

DATE: October 11, 2023

TO: Chair and Directors
Electoral Areas Services Committee

FROM: James Warren
Acting Chief Administrative Officer

RE: **Septic Regulatory Program – Next Steps**

FILE: 5340-04

Supported by James Warren,
Acting Chief Administrative Officer

J. Warren

Purpose

To present an update on the Comox Valley Regional District (CVRD) regulatory program for septic systems, including next steps towards implementation.

Recommendation from the Acting Chief Administrative Officer:

THAT staff be directed to undertake next steps in septic regulatory program development, including public consultation in support of an Order in Council request to the Ministry of Municipal Affairs;

AND FURTHER THAT public consultation be based on septic regulatory program Option A as described in the staff report dated October 11, 2023.

Executive Summary

Under the provincial *Sewerage System Regulation* (SSR), septic system maintenance is the responsibility of the property owner. As the SSR does not include measures to ensure this maintenance is being completed, the CVRD has been assessing options for a local government role in ensuring septic systems are properly maintained. There are approximately 9,000 septic systems in use the Electoral Areas.

- A 2020 septic regulatory program options study identified mandatory pump-outs, mandatory inspections and mandatory inspection and maintenance as regulatory program options for consideration.
- This study also assessed public and environmental health risks associated with septic systems, identifying several electoral area neighborhoods at higher risk.
- Recently, interest in septic regulations has been expressed by several local groups and initiatives, including the 2022 Norovirus working group, Baynes Sound EcoForum, and the Sewer Extension South (SES) Liquid Waste Management Plan (LWMP) Addendum Public Advisory Committee.
- As public health is an area of concurrent local/provincial government authority, the CVRD would require additional authority to “impose requirements” prior to establishing a septic regulatory program; this involves Cabinet approval of an Order in Council (OIC) request to amend the CVRD Regulation accordingly.
- Due to the projected timeframes for public engagement and Ministry of Municipal Affairs consideration of issuance of an OIC, it is estimated that service establishment could be undertaken in the spring 2025 as part of the regional district’s unified Alternative Approval Process or through an assent vote.
- The annual septic regulatory program budget is currently anticipated to be between \$100-200k, which would result in a relatively modest property tax impact; however, some property

owners may see increased septic maintenance expenses as an outcome of compliance with regulatory program requirements.

- Next steps include public engagement in spring 2024 to support an early summer 2024 OIC request.

Prepared by:

V. Van Tongeren

Vince Van Tongeren
Environmental Analyst

Concurrence:

D. Monteith

Darry Monteith
Manager of
Liquid Waste Planning

Concurrence:

M. Rutten

Marc Rutten, P.Eng.
General Manager of
Engineering Services

Government and Community Interests Distribution (Upon Agenda Publication)

Sewer Extension South LWMP Addendum PACTAC	✓
Island Health	✓
Ministry of Health	✓

Background/Current Situation

Under the provincial SSR, it is the responsibility of the property owner to ensure that their septic system is properly maintained; however, this regulation does not include measures for provincial oversight to ensure systems are being maintained. Since 2016, the CVRD has done significant work to develop and deliver a septic education program to inform electoral area residents of septic system maintenance considerations and requirements, and to investigate options for regional district involvement in enhanced septic system regulatory measures.

The 2020 WSP septic regulatory options study ([link](#)) described four septic management program options, including cost estimates for program implementation across the CVRD’s three electoral areas. The option of a homeowner education program is now in place in the CVRD; additional septic management program options include the following:

- Mandatory Pump-Out
- Mandatory Inspection
- Mandatory Inspection and Maintenance

The study also included a preliminary assessment of risks to public and environmental health in CVRD electoral area neighborhoods; Bates Beach, parts of Hornby Island, Robinson Lake, Royston, Saratoga Beach, Ships Point and Union Bay were all found to be areas at higher risk per this assessment.

Since presentation of the regulatory program options study in 2020, there has been considerable local interest in the concept of a septic regulatory bylaw, as outlined below:

- 2022 Norovirus Working Group – This multi-agency group produced a Norovirus Mitigation Action Plan, including an item seeking stricter discharge regulations for septic systems, and an analysis of steps required to implement new local government bylaws. To better manage septic system issues not resolved by mandated pump outs, the recommended approach is to implement a mandatory maintenance program, with evidence of inspection or implementation provided by an authorized person.
- Baynes Sound Ecoforum – The November 2022 and May 2023 Ecoforum events have both been focussed on the impacts of sewage on Baynes Sound water quality. Ecoforum attendees have expressed support for enhanced septic regulations to ensure systems are

properly maintained and incentives to assist property owners in upgrading their septic systems.

