each fiscal year, an amount of \$00 per TNC waterworks shall be assessed.

B. The fee shall be due to the department no later than every August 1 of each year.

#### **12VAC5-600-70. Notice.**

The department will send to each waterworks owner a payment form/data verification notice as prescribed by the department on or before July 1 of each year. Failure to receive this notice does not relieve the responsibility of the owner from providing payments or verification.

#### **12VAC5-600-80. Refundability.**

The fees established in 12VAC5-600-50 ~~and~~ , 12VAC5-600-55, 12VAC5-600-60, and 12VAC5-600-65 are nonrefundable but are credited to any new owner of the same waterworks.

### **12VAC5-600-90. Exemptions.**

~~Customer accounts~~ Wholesale waterworks through which water is sold or delivered to another waterworks and where sales include end-user accounts are exempted from the fee calculated in 12VAC5-600-50. The base fee in 12VAC5-600-55 applies to wholesale waterworks without end-user accounts.

### **12VAC5-600-100. Payments.**

A convenience fee shall be charged for use of an electronic form of payment, at the prevailing credit vendor convenience fee rate, up to a maximum of 7 percent of the total amount of billing. Payments are to be made payable to: VDH - Waterworks Technical Assistance Fund and sent to:

Virginia Department of Health  
Office of Drinking Water  
Madison Building, 6th Floor  
109 Governor Street  
Richmond, Virginia 23219

### **12VAC5-600-110. Late fees and administrative charges.**

In addition to the powers in 12VAC5-600-40, operation fees not received or postmarked by the due date shall be subject to interest, administrative charges, and late penalty fees in accordance with §2.2-4805 of the Code of Virginia.

### **12VAC5-600-120 Non-payment considerations.**

The Virginia Department of Health reserves the following actions for non-payment of these fees; the Virginia Department of Health reserves the ability to:

- a) Limit technical assistance to a waterworks to the state's legal requirements pursuant to the Safe Drinking Water Act
- b) Limit and / or restrict any waterworks' access to loans, grants, or services provided by the Virginia Department of Health – Office of Drinking Water
- c) Collect financial records regarding the operations of the waterworks
- d) Require the submission of a Waterworks Business Operations Plan