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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC-630-10
<b>VAC Chapter title(s)</b>	Private Well Regulations
<b>Action title</b>	Amendments to Private Well Regulations
<b>Date this document prepared</b>	October 26, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The Board of Health (the Board) has not made significant revisions to the Private Well Regulations (the Regulations) since their adoption in 1990. The Regulations establish the minimum location and construction requirements for private wells installed in the Commonwealth. On August 17, 2016, the Virginia Department of Health (the Department) began a periodic review of the Regulations. The Department also formed a Private Well Regulations Workgroup in August 2016. The purpose of the workgroup was to assist the Department in the development of proposed revisions to the Regulations. Volume 35 Issue 3 of the Virginia Register of Regulations, published October 1, 2018, included a Notice of Intended Regulatory Action (NOIRA). The intent of this planned regulatory action is to explore amendments to the Regulations based on current industry standards, comments received during the periodic review process, comments received from the Private Well Regulations Workgroup, and comments received in response to the NOIRA. The purpose is to ensure the Regulations (i) are protective of public health and the environment, (ii) address changes in current standards and practices, (iii) clarify regulatory language, and (iv) exhibit improved consistency with other regulations related to private wells and groundwater resources.

## Acronyms and Definitions

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

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- ASTM – American Society of Testing and Materials
- AWWA – American Waterworks Association
- DHCD – Department of Housing and Community Development
- DEQ – Department of Environmental Quality
- DPOR – Department of Professional and Occupational Regulation
- NGWA – National Groundwater Association
- NSF – National Sanitation Foundation
- ODW – Office of Drinking Water
- SHDR – Sewage Handling and Disposal Regulations
- VDH – Virginia Department of Health
- USGS – United States Geological Survey
- VWWA – Virginia Water Well Association
- WWSP – Water Well Systems Provider

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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In accordance with Virginia Code §2.2-4017 and Executive Order 14 (2018) (amended), the Virginia Department of Health (VDH) conducted a periodic review of the Regulations. In a January 27, 2017, memorandum to the Commissioner of VDH, Grant Kronenberg, Assistant Attorney General offered opinion that certain exemptions from regulatory requirements provided to dewatering wells in the existing regulations are not supported under the statutory authority given in the Code of Virginia §§ 32.1-176.4(A) and 32.1-176.5(A). The Assistant Attorney General therefore recommended that VDH amend the Regulation so that statutory requirements with respect to construction permits apply to private dewatering wells. This opinion, along with the periodic review of the Regulations, provided impetus to update the Regulations such that they (i) are protective of public health and the environment, (ii) address changes in current standards and practices, (iii) clarify regulatory language, and (iv) exhibit improved consistency with other regulations related to private wells and groundwater resources.

## 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 and 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.*

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- (1) Virginia Department of Health

- (2) Title 32.1 of the Code of Virginia, and specifically §§ 32.1-12 and 32.1-176.4, provide that the State Board of Health has the duty to protect the public health and to ensure that ground water resources are not adversely affected by the construction and location of private wells. Virginia Code § 2.2-4017 of the Administrative Process Act, and Executive Order 14, require agencies conduct a periodic review of their regulations every four years to determine whether they should be continued without change or be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact on small businesses in a manner consistent with the stated objectives of applicable law.

### **Purpose**

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.*

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The private well industry has experienced significant advancements since promulgation of the Regulations in 1990, including improvements in the materials and equipment used to construct private wells, changes in the regulatory oversight of Water Well Systems Providers (WWSP), and changes in other regulations having nexus with the Private Well Regulations. New information and research has improved understanding of risk to public health and groundwater resources with regards to the location and construction of private wells. Examples include advancements in alternative onsite sewage treatment system design, promulgation of standards related to reclaimed water, federal guidelines related to emerging contaminants, regulation of groundwater withdrawal by the Department of Environmental Quality (DEQ), and activities such as hydraulic fracturing and underground injection of treated effluent. Stakeholders have also identified inconsistencies between the Regulations and other regulations related to private wells and groundwater resources, including references to repealed sections of the Code of Virginia, and the need for the Regulations to correlate to other regulatory requirements for wells constructed in designated Groundwater Management Areas. The amendments to the Regulations will propose updated private well location and construction criteria recognizing current industry standards, improve consistency with other regulations, and improve protection of public health and groundwater resources. The regulatory change is essential to public health and safety because some of the current regulations are based on outdated location and construction standards. Without the proposed amendments, Virginians will not benefit from more current and up to date research and industry practices in the Regulations. Additionally, inconsistencies between the Regulations and other regulation related to private wells and groundwater resources will persist.

