

F. Within 1 month of the completion of an installation, a person installing a BAT system shall report to the Department, or the Department's designee, in a manner acceptable to the Department, the address and date of completion of the BAT installation and the type of BAT installed.

G. The owner of an onsite sewage disposal system with a design flow less than 1500 gpd, requiring a BAT system under §A or B of this regulation, may only install:

(1) A BAT system that has been approved by the Maryland Department of the Environment; or

(2) An individually engineered nonproprietary BAT system if a governmental agency or their designee is the responsible management entity or issues renewable operating permits.

H. The owner of an onsite sewage disposal system with a design flow greater than 1,500 gpd, requiring a BAT system under §A or B of this regulation may only install a BAT system that is individually engineered for the site and approved by the Department or the Department's designee.

I. A permittee shall construct a BAT unit in a manner and of materials acceptable to the Department and the Approving Authority.

J. If the applicant demonstrates that extremely low, variable or sporadic wastewater flow results in malfunctioning of the BAT system, the Department may grant a variance to the BAT requirement upon a request from the Approving Authority.

.08 Special Methods of Sewage Collection and Disposal.

A. A person may not build a privy unless the privy will, in the judgment of the Department, prevent:

- (1) The soil from coming in contact with any fecal matter; and
- (2) Flies from gaining access to any fecal matter.

B. Privies shall be located and constructed so as to prevent contamination of ground and surface water. A privy shall be constructed in such a manner as to be insect and rodent free and to prevent odor nuisances. Location and construction plans shall be approved by the Approving Authority before issuing a sewage disposal construction permit.

C. Chemical toilets shall be constructed of impervious materials, vented to the outside air above the roof line of the structure housing them, and supplied with an adequate amount of the chemical agent used to reduce and deodorize the tank contents. Chemical toilets shall be used only for special term events, construction projects and in the abatement of problems.

D. When privies or chemical toilets become filled to recommended capacity, the owner shall remove the contents and dispose of the sewage in accordance with Regulation 09 of this chapter.

.09 Septage.

A. The owner of a septic tank, seepage pit, privy, or watertight holding tank for sewage shall remove all solid and liquid contents as to prevent a nuisance or a menace to public health or comfort and shall dispose of the sewage in compliance with applicable State and local requirements.

B. Transportation.

(1) A person engaged in the transportation of septage shall comply with § B(2) and (3) of this regulation.

(2) Vehicle Requirements.

(a) The owner of each vehicle used for transporting septage shall maintain the vehicle in a clean and sanitary condition; and

(b) Each vehicle is subject to inspection by the Department or the Department's designee.

(3) The owner shall comply with following vehicle identification requirements:

(a) The name of the septage hauler is legibly lettered on both sides of each vehicle used for transporting septage, and the lettering is at least 3 inches in height.

(b) The words "Sewage Only" is lettered on the rear of each vehicle and shall be at least 6 inches in height.

.10 Variances.

The Department of the Environment may grant variances to area, well siting, distances and slope requirements of these regulations upon the recommendation of the Approving Authority provided that the public health is protected.

.11 Appeal.

A person aggrieved by a final decision of the Approving Authority in a contested case has the right to have the decision reviewed in accordance with the provisions of the Administrative Procedure Act and other applicable statutes and regulations. All appeals shall be filed with the Director, Water Management Administration, within 30 days after notification of the final decision by the Approving Authority.

.12 Penalty.

A person who violates any provision of these regulations shall, upon conviction, be guilty of a misdemeanor and subject to a fine of not less than \$50 and not more than \$100 for each offense. Each day's failure to comply with any provision of these regulations shall constitute a separate violation. The Approving Authority may also seek injunctive relief to enforce provisions of this regulation by initiating appropriate civil proceedings.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 04 REGULATION OF WATER SUPPLY, SEWAGE DISPOSAL, AND SOLID WASTE

26.04.05 Shared Facilities and Community Systems

Authority: Environment Article, §9-206,9-252,9-252,9-314, 9-319,9-510,9-1110, 10-103 Annotated Code of Maryland

Notice of Proposed Action
[13-397-P]

The Secretary of the Environment proposes to repeal existing Regulations **.01—.03** and adopt new Regulations **.01—.03** under **COMAR 26.04.05 Shared Facilities and Community Systems**.

Statement of Purpose

The purpose of this action is to adopt new regulations to be consistent with the requirements of Environment Article, §9-1110, Annotated Code of Maryland. The new regulations define and establish requirements for shared facilities, community systems and controlling authorities consistent with the requirements of Environment Article, §9-1110, Annotated Code of Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jay Prager, Deputy Director, Wastewater Permits Program, MDE, Water Management Administration, 1800 Washington Boulevard, Baltimore, MD 21230, or call 410-537-3780, or email to Jay.Prager@maryland.gov, or fax to 410-537-3163. Comments will be accepted through January 13, 2014. A public hearing has not been scheduled.

