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Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-790
VAC Chapter title(s)	Sewage Collection and Treatment Regulations
Action title	Amend Sewage Collection and Treatment Regulations to include a reporting requirement for all septic systems taken offline and connected to sewerage systems
Date this document prepared	February 11, 2025

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*.

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 Sewage Collection and Treatment Regulations (SCAT) (9VAC25-790) regulate sewerage systems and treatment works.

The intent of this regulatory actions is to determine how many septic systems (or other onsite sewage disposal systems) in the Chesapeake Bay watershed are taken off-line and connected to a sewage treatment works that serves the locality. The data will be used to understand and quantify reductions in nutrient loads and pollution that impact water quality in the Chesapeake Bay.

In July 2018, the Environmental Protection Agency (EPA) issued State-Basin Planning targets for nitrogen and phosphorus in Virginia's five river basins draining to the Chesapeake Bay. The Chesapeake Bay TMDL Phase III Watershed Implementation Plan (WIP) represents the Commonwealth's plan to achieve nutrient and sediment reductions needed to restore the Chesapeake Bay and its tidal tributaries.

Watershed Implementation Plans are roadmaps for how the seven jurisdictions (Delaware, the District of Columbia, Maryland, New York, Pennsylvania, Virginia, and West Virginia) in the Chesapeake Bay Program (CBP) will attain the Chesapeake Bay TMDL. The Bay TMDL is an informal planning tool used to establish CBP goals. WIPs were agreed to be developed and implemented in three phases, with the EPA agreeing to provide an assessment of the WIP. The EPA does not provide an approval or disapproval of a WIP.

Amending the SCAT Regulations will ensure a more accurate count of nutrient reductions that result from directing sewage from individual septic systems and other onsite sewage disposal systems to a centralized sewage treatment works. Sewage treatment works have been upgraded to improve nutrient removal capability and are subject to discharge limitations through the Department of Environmental Quality's (Department) Virginia Pollutant Discharge Elimination System (VPDES) permit program. Information about the number of septic systems that are no longer used to treat and dispose of sewage will assist with tracking the Commonwealth's progress towards water quality goals, including Chesapeake Bay watershed restoration goals, thus helping to certify that Virginia is meeting its reduction goals.

The requirement to amend the SCAT regulations is directly mandated by the Commonwealth's Chesapeake Bay TMDL Phase III WIP. Initiative 53 provides that "the Commonwealth will initiate a regulatory action to amend the existing Sewage Collection and Treatment Regulations (9VAC25-790-10 et seq.) to include a reporting requirement for all septic systems (or other onsite sewage disposal systems) taken offline and connected to sewage collection systems."

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.

Board – State Water Control Board
Agency or Department – Department of Environmental Quality
CBP – Chesapeake Bay Program
EPA – Environmental Protection Agency
Initiative 53 – The Commonwealth's Chesapeake Bay TMDL Phase III WIP
NOIRA – Notice of Intended Regulatory Action
SCAT – Sewage Collection and Treatment Regulations, 9VAC25-790
TMDL – Total Maximum Daily Load
VDH – Virginia Department of Health
VPDES – Virginia Pollutant Discharge Elimination System
WIP – Watershed Implementation Plan

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On March 27, 2025, the State Water Control Board adopted 9VAC25-790 Sewage Collection and Treatment Regulations as a final regulation.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

The Commonwealth's Chesapeake Bay TMDL Phase III WIP (Initiative 53) requires reporting of sewer connections by wastewater utilities. Initiative 53 provides that "[t]he Commonwealth will initiate a regulatory action to amend the existing Sewage Collection and Treatment Regulations (9VAC25-790-10 et seq.) to include a reporting requirement for all septic systems (or other onsite sewage disposal systems) taken off-line and connected to sewage collection systems. This requirement will ensure a more accurate count of nutrient reductions resulting from septic systems connected to sewer."

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.

The State Water Control Board adopted the Sewage Collection and Treatment Regulations under the authority provided by § 62.1-44.15 of the Code of Virginia. Additionally, § 62.1-44.19 of the Code of Virginia requires that "before an owner may erect, construct, open, expand, or operate a sewerage system or sewage treatment works which will have a potential discharge or actual discharge to state waters, such owner shall file with the Board an application for a certificate in scope and detail satisfactory to the Board."

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 is intended to solve.

This regulatory action is essential to protecting the water quality in the Commonwealth of Virginia, which is essential to the health, safety, and welfare of Virginia's citizens and is needed in order to establish appropriate and necessary reporting requirements for all septic systems (or other onsite sewage disposal systems) located in the Chesapeake Bay Watershed that are taken offline and connected to sewage collection systems. Additionally, this action is essential in supporting the Commonwealth's Chesapeake Bay TMDL Phase III WIP. The addition of this reporting requirement will ensure a more accurate count of nutrient reductions resulting from septic systems connected to sewer, which will assist with tracking the Commonwealth's progress towards water quality goals, including Chesapeake Bay watershed restoration goals.

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.

The substance of this action is to amend the Sewage Collection and Treatment Regulations (9VAC25-790) to include a requirement for permitted sewage treatment works located within the Chesapeake Bay Watershed to report all septic systems (or other onsite sewage disposal systems) taken offline permanently and connected to sewerage systems. This requirement will ensure a more accurate count of nutrient reductions resulting from septic systems connected to sewer, which will assist with tracking the Commonwealth’s progress towards water quality goals, including Chesapeake Bay watershed restoration goals.

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.

There are no changes to previously reported information.

The Sewage Collection and Treatment Regulations (9VAC25-790) do not currently contain any reporting requirements regarding onsite sewage systems taken off-line and connected to public sewerage systems.

The primary advantage of the proposed regulatory action is the implementation of a reporting requirement for all septic systems (or other onsite sewage disposal systems) located within the Chesapeake Bay watershed taken offline and connected to sewerage collection systems. Including this requirement would provide the Department with more accurate information to track water quality goals. The regulation includes language to limit the requirement to the best of the permittee’s knowledge, thus the implementation of this requirement can largely be accomplished using existing resources and will impose a minimal financial burden. This will aid in protecting state water, while limiting both the time and resources required to gather the required data, as well as preventing the regulation from creating compliance issues or being punitive to permittees. This is an advantage for the public, the regulated community, and the Commonwealth. Potential disadvantages would be limited to an increase on staff resources.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

The seven jurisdictions of the CBP partnership agreed to develop and implement WIPs in three phases to provide a framework for the goals and milestones necessary towards Chesapeake Bay restoration goals. This reporting requirement is directly mandated by the phase III WIP and is thus essential to complying with the CBP partnership.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

Other State Agencies Particularly Affected

There are no other state agencies particularly affected by this regulatory action

Localities Particularly Affected

All counties, cities, and incorporated towns located within the Chesapeake Bay Watershed would be affected by this regulatory change, but none are expected to be particularly affected. If the proposed regulatory action is enacted the burden to track the data would be on the localities, and the burden to report the data to the department would be on the sewage treatment works.

Other Entities Particularly Affected

All permittees that are other entities would be affected by this regulatory change, but none are expected to be particularly affected. There are approximately 316 privately and publicly owned treatment works located within the Chesapeake Bay Watershed. If the proposed regulatory action is enacted these permittees would have to comply with the requirement to report the number of onsite sewage systems taken offline and connected to sewerage systems that convey sewage to their facility. It is expected that much of the impact could be absorbed by existing resources.

For purposes of "Locality Particularly Affected" under the Board's statutes

There is no locality particularly affected under the Board's Statutes.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's 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.

A public comment period was held from October 21, 2024, through December 20, 2024. Below is a summary of the comments received

Commenter	Comment	Agency response
Bruce A. Julian	I fully support the proposed regulation in order to track the progress that citizens, the private	Thank you for your comments on the proposed Amendment to the Sewage Collection and Treatment Regulations, 9VAC25-790-985

