

Virginia Public Water Supply Law
Title 32.1-167 through Title 32.1-176
Compiled on 7/7/2014

§ 32.1-167. Definitions. (REVISED, EFFECTIVE DATE 7/1/2014)

As used in this article, unless the context clearly requires a different meaning:

"Aesthetic standards" means water quality standards which involve those physical, biological, and chemical properties of water that adversely affect the palatability and consumer acceptability of water through taste, odor, appearance, or chemical reaction.

"Chronically noncompliant waterworks" means a waterworks that is unable to provide pure water for any of the following reasons: (i) the waterworks' record of performance demonstrates that it can no longer be depended upon to furnish pure water to the persons served; (ii) the owner has inadequate technical, financial, or managerial capacity to furnish pure water to the persons served; (iii) the owner has failed to comply with an order issued by the Board or Commissioner pursuant to § [32.1-26](#) or [32.1-175.01](#); (iv) the owner has abandoned the waterworks and has discontinued supplying pure water to the persons served; or (v) the owner is subject to a forfeiture order pursuant to § [32.1-174.1](#).

"Governmental entity" means the Commonwealth, a town, city, county, service authority, sanitary district, or any other governmental body established under state law, including departments, divisions, boards, or commissions.

"Human consumption" means drinking, food preparation, dishwashing, bathing, showering, hand washing, teeth brushing, and maintaining oral hygiene.

"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.

"Pure water" means water fit for human consumption that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the persons served.

"Special order" means an administrative order issued to any person to comply with: (i) the provisions of any law administered by the Board, (ii) any condition of a permit, (iii) any regulation of the Board, or (iv) any case decision, as defined in § [2.2-4001](#), of the Board. A special order may include a civil penalty of not more than \$1000 for each day of violation.

"Water supply" means water taken into a waterworks from wells, streams, springs, lakes, and other bodies of surface water, natural or impounded, and the tributaries thereto, and all impounded ground water but does not include any water above the point of intake of such waterworks.

"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 pure water except the piping and fixtures inside the building where such water is delivered.

§ 32.1-168. Exemptions.

The provisions of this article shall not be applicable to a waterworks which meets all of the following conditions:

1. The waterworks consists only of distribution and storage facilities and does not have any collection or treatment facilities;
2. The waterworks obtains all of its water from, but is not owned or operated by, a waterworks to which this article is applicable;
3. The waterworks does not sell water to any person; and
4. The waterworks is not a carrier which conveys passengers in interstate commerce.

§ 32.1-169. Supervision by Board. (REVISED, EFFECTIVE DATE 7/1/2014)

§ 32.1-169. Supervision by Board.

The Board 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. In exercising such supervision and control, the Board shall recognize the relationship between an owner's financial, technical, managerial, and operational capabilities and his capacity to comply with state and federal drinking water standards.

§ 32.1-170. Regulations.

A. The regulations of the Board governing waterworks, water supplies, and pure water shall be designed to protect the public health and promote the public welfare and shall include criteria and procedures to accomplish these purposes.

The regulations may include, without limitation:

1. Requirements and procedures for the issuance of permits required by this article;
2. Minimum health and aesthetic standards for pure water;
3. Minimum standards for the quality of water which may be taken into a waterworks;

4. Criteria for the siting, design, and construction of water supplies and waterworks;
5. Requirements for inspections, examinations, and testing of raw or finished water;
6. A requirement that owners submit (i) regular samples of water for bacteriological, chemical, radiological, physical, or other tests or (ii) the results of such tests from such laboratory as may be acceptable to the Commissioner;
7. Requirements for record keeping and reporting;
8. Methodology for determining the waterworks operation fee authorized by § [32.1-171.1](#);
9. Requirements and criteria for the development and maintenance of an emergency management plan for each community public water supply for the provision of pure water during any extended power outage; and
10. Such other provisions as may be necessary to guarantee a supply of pure water.