- SES LWMP Addendum PACTAC – At the March 14, 2023 meeting, committee members expressed considerable support for a septic regulatory program that includes an enforcement component, and passed the following septic related motions:
 - To support a regulatory program in the plan area.
 - That an internal enforcement program be developed by the regional district that addresses the gap left by the Island Health regulatory scheme.
- Equip Training Continuing Education Forum – On May 26, 2023, this forum (for onsite wastewater practitioners and professionals) featured a discussion of onsite sewerage maintenance bylaws. Some attendees referenced capacity challenges within the industry, particularly for inspectors and maintenance providers, and the need for any regulatory program to have a phased approach such that industry capacity can be developed as the regulatory program is rolled out.

Staff have regular contact with Island Health, Ministry of Health, and the Ministry of Municipal Affairs representatives on the concept of local government septic regulations, and have sought legal advice on the process required to implement a regulatory framework for septic systems. Several key considerations are summarized below:

- Legislative Authority – A key rationale for a septic regulatory system is the protection of public health, an area of concurrent authority with the province. Regional district authority differs from that of municipalities, who are granted the additional authority to “impose requirements” for matters of public health. In order to enact a regional district septic regulatory bylaw that requires property owners to maintain their septic systems in accordance with the bylaw, BC Cabinet approval of an OIC to enact revisions to the CVRD Regulation will be necessary. Guidance from the Ministry of Municipal Affairs indicates that public consultation would be required in advance of requesting the OIC.
- Service Establishment – Protection of public health is considered an area of “specified regulatory authority” under the *Local Government Act*. The option of establishing a service for a septic regulatory system would not be considered a “regulatory service,” and would therefore require an elector approval process for service establishment. Participating area approval of the service establishment bylaw could be by assent vote or via an Alternate Approval Process (AAP) as the requisition limit for the service is expected to be well below the \$0.50 per \$1,000 taxable value threshold (LGA 345(1)). The specific method for participating area approval and other service establishment logistics would be considered following the issuance of the OIC by the Minister of Municipal Affairs.
- Amendment of existing LWMP service (340) – This service was established by director consent in 2002, under the authority of LGA 339(2)(b) for “coordination, research and analytical services relating to the development of the regional district.” Legal guidance received indicates that the addition of a new regulatory component would go well beyond the specific scope of activities contemplated under 339(2)(b). This could result in potential concern from the Inspector of Municipalities about adding the proposed regulatory component to the service without an elector approval process. As such a new septic regulatory service is the recommended approach.
- CVRD involvement in arranging pump-outs and/or inspections – Program cost estimates provided in the 2020 WSP report included pump-outs and inspections as program costs, assuming the CVRD would arrange these services on behalf of property owners and recover costs through taxation. Sewer Extension South LWMP Addendum PAC members also expressed considerable interest in a high level of CVRD involvement in septic inspections. It is important to consider risks to the organization in taking on this degree of responsibility for works installed on private property. Legal advice received has indicated it is preferable to

impose responsibility for pump-outs and inspections as much as possible on individual property owners, as is currently mandated through the SSR.

- Septic Regulations within the SES LWMP plan area – The proposed septic regulatory program would include all portions of the CVRD’s electoral areas. There is considerable interest from the SES LWMP Public Advisory Committee in seeing septic regulations enacted in the SES area. An approved LWMP provides local governments with the authority to proceed with the measures identified in the plan; should the overall electoral area septic regulatory program not proceed, an approved OIC request alongside an approved LWMP would provide the necessary authority for the CVRD to proceed with a regulatory program within the SES LWMP plan area in accordance with direction provided by the Public Advisory Committee.
- Island Health septic records – To assist with identifying priority areas for sewer servicing, the CVRD entered into an agreement with Island Health to access septic records for areas anticipated for servicing by the Sewer Extension South project. A similar agreement would be beneficial in better understanding the status of septic systems in areas identified as high risk. A written request to Island Health is a recommended step in gaining access to these additional records.
- When assessing septic regulatory options, an additional consideration identified in WSP’s 2020 study is that even a mandatory inspection and maintenance program would be challenged in effectively resolving septic-related issues in areas with poor ground conditions, high winter water table or urban levels of dwelling density. While the proposed extension of sewer services to the Royston and Union Bay area would resolve septic-related issues in this portion of Electoral Area A, there remain other electoral area neighborhoods with similar characteristics where sewer servicing options are not on the horizon.
- The Capital Regional District (CRD) is the only BC local government with a septic regulatory program in place. The CRD’s regulatory bylaw ([link](#)) requirements include mandatory pump-outs for Type 1 systems, and that Type 2 or 3 systems be maintained according to their maintenance plan on an annual basis. The CVRD mandatory pump-out bylaw option is proposed to be structured in a similar fashion.

