





COMMONWEALTH of VIRGINIA
Department of Health


June 29, 2018

MEMORANDUM

TO: District Health Directors **GMP #2018-02**
Environmental Health Managers
Office of Environmental Health Services Staff
Onsite Soil Evaluators
Professional Engineers
Onsite System Operators and Installers

THROUGH: M. Norman Oliver, MD, MA 
State Health Commissioner

THROUGH: Allen Knapp, Director 
Office of Environmental Health Services

FROM: Lance Gregory, Director 
Division of Onsite Sewage and Water Services, Environmental Engineering
and Marina Programs

SUBJECT: GUIDANCE MEMORANDA AND POLICY (GMP) 2018-02
Implementation of House Bill 887; Definition of Maintenance

PURPOSE: This policy establishes the procedures associated with the change in the definition of
“Maintenance” pursuant to Va. Code § 32.1-163.

SCOPE:

This policy establishes new procedures needed to comply with the recent change in the definition of maintenance pursuant to Va. Code § 32.1-163. Chapter 830 of the 2018 Acts of Assembly (HB 887) expanded the definition of maintenance to allow replacement of sewer lines, conveyance lines, distribution boxes, header lines without a permit unless a permit is specifically required by a local ordinance.

AUTHORITY:

Va. Code § 32.1-163, as amended and effective as of July 1, 2018, provides authority for the procedures outlined in this policy (see attachment 1). Va. Code § 32.1-163 states, “Maintenance”

means, *unless otherwise provided in local ordinance, (i) performing adjustments to equipment and controls or (ii) in-kind replacement of normal wear and tear parts that do not require a construction permit for adjustment or replacement of the component* such as light bulbs, fuses, filters, pumps, motors, sewer lines, conveyance lines, distribution boxes, header lines, or other like components. "Maintenance" includes pumping the tanks or cleaning the building sewer on a periodic basis. *Notwithstanding any local ordinance, "maintenance" does not include replacement of tanks, drainfield piping, subsurface drainfields, or work requiring a construction permit and installer. Unless otherwise prohibited by local ordinance, a conventional onsite sewage system installer or an alternative onsite sewage system installer may perform maintenance work limited to in-kind replacement of light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines.*

BACKGROUND:

The Virginia Department of Health (VDH) receives numerous types of requests for onsite sewage system construction permits. Owners of existing onsite systems may contact a licensed service provider to evaluate their onsite system for a number of reasons, for example after a malfunction or just prior to a property transfer. Previously, if the service provider discovered worn or dysfunctional components, the owner would file a construction permit application with the Local Health Department (LHD), schedule a site evaluation with the LHD, uncover the system prior to the LHD site evaluation, and then wait for issuance of the construction permit. The service provider could not replace the components until obtaining a valid construction permit. Additionally, after replacing the components, the service provider would have to contact the LHD to schedule a final construction inspection prior to covering the system.

As a result, some property owners could spend considerable time and money replacing worn or dysfunctional components. The amendments to Va. Code § 32.1-163 streamline the process by allowing properly licensed service providers to replace sewer lines, conveyance lines, distribution boxes, header lines, or other like components without a permit provided: i) local ordinances do not require a permit; and ii) the service providers are properly licensed to perform the work.

PROCEDURAL OUTLINE:

Effective July 1, 2018, properly licensed individuals will be able to conduct in-kind replacements of damaged or worn light bulbs, fuses, filters, pumps, motors, sewer lines, conveyance lines, distribution boxes, and header lines as maintenance, without a permit or construction inspection from the VDH. However, localities may require a local permit via local ordinance. In-kind replacement shall not impact the design of the original system (e.g. maintain minimum horizontal separation distances).

The revisions to Va. Code § 32.1-163 do not change the types of systems a licensed conventional onsite sewage system operator or a licensed alternative onsite sewage system operator can perform maintenance on; the revisions simply expand what is considered maintenance and does not require a VDH permit. Licensed operators with questions regarding the types of systems they

can perform maintenance on are advised to contact the Department of Professional and Occupational Regulations.

Service providers performing maintenance on existing conventional onsite sewage systems (COSS) in the Commonwealth are encouraged to voluntarily report all maintenance conducted to the proper LHD environmental staff to facilitate record updates (see attachment 1 for a recommended reporting form). Voluntary reporting may be provided in either hard copy or electronically via email. Without a permit from VDH, pursuant to HB 887 licensed conventional onsite sewage system installers and licensed alternative onsite sewage system installers are limited to performing in-kind replacements of light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines for COSS.

When required pursuant to the Regulations for Alternative Onsite Sewage Systems (12VAC5-613, the AOSS Regulations) maintenance of alternative onsite sewage systems (AOSS) performed by licensed alternative onsite sewage system operators shall be reported to the appropriate LHD via the online operation and maintenance reporting system. The operator shall provide the owner a log of all maintenance performed for inclusion in the owner's maintenance log (see 12VAC5-613-140). Without a permit from VDH, licensed alternative onsite sewage system installers are limited to performing in-kind replacements of light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines for AOSS. When performing in-kind replacements under maintenance for AOSS, installers shall provide the owner a log of all maintenance performed for inclusion in the owner's maintenance log. Installers shall also provide a log of all maintenance to the owner's operator and work with the owner's operator to ensure that maintenance is reported to the appropriate LHD via the online operation and maintenance reporting system when required pursuant to the AOSS Regulations.

REQUEST FOR PERMITS:

With the transition from permitting to maintenance, some property owners may seek a permit from VDH for system improvements now considered maintenance. If an owner requests a permit for maintenance, LHD staff will inform the owner that a permit is not required and encourage owners to seek services from a properly licensed private sector professional. In the event that the LHD receives a bare application for a safe, adequate, and proper (SAP) evaluation or repair permit and determines during the course of review that the necessary improvements can be completed as maintenance, the LHD will inform the owner of the necessary improvements and that a permit is not required (see attachment 3 for template response). If a system failure is observed, the LHD shall issue a Notice of Alleged Violation and proceed forward with appropriate enforcement action until the failure is corrected. In the case of SAP evaluations where a failure is observed, the LHD shall deny the SAP request until the failure is corrected.

REQUEST FOR INSPECTIONS:

Licensed professionals may, but are not required to, request a courtesy inspection of improvements performed under maintenance. Requests should be submitted 24 hours prior to installation of the improvements. LHD staff may provide courtesy inspections at their discretion. If

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LHD staff are not present at the time of installation, the licensed professional can move forward with completing and covering the improvement. No written response from LHD staff regarding the voluntary inspection is required. However, LHD will complete the reporting form contained in attachment 2.

DATA ENTRY:

AOSS maintenance will be reported as required via the online reporting database. However, COSS maintenance will be provided in hard copy or electronic format. LHD staff will create a malfunction report in the VDH database and enter applicable information provided in the voluntary reporting form.

Attachment 1: 2018 SESSION

CHAPTER 830

An Act to amend and reenact § [32.1-163](#) of the Code of Virginia, relating to onsite sewage systems; maintenance.

[H 887]

Approved April 18, 2018

Be it enacted by the General Assembly of Virginia:

1. That § [32.1-163](#) of the Code of Virginia is amended and reenacted as follows:

§ [32.1-163](#). Definitions.

As used in this article, unless the context clearly requires a different meaning:

"Alternative discharging sewage system" means any device or system which results in a point source discharge of treated sewage for which the Board may issue a permit authorizing construction and operation when such system is regulated by the State Water Control Board pursuant to a general Virginia Pollutant Discharge Elimination System permit issued for an individual single family dwelling with flows less than or equal to 1,000 gallons per day.

"Alternative onsite sewage system" or "alternative onsite system" means a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge.

"Betterment loan" means a loan to be provided by private lenders either directly or through a state agency, authority or instrumentality or a locality or local or regional authority serving as a conduit lender, to repair, replace, or upgrade an onsite sewage system or an alternative discharging sewage system for the purpose of reducing threats to public health and ground and surface waters, which loan is secured by a lien with a priority equivalent to the priority of a lien securing an assessment for local improvements under § [15.2-2411](#).

"Conduit lender" means a state agency, authority or instrumentality or a locality, local or regional authority or an instrumentality thereof serving as a conduit lender of betterment loans.