B. The regulations of the Board governing waterworks, water supplies, and pure water shall include a procedure whereby waterworks serving fewer than 10,000 people may seek and the Board may grant a waiver of any requirement that the waterworks mail copies of its consumer confidence report to each customer of the waterworks at least once annually. In such cases, the waterworks owner shall publish, by July 1 of each year, in a newspaper of general circulation serving the area served by the waterworks, and by such other means as the Board may deem appropriate, (i) a copy of the consumer confidence report, (ii) notice that copies of the consumer confidence report will not be mailed to customers of the waterworks, and (iii) notice that copies of the consumer confidence report shall be made available to the public upon request. The waterworks owner shall certify compliance with the requirements of this subsection to the Board no later than October 1 of each year.

§32.1-171. Technical assistance as to sources and purity.

The Commissioner shall, upon request and without charge, provide technical assistance to owners regarding the most appropriate source of water supply and the best method of assuring pure water, but the Commissioner shall not prepare plans, specifications or detailed estimates for such owners. The technical assistance provided by this section shall be exclusive of the Waterworks Technical Assistance Program required by § [32.1-171.1](#).

§ 32.1-171.1. Waterworks operation fee required; special fund established; certain technical assistance program to be provided.

A. Every owner of a waterworks shall pay to the Department a waterworks operation fee of no more than \$160,000 per year. Based upon the number of persons served, the number of connections, or the classification of the waterworks, the Board shall, pursuant to its regulations, establish the fee to be charged each such owner and may exempt sizes and classes from the required fee. Any fee in excess of \$10,000 shall be payable quarterly. The Board shall adjust the fee schedule so that the revenues from such fees cover the costs necessary to operate the Waterworks Technical Assistance Program required by this section.

B. In order to assist waterworks owners in complying with the requirements of the Safe Drinking Water Act (42 U.S.C. § 300f et seq.) and associated state regulations, there is hereby established in the state treasury a special fund to be known as the Waterworks Technical Assistance Fund, hereinafter referred to as the Fund. The fees required by this section shall be transmitted to the Comptroller to be deposited into the Fund. The income and principal of the Fund shall be used only and exclusively for the technical assistance required by this section. The State Treasurer shall be custodian of the moneys deposited in the Fund. No part of the Fund, either principal or interest earned thereon, shall revert to the general fund of the state treasury.

C. Moneys in the Fund shall be used by the Department to conduct the Waterworks Technical Assistance Program, which shall include, but need not be limited to: (i) training for operator certification, (ii) engineering evaluation and advice, (iii) sample collection for laboratory analysis, and (iv) educational seminars.

§ 32.1-171.2. Water Supply Assistance Grant Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Water Supply Assistance Grant Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated as matching funds for moneys available through the federal Safe Drinking Water Act, all penalties and charges directed to this fund by §§ [32.1-27](#), [32.1-175.01](#) and [32.1-176](#), and all other funds from any public or private source directed to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes found in subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner at the direction of the Board.

B. The Board shall utilize the moneys appropriated as matching funds for that purpose and, subject to other available funds, may make Water Supply Assistance Grants from the Fund to localities and the owners of waterworks to assist in the provision of drinking water. The Board shall develop guidelines establishing the (i) criteria for grant eligibility, (ii) conditions to be included in grants, and (iii) grant distribution priorities. Among the factors that shall be included in the criteria for grant eligibility and in the grant distribution priorities shall be the financial condition of the locality wherein a grant is sought.

C. The Administrative Process Act (§ [2.2-4000](#) et seq.) shall not apply to the development of guidelines for the Fund. However, the process for development of the guidelines by the Board shall include (i) the use of an advisory committee composed of interested parties, (ii) a minimum sixty-day public comment period on draft guidelines followed by a public hearing, (iii) written responses to all comments received, and (iv) notice of the availability of draft guidelines and final guidelines to all who request such notice.

§ 32.1-172. Permit required.

