

Waterworks Advisory Committee Meeting Minutes

Fully Virtual Meeting Via WebEx

10:00 am, Wednesday, September 20, 2023

Members Present: David Van Gelder (Chair), Water Operator; Russ Navratil, VA AWWA; Tom Fauber, VA ABPA; Steven Herzog, Hanover County/VWEA; Joey Hiner, SERCAP; Skip Harper, Virginia Plumbing & Mechanical Inspectors Association; Ben Barber, Virginia Health Catalyst; Geneva Hudgins, VA-AWWA; Mark Estes, VRWA and HCSA; Jesse Royall, Jr., Sydnor Hydro, Inc.; Ignatius Mutoti, VSPE; Caleb Taylor, VA Municipal League

Members Absent: Whitney S. Katchmark, PE Principal Water Resources Engineer; Andrea Wortzel, Mission H2O; Anthony Morris, DEQ; Chris Pomeroy, Virginia Municipal Drinking Water Association; Bailey Davis, DCLS

Others: Christopher Gill, Christian and Barton; Jack Hinshelwood, VDH; Tonya Pettus, DPOR; John Kingsbury, Fairfax Water; Ashley Pierce, DCLS; Michelle Ashworth, Aqua Law; Shane Wyatt, DCLS; Trisha Lindsey, DHCD; Charlie Paullin, Virginia Mercury; Charysse Hairston, SERCAP; Izy Ozmon, HRPDC; Jeff Brown, DHCD; Shane Wyatt, DGS

Office of Drinking Water (ODW) Staff: Dwayne Roadcap, James Reynolds, Barry Matthews, Aaron Moses, Grant Kronenberg, Jane Nunn, Jeremy Hull, Parez Hawarry, Dan Horne, David Dawson, Jessica Coughlin, James Reynolds, Ray Weiland

Meeting Overview

The Waterworks Advisory Committee (WAC) met in an all-virtual meeting through WebEx.

Dwayne Roadcap called the meeting to order at approximately 10:02 a.m. and after some virtual head counting quorum was established. Dwayne welcomed new WAC member Ben Barber.

Review and Adopt Minutes of Meeting

The WAC membership unanimously adopted the meeting minutes from the June meeting. No additions or corrections were made to the draft meeting minutes as presented.

Staff Additions and Departures

Dwayne Roadcap introduced Jessica Coughlin, ODW's new Emergency Services Coordinator. Jessica addressed the group, explaining that she has had a busy first few weeks on the job, that she is here to help, and that Dwayne has her contact information.

Dwayne Roadcap announced that Tony Singh, ODW Deputy Director, resigned and has moved to a position with EPA. Dwayne said that Tony's PFAS duties have been assigned to Bob Edelman and that ODW hopes to advertise the open position in the coming weeks. Dwayne said that if there are questions about PFAS or other services that would have gone to Tony, people may reach out to Dwayne or to Bob Edelman.

Compliance, Enforcement & Policy Update

Grant Kronenberg provided the Compliance, Enforcement and Policy update.

The July Enforcement Targeting Tool report showed 11 serious violators. In the April report, there were eight serious violators. Of the 11 serious violators, two had already had all or substantially all violations returned to compliance. Additionally, four of the 11 serious violators are already under an administrative order.

The Project Review and Permit Procedures Manual went through the Town Hall public comment process and no comments were received. The manual became effective on July 6.

The revised Enforcement Manual is undergoing review by the Office of Regulatory Management. Once that process is complete, it will be posted on Town Hall for public comment.

PFAS Phase 2 Testing

Grant Kronenberg provided the PFAS Phase 2 testing update on behalf of Bob Edelman.

The UCMR5 runs through the end of 2025. Impacted waterworks include those with populations above 3,300 and a nationally representative sample of system with fewer than 3,300.

Quarterly data results from August showed three detections for Lithium, with two about the Health Reference Level. One for PFOA, one for PFAS, none for GenX, two for PFBS but none above the Lifetime Health Advisory, none for PHNA, and two for PFHxS but none above the Lifetime Health Advisory.

EPA intends to issue a final PFAS regulation by the end of the year. Certain aspects of the final rule will start almost immediately upon publication, such as initial monitoring is to be done before the compliance date.

A waterworks would have to monitor for PFAS, notify the public of the levels of PFAS, and reduce the levels of PFAS in drinking water if they exceed proposed standards.

The Hazard Index was discussed. It sums fractions related to the level of each PFAS substance in order to consider combined toxicity.

A map showing Phase 1 PFAS sampling locations was shared, as was Phase 1 sampling detection results which showed 11 detections above the proposed maximum contaminant level.

A map showing Phase 2.1 PFAS sampling locations was shared, as was Phase 2.1 sampling results, which showed two detections above the proposed maximum contaminant levels in 45 samples.

Phase 2.2 of PFAS sampling was discussed. ODW staff collected over 245 samples in June and recollected some samples in September. ODW is in the process of sharing June samples with waterworks owners. ODW is targeting late October for compiling and releasing a summary of the results. Future PFAS sampling for small and disadvantaged communities is targeted for 2024. Funding is being provided through the Emerging Contaminants in Small or Disadvantaged Communities grant, which was discussed at the June WAC meeting.

There was discussion of whether resamples would be included in the upcoming results that are targeted to be released in late October. Dwayne Roadcap said that the hope is that those resampling results will be included, but it will depend on several factors. ODW would like to release the results as a unit.

There was discussion about the reason for the lab rejecting samples. Dwayne Roadcap said that he thought it was a temperature issue. Dan Horne said that Bob Edelman reported that some resamples were necessary due to issues with the lab analysis of one sort or another where the lab did not report results at all for a particular sample.

Lead and Copper Rule Revisions and Courses

Grant Kronenberg provided an update on behalf of Bob Edelman.

On the LCRR, the lead service line inventory is due by October 16, 2024. An LCR sampling plan will need to be revised and submitted based on the inventory results. If needed, a lead service line replacement plan will also need to be submitted. Waterworks need to compile a list of schools and child day centers that they serve. Waterworks will need to prepare for public notifications and consumer notifications.

ODW has contracted with TruePani to provide training and technical assistance. Waterworks can now obtain one-on-one technical assistance from TruePani.

ODW will roll out SWIFT Submittals, which is a portal for LCRR Lead Service Line Inventories and other LCRR documents in Fall 2023. The portal is currently undergoing testing.

With respect to the Lead and Copper Rule Improvements, EPA has a goal to publish the LCRI by fall of this year. That means it could not occur until December. EPA has provided some “signals” regarding the LCRI, including that the lead service line inventory is not changing, consumer notification following lead tap sampling – sharing results, public notification is Tier 1 for action level exceedance, consumer notification with lead, galvanized requiring replacement, or unknown service line, and there will be a lead service line replacement program.

There was discussion about questions from small community systems, with it said that this is confusing to them and they do not know how to do the training. It was suggested that VDH could have recommended contractors to help systems run the program for them. It was discussed that ODW will look at posting a list of contractors, which ODW has done with legionella for schools. ODW could not, however, provide an endorsement. It was discussed that with the training events that have taken place, a lot of people may not have participated that ODW would want to participate. ODW had a contractor who went to several locations with ODW staff and ODW heard good things from them. Additionally, the contractor reached out to waterworks about the training and ODW had marketing about it. Also, the LCRR webpage still has the contact for TruePani and they can get technical assistance from TruePani.

ODW will look at who could provide services beyond TruePani. It was discussed that ODW has contracted with TruePani to reach out to smaller waterworks for one-on-one training. The ODW field staff has reached out to waterworks to let them know to expect a call from TruePani. ODW noted that TruePani has a lot of availability. Waterworks can be informed that TruePani is ODW's contractor to provide technical assistance for the LCRR work. Waterworks can also be referred to Barry Matthews for technical assistance.

