



Board for Contractors

PROPOSED Guidance Document:

Contractor License Requirement for Onsite Sewage System Maintenance

Adopted October 29, 2019

Effective upon conclusion of the public comment period required pursuant to § 2.2-4002.1 of the Code of Virginia

I. Background

Prior to July 1, 2018, an onsite sewage system installer license from the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (WWWOSSP Board), along with a construction permit from the Virginia Department of Health, was required to perform certain repairs¹ to an onsite sewage system, including replacement of sewer lines, conveyance lines, distribution boxes, and header lines. While work considered repairs are limited to licensed installers working under a contractor's license with the SDS specialty, licensed onsite sewage system operators perform maintenance on onsite sewage systems and are not required to work under a contractor's license.

During the 2018 General Assembly Session, § 32.1-163 of the Health Code was amended to define "maintenance" as follows:

"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

¹ Section 12VAC5-620-10 of the regulations under VDH defines "repair" as "the construction or replacement of all or parts of a sewage disposal system or private well to correct a failing, damaged, or improperly functioning system or well when such construction or replacement is required by the board's regulations".

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.

The definition of "maintenance" in the WWOSSP Board's Regulations tracks to conform to the definition of "maintenance" in the Health Code. Therefore, 18VAC160-40-10 of the WWOSSP Board's regulations was amended effective September 19, 2018, to reflect the above definition of "maintenance".

II. Issue

With the change in definition, an operator is now permitted to perform replacement of sewer lines, conveyance lines, distribution boxes, and header lines, and a construction permit for repair is no longer required. Keeping in mind an onsite sewage system operator whose work experience is solely performing maintenance on onsite sewage systems would not qualify for a contractor's license, there has been confusion regarding whether the work still requires a contractor's license. Section 54.1-1100 of the Code of Virginia includes the following definition:

"Contractor means any person, that for a fixed price, commission, fee, or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing, managing, or superintending in whole or in part, the *construction, removal, repair or improvement [emphasis added]* of any building or structure permanently annexed to real property owned, controlled, or leased by him or another person or any other improvements to such real property. For purposes of this chapter, "improvement" shall include (i)

remediation, cleanup, or containment of premises to remove contaminants or (ii) site work necessary to make certain real property usable for human occupancy according to the guidelines established pursuant to § 32.1-11.7.”

III. Board Guidance

As a result of the above changes to the WWOSSP Board regulations and Code of Virginia, the Board for Contractors adopts the following guidance:

For onsite sewage system work only, the Board will consider the definition of “maintenance” in 18VAC160-40-10 and § 32.1-163 of the Code of Virginia as it pertains to the type of work that would not require a contractor’s license with the SDS specialty. However, any other regulated work (i.e., contracting, installations and repairs, or operations and maintenance) performed by the individual or contractor must be done in compliance with Chapters 11 and 23 of Title 54.1 of the Code of Virginia as applicable.

The Board for Contractors and the Board for Waterworks and Wastewater Works Operators will be taking public comment on this proposed guidance document. A 30-day comment period will begin on November 25, 2019.

If you wish to comment on the proposed guidance document, you may do so via the Town Hall website or you may submit written comments so that they are received no later than December 26, 2019 to:

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