A. No owner shall establish, construct or operate any waterworks or water supply in the Commonwealth without a written permit from the Commissioner, except for the extension of water distribution piping having a diameter of eight inches or less and serving less than fifteen equivalent residential connections.

B. The application for such a permit shall comply with regulations of the Board and shall be accompanied by a certified copy of the maps, plans and specifications for the construction of such waterworks, a description of the source or sources from which it is proposed to derive the water supply and the manner of storage, purification or treatment proposed for the water supply prior to its delivery to consumers.

The application also shall include a comprehensive business plan detailing the technical, managerial, and financial commitments to be made by the owner in order to assure that system performance requirements for providing the water supply will be met over the long term. The Board, in consultation with the State Corporation Commission, shall establish the criteria to be used by the applicant in the development of a business plan.

In addition, the Board may require the submission of a business plan by those existing waterworks that have demonstrated significant noncompliance with the waterworks regulations. The Board may waive the requirement for submission of a comprehensive business plan for applicants who have demonstrated a history of acceptable compliance with waterworks regulations.

If any applicant so requests, the Board shall not disclose the contents of the comprehensive business plan except as necessary to perform its duties.

C. The permit may state the permitted capacity of the waterworks, the permitted source or sources of the water supply, the permitted manner of storage, purification and treatment for the water supply and such other conditions as the Commissioner may deem necessary to afford a supply of pure water.

D. Except as may be provided by regulation of the Board, no other source of water supply shall subsequently be used for any such waterworks, nor shall any change in the manner of storage, purification and treatment of the water supply be made without obtaining an additional or amended permit.

E. Whenever application shall be made to the Commissioner for a permit, he shall examine the application and, as soon as practicable thereafter, shall issue the permit if, in his judgment, the proposed waterworks will furnish pure water. If the proposed waterworks is not in compliance with all regulations of the Board but, in the opinion of the Commissioner, the public health will not be jeopardized, the Commissioner may issue a temporary permit for such period of time and subject to such conditions as the Commissioner may deem appropriate for the owner to achieve compliance with such regulations.

F. No permit shall be assigned or transferred.

§ 32.1-173. Additional or amended permits.

A. Any owner intending to make changes, alterations or improvements to a waterworks for which a permit has been granted shall apply to the Commissioner for an additional or amended permit in a manner prescribed by regulations of the Board. The Commissioner shall review and act upon the application in the manner set forth in § [32.1-172](#).

B. The Commissioner may, on his own motion, amend any permit whenever he determines that:

1. The existing permit is no longer valid;
2. Changes, alterations, or improvements to the waterworks are necessary to provide an adequate supply of pure water; or
3. A change has occurred in the manner of storage or treatment or the source of the water supply.

§ 32.1-173.1. Increase in charges to finance required changes.

Any owner required to make any change, alteration or improvement in its waterworks or water supply may increase its charges for water to finance or defray the cost of such change, alteration or improvement and any extra costs incident to the maintenance and operation thereof.

§ 32.1-174. Revocation of permits.

The Commissioner may revoke any permit issued pursuant to this article whenever he determines that:

1. The waterworks can no longer be depended upon to furnish pure water;
2. The capacity of the waterworks is inadequate for the purpose of furnishing pure water;
3. The owner has failed to abide by an order issued by the Commissioner;
4. The owner has abandoned the waterworks and discontinued supplying pure water; or
5. The owner has failed to pay the waterworks operation fee required by § [32.1-171.1](#).

§ 32.1-174.1. Bonds of permit holders.

A. The Board may by regulation require owners holding or issued permits for waterworks pursuant to this article, to post bonds or deposit funds to be placed in escrow.

B. The Board or the governing body of a county, city or town in which a waterworks is located may request the circuit court having jurisdiction where the waterworks is located to order forfeiture of the owner's bond or escrow account upon revocation of the Waterworks Operation Permit by the Board or Commissioner pursuant to § [32.1-174](#).

If the foregoing condition is met, the court shall order forfeiture of such bond or escrow account, in whole or in part, unless the court finds the forfeiture would result in manifest injustice.

C. In addition to ordering such forfeiture, the court may, with the concurrence of the governing body of the county, city or town in which the waterworks is located, place the waterworks in receivership naming the county, city, or town, or any public service authority created by the county, city or town, as receiver.

D. Any sums forfeited pursuant to subsection B shall be paid in the amount of such forfeiture to the county, city or town in which the waterworks is located (i) if the county, city, or town, or a public service authority created by the county, city or town, initiates eminent domain proceedings for the condemnation of the waterworks within one year of the date of the order of forfeiture or (ii) if the county, city, town or public service authority operates the waterworks pursuant to a decree of an appropriate circuit court vesting receivership of the waterworks in the county, city, town or public service authority. If the governing body of the county, city, or town, or a public service authority created by the county, city or town, fails to initiate such condemnation proceedings within one year of the date of forfeiture of any bond or to accept receivership of the waterworks from the circuit court, the funds forfeited shall be paid to the general fund of the Commonwealth.

E. The Board may adopt regulations for determining the amount of the bond or funds to be placed in escrow based upon the number of persons served, the number of connections served, the age and condition of the waterworks system infrastructure, the cost of maintaining, repairing, or replacing the waterworks system infrastructure, and the water supply capacity of the permit holder.

F. No state, local or other governmental agency shall be required to post a bond or deposit funds. The Board may, by regulation, exempt classes of permit holders from such requirements if the Board determines such classes present no significant risks to public health and safety.

G. An acceptable bond for the purposes of this section shall be a bond issued by a fidelity or surety company authorized to do business in Virginia, a personal bond secured by such collateral as the Board may require or a cash bond.

§32.1-174.2. Duties of electric utilities.

No electric utility shall disconnect electrical service to any waterworks holding a permit issued pursuant to this article until the utility has (i) provided sixty days' written notice to the Board of its intent to disconnect electrical service to the waterworks; (ii) filed with the Board at least sixty days prior to the disconnection a written request that the Board initiate forfeiture proceedings against any bond posted or funds deposited by the permit holder; and (iii) provided sixty days' written notice to the governing body of the county, city or town in which the waterworks is located.

§ 32.1-174.3. Appointment of receiver for certain private waterworks; grounds for such appointment; petition and hearing, etc.

A. In addition to the remedies provided in § [32.1-27](#) and this chapter for civil and criminal penalties and injunctive or other relief, the Commissioner may petition the circuit court for the jurisdiction in which any private waterworks is located for the appointment of a receiver for such waterworks in accordance with the provisions of this section. Such petition may be filed at any time that the Commissioner finds that the waterworks is unable or unwilling to provide adequate and safe service for any of the following reasons:

1. The waterworks can no longer be depended upon to furnish pure water;
2. The waterworks has inadequate capacity to furnish pure water to its customers;
3. The owner has failed to comply with an order issued by the Commissioner;
4. The owner has abandoned the waterworks and has discontinued supplying pure water to his customers;
5. The owner is subject to a forfeiture order pursuant to § [32.1-174.1](#); or
6. The Commissioner has issued an emergency order because there is an imminent danger to the public health and welfare resulting from the operation of the waterworks or the source of the water supply.

B. Upon the filing of a petition for appointment of a receiver for a private waterworks, the court shall hold a hearing within 10 days, at which time the Commissioner and the owner of the waterworks may present evidence. The court may grant the petition if it finds any one or more of the conditions identified in subsection A and the court further finds that the conditions will not be remedied and that the health and welfare of the owner's customers will not be protected unless the petition is granted.

C. Upon appointment the receiver shall take possession of the assets of the waterworks and shall operate the waterworks in the best interests of the customers. The receiver shall have such powers and duties to operate and manage the waterworks as the court may grant and direct, including the filing of such reports as the court may direct and the power to receive, conserve, protect, and disburse funds; further, the provisions of Article 1 (§ [8.01-582](#) et seq.) of Chapter 22 of Title 8.01 shall apply, mutatis mutandis.

The court may grant injunctive relief as it deems appropriate to the Commissioner or the receiver either in conjunction with or subsequent to the granting of a petition for appointment of a receiver under this section.

D. Control of and responsibility for the waterworks shall remain in the receivership until the waterworks can, in the best interest of the customers, be returned to the owner, transferred to a new owner, or otherwise configured as the court may determine to be in the best interests of the public and the customers.

E. The court may terminate the receivership on the motion of the Commissioner, the receiver, or the owner, upon finding, after a hearing, that the conditions initiating the petition for the appointment of a receiver have been eliminated or resolved. Within 30 days after such termination, the receiver shall file a complete report of his activities with the court, including an accounting for all property of which he took possession and all funds collected.

A receiver appointed pursuant to this section shall be an officer of the court, shall not be liable for the conditions of the waterworks that existed prior to his receivership, and shall not be personally liable, except for his own gross negligence or intentional acts, to injuries or damage to property relating to the waterworks during his receivership.

This subsection shall not, however, be construed to relieve any owner of any duty imposed by law or of any civil or criminal liability incurred by reasons of any act or omission of such owner.

§ 32.1-174.4. Identification and elimination of chronically noncompliant waterworks.

A. The Board shall promulgate regulations for the implementation of a program to (i) identify chronically noncompliant waterworks as defined in § [32.1-167](#) and (ii) create mechanisms or enforcement options for eliminating chronically noncompliant waterworks.

B. Out of such funds as may be appropriated, the Commissioner of Health, with the assistance of the Office of the Attorney General, is authorized to enter into contracts for (i) the design of a program for the identification of noncompliant waterworks and (ii) the development of enforcement options to carry out the provisions of this act.

§ 32.1-175. Emergency orders; appeal.

A. The Commissioner may issue emergency orders in any case where there is an imminent danger to the public health and welfare resulting from the operation of any waterworks or the source of a water supply. The Commissioner may order the immediate cessation of the operation of any waterworks or the use of any water supply or the correction of any condition causing the production or distribution of any water constituting an imminent danger to the public health and welfare. Emergency orders shall be effective for a period determined by the Commissioner.

B. An emergency order issued by the Commissioner may be appealed in accordance with the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.).

§ 32.1-175.01. Issuance of special orders.

Notwithstanding any other provision of law and to the extent consistent with federal requirements, following a proceeding as provided in § [2.2-4019](#), the Board may issue a special order that may include a civil penalty against an owner who violates this article or any order or regulation adopted thereto by the Board. The issuance of a special order shall be considered a case decision as defined in § [2.2-4001](#). Civil penalties collected pursuant to this section shall be paid into the state treasury and credited to the Water Supply Assistance Grant Fund created pursuant to § [32.1-171.2](#).

§ 32.1-175.1. Notice to local government.

A. Upon issuing a notice of violation of any provision of regulation promulgated pursuant to this article to the owner of a waterworks or water supply, the Commissioner shall simultaneously notify the chief administrative officer or his designee of the county, city or town in which such waterworks or water supply is located.

B. Spotsylvania County is authorized to enact an ordinance requiring the owner of any waterworks or water supply located in the county to provide the chief administrative officer of the county with the results of all tests performed on such waterworks or water supply.

§ 32.1-176. Penalty.

In addition to the provisions of § [32.1-27](#), any owner who violates any provisions of this article or any order or regulation adopted pursuant thereto shall, upon such finding by a court of competent jurisdiction, be assessed a civil penalty of not more than \$5,000 for each day of such violation. All penalties under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. Civil penalties collected pursuant to this section shall be paid into the state treasury and credited to the Water Supply Assistance Grant Fund created pursuant to § [32.1-171.2](#).