

## **Part 2. Performance Standards**

**12 VAC 5-611-X10 Performance Standards.** All wastewater systems permitted and operated pursuant to this chapter shall be subject to the following performance standards. Unless a system is specifically exempt or deemed to comply, all onsite sewage systems permitted under this Chapter shall comply with the performance standards of this Chapter.

A. Bacterial Limits. One of the following shall apply:

1. All systems shall be designed to assure that the fecal coliform concentration at the boundary of the design management zone does not exceed 20 cfu/100 ml; or
2. All systems subject to flooding or saturation from saline water shall be designed to assure that the number of Enterococci does not exceed XX according to XX methods or tests.

B. Statewide groundwater standards. The following shall apply:

1. All systems shall be designed to comply with the statewide groundwater limits found in 9 VAC 25-280-20 – through 9 VAC 25-280-50 at the boundary of the design management zone. The State Water Control Board, under the authority of §62.1-44.15(3)(b), may at any time modify, amend, or cancel any of the rules, policies, or standards set forth here. See Appendices 2.1 and 2.2.
2. Detached single family and duplex dwellings using individual, on-lot onsite sewage systems with design flows less than 1,000 gpd are exempt from the nutrient (N,P,K) performance standards.

C. No system shall be operated so as to create a nuisance or a surface discharge that is not permitted under this Chapter.

### **12 VAC 5-611-X Compliance with the Performance Standards.**

A. The following systems are deemed to comply with the performance standards of this Chapter. These systems are not required to be monitored to demonstrate compliance with the performance standard of this Chapter:

1. Individual, on-lot residential systems serving detached single family and duplex dwellings designed and operated after the effective date of this chapter in accordance with the prescriptive pre-engineered (cite reference) criteria of this Chapter;

2. Individual, on-lot residential systems serving detached single family and duplex dwellings designed and operated after the effective date of this chapter in accordance with the prescriptive engineered (ref. to 12 VAC 5-611-) criteria of this chapter which utilize in-state field verified components;

3. Individual, on-lot residential systems serving detached single family and duplex dwellings in operation on the effective date of this Chapter which i) are not malfunctioning, ii) are properly operated in accordance with design specifications and any operational conditions imposed in the original permit, and iii) were not installed illegally.<sup>1</sup>

**Comment [DJA1]:** This is the grandfather clause for existing systems. It does not deem compliance for systems that are surfacing, serve a use with a greater flow than permitted (too many bedrooms or seats in a restaurant, ect.) or were installed illegally.

B. All systems not described in subsection A above designed and operated after the effective date of this chapter shall be monitored to demonstrate compliance with the performance standards of this chapter. Compliance with the performance standard shall be enforced at the boundary of the design management zone.

**12 VAC 5-611-X Impaired Waters- Commissioner May Require Monitoring and/or Compliance with Nutrient Standard.**

**Comment [DJA2]:** May need to move to a compliance section.

A. Whenever the Commissioner believes that an onsite system which is not subject to the monitoring requirements of this Chapter may be contributing to degradation of ground and/or surface waters, he may conduct such tests and other procedures deemed necessary to determine whether the system complies with the performance standards of this Chapter. Alternatively or concurrently, he may initiate informal fact-finding proceedings pursuant to *Va. Code* § 2.2-4019 and make a case decision requiring an owner, manufacturer, or both, to conduct such tests and other procedures deemed necessary to determine whether the system is in compliance with the performance standards of this chapter.

B. With cause, the commissioner may find that a system previously deemed to comply with the performance standard and/or exempt from the nutrient performance standards is no longer deemed to comply with the performance standard of this Chapter and/or exempt from the nutrient standards. In such cases the Commissioner may designate a design management zone and require the owner to initiate monitoring activities prescribed in this Chapter.

C. When the commissioner has found a system to no longer be deemed to comply with the performance standard, that system may regain deemed to comply status by demonstrating corrections have been completed which correct the deficiency or deficiencies that caused the initial finding.

**Comment [DJA3]:** This may be adequate with guidance, or we may want to spell out how many samples, for what period of time and do that here. Another possibility is to return to deemed to comply status after installing corrections meeting in A1 or A2 above.

<sup>1</sup> With respect to malfunctioning systems- The owner may repair a simple failure of a mechanical system component, or components, such as a pipe, tank, or pump. Malfunctions of this nature would not void a system's 'deemed to comply' status nor does it void the nutrient exemption, if applicable.