.01 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

(1) "Approving authority" means the Secretary of the Department of the Environment or the Secretary's designee.

(2) Controlling Authority.

(a) "Controlling authority" means a unit of government, a body politic and corporate, or an inter-county agency authorized by the State, a county, or a municipal corporation to provide for the management, operation, and maintenance of a community system, a shared facility, or multiuse sewerage system.

(b) "Controlling authority" includes the capability to purchase, hold, lease, build, construct, own, operate, repair, maintain and improve a shared facility or community system in a county.

(3) "Community system" means a publicly or privately owned water or sewerage system that serves at least two lots.

(4) "Shared facility" means a water or sewerage system that:

(a) Serves more than one lot and is owned in common by the users;

(b) Serves more than one condominium unit and is owned in common by the users or by a condominium association;

(c) Serves more than one user and is located on individual lots owned by the users;

(d) Serves more than one user on one lot and is owned in common by the users;

(e) Is located wholly or partly on any of the common elements of a condominium; or

(f) Serves a housing or another multiple ownership cooperative.

(5) "User" means a single family residence, commercial unit, condominium unit or equivalent, which is served by the shared facility.

.02 Applicability.

A. The requirements of this chapter apply to all new shared facilities and community systems and any expansion or change in use of a shared facility or community system.

B. A controlling authority that conforms to all applicable State and county laws, ordinances, and regulations is required for all shared facilities and community systems.

C. A shared facility or community system may be approved only if the system is managed, operated, and maintained by:

(1) A controlling authority; or

(2) A third party under contract with the controlling authority.

D. The controlling authority may not be the approving authority.

E. The controlling authority may establish, operate, or manage a shared facility or community system if this action does not violate any federal, State, or local laws or regulations, and is in compliance with the county water and sewer plan, and would be in the interest of the public health, safety, and comfort.

F. In all cases, the controlling authority and its designee shall be approved by the approving authority and the Department of the Environment. This approval shall be conditional upon the financial and ownership requirements as are found necessary to insure continued efficient and effective operation of the system.

G. The controlling authority shall make such provisions as are necessary to insure that all sanitary facilities under its control cannot

be dissolved or otherwise made legally or functionally inoperative unless the sanitary facilities are replaced by facilities which provide equal or better protection to the public health and that of the users, except when the users no longer require any sanitary facilities.

H. A person may apply in writing to a controlling authority requesting the controlling authority to establish and operate a shared facility or community system.

I. The approving authority may order the controlling authority to perform repairs or corrections in order to insure proper operation of the shared facility.

.03 Design.

A. The development of a shared sewerage system may not be approved if, in the opinion of the Secretary, the disposal of sewage would be prejudicial to health or result in contamination of the waters of the State.

B. The construction and operation of a water or sewerage system shall comply with all applicable State and local laws and regulations.

C. The design of all water and sewerage treatment and disposal shared facilities shall be reviewed and approved by the Department of the Environment and the approving authority.

D. A shared facility or community sewerage system may be approved only if the system discharges:

(1) To the surface waters of the State in accordance with an individual National Pollutant Discharge Elimination permit;

(2) By way of land application under a nutrient management plan that assures 100 percent of the nitrogen and phosphorus in the applied effluent will be taken up by vegetation; or

(3) By way of an on-site sewage disposal system.

E. On-Site Sewage Disposal Criteria.

(1) For each user, an area or areas of land suitable for sewage disposal equivalent to the area requirements specified in COMAR 26.04.03 shall be set aside for onsite sewage disposal. The Department of the Environment may grant a reduction in the area requirement when an individual State discharge permit is issued.

(2) The suitability of land for onsite sewage disposal is determined in accordance with COMAR 26.04.02 and 26.04.03.

(3) The land set aside for sewage disposal has enough area for the construction of the initial disposal field and two replacement fields as a minimum.

(4) The land set aside for sewage disposal may not have any structures erected upon it, except that the approving authority may approve the installation of playground or athletic equipment of types that do not affect the operation or performance of the systems.

(5) The land set aside for sewage disposal may not be disturbed by earth moving or grading after its approval for use by the approving authority without prior authorization by the approving authority.

(6) A covering or topping such as gravel, asphalt, or concrete, which impedes the growth of vegetation, may not be placed on the land set aside for subsurface disposal.

(7) The wastewater flow, by which the sizing of the disposal fields is determined, is calculated by adding the flows per individual unit which are determined in accordance with COMAR 26.04.02.

F. Collection Line Criteria.

(1) All piping, pumps, and control equipment are capable of withstanding the corrosive effects of anaerobic sewage.

(2) Duplex pumping facilities are not required for individual home pumping units.

G. Septic Tank Criteria.

(1) All shared sewerage systems, which use septic tanks, shall have one tank per dwelling unit.

