



# COMMONWEALTH of VIRGINIA

Department of Health

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**DATE:** June 11, 2010

**TO:** District Health Directors  
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VPI/SU Soil Scientists

**GMP #153**

**FROM:** Karen Remley, M.D., M.B.A., F.A.A.P.  
State Health Commissioner

**THROUGH:** Jim Burns, M.D., M.B.A.  
Deputy Commissioner for Public Health

Robert W. Hicks, Director  
Office of Environmental Health Services

**SUBJECT:** Verifying licensure of Department of Professional and Occupational Regulation (DPOR) regulants for work submitted to the Virginia Department of Health (VDH).

**Scope:** All designs, reports, completion statements, and as-built drawings submitted to VDH by licensed professionals regulated by DPOR.

**Policy:** VDH's policy regarding the verification of licensure for individuals submitting work for onsite sewage and private well programs is as follows:

1. With respect to individuals involved in private water well construction, VDH will deny applications for the construction, repair or alteration of a private water well when it has reason to believe that the individual performing the work does not possess the applicable license issued by DPOR.
2. With respect to individuals involved in operation and maintenance of alternative onsite sewage systems (AOSS), VDH will require that only a licensed alternative onsite sewage system operator perform those duties specified in the *Emergency Regulations for Alternative Onsite Sewage Systems (Emergency Regulations)* or any successor regulation.

3. With respect to individuals involved in the design of any onsite sewage disposal system, VDH will require that the designer affix a professional engineer (PE) seal or provide a signed certification statement stating that the designer is exempt from the engineering requirements. The exemption statement shall identify the specific exemption under which the plans and specifications were prepared and certify that the designer is authorized to prepare such plans pursuant to the exemption. If the design is submitted without the required seal or statement, the application will be considered incomplete and will be administratively denied. If the required seal or statement is provided then the local health department will evaluate the work for compliance with VDH regulations and policies and render an appropriate decision. VDH will routinely provide DPOR with reports containing information on the individuals who invoke the exemption from the engineering requirements and information on the number and type of systems designed pursuant to said exemption.

**Background:** The Commonwealth of Virginia laws and regulations require that individuals involved in design, operation and maintenance of onsite sewage disposal systems and water wells be properly licensed for the work that they perform. The *Code of Virginia* (the *Code*) assigns the authority to regulate the practice of these professions and occupations to DPOR. Except as provided by the *Private Well Regulations*, § 54.1-410.B and § 32.1-164.H of the *Code*, VDH does not have the authority to deny or refuse to accept work based upon the status of a person's professional licensure as regulated by DPOR.

#### VDH Regulations and Authority

Section 54.1-410.B of the *Code* requires all agencies to take steps to ensure that plans and specifications related to improvements to real property are prepared by a properly licensed individual<sup>1</sup>:

*Any public body authorized by law to require that plans, specifications or calculations be prepared in connection with improvements to real property shall establish a procedure to ensure that such plans, specifications or calculations be prepared by an architect, professional engineer, land surveyor or landscape architect licensed or authorized pursuant to this chapter in any case in which the exemptions contained in §§ 54.1-401, 54.1-402 or § 54.1-402.1 are not applicable.*

This requirement is addressed in the *Emergency Regulations* (12 VAC 5-613-70.E):

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<sup>1</sup> The *Sewage Handling and Disposal Regulations* (SHDR) describe "Type III" sewage systems and specify that the work must be sealed by a PE (12 VAC 5-610-250). The SHDR define a Type III system, in part, as any system "...other than a septic tank subsurface soil absorption system ..." This regulation, written before legislative changes in 2008 and 2009 (see HB1166 and HB1788), is inconsistent with the requirements of the *Code*. The *Code* is less restrictive and allows Onsite Soil Evaluators (OSE's) to design systems other than septic tank subsurface soil absorption systems that utilize equipment of cataloged standard design and satisfy other enumerated requirements. VDH will not enforce Section 250 of the SHDR. This policy enforces the most recent legislative changes.

*All plans and specifications for AOSS shall be properly sealed by a professional engineer licensed in the Commonwealth pursuant to Title 54.1 of the Code of Virginia unless such plans are prepared pursuant to an exemption from the licensing requirements of Title 54.1 of the Code of Virginia. When plans and specifications are prepared pursuant to an exemption, the designer shall provide a certification statement, in a form approved by the Division, identifying the specific exemption under which the plans and specifications were prepared and certifying that he is authorized to prepare such plans pursuant to the exemption.*

The *Private Well Regulations* (12 VAC 5-630-80) require that “...any contractor constructing a water well to reach ground water shall possess, as a minimum, a valid Class B contractor’s license.” However, the Board for Contractor regulations (18 VAC 50-22-10 *et seq.*) allow water well drillers to be licensed as any one of Class A, B or C contractors. Further, since the *Private Well Regulations* became effective, a requirement for certification of individuals engaged in water well construction has been enacted. Va. Code § 54.1-1129.D. Therefore, VDH will require that Well Completion Statements (GW-2s) include the certification number of the individual responsible for the construction, repair or alteration of the well.

