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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| <b>Agency name</b>  | Virginia Department of Health                      |
| <b>Virginia Administrative Code (VAC) Chapter citation(s)</b> | 12VAC5-590   |
| <b>VAC Chapter title(s)</b>                                   | Waterworks Regulations                             |
| <b>Action title</b>   | Amend Regulations Following Periodic Review (2023) |
| <b>Date this document prepared</b>                            | 11/1/2025  |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The State Board of Health (Board) intends to amend the Waterworks Regulations as a result of the periodic review that concluded in March 2023. The Board's intent is to meet the requirements of 32.1-172.1 of the Code of Virginia, clarify existing language, align text with the Virginia Register of Regulations Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code (Style Guide), and reduce the regulatory burden on the regulated community while still maintaining a strong regulatory system for protecting public health.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

“Board” means the State Board of Health.

“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.

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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The impetus for this regulatory action is to incorporate the requirements of Chapter 178 of the 2024 Acts of Assembly (§ 32.1-172.1(B) and (C) of the Code of Virginia), enacted on July 1, 2024. Chapter 178 provides requirements for the attendance of and remote monitoring by licensed operators at classified waterworks or treatment facilities.

Additionally, in April 2023, the Department conducted a periodic review of the Waterworks Regulations and determined that the regulations needed to be amended. These regulatory changes are prompted by (i) agency staff review of the regulation, and (ii) feedback received from the Waterworks Advisory Committee.

## 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 and 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.*

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The Virginia Waterworks Regulations, 12VAC5-590, 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 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 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.”

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The Regulations are essential to protecting the health and safety of drinking water consumers through regulatory oversight of waterworks, water supplies, and pure water throughout the Commonwealth. The Regulations establish minimum standards for water quality, criteria for siting, design, and construction of water supplies and waterworks, requirements for inspections, examinations, and testing of raw or finished water, and requirements for record keeping, among others. The Regulations are also statutorily mandated as outlined in § 32.1-170 of the Code of Virginia.

Regulatory citations within the Regulations are outdated and do not align with the Style Guide. The revisions of the Regulations will provide consistent protections to waterworks customers throughout the Commonwealth. Additionally, opportunities for regulatory reduction will be considered where possible.

### **Substance**

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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Substantive amendments, new substantive provisions, and nonsubstantive amendments to the regulations will include amending, adding, or repealing text related to the following portions of the Regulations:

- Parts I and II – Substantive amendments to better incorporate and clarify the statutory language in Article 2, Public Water Supplies Law (§§ 32.1-167 through -175) of the Code of Virginia.
- Part III – Design and construction criteria reduced in accordance with Executive Order 19 (2022), Development and Review of State Agency Regulations.
- FORMS
- Parts I, II, and III – Style changes in accordance with the Style Guide.

### **Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

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There are no viable alternatives to these amendments. The Regulations enable the Board to fulfill its statutory mandates as established in Article 2 of Title 32.1 of the Code of Virginia. Further, the Regulations are necessary to ensure that the Board’s statutory requirements are executed in the least burdensome and most efficient and cost-effective manner possible while protecting the health, safety, and welfare of the citizens of Virginia.

### **Periodic Review and Small Business Impact Review Announcement**

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”*

This NOIRA is not being used to announce a periodic review or a small business impact review.

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Virginia Department of Health is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to:

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109 Governor St., 6<sup>th</sup> Floor  
Richmond, VA 23219  
(804) 864-7521  
[Grant.Kronenberg@vdh.virginia.gov](mailto:Grant.Kronenberg@vdh.virginia.gov)

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.