Centralize Plan Review, Drinking Water Viewer Implementation Update

Aaron Moses provided an update on the centralized plan review and Drinking Water Viewer implementation.

Aaron first addressed cybersecurity. He noted the 8th Circuit Court of Appeals ruling regarding the EPA interpretative memorandum has put requiring cybersecurity assessments as part of sanitary surveys on hold. ODW's response has been to shift to an educational approach until EPA issues further guidance. ODW is working on draft webpage and drafted two questions we plan to implement with sanitary surveys aimed at raising awareness among water systems that might not be doing anything on cybersecurity.

Sharing cybersecurity assessment information with the WAC was discussed. Aaron Moses said that ODW has engaged with the VMDWA but it is happy to share it with the WAC as well.

Aaron discussed the plan review program. ODW has made progress and is getting better working together with field offices on plan review. Aaron noted issues with technology as emails to submit projects are being blocked. ODW is looking at using GEC Swift Submittals to address these technological issues.

Aaron discussed Drinking Water Viewer Implementation. Currently, testing CCR write feature, which the software vendor provided a couple of months ago. The plan is to get that tested and results coming out in 2024 CCR season. Also working on submitting instructional videos, including one related to using more common features in Drinking Water Viewer. The goal is to have that posted shortly.

Sampling Verification Program

Parez Hawarry provided an update.

Seven full-time employees have been hired for the program, they are in each field office and her. A policy for the program is still pending. Great progress is being made with a five-phased plan, and they are 85% of the way through phase 1. The focus is on training and key metrics. The hope is to finish this phase soon. Phase 2 will be sampling alongside public water systems. Training is planned for id-December.

Training Updates – Virginia Tech Short School

Barry Matthews provided an update on training.

There was discussion of the Virginia Tech Short School that is usually conducted in August. For this short school course, there is also a DPOR exam. There was discussion of the pass rates for Class 5 and Class 6, with two out of two for Class 5 passing and two out of six for Class 6 passing. It was discussed that it seems there was no overall net gain in associating it with the short school.

There was discussion of testing for the different levels that were not the DPOR exam but the short school testing. For level A, year 1 – 29 of the level A students passed the test and received CEUs for the short school. Five did not pass and received contact hours. This is pretty high pass rate for level A. For level B, 14 received CEUs and four received contact hours. For level C, three received CEUs and two contact hours. Overall, pleased with pass rates for the short school.

There was discussion that in 2021, the last year we had test score averages, the test score average was 78%. For August, the averages were down slightly – 73% for A, 71% B, 67.5% approximately for C. Not sure why those scores were down, but fairly pleased with the pass rate. Maybe a little lower average than what we have seen in the past.

There was discussion about looking at other states' passing rates. There was discussion of how to achieve higher pass rates on the test, including doing a better job of teaching operators or operator candidates better test-taking skills and reinforce the need for studying, even though the exam is open book. It was discussed that operators' skill set for taking examinations may need more development, while it was also noted that responsibility is partly on the operator to take personal responsibility to prepare for the exams.

There was discussion as to the adequacy of the material taught at the Short School, including that we do not know because we are not allowed to know what the exam questions are specifically. We are only given broad guidance on what should be studied. That lends itself to some difficulty in preparing and designing for the operators. It was discussed that there is a general shift from testing for specifics to testing for concepts, and that testing for concepts is harder to study as you do not know what areas they are testing the concepts in. Does thoroughly covering most areas

needed to serve job duties translate to answers exam questions correctly? It was discussed that there is a need to further examine the test results, the categories, and the scores within categories. There was discussion about taking advantage of other operators around you and the importance of study habits. There was also discussion of the design of the test and looking at that, while the need to focus on training and education of operators in Virginia was noted.