§ 32.1-164.H of the *Code* requires the Board of Health to adopt regulations pertaining to operation and maintenance of AOSS. The *Code* requires:

*The owner of an alternative onsite sewage system, as defined in § 32.1-163, to have that system operated by a licensed operator, as defined in § 32.1-163, and visited by the operator as specified in the operation permit*

This mandate is reflected throughout the *Emergency Regulations*.

VDH has no authority to adjudicate issues related to individual licensure. Our primary goal is to ensure that all work for onsite sewage disposal systems and private wells is completed in a manner that protects public health and the environment. The focus for the local health department will be on reviewing work for compliance with VDH policies and regulations.

#### DPOR Regulation of Professional Engineering

The practice of engineering is addressed in § 54.1-400 *et seq.* of the *Code* and is regulated by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects, within DPOR. The *Code* defines the practice of engineering as

*...any service wherein the principles and methods of engineering are applied to, but are not necessarily limited to, the following areas: consultation, investigation, evaluation, planning and design of public or private utilities, structures, machines, equipment, processes, transportation systems and work systems, including responsible administration of construction contracts.*

The design of onsite sewage disposal systems falls under the practice of engineering. However, a specific exemption to the practice of engineering contained in section 54.1-402.A.11 of the Code may apply:

*Conventional and alternative onsite sewage systems receiving residential wastewater, under the authority of Chapter 6 of Title 32.1, designed by a licensed onsite soil evaluator, which utilize packaged equipment, such as equipment of catalogued standard design that has been coordinated and tested by the manufacturer, and complies with all applicable codes, provided (i) the flow is less than 1,000 gallons per day; and (ii) if a pump is included, (a) it shall not include multiple downhill runs and must terminate at a positive elevational change; (b) the discharge end is open and not pressurized; (c) the static head does not exceed 50 feet; and (d) the force main length does not exceed 500 feet.*

#### DPOR Regulation of Onsite Soil Evaluators and Onsite Sewage System Operators

These occupations are addressed in § 54.1-2302 of the Code:

*No person shall operate a waterworks or wastewater works, perform the duties of an onsite soil evaluator, or install or operate an alternative onsite sewage system, without a valid license.*

The DPOR Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (WWWOSSP) licenses and regulates onsite sewage system professionals (18 VAC 160-20-10). Onsite soil evaluators may design onsite sewage disposal systems under the exemption cited above.

#### DPOR Regulation of Water Well Drillers

Water well drillers are regulated by the Board for Contractors and are considered to be a specialty service similar to sewage disposal system contractors. A “water well/pump contracting (WWP) specialty license allows

*...that service which provides for the installation of a water well system, which includes construction of a water well to reach groundwater, as defined in § 62.1-255 of the Code of Virginia, and the installation of the well pump and tank, including pipe and wire, up to and including the point of connection to the plumbing and electrical systems. No other classification or specialty service provides for construction of water wells. This regulation shall not exclude PLB [plumbers], ELE [electricians] or HVAC [heating, ventilation and air conditioning contractors] from installation of pumps and tanks. (18 VAC 50-22-30)*

In addition to the requirement for a specialty license, § 54.1-1129.D of the *Code* also requires that, during construction of a water well, a DPOR certified water well systems provider must be onsite at all times.

**Implementation:** All PEs, OSEs, onsite sewage system operators and private well drillers will be asked to provide their individual license or certification number(s) when submitting documentation in support of onsite sewage disposal systems or private wells to the local health department. Additionally, documentation in support of site evaluations or designs for any onsite sewage disposal systems must include a cover page with a PE seal or a statement signed by the OSE certifying the exemption under which the work was performed.

When a design for any onsite sewage disposal system is submitted without the required seal or statement, the application for a construction permit shall be considered incomplete and the person submitting the application will be informed that the application cannot be processed without the missing information. If the applicant chooses to submit the information anyway, the local health department will issue an administrative denial with a copy to both the applicant and the OSE or PE. Licensees and applicants will have 90 days to correct the submission without paying additional application fees. The Board of Health cannot adjudicate issues related to licensure of professional engineers or onsite sewage design disposal professionals. Therefore, with the exception of the requirement for a PE seal or a certification statement pertaining to an exemption, VDH will process and approve or deny onsite sewage system design work solely on the basis of compliance with the regulations and policies of VDH. VDH will routinely provide DPOR with reports containing information on the individuals who invoke the exemption from the engineering requirements and information on the number and type of systems designed pursuant to said exemption.

With respect to individuals involved in private water well construction, VDH shall require that Well Completion Statements (GW-2s) include the certification number of the individual responsible for the construction, repair or alteration of the well. VDH shall deny applications for the construction, repair, or alteration of a private water well when it has reason to believe that the individual performing the work does not possess the applicable license issued by DPOR. Work that does not identify the license or certification of the professional who performed the work will be deemed to be incomplete and the person submitting the application will be informed that the application cannot be processed without the missing information. If the applicant chooses to submit the information anyway, the local health department will issue an administrative denial,, in which cases licensees and applicants will have 90 days to correct the submission without paying additional application fees.

With respect to individuals involved in operation and maintenance of an AOSS, VDH shall deny an operation permit or reject any report when it has reason to believe that the operator does not possess the applicable DPOR license.