### **Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

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The following substantive changes to existing sections, and new substantive provisions, are proposed to the existing regulatory language:

- Revisions of definitions, and additional definitions, as necessary for consistency with the Code of Virginia, other regulations related to private wells and groundwater resources, and current industry standards.
- Revision of administrative processes to reflect current law and to improve consistency with other Department regulations.
- Clarification of grout materials and procedures approved for well abandonment.
- Improvement of standards regarding well abandonment protocols.

- Revision of the separation distance requirements between sources of contamination and wells abandoned in accordance with the Regulations.
- Improvement of consistency between the Regulations and other regulations, such as the Sewage Handling and Disposal Regulations (12VAC5-610), which establish minimum separation distance from private wells.
- Improvement of consistency between private well construction reporting requirements in the Regulations and well construction and reporting requirements in the Groundwater Withdrawal Regulations (9VAC25-610).
- Removal or revision of references to obsolete or repealed regulations and laws.
- Revision of current construction standard exemptions for Class IIIC and Class IV wells.
- Clarification of disinfection procedures.
- Clarification of standards for yield and storage requirements.
- Revision of Private Well Classification System so that Class IV well construction standards mirror Class III wells.
- Establishment of a standard procedure for converting existing Class IV wells to Class III wells.
- Identification of reasonable exemptions from the Regulations (e.g., dewatering wells).
- Clarification of regulatory authority relative to observation wells.
- Establishment of minimum private well construction criteria based on geologic conditions, such as requiring a mechanical seal at the termination of well casing into bedrock.
- Requirement that all private well components meet national lead-free standards.
- Establishment of criteria to acknowledge nationally recognized standards and certifications (e.g., National Sanitation Foundation) for approval of private well components (including, but not limited to, standard methods, materials, products, analytical, and permeability standards).
- Establishment of a minimum separation distance from utilities, property lines, permanently abandoned onsite sewage systems, reuse water lines, and possible other sources of contamination.
- Establishment of quality standards for water used during well construction.

**Issues**

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

Primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions

Advantages include clarity in requirements for well location and construction, which benefit both WWSP and well owners, and enhanced protection of public health and groundwater quality by means of improved setback distance requirements. Disadvantages are not apparent in the proposed revisions.

Primary advantages and disadvantages to the agency or Commonwealth

The revisions will assist the agency in making improvements to the permitting process by addressing inconsistencies in the existing regulation. The revisions will assist the Commonwealth by enhanced protection of public health and the environment. Disadvantages are not apparent in the proposed revisions.

Other pertinent matters to the regulated community, government officials, and the public

The revisions eliminate static references to well construction materials and procedures and replace them with reference to national standards and accreditations (e.g., ASTM, NSF). This provides WWSP the

ability to apply professional judgment rather than forced reliance on obsolete specifications and standards.

**Requirements More Restrictive than Federal**

*Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

There are no federal requirements, other than non-enforceable general guidance, addressing the location and construction of private wells.

**Agencies, Localities, and Other Entities Particularly Affected**

*Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

Other State Agencies Particularly Affected

DEQ, DPOR, DHCD

Localities Particularly Affected

The regulations apply equally throughout the Commonwealth. Localities named in VA Code 32.1-176.4.A and 32.1-176.5.B and C and having authority to adopt ordinances establishing standards pertaining to private well location, testing of water, and well abandonment may need to modify ordinances to be consistent with the regulatory changes.

Other Entities Particularly Affected

WWSP, Homebuilders, Onsite Soil Evaluators, Commercial Laboratories.

**Economic Impact**

*Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.*

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail;</p>	<p>Little to no additional cost for the Commonwealth to implement; location and construction of private wells is already regulated and inspected by VDH.</p>
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b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	Amendments will not affect time spent by VDH on processing applications for permits.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There is no anticipated economic effect on other state agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The regulatory change is designed to facilitate well site selection, which is hoped to be of benefit to home builders and realtors.

**Impact on Localities**

Projected costs, savings, fees or revenues resulting from the regulatory change.	Those localities named in VA Code 32.1-176.4.A and 32.1-176.5.B and C – which have authority to adopt ordinances establishing standards pertaining to private well location, testing of water, and well abandonment – may incur administrative costs related to modifications of ordinances to be consistent with the regulatory changes.
Benefits the regulatory change is designed to produce.	There is no anticipated economic benefit to localities.

**Impact on Other Entities**

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	The regulatory change impacts homeowners using private wells as a source of drinking water, individuals and businesses using private wells for non-potable uses, business using wells for drinking water that do not meet the definition of a waterworks as defined in §32.1-167, and WWSP installing private wells.
Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	VDH estimates there are approximately 700,000 homes in Virginia that rely on a private wells as a sources of drinking water. VDH issues approximately 500 to 600 permits per year for agricultural wells, irrigation wells, geothermal heat pump wells, and other non-potable uses. Thousands of small business are impacted; however, providing a more accurate estimate is difficult as many small business use private wells installed prior to the establishment of the Private Well Regulations. The regulatory changes would apply to any small business that installs a new well for applicable non-potable uses (e.g. irrigation well for a farm), or that installs a new well that does not meet the definition of a waterworks. There are approximately 500 WWSP providers working in Virginia.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:	The regulatory changes are not anticipated to have significant effect for individuals and business. The regulatory changes do not change or increase administrative cost or fees required

<p>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;                  b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;                  c) fees;                  d) purchases of equipment or services; and                  e) time required to comply with the requirements.</p>	<p>for compliance. The regulatory changes do require that drillers provide pure water for use in construction and development of wells; however, this was reported as a current industry practice. The regulatory changes incorporate current industry practice and standards with regards to equipment for service, and therefore are not anticipated to increase associated cost. Additionally, the regulatory changes do not alter the time required to comply with the requirements.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The regulation will facilitate well location and construction while protecting public health and groundwater resources using current industry practices and standards.</p>

### Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

Code of Virginia §32.1-176.4 requires the Board to adopt regulations pertaining to the location and construction of private wells in the Commonwealth. The alternative to the proposed action is to maintain the Regulations as currently adopted; however, this is not viable. This regulatory action is necessary to recognize current industry standards, improve consistency with other regulations, and improve protection of public health and groundwater resources. Without the proposed amendments, Virginians will not benefit from more current and up to date research and industry practices. Additionally, inconsistencies between the Regulations and other regulations related to private wells and groundwater resources will persist. This proposed action is less intrusive to small businesses, primarily, but not limited to, WWSP as it provides an opportunity to incorporate current industry standards into the Regulations. The proposed action would also provide an opportunity to clarify areas of inconsistency and ambiguity, which currently lead to requests for approval from Division staff or variance requests to the State Health Commissioner, which can delay permitting actions.

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

- 1) The proposed amendments will require modification to permitting process for private wells by minor revision of permit application forms and permit templates. The compliance requirements of



the proposed regulation should not be reduced or simplified, as the agency believes they establish the minimum standards required to protect public health and groundwater resources.

- 2) The construction permit validity period has been revised from 54 months to 18 months with provision of one 18 month renewal. This provides for consistency with Onsite Sewage System permits, often issued in conjunction with private well permits, with minimal impact on the regulated community.
- 3) No other minimal reporting and deadline requirements change in the proposed amendments.
- 4) Design and operational requirements in the proposed amendments largely speak to the siting of private wells. The proposed amendments also allow for WWSP, engineers, and others in the groundwater industry to exercise professional judgment with respect to materials selection and construction methodology.
- 5) Small businesses can readily comply with the requirements of the proposed amendments. Elimination of the requirements of this regulation would compromise public health and groundwater protection in the state of Virginia, and have significant adverse effect on WWSP.

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

*If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.*

*In addition, 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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In a January 27, 2017, memorandum to the Commissioner of the Department, the OAG offered opinion that certain exemptions from regulatory requirements provided to dewatering wells in the existing regulations are not supported under the statutory authority given in the Code of Virginia § 32.1-176.4(A) and 32.1-176.5(A). The OAG therefore recommended that the Regulation be amended so that statutory requirements with respect to construction permits are applied to private dewatering wells. This is addressed in the revision of 12VAC5-630-30.

Agency Discussion

- (1) The continued need for the regulation is mandated by Va Code 32.1-176.1 et seq
- (2) VDH received few complaints or comments concerning the regulation from the public. Comments received have primarily come from WWSP regarding technical components of well construction. VDH regularly receives queries regarding testing requirements for private well water quality, typically as a component of real estate transactions; however, private well water quality following construction is not regulated and therefore not a factor in this revision.
- (3) With respect to complexity, VDH has endeavored in these amendments to eliminate inconsistencies within the regulations and between the regulations and other regulations; to integrate current industry



standards; to address grammatical and spelling errors; and to ensure language is consistent with the Virginia Register of Regulations Form, Style, and Procedure Manual for Publication of Virginia Regulations.

(4) VDH has endeavored in these amendments to ensure the regulation does not overlap, duplicate, or conflict with federal or state law or regulation; and

(5) Given the length of time since promulgation of the regulation and the degree to which technology, economic conditions, or other factors have changed with respect to the location and construction of private wells, the necessity of the proposed amendments is clear.

### Public Comment

*Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.*

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The NOIRA public comment period extended from October 1 to October 31, 2018. Comments during that period could be made through the Virginia Town Hall (website) and directly to the agency. The agency did not receive public comments during the NOIRA public comment period.

### Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.*

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The Virginia Department of Health is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Anthony Creech, P.G., 109 Governor Street, 5<sup>th</sup> Floor, Richmond, Virginia 23219, (804) 864-7470 (phone), (804) 864-7475 (fax) or [anthony.creech@vdh.virginia.gov](mailto:anthony.creech@vdh.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

### Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.*

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If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

**Table 1: Changes to Existing VAC Chapter(s)**

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
Throughout all sections		Conformance to the Virginia Register of Regulations Form, Style, and Procedure Manual for Publication of Virginia Regulations	<p>The following changes were made throughout the document:</p> <ul style="list-style-type: none"> <li>• “any” deleted or replaced with “a”;</li> <li>• “all” deleted or replaced with “a”;</li> <li>• “such” deleted or replaced with “the”;</li> <li>• “ground water” replaced with “groundwater”;</li> <li>• “driller” replaced with “water well systems provider”;</li> <li>• “sanitarian” replaced with “environmental health specialist”;</li> <li>• Words not capitalized unless they are proper nouns (e.g., “department, board, commissioner”;</li> <li>and</li> <li>• Male pronouns deleted and replaced with gender neutral terms.</li> </ul>
10		Definitions	<p>The following definitions were amended to provide clarity to the regulations, ensure consistency in relation to agency practices, or to be consistent with the definition of the same term in other regulations (ODW, DEQ, DPOR, DCHD) or industry standard (AWWA, NGWA, USGS): “abandoned well,” “Aquifer,” “Bedrock,” “Closed Loop ground-source heat pump well,” “Commissioner,” “Construction of wells,” “Disinfection,” “Division,” “Emergency Well Replacement,” “Gravel Pack,” “Groundwater,” “Observation Well or Monitoring Well,” “Sanitary Survey,” “Screen,” “Sewer,” “Water table,” and “water well.”</p> <p>The following definitions were added to provide clarity to the regulations and to be consistent with the same definition in other regulations (ODW, DEQ, DPOR, DCHD or industry standard (AWWA, NGWA, USGS): “Agricultural operation,” “Beneficial use,” “Bioretention pond,” “Biosolids,” “Casing,” “Cathodic protection well,” “Clean fill,” “Coliform,” “Contaminated media,” “Controlled low strength material,” “Cuttings,” “Department,” “DEQ,” “Development or well development,” “Groundwater management area,” “Human consumption,” “Injection well,” “Lead free,” “Nonpublic water,” “Pollutant,” “Pure water,” “Reclaimed water,” “Remediation well,” “Tremie pipe,” “Water quality,” “Water well systems,” “Water well</p>