There was discussion about the need to provide more assistance with math as that has been challenging for operators. It was noted that SERCAP has made tutoring in math available.

There was discussion about working together to crack the operator testing issue, including getting more involvement from people from larger systems and bringing their expertise into the short school and other training opportunities. The pooling of resources and finding good resources for operators was discussed.

There was discussion of Iowa delegation and the pass rates there, and how cultural issues and study habits might be different. The idea of parallel or dual licensure was also discussed, which could be helpful to small systems.

Waterworks Operation Fee Regulations Update and Change in Method of Application of Operation Fees Cap

Grant Kronenberg provided an update on the Waterworks Operation Fee regulations.

The Board of Health's approval of the proposed amendments to the Waterworks Operation Fee regulations was discussed. The proposed amendments include a \$60 fee for transient noncommunity waters, a \$30 fee increase for nontransient noncommunity waterworks, and establishment of a \$2,500 fee for wholesale waterworks with fewer than 15 non-waterworks customer accounts. The amendments are currently under executive branch review.

There was also discussion of ODW's plans to modify the method by which the \$160,000 waterworks operation fee cap is applied. Historically, the cap has been applied on a per owner basis, but for fiscal year 2025, ODW plans to apply the cap on a per waterworks basis, which is consistent with the regulations.

In response to a question, it was discussed that this change is expected to generate additional fees of approximately \$177,000.

A Cross-Connection Case Study

Dwayne Roadcap described a recent issue involving a cross-connection of a sewer line to a drinking water line that impacted 20 to 25 homes. The response included flushing, increasing chlorine, and lots of sampling. The agency instituted an Incident Command System. VDH had its epidemiological staff see if health impacts were associated with the cross-connection. The local health director, VDH environmental health, ODW's Emergency Services Coordinator, and the

Virginia Department of Emergency Management was all involved. It took about a week for the drinking water issues to resolve for the homes. The aftermath is continuing as ODW has been invited to a community meeting and ODW has received FOIA requests and media attention.

It was discussed that ODW is looking at the cross-connection control program again. Related to this, there was discussion you may not be able to prevent something like this if someone is going to not following rules by not getting permits, not doing inspections, not verifying the line they are connecting to. It was discussed that you cannot prevent everything through rule or regulation. It was noted that it is hard for the utility to correct an issue if someone illegally hooks in and you need the ability to monitor what is happening on the system.

It was discussed that VDH has issued a Notice of Alleged Violation to the contractor who connected the sewer line to the water line, and ODW has looked at additional options such as increased sampling to let the owners have more confidence in their drinking water. With respect to further action against the contractor, it was discussed that due process is required and the local building official issued a notice of violation with a fine. Also, ODW will file a report with the Department of Professional and Occupational Regulation (DPOR) concerning the licensed contractor. It was discussed that the American Water Works Association is a partner trainer with VDH and conducting connection classes 3-4 times a year that is focused on utilities.

The difficulty of attributing particular illnesses to this event was discussed. There is not evidence at this point of a mass illness event.

ODW Budget

Dwayne Roadcap discussed the ODW budget.

ODW is continuing to hold seven positions vacant. A funding request has been put in to address the vacancies. ODW is hoping the budget introduced in mid-December and the 2024 budget process will address the funding need.

Development of Amendments to Waterworks Regulations

Jane Nunn presented on amendments to the Waterworks Regulations that ODW is considering. There are 27 proposed amendments consisting of 17 substantive changes and 10 technical changes. The WAC needs to determine if it wishes to create any subcommittees. If there is an expected cost associated with a proposed amendment, that has been noted, but a specific amount has not been identified.

Discussed Item #1 – change to definition of the word “operator.” There had been questions earlier in the year related to the definition and how it operates with 12VAC5-590-461 of the Waterworks Regulations. It was discussed that the change would not impact acceptance of licenses issued by DPOR.