(2) Septic tanks are watertight and have a lockable access port extending to ground level. The access port shall be at least 24 inches in its minimum dimension, to enable routine inspection and cleaning.

(3) All tanks are located so as to be accessible for cleaning and maintenance.

H. Pump Criteria.

(1) All sewage disposal systems using septic tank effluent pumping (STEP) type collection system shall have an individual pump for each user.

(a) The pumps are housed in a water-tight pump pit with access to the surface of the ground.

(b) All pumps are located so as to be accessible for repair and replacement.

I. The approving authority, with the concurrence of the Department of the Environment, may grant an exception to §§F, G, and H of this regulation when, if the opinion of the approving authority, the exceptions result in improved or equivalent operation, maintenance, or benefit to the public health, and when improved technology, determined by the approving authority to be equivalent or an improvement to that specified in §§F, G, and H, is employed.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 08 WATER POLLUTION

Notice of Proposed Action

[13-405-P]

The Secretary of the Environment proposes to amend:

- (1) Regulation **.01** under **COMAR 26.08.01 General**;
- (2) Regulations **.01**, **.02**, **.02-1**, **.03-2**, **.03-3**, **.04**, **.04-1**, **.07**, **.08**, and **.11** under **COMAR 26.08.02 Water Quality**; and
- (3) Regulations **.02-1** and **.04** under **COMAR 26.08.04 Permits**.

Statement of Purpose

The purpose of this action is to revise water quality standards as a result of the Triennial Review process. The review revealed several necessary amendments and additions to the water quality standards:

- 1. Add a definition.
- 2. Correct an error in the description of Water Quality Standards.
- 3. Update numeric toxics criteria.
- 4. Change the term “Use” to “Class” to better characterize the combination of waterbody type and designated uses given to each waterbody.
- 5. Update the list of “Tier II” (high quality) waters.
- 6. Amend designated uses which reflect existing uses.
- 7. Standardize the coordinate system for describing locations of waterbodies.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Backus, Environmental Program Manager, Maryland Department of the Environment, 1800 Washington Blvd. Baltimore, MD 21230, or call 410-537-3965, or

email to john.backus@maryland.gov. Comments will be accepted through January 13, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Department of the Environment during a public meeting to be held on January 7, 2014, at 3 p.m., at MDE Headquarters, 1800 Washington Blvd., Baltimore, MD 21230.

26.08.01 General

Authority: Environment Article, §§9-313—9-316, 9-319, 9-320, 9-325, 9-327, and 9-328, Annotated Code of Maryland

.01 Definitions.

A. General.

- (1)—(95) (text unchanged)
- (95-1) “Use Class” means the combination of waterbody type (e.g. non-tidal) and designated uses given to each waterbody.
- (96)—(103) (text unchanged)

26.08.02 Water Quality

Authority: Environment Article, §§9-303.1, 9-313—9-316, 9-319, 9-320—9-325, 9-327, and 9-328, Annotated Code of Maryland

.01 Surface Water Quality Protection.

A. (text unchanged)

B. Water Quality Standards.

- (1) The surface water quality standards consist of [two] three parts:
 - (a) Designated uses of the waters of this State; [and]
 - (b) Water quality criteria to protect the designated uses[.], and
 - (c) Antidegradation Policy
- (2)—(5) (text unchanged)

.02 Designated Uses.

A. (text unchanged)

B. Specific Designated Use[s] Classes.

- (1) [Use] Class I: Water Contact Recreation, and Protection of Nontidal Warmwater Aquatic Life. This [use] class designation includes waters that are suitable for:
 - (a)—(f) (text unchanged)
- (2) [Use] Class I-P: Water Contact Recreation, Protection of Aquatic Life, and Public Water Supply. This [use] class designation includes:
 - (a) All uses identified for [Use] Class I; and
 - (b) (text unchanged)
- (3) [Use] Class II: Support of Estuarine and Marine Aquatic Life and Shellfish Harvesting. This [use] class designation includes all applicable uses identified for [Use] Class I in:
 - (a)—(b) (text unchanged)
- (4) [Use] Class II-P: Tidal Fresh Water Estuary. This [use] class designation includes:
 - (a) All uses identified for [Use] Class II waters; and
 - (b) (text unchanged)
- (5) [Use] Class III: Nontidal Cold Water. This [use] class designation includes all uses identified for [Use] Class I and waters which have the potential for or are[:]
 [(a)] [S]suitable for the growth and propagation of self-sustaining trout[:] populations and other coldwater obligate species including, but not limited to the stoneflies tallaperla and sweltsa.
 [(b)] Capable of supporting self-sustaining trout populations and their associated food organisms.]
- (6) [Use] Class III-P: Nontidal Cold Water and Public Water Supply. This [use] class designation includes: