



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Virginia Department of Health
VAC Chapter Number:	12 VAC 5-610-10 et seq.
Regulation Title:	Sewage Handling and Disposal Regulations
Action Title:	Amendments for Mass Sewage Systems and Allowable Rock Content of Soils following withdrawal of proposed provisions addressing these issues
Date:	June 14, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

Mass sewage disposal systems (systems processing more than 1200 gallons per day per acre) have a greater potential for failure than domestic and small-commercial onsite systems. These large systems also pose a higher risk of ground water contamination than smaller systems. The amendments are intended to provide protection for groundwater and to assure the proper siting, design, construction, operation, and monitoring of mass sewage disposal systems. The amendments will also establish criteria for the amount or percentage of rock allowed in the soils around and below a soil absorption system.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory

action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Statutory authority for the amendments is found in §§ 32.1-12 and 32.1-164 of the *Code of Virginia*. The Board of Health has responsibility for the safe and sanitary collection, conveyance, treatment, and disposal of sewage as they affect public health and welfare. In addition, the Board is required, in discharging its responsibility for safe and sanitary sewage treatment and disposal, to exercise due diligence to protect the quality of both surface and ground water. The regulation of mass sewage disposal systems and the quantity of rock allowed in soils are not specifically mandated by the *Code*.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

Based upon the report of the Task Force on Septic Regulations (July, 1991) the Board published proposed regulations in 1996 establishing siting, design, construction, operation, and monitoring criteria for mass sewage disposal systems and for a revised definition of rock. The proposed mass sewage disposal system regulation was modified as a result of public comments and published as a final regulation (§ 449) April 24, 2000, with an effective date of July 1, 2000. The mass sewage disposal system requirements were withdrawn from the final regulations June 14, 2000, after the VDH received public comments that economic impacts would severely restrict development in portions of the Commonwealth. Based on comments received after publication of the proposed regulations in 1996, the definition of rock was modified and a limit on the percentage of rock allowed in the soils below a soil absorption system was added. The soil-rock percentage requirements were removed from the final regulation after many public comments that the economic impact of the proposed regulation would be severe in certain regions of the Commonwealth. VDH has determined that standards are necessary and will seek to develop standards that address public health and environmental issues as well as minimizing potential economic impacts.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Mass sewage disposal systems have been subject to certain permitting and design restrictions since 1984 under general provisions of the *Sewage Handling and Disposal Regulations*. These

requirements will remain in place during this regulatory adoption period. As part of the regulatory process just completed VDH convened numerous informal, stakeholder meetings in an attempt to reach consensus on the regulatory issues. The agency will continue to search for consensus on the issues in the same manner.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The regulation is expected to result in some economic impact that may translate to higher costs for homes and businesses that utilize onsite systems. However, these costs are believed to be reasonable because the regulations will provide significant protections for ground and surface waters and for public health. Protecting the quality of life by preserving the environment is a positive benefit that can strengthen the Commonwealth's economy and its families.