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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	State Board of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC5-610
<b>VAC Chapter title(s)</b>	Sewage Handling and Disposal Regulations
<b>Date this document prepared</b>	January 24, 2023

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*.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

"Board" means the State Board of Health.

"Regulations" means the Sewage Handling and Disposal Regulations.

## 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 or 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.*

**The promulgating agency is the State Board of Health. Section 32.1-12 of the Code of Virginia authorizes the Board to "promulgate and enforce such regulations and provide for reasonable**

variances and exemptions therefrom as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by it, the Commissioner or the Department.” Section 32.1-164 provides that the Board has supervision and control over, and shall promulgate regulations regarding the safe and sanitary collection, conveyance, transportation, treatment, and disposal of sewage by onsite sewage systems and alternative discharging sewage systems and treatment works to protect the public health and welfare.

**Alternatives to Regulation**

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

There are no viable alternatives for achieving the purpose of the Regulations. The Regulations enable the Board to fulfill the statutory mandates in § 32.1-164 of the Code of Virginia. Further, the Regulations are necessary to ensure the Board’s statutory requirements are executed in the least burdensome and most efficient and cost-effective manner while protecting the health, safety, and welfare of the residents of Virginia.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

No public comments were received during the public comment period following the publication of the Notice of Periodic Review.

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The General Assembly has charged the Board with the responsibility to adopt, promulgate, and enforce regulations necessary to protect health and safety as it relates to onsite sewage systems. The Regulations were reviewed, and it was determined they are essential to protecting public health.

The Regulations fulfill the statutory mandate from the General Assembly by ensuring the safe and sanitary treatment and disposal of sewage by onsite sewage systems.

The Regulations meet the criteria set forth in Executive Order 19 (2022). The Regulations are necessary to interpret and apply the requirements of the Code of Virginia and are clearly written and understandable. Lastly, the Regulations are designed to achieve its objective in the most efficient and cost-effective manner. However, the Regulations have not undergone a comprehensive revision since 2000. Therefore, a detailed review is necessary to ensure the Regulations reflect changes in the industry and best practices.



## Decision

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

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The Board has determined that the Regulations should be amended to ensure that they reflect the most updated science and best practices, including feedback from relevant industry experts and other stakeholders.

The Regulations have not undergone a comprehensive revision since 2000. The Regulations, in their current form, do not reflect all changes in the industry and best practices over the last 20 years.

## Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

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Chapter 6 of Title 32.1 of the Code of Virginia mandate the Board's supervision and control over the safe and sanitary collection, conveyance, transportation, treatment, and disposal of sewage by onsite sewage systems. The continued need for the Regulations is established in Code and is not discretionary.

The Regulations are clearly written and easily understandable; however, several sections may not reflect current industry standards and best practices. The Regulations have not undergone a comprehensive revision since 2000.

While the agency did not receive any comments during the Periodic Review, agency staff held public meetings with stakeholders and the regulated community in 2022 to address changes in the onsite sewage system industry and best practices. As a result of these meetings, the agency understands that in their current state, the Regulations contain outdated soil science terminology and ambiguous wording regarding certain installation requirements. The Regulations also lack any operation and maintenance specifications for aging onsite sewage systems. Agency staff will continue to engage with stakeholders and the regulated community regarding any necessary amendments to minimize the economic impact of the Regulations on small businesses while maintaining appropriate regulatory standards to ensure the safety, health, and welfare of the public.

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