

**Virginia Department of Health
Sewage Handling and Disposal Regulations
Installation and Inspection - Revisions Subgroup**

Date: April 13, 2022 – Meeting Minutes

Time: 1:00 pm

Location: WebEx

Attendees:

Lance Gregory – Virginia Department of Health (VDH)
Dave Tiller – VDH
Anne Powell – VDH
Matthew Ferrell – Onsite Sewage System Operator & Installer
Curtis Moore – Virginia Onsite Wastewater Recycling Association (VOWRA)
Josh Hepner – Loudoun County Health Department (LCHD)
Joshua Anderson – LCHD
Brian Stanley – Cumberland Plateau Health District
Andrew Carter – Chickahominy Health District
Katherine Merten – Rappahannock-Rapidan Health District
Laurie Spotswood – Alleghany/Roanoke Health District
Phillip Brown – Virginia Tech
Tanya Pettus – Department of Professional and Occupational Regulation (DPOR)
Patrick Rogers – Precast Tank Association of Virginia (PTAV)
Ed Pennypacker – PTAV
Danna Revis – Onsite Soil Evaluator & Onsite Sewage System Operator / VOWRA
T.A. Constantino – Onsite Sewage System Operator & Installer
Matt Tolley – Onsite Soil Evaluator

1. Introductions

All in attendance introduced themselves to the group.

2. Review Workgroup’s “Purpose and Policy” and

3. Background on specific aspects of SHDR and Code Authority

Lance Gregory explained the guiding principles for the regulatory revisions. Lance explained that revising the SHDR would be (approximately) a three-year process. The authority to create regulations comes from the Code of Virginia, specifically §32.1-163.5 and §32.1-163.6 for this subgroup.

4. Proposal(s) from VDH Facilitator

Lance Gregory explained to the group that GMP 2017-01 asks for 100% inspections by local health districts, but it does not specify if the inspection occurs during or after installation. GMP 2017-01 states that VDH inspections of private sector designs should focus on the location, treatment level, depth, and sizing of the onsite sewage system.

5. Feedback from Subgroup Members and

6. Additional Proposals from Subgroup Members

Most members of the subgroup agreed that they prefer an open-ditch installation inspection (during installation) as part of the local health district's oversight. Curtis Moore added that historically, not everyone was comfortable handing everything over to the private sector, so a VDH inspection was included so that VDH still have some oversight.

Matthew Ferrell asked what the likelihood is for VDH getting budget increases. In his experience, local health districts are struggling to keep up with current tasks because of under-funding. He would like to see a focus on meeting current goals before setting loftier goals with new Regulations. Sometimes, his crew waits 3-5 days for a LHD inspector, so he would like to see some mechanism to expedite the inspection process. If contractors cannot move their equipment to the next job, they are losing money. Mr. Ferrell also thinks VDH needs to consider exceptions for weather so contractors can cover up a system (to protect it from wet weather when necessary). Mr. Ferrell wonders if a third party inspector be a better option for the program.

Patrick Rogers agreed that a third party inspection is a good idea, but the original private sector designer should remain involved in the inspection process. Mr. Rogers continued by stating we are doing this for the homeowner. The Precast Tank Association of Virginia (PTAV) took a survey and got all the permits for new septic tanks to come up with the exact number of tanks going in. PTAV found there were more tanks installed than were permitted, meaning there are installations that are not getting permits or inspections.

Matthew Ferrell stated that he thinks a third party inspector should not be related to the original design of the system. Mr. Ferrell said that Regulation is not favorable where he works. He said some onsite sewage systems fail almost immediately; sometimes those systems have been installed illegally. The installers tend to just walk away.

Curtis Moore explained that he would not want anyone other than the designer to be giving the final sign off on a system he designed. He said that the additional inspection by the LHD is fine. There is licensing board for onsite sewage system professionals and they take their role seriously. Inappropriate work should be documented and reported.

T.A. Constantino stated that there are already three parties involved in the inspection process – the installer, the designer, and VDH. T.A. said there needs to be more training for the VDH inspectors. Many of the VDH inspectors do not know what they are looking at. Mr. Constantino would not want another OSE coming back and signing off on his design installations.

Andrew Carter agrees that a third party inspection might be a great idea, but thinks most OSE/PE's would be reluctant to inspect other people's work. Mr. Carter agrees that open trench inspections are the best form of inspection. He thinks GMP 2017-01 works well, but needs to be implemented consistently across the state. Some counties never come out to open trench inspections. He thinks the four points of VDH inspection of private sector designs are pretty encompassing. Mr. Carter thinks it would be helpful to have a mandate that VDH performs inspections, instead of a policy. Andrew also mentioned that VDH inspections are a great training opportunity for new VDH staff to see the components of an onsite sewage system firsthand. This experience helps VDH staff when it comes to reviewing private sector designs for permit.

Ed Pennypacker stated that the designer has a responsibility for the design. Mr. Pennypacker continued to explain that when the actual installation is not right, the design is impacted. Loudoun County has been successful because they are water-tight and vacuum testing and, as a result, do not have tanks leak or fail. Mr. Pennypacker wants to know if there is a performance standard. He also asked if VDH needs to be more specific about what they look for in the four-point inspection.

Curtis Moore mentioned that other states have run into the same problem, and if resources are not a problem you could follow the North Carolina model. North Carolina officials go out to the tank yards and vacuum test a certain percentage of tanks. A centralized tank inspection approach would require a state-wide tank standard.

Ed Pennypacker explained that the Precast Tank Association of Virginia has its own tank standard. Loudoun County has established its own tank standard. Mr. Pennypacker stated that there are manufacturers that vacuum test every tank before it leaves the lot.

Curtis Moore stated that when someone creates a design that goes above the minimum requirements in the regulations, it is a problem when the installer puts in the minimum standard and then gets another OSE to sign off on the lesser installation. Mr. Moore feels that whatever is on the permit should have to be installed.

Andrew Carter mentioned that it does raise questions when a different OSE/PE inspects someone else's design.

Matthew Ferrell agrees that he is in favor of enforcing that what is on the permit must be installed. Joshua Anderson asked if it is a DPOR issue; to clarify, is an installer redesigning a system when they do not install exactly what is on the permit.

Matthew Ferrell stated that a combined completion statement might be a good idea, so everyone involved has to sign off on inspection.

Brian Stanley mentioned the Code section that allows VDH to do an inspection when the private sector is not available. It is common for the staff in Cumberland Plateau Health District to have to do multiple inspections on a system and that is burdensome on staff resources.

Matt Tolley explained that many contractors and OSEs withhold their completion statements while waiting on payment.

Katherine Merten mentioned that notification to the LHD for inspections is a key point in the process. Ms. Merten also stated that there needs to be some criteria for As-Built Drawings. Dave Tiller agreed that VDH should specify what is required for the reports and wonders if "per permit" is an acceptable means of filling out a completion report.

Danna Revis stated that the Regulations have very little that addresses the site evaluation is proposed conditions, but there is also very little in the Code and Regulations about when the system is actually put in the ground.

Patrick Rogers stated that the quality of materials is the key. There is no one enforcing licensed installers. If VDH made sure everyone is putting in high quality materials, the inspection is less important.

Matthew Ferrell mentioned that he sees very few installers that do questionable work. He continued to say that if there were a mechanism to avoid turning in poor work, it would help the program.

DPOR regulations state you have to have a journeyman on the site at all times. You cannot just hire backhoe operators.

Patrick Rogers stated that every homeowner should be provided with a 50-year system. If we are requiring them to produce a permit to purchase a tank, then you would see permit applications increase.

Matthew Ferrell mentioned that you could skirt that requirement if you said the tank was for another purpose. The tank manufacturers could keep a list of who is purchasing a tank and the address it is going to.

VDH permit should only be issued to an installer and require a preconstruction meeting. Then that LHD knows that there is licensed installer doing the work.

Curtis Moore mentioned that the theory is one cannot get a building permit without a septic permit.

Joshua Anderson said that he has been told by various investigators at DPOR that it would be better if VDH made a submission since we will highlight the relevant regulations. Maybe VDH should discuss a GMP on a best practice for a DPOR submission. Katherine Merten stated that her LHD was under the opposite impression.

7. Next Steps for Subgroup / Preparation for Next Meeting

Lance Gregory summarized some of the key components of the discussion during the meeting.

- Standard for septic tanks (Loudoun model, NC model, other)
- VDH inspections should be open trench, with exceptions. Need to be consistent across the state.
- Need mechanism to ensure that what is design is what is installed, even if above min. standard.
- Need a clear process if someone other than the designer does the inspection.
- VDH final inspection when the OSE/PE refuses to conduct the inspection.
- Need to address withholding paperwork waiting on payment.
- Design change issues, being done without any consultation.
- Standards for as-built drawings.
- Standards for inspection reports.
- Professional Licensure

Lance Gregory concluded the meeting with the mention of the next meeting on May 11, 2022 at 1:00 pm.

AGENDA

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2. Review Workgroup's "Purpose and Policy"
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4. Proposal(s) from VDH Facilitator
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7. Next Steps for Subgroup / Preparation for Next Meeting