Discussed Item #2 – this is a technical, definitional change in the definition of reverse osmosis as we would delete “up to” and replace it with “down to.”

Discussed Item #3 – technical change regarding the definition of “TMF.” ODW suggests changing the defined term to “TMF capabilities.” This language is applied later on in the proposed amendments.

Discussed Item #4 – ODW is still researching this language related to waterworks with seasonal components. It would be a substantive change to definitions section. ODW had the issue come up where we have seasonal waterworks, but we also have waterworks with seasonal components. Currently, the regulations don’t cover waterworks with seasonal components so ODW is considering whether to add it to the regulations. A change would include adding a definition of “waterworks with seasonal components” including changing substantive language in 12VAC5-590-370 and -540 of the Waterworks Regulations.

Discussed Item #5 – this is a technical change from “proceeding” to “conference.” ODW thinks that it is the only office in VDH and more broadly in state government to use “proceeding.”

Discussed Item #6 – this is a technical change, where we see the change from “TMF” to “TMF capabilities,” with language changing in 12VAC5-590-200 and -290 of the Waterworks Regulations.

Discussed Item #7 – ODW is researching whether changes should be made to the language in the regulations regarding the Waterworks Business Operations Plan (WBOP). The WBOP is identified as a requirement to obtain a construction permit in 12VAC5-590-200(A)(5) of the Waterworks Regulations, but not currently required in 12VAC5-590-260 to get an operation permit. Also, 12VAC5-590-310 allows modifications to be viewed differently and a separate determination to be made on whether WBOP is needed.

Discussed Item #8 – substantive change related to waterworks with seasonal components. The regulations directly pertinent to seasonal waterworks are 12VAC5-590-370 and -540. There is nothing in the regulations for waterworks with seasonal components.

Discussed Item #9 – technical change. Definition for “RAA” – running annual average. ODW found out there are some places in the Waterworks Regulations that use “running annual arithmetic average” so we are considering the need to make things more consistent, removing “arithmetic” and just use “RAA.”

Discussed Item #10 – this goes back to the operator definition. One problem ODW has had is there could be a change in the owner’s designation of operator and that change does not get passed along to ODW. There is monthly operation report and usually an operator is listed there, but it would be useful for ODW to know when change in operator in charge. ODW is considering adding a new subsection to 12VAC5-590-461 that would require owners to let ODW

know within 10 days when that designation is changed so ODW has current contact information. No or minimal cost.

Discussed Item #11 – ODW thinks that 12VAC5-590-461(A)(1)(a) has a missing comma that changes the meaning of the regulation from what is intended.

Discussed Item #12 – ODW has had some inquiries about abandonment of wells. Discussion about private wells that fall to VDH’s Office of Environmental Health Services (OEHS) and the private well regulations. ODW has discussed the issue with and the Department of Environmental Quality. DEQ recommended retaining some language as is and that ODW should follow what OEHS has in their regulations. ODW would replace some subsections with one subsection that references OEHS regulation – 12VAC5-630-420. The change would be adding in references to 12VAC5-630-450 to and 12VAC5-590-475(B). The change would likely reduce requirements and costs to the regulated community.

Discussed Item #13 – currently, EPA has guidance on Baffling Factors and a table. ODW recommends amending our table to match EPA’s. No cost associated with this change.

Discussed Item #14 – substantive change to return to regulatory language requiring total water production. The language was in the regulations prior to the 2021 amendments. ODW has found that removing the language has led to confusion and inconsistency between 12VAC5-590-700 and -510. ODW proposes adding language to 12VAC5-590-510 to make consistent with 12VAC5-590-700. ODW does not expect any cost to the regulated community.

Discussed Item #15 – this is required by federal regulations. We need to add a requirement to report unregulated contaminants under 40 CFR 141.40. Propose to add a little language to 12VAC5-590-545(C)(3) to reference federal requirement. No cost to the regulated community for this.

Discussed Item #16 – technical change to add “an owner” to 12VAC5-590-545(C)(5)(c) so it makes sense. There is no cost associated with this change.

Discussed Item #17 – a regulation says, “Starting January 1, 2023,” but since that is now in the past, ODW thinks we should remove the phrase because it is no longer relevant. No cost is associated with this change.

Discussed Item #18 – substantive change to update 12VAC5-590-830 to reflect the current relationship with DEQ, current requirements, and their current business practices. Understanding is this was discussed in 2021 when the regulations were last revised, but no decision was made. ODW has not yet heard from DEQ on what they would like to see, and ODW would like WAC input on this.

Discussed Item #19 – in 12VAC5-590-830, there’s a notes section in the regulations that currently refers to the State Water Control Board, but it should refer to DEQ. ODW wants to make that modification. There is no cost.

Discussed Item #20 – substantive changes to well construction and grouting requirements. DEQ has suggested changing “impervious” to “impermeable” and adding “engineered low-permeability/high-solids bentonite and sand mix” to the list of suitable fill material. Cost unknown at this time but hope it would be a benefit to the regulated community.

Discussed Item #21 – there was language in 12VAC5-590-1030 describing a properly screened vent, but it was repealed in 2021. Since then, ODW has seen interesting interpretations of what would be an appropriate vent. ODW suggests bringing back what was originally in 12VAC5-590-1030 but adding to 12VAC5-590-840. ODW would like the WAC’s review of this, including the cost issue.

Discussed Item #22 – substantive change to 12VAC5-590-882(G) to add a requirement for inline laser-type turbidimeters, applicable only to the membrane filtration process. This is in a working memo. ODW wants the WAC to provide input on whether they think this should be done and if so how.

Discussed Item #23 – substantive change to update 12VAC5-590-1005(H)(4) so it is consistent with new EPA UV guidance that is almost two years old. It would likely result in cost savings for systems using UV systems. ODW would like the WAC’s input.

Discussed Item #24 – substantive change related to the discrepancy between 12VAC5-590-1065 and -700. ODW wants to modify language in 12VAC5-590-1065 to add a reference to 12VAC5-590-700 so it makes more sense when totalizing water meter is required. Likely reduced cost for regulated community.

Discussed Item #25 – consideration of a new regulation regarding flood risk management and how relates to the Drinking Water State Revolving Fund (DWSRF). This is a factor that is required to be looked at for anyone applying for DWSRF funding, but not required for those not applying for such funding. ODW wants to look at it so it is consistent for all new construction so flood mitigation and prevention is looked at. This change would also make it so waterworks are looking seriously at impacts of flooding and waterworks operations. ODW wants WAC to look at that and provide feedback.

Discussed Item #26 – technical change, asking whether ODW should change the order of the sections within the chapter to make it easier to understand. The regulated community is the one impacted the most by this. An example is looking at lead and copper regulations, they are not all together. Rather than lead and copper being grouped together, they are grouped by category such as monitoring, compliance, technique. ODW wants the WAC to consider whether changing the

order would make regulations easier to understand or easier to find. Would want input on this from WAC by March.

It was discussed that many of the suggested amendments will not take much input, but some will take a lot of input. It was discussed that the WAC needs to see which proposals really need an in-depth dive and the formation of a subcommittee. It was discussed that any changes to the definition or requirements related to operators need to consider the impact on operator shortages. Discussed that by the next meeting in December, the WAC would probably have agreement on some of the proposals and then subcommittees could be formed to address the other proposals. It was discussed that there would be a goal to form subcommittees at the December WAC meeting and get the subcommittees' work wrapped up prior to the March meeting for the WAC to come together.

It was discussed, unrelated to the Waterworks Regulations, that the Field Operations Manual is active.

Public Comment

None

Conclusion

It was discussed that the next WAC meetings is scheduled for December 13, 2023, and it is an in-person meeting.

The WAC adjourned at approximately 12:30.