			systems provider,” “Waterworks,” “Well area,” “Well bore,” “Well site,” and Withdrawal system.” One definition, “Confined aquifer,” was deleted because it is no longer used in the regulations.
30		Purpose and applicability of regulations	This Purpose is amended to include a reference to well abandonment. A new section (B.) is added to clarify exemptions from the regulations, which were previously found in Definitions, or were non-explicit. The justification for the exemptions is VA Code 32.1-12 and VA Code 64.1-44.83 et seq.
40		Relationship to Virginia Sewage Handling and Disposal Regulations	Repealed – no longer applicable.
50		Relationship to State Water Control Board	This section is amended to clarify reference to additional requirements applying to private wells in groundwater management areas under VA Code 62.1-258 and 9VAC25-610.
60		Relationship to DEQ	This section is amended to delete the obsolete reference to Waste Management Division of DEQ.
80		Relationship to DPOR	This section is amended for clarity.
90		Administration of regulations	This section is amended for clarity.
110		Compliance with APA	This section is amended to update the reference to the VA Code.
140		Emergency Order	This section is amended to clarify that a deputy commissioner may issue emergency orders.
170		Variances	Section B. Clarifies requirements of variance application for consistency with SHDR Section D. Adds language to clarify applicants’ rights under APA Section E. Amended for clarity. These amendments are likely to improve consistency in administration of variance request processing.
180		Hearing Types	Revisions to this section streamline the regulatory language regarding adjudicatory hearings by referring to the applicable section of the APA.
210		Appeals	This section is amended for clarity.
220		Permits & Inspection Statements: General	This section is amended to remove exemption for dewatering wells, based on revision to Section 30.
230		Application for a Construction Permit	This section is amended to address requirements of VA Code 32.1-176.5:2. This incorporates agency policy into regulations for improved consistency of implementation.
240		Issuance of Construction Permit	This section is amended to allow designation of well area or well site on permits. This will likely reduce the need for permit revisions or issuance of a second permit to address issues encountered during well construction.
250		Emergency procedures	This section is amended to recognize private sector may perform sanitary surveys, and to improve clarity.
290		Revocation of permits or inspection statements	This section is amended to extend authority to revoke construction permits and

			inspection statements to the deputy commissioner, and to add a reference to new section 331. This will improve timeliness of the agency to act when revocation is necessary.
300		Voidance of construction permits	This section is amended to clarify that the commissioner or deputy commissioner may declare permit documents null and void on the basis of changed conditions. As originally written, the section could be interpreted to state that permit documents would become null and void without action under the APA. The section is further amended to add a reference to new section 331.
310		Unified Water Well Completion Report	This section is amended to specify the deadline for submission of GW-2 form and clarify that it shall be signed.
330		Issuance of Inspection Statement	This section is amended for clarity.
NA	331	Enforcement, Notices, Informal Conferences.	This section provides language regarding the citation of regulatory violations, remediating such violations, the addition of language regarding informal fact finding conferences, and the Commissioner's authority to take action in cases of threats to public health as it pertains to private wells. Language reflects APA requirements and VDH enforcement policies and procedures. This language mirrors the comparable section in the recently updated Campground Regulations.
350		General	This section is amended to clarify the applicability of the regulations to existing private wells.
360		Classes of water wells	This section is amended to create Class IV well subclasses that mirror Class III well subclasses, and to provide method to convert a Class IV well to a Class III well. This will provide property owners greater flexibility with regards to the placement of Class IV wells on their property.
370	431	Water quality	Section 370 is repealed and replaced with Section 431 for the purpose of listing requirements related to the construction of private wells in the order in which they occur.
380		Well Location and Separation Distances	This section is amended to: <ul style="list-style-type: none"> <li>• Clarify separation distance criteria;</li> <li>• Simplify Table 3.1 by removing footnotes and incorporating footnoted conditions in the table itself;</li> <li>• Add additional separation distance criteria for: <ul style="list-style-type: none"> <li>- Permanently abandoned onsite sewage disposal systems.</li> <li>- Reclaimed water distribution pipelines.</li> <li>- Biosolids application sites.</li> <li>- Bioretention ponds.</li> </ul> </li> <li>• Improve consistency of separation criteria with similar criteria in the</li> </ul>

			<p>SHDR and various DEQ regulations and guidance documents;</p> <ul style="list-style-type: none"> <li>• Establish criteria for certification required by VA Code 32.1-176.5:2.; and</li> <li>• Eliminate the required separation distance from termite treated building foundation.</li> </ul> <p>These amendments incorporate current agency policies, and provide greater protection of public health and groundwater resources. The amendment regarding termite treated foundations is based on a joint investigation conducted by the Office of Environmental Health Services and the Office of Epidemiology, and will provide owners with greater flexibility with regards to placement of private wells near building foundations.</p>
400		Well construction material specifications	<p>This section is amended to:</p> <ul style="list-style-type: none"> <li>• Replace prescriptive standards with reference to nationally recognized standards such as ASTM and NSF;</li> <li>• Relocate “Joints” to section 410;</li> <li>• Relocate grout specifications from Section 410 to this section;</li> <li>• Add requirement that water used for well construction shall be pure water; and</li> <li>• Add requirement that compounds used in disinfection shall meet NSF environmental specifications.</li> </ul> <p>These amendments reflect current industry standards and provide greater protection of public health and groundwater resources by requiring the use of pure water for well construction.</p>
410		Well construction	<p>This section is amended to:</p> <ul style="list-style-type: none"> <li>• Provide requirement that WWSP notify the agency prior to initiation of well construction;</li> <li>• Relocate “Joints” from section 400 to this section;</li> <li>• Add subsections addressing:             <ul style="list-style-type: none"> <li>- Well bore.</li> <li>- Filter pack.</li> <li>- Well development.</li> <li>- Well maintenance and repair.</li> </ul> </li> <li>• Relocate grout specifications to Section 400; and</li> <li>• Delete prescriptive standards pertaining to well casing.</li> </ul> <p>It is important to note the Waterworks Regulations reference AWWA A-100, a nationally recognized standard for construction of public water supply wells. The A-100 standard is too rigid for most private wells, and reference to that standard in the Private Well Regulations would place an undue technical and financial burden on private well owners and WWSP. In the</p>

			absence of a similar nationally recognized well construction standard applicable to private wells, this section provides more details regarding finished well construction than do the sections pertaining to well construction included in the Waterworks Regulation.
420		Observation wells	This section is amended to clarify that test and exploration wells are not observation or monitoring wells.
430		Disinfection	This section is amended to provide the option for an alternate method of well disinfection endorsed by the NGWA, providing greater flexibility for WWSP and property owners.
370	431	Water quality	Requirements for water quality testing originally presented in section 370 are provided here for the purpose of listing requirements related to the construction of private wells in the order in which they occur.
440		Uniform Water Well Completion Reports	This section is amended to delete information in subsection B which is addressed in section 50.
450		Well abandonment	<p>This section is amended to:</p> <ul style="list-style-type: none"> <li>• Provide clarity;</li> <li>• Provide requirement that WWSP notify the agency prior to initiation of well abandonment;</li> <li>• Add subsection on materials prohibited from use in well abandonment; and</li> <li>• Provide additional method to abandon a bored well so that it is no longer a well with respect to separation distances.</li> </ul> <p>These amendments provide owners with greater flexibility with regard to placement of onsite sewage systems near abandoned private wells, while maintaining necessary public health and groundwater resource protections.</p>
460		Yield for residential wells	This section is amended to clarify sustained flow requirements.
480		Well casing specifications	This section is repealed because revision to section 400 eliminates the need for this section.