	sector and municipalities are making to understand and quantify reductions in nutrient loads and pollution that impact water quality in the Chesapeake Bay. It is very important to ensure a more accurate count of nutrient reductions resulting from septic systems connected to sewer and newly installed onsite wastewater treatment systems, not only to sewage treatment plants requiring NPDES permits. Presently, there is significant under-counting of nutrient reductions taking place. Therefore, the regulation should also be expanded to also include data/permits from the Virginia Department of Health and private septic system installers/contractors. Categories of septic systems taken offline/serviced: • Connected to public WWTP's under NPDES permits • Connected to public WWTP's not governed by NPDES permits • Connected to private WWTP's under NPDES permits, including multi-family treatment systems and joint pumping stations • Connected to private WWTP's not governed by NPDES permits, including multi-family treatment systems • Gallons of septic pumpage hauled to approved treatment facilities Further, is it vital that in addition to simply tallying the "number" of sewage systems taken offline, DEQ and VDH should know the exact locations/which watersheds/sub watersheds the improvements are occurring to	Onsite sewage systems connected to sewerage systems. DEQ appreciates your support for the proposed amendment, which will include a requirement for permitted sewage treatment works located within the Chesapeake Bay Watershed to report all septic systems (or other onsite sewage disposal systems) taken offline and connected to sewerage systems. The goal of this new regulatory requirement is to ensure a more accurate count of nutrient reductions resulting from septic systems connected to sewer, which will assist with tracking Commonwealth's progress towards water quality goals, including the Chesapeake Bay Watershed restoration goals. In response to your comments, please note that while the Virginia Department of Health has its own reporting requirements for onsite septic systems, such requirements are not under DEQ's purview or authority. In addition, please note that the amendment allows affected permittees and localities to collect and report additional information (such as the location of the onsite sewage systems connecting to sewerage system). This proposed amendment will aid in protecting state waters while limiting the time and resources needed to gather the data and preventing the regulation from creating compliance issues or being punitive to permittees.
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	measure/project/model water quality improvements. Thank you for fully considering my comments and recommendations. Should DEQ staff want to record the real progress being made in Lancaster County in the Carter Creek/Rappahannock River watershed, I would welcome the opportunity to host a field tour.	
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Detail of Changes Made Since the Previous Stage

List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. ** Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
NA	9VAC25-790-985	On or before February 1, annually, every permitted sewage treatment works within the Chesapeake Bay Watershed shall report to the department, to the best of the permitted sewage treatment works' knowledge, the number of onsite sewage systems taken offline and connected to sewerage systems that convey sewage to the permitted sewage treatment works' facility during the previous calendar year.	On or before February 1, [2027 and] annually [thereafter] , every permitted sewage treatment works within the Chesapeake Bay Watershed shall report to the department, to the best of the permitted sewage treatment works' knowledge, the number of onsite sewage systems taken offline [permanently] and connected to sewerage systems that convey sewage to the permitted sewage treatment works' facility during the previous calendar year.	The change adds an initial reporting date. This improves clarity of when the reporting requirement would go into effect. The year 2027 has been specified as the starting date for the requirement. The term "permanently" was added to clarify that the reporting requirement is applicable to systems taken offline permanently.

Detail of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. ** Put an asterisk next to any substantive changes.*

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
	<u>9VAC25-790-985</u>	<u>None</u>	Add section 985 "On or before <u>February 1, [2027 and] annually [thereafter] , every permitted sewage treatment works within the Chesapeake Bay Watershed shall report to the department, to the best of the permitted sewage treatment works' knowledge, the number of onsite sewage systems taken offline [permanently] and connected to sewerage systems that convey sewage to the permitted sewage treatment works' facility during the previous calendar year</u> This requirement will ensure a more accurate count of nutrient reductions resulting from septic systems connected to sewer. This will assist in tracking the Commonwealth's water quality goals, including Chesapeake Bay water restoration goals. This requirement is directly mandated by the Commonwealth's Chesapeake Bay TMDL Phase III WIP. Initiative 53 provides that "the Commonwealth will initiate a regulatory action to amend the existing Sewage Collection and Treatment Regulations (9VAC25-790-10 et seq.) to include a reporting requirement for all septic systems (or other onsite sewage disposal systems) taken offline permanently and connected to sewerage systems that convey sewage to their facility."

			To improve clarity of when the reporting requirement would go into effect the year 2027 has been specified as the starting date for the requirement. To provide more clarity for the reporting requirement the term “permanently” was added to clarify that the reporting requirement is applicable to systems taken offline permanently.
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Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please 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.

As mandated by Initiative 53 of the Commonwealth's TMDL Phase III WIP, the proposed regulation requires permitted sewage treatment works within the Chesapeake Bay Watershed to report the number of onsite sewage systems taken offline and connected to sewerage systems that convey sewage to their facility. State law does not provide an exemption for small business for this requirement. In developing the proposed regulation consideration was given to minimizing requirements for all permitted sewage treatment works, including small businesses. The Department anticipates that implementation of the requirement to report the number of onsite sewage systems taken offline permanently and connected to sewerage systems that convey sewage to their facility will have a minimal economic impact on individual small businesses.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

It is not expected that this regulation will have a direct impact on families.