Program Options

Two septic regulatory program options are described here for the committee’s information.

- A. Inspection-based program for high-risk areas, with mandatory pump-outs in all areas. This option would see a regulatory bylaw enacted mandating septic inspections in identified high-risk areas and periodic pump-outs for Type 1 systems (i.e. every five years) and annual maintenance in accordance with the system maintenance plan for Type 2 and 3 systems for all areas. All pump-outs, maintenance and inspections would be coordinated and arranged by individual property owners. Incentives for septic system inspections and/or upgrades could also be included.
- B. Mandatory pump-outs in all areas. This option would see a regulatory bylaw enacted mandating periodic pump-outs (i.e. every five years) for Type 1 septic systems and annual maintenance in accordance with the system maintenance plan for Type 2 and 3 septic systems, similar to the bylaw in place in the CRD. All pump-outs and maintenance would be coordinated and arranged by individual property owners. Similar to Option A, incentives for septic system inspections and/or upgrades could also be included

Option A is the preferred program implementation option and will form the basis of upcoming public consultation in support of the OIC request. A staff recommendation confirming program option direction will be provided in a Fall 2024 report to Electoral Areas Services Committee (EASC) after the OIC request outcome is confirmed.

Next Steps

Table No. 1 below outlines next steps and approximate timeframes towards the establishment of a septic regulatory program in the CVRD’s electoral areas.

Table No.1: Septic Regulatory Program Timeframe

Timeframe	Description
Fall 2023	Presentation to EASC of proposed program framework, service establishment process and support to proceed with OIC request
Spring 2024	Public engagement regarding the proposed regulatory service
Late spring 2024	Update to EASC on public engagement, recommendation/resolution in support of OIC request
Summer 2024	Submit OIC request to Ministry of Municipal Affairs
Fall 2024	Update to EASC on outcome of OIC request and confirmation of service establishment process
Spring 2025	Public inform campaign in support of service establishment process
June 2025	Assent vote or AAP (part of unified AAP process)
Summer 2025	EASC and Board consideration of participating area approval results
2026	Service startup

Options

Implementation of either regulatory program option described in this report will require completion of the OIC process prior to proceeding with program implementation. At this time, the following options are presented for the committee’s consideration:

1. Proceed with septic regulatory program development, starting with public engagement in support of an OIC request to gain the necessary authority for regulatory program implementation.
2. Not proceed with septic regulatory program development – this option would see the existing septic education program continue with no further work towards a septic regulatory program.

Option 1 is recommended by staff. This option would allow for continued progress towards a septic regulatory program through initial public engagement on a CVRD septic regulatory program and a subsequent OIC request to provide the CVRD with the necessary authority for program implementation.

Financial Factors

Property tax impacts for the program are expected to be more modest than has been previously communicated, as some costs previously assumed as program costs (i.e. inspections) would be homeowner costs, in line with the legal guidance received. Dependent upon whether incentives for septic system inspections and/or upgrades are included as program costs, an overall annual program budget is currently anticipated to be between \$100-200k. A more detailed program budget, including estimated property tax impacts for a median assessment property will be developed for inclusion in the spring 2024 public engagement.

Further to the annual property tax requisition will be the costs to comply with program requirements, as noted below in Table No. 2. In many instances, where homeowners are currently diligent about the operation and maintenance of their septic systems, these would not be new expenditures. That said, some homeowners may realize additional costs to undertake septic system inspections and maintenance. Additionally, there may be instances where a program mandated

inspection identifies a need for a full septic system replacement in an earlier timeframe than would have occurred with no regulatory program in place.

Table No.2: Septic Regulatory Program Costs

Description	Cost	Notes
Tank pump-out	\$350 - \$650	Every 5 years for Type 1 systems
Annual Maintenance	\$200 - \$800	Annually for Type 2 and 3 systems
Inspection	\$400 - \$900	Every 8 years in high risk areas (approximately 1,600 homes, 200 homes/year)

Work to advance the septic system regulatory program is being funded through the Liquid Waste Planning service, function 340. Should the recommendations in this report be approved, the spring 2024 public engagement costs (approximately \$7,500) would be included in the 2024 budget for function 340.

Strategic Considerations - Strategic Drivers								
Fiscal Responsibility	✓	Climate Crisis and Environmental Stewardship and Protection	✓	Community Partnerships		Indigenous Relations	✓	Accessibility, Diversity, Equity and Inclusion

Septic regulation meets the CVRD Board’s key drivers as follows:

- **Fiscal Responsibility:** In rural areas where sewer servicing is cost prohibitive, properly maintained and operated septic systems provide a cost-effective means of wastewater management.
- **Climate Crisis and Environmental Stewