

HJ 641: Update on the Status of Rulemaking  
Process for Rainwater Harvesting

Virginia Department of Health  
Office of Environmental Health Services

September 2019

## **Introduction**

During the 2018 Session, the General Assembly approved [Chapter 817 of the Acts of the Assembly](#), directing the Board of Health (Board) to adopt regulations governing the use of gray water and rainwater. During the 2019 Session, the General Assembly approved [House Joint Resolution 641](#) (HJ 641), requesting the Department of Health (Department) to include stakeholders input on additional issues related to the use of rainwater as part of the rulemaking process, specifically:

1. The conditions under which rainwater may appropriately be used and for what purposes.
2. Standards for the use of rainwater for human consumption.
3. Standards for rainwater harvesting systems, including systems that collect rainwater for human consumption and systems that collect rainwater for use by commercial enterprises but not human consumption, as those systems are defined in [§ 32.1-167](#) of the Code of Virginia.
4. A requirement that buildings that draw water from both rainwater harvesting systems and public water supplies maintain appropriate cross-connection safeguards.
5. Training and certification requirements for installers of rainwater harvesting systems, including installers of rainwater harvesting systems installed in buildings that draw water from both rainwater harvesting systems and public water supplies.

Pursuant to HJ 641, the Department was required to provide this update on the status of the rulemaking process to the General Assembly by November 1, 2019. Furthermore, the Department is required to submit a final HJ 641 Report to the General Assembly no later than the first day of the 2020 Regular Session. The Department is currently working with a diverse set of

stakeholders to develop regulations for rainwater harvesting, review the specific request in HJ 641, and provide a final report to the General Assembly.

### **Organization and Staffing**

The Department's Office of Environmental Health Services (OEHS) is in the process of developing regulations governing the use of gray water and rainwater pursuant to [§ 32.1-248.2](#) of the Code of Virginia. Regulations governing the use of gray water will be incorporated into the pending revision of the [Sewage Handling and Disposal Regulations](#) (12VAC5-610). Rainwater harvesting regulations are new, and are being developed through a separate process by OEHS.

The Department already administers the use of harvested rainwater for human consumption in systems meeting criteria as waterworks under the [Waterworks Regulations](#) (12VAC5-590).<sup>1</sup> The Department currently provides guidance for the use of harvested rainwater not for human consumption via the [Rainwater Harvesting Guidelines](#).

### **Status of Implementation**

OEHS assembled a Rainwater Harvesting Workgroup to explore the demand, needs, challenges, and obstacles pertaining to developing regulations governing rainwater harvesting. Stakeholders include Department representatives (OEHS and the Office of Drinking Water), the Department of Environmental Quality, the Virginia Coastal Policy Center, the Chesapeake Bay Foundation, Mission H<sub>2</sub>O, the Homebuilders Association of Virginia, the Virginia Municipal Stormwater Association, the Department of Housing and Community Development, the City of Newport News, Academia (Virginia Tech, Longwood University), industry (Rainwater

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<sup>1</sup> Section 32.1-167 of the Code of Virginia 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.

Management Solutions, Otto Sales, Lindl Corporation), and members of the general public that currently use rainwater harvesting systems not for human consumption (Tyrone Jarvis, Go Green Auto Care). Thus far the workgroup has met four times; December 17, 2018; March 25, 2019; May 6, 2019; and September 4, 2019. OEHS has also reached out to local health departments for their thoughts in the development of regulations for rainwater harvesting. Based on the efforts of the workgroup and responses from local health departments, the OEHS is preparing a Notice of Intended Regulatory Action (NOIRA) to be submitted for review by the end of 2019.

In addition to discussing development of regulations, OEHS has also discussed each of the five specific elements of HJ 641 with the Rainwater Harvesting Workgroup. OEHS has shared a draft final HJ 641 Report with the workgroup and is currently seeking input to finalize responses to the specific elements from the workgroup and the Department.

### **Conclusion**

The Department plans to present a NOIRA for Rainwater Harvesting Regulations by the end of 2019. Additionally, the Department will provide a final HJ 641 report to the General Assembly no later than the first day of the 2020 Regular Session. The final report will highlight stakeholder and Department input on the specific elements of HJ 641, outline the proposal for rainwater harvesting regulations, and present discussion of potential barriers or roadblocks to successful implementation of regulations governing rainwater harvesting.