"Conventional onsite sewage system" means a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

"Licensed onsite soil evaluator" means a person who is licensed under Chapter 23 (§ [54.1-2300](#) et seq.) of Title 54.1 as an onsite soil evaluator. A licensed onsite soil evaluator is authorized to evaluate soils and soil properties in relationship to the effects of these properties on the use and management of these soils as the locations for onsite sewage systems.

"Maintenance" means, *unless otherwise provided in local ordinance, (i) performing adjustments to equipment and controls and or (ii) in-kind replacement of normal wear and tear parts that do not require a construction permit for adjustment or replacement of the component such as light bulbs, fuses, filters, pumps, motors, sewer lines, conveyance lines, distribution boxes, header lines, or other like components.*

"Maintenance" includes pumping the tanks or cleaning the building sewer on a periodic basis. ~~Maintenance~~ *Notwithstanding any local ordinance, "maintenance" shall does not include replacement of tanks, drainfield piping, distribution boxes subsurface drainfields, or work requiring a construction permit and installer. Unless otherwise prohibited by local ordinance, a conventional onsite sewage system installer or an*

alternative onsite sewage system installer may perform maintenance work limited to in-kind replacement of light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines.

"Operate" means the act of making a decision on one's own volition (i) to place into or take out of service a unit process or unit processes or (ii) to make or cause adjustments in the operation of a unit process at a treatment works.

"Operation" means the biological, chemical, and mechanical processes of transforming sewage or wastewater to compounds or elements and water that no longer possess an adverse environmental or health impact.

"Operator" means any individual employed or contracted by any owner, who is licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, monitor, and maintain an alternative onsite sewage system.

"Owner" means the Commonwealth or any of its political subdivisions, including sanitary districts, sanitation district commissions and authorities, any individual, any group of individuals acting individually or as a group, or any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system or treatment works.

"Regulations" means the Sewage Handling and Disposal Regulations, heretofore or hereafter enacted or adopted by the State Board of Health.

"Review Board" means the State Sewage Handling and Disposal Appeals Review Board.

"Sewage" means water-carried and non-water-carried human excrement, kitchen, laundry, shower, bath or lavatory wastes, separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sewerage system" means pipelines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

"Subsurface drainfield" means a system installed within the soil and designed to accommodate treated sewage from a treatment works.

"Transportation" means the vehicular conveyance of sewage.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment.

Attachment 2:

Voluntary Conventional Onsite Sewage System Maintenance Report

Owner Name: _____

Phone Number: _____

Subdivision: (If Applicable) _____ **Section:** _____ **Lot:** _____

Physical Address: _____

Maintenance Actions Completed:

Other Comments:

SERVICE PROVIDER SIGNATURE: _____

DATE: _____ **LICENSE NUMBER:** _____

SKETCH ATTACHED

Attachment 3:

DRAFT MAINTENANCE LETTER

Date

OWNER/APPLICANT'S NAME
MAILING ADDRESS
CITY, State, ZIP

RE: HEALTH DEPARTMENT PERMIT APPLICATION #: XXXX
PIN NUMBER: XXX-XX-XXXX, Tax Map: XXXX,

Dear Owner/Applicant's Name:

This letter is to inform you [LHD] reviewed your application for an onsite sewage system repair permit received on [Date]. On [Date] [LHD] performed an evaluation and determined that the following corrective actions are necessary:

Ex. replacement of pump, sewer lines, conveyance lines, distribution boxes, header lines

These corrective actions meet the definition of maintenance in Va. Code §32.1-163, therefore a permit is not required. These corrective actions can be conducted by a properly licensed service provider. You can find a list of licensed service providers at:

<http://www.vdh.virginia.gov/environmental-health/onsite-sewage-water-services-updated/septic-system-and-private-well-service-providers/>

Given that these corrective actions do not require a permit, your application is hereby denied. In accordance with 12VAC5-610-230 of the Sewage Handling and Disposal Regulations you have the right to appeal this decision. Your written request for appeal must be received in this office at <OfficeAddress>, <Locality>, <ZipCode> within thirty (30) days from the date you receive this letter. Please include any facts or other data that would support your appeal. If I can be of any further service to you, please feel free to call at (XXX) XXX-XXXX.

Sincerely,

<insert name>

Environmental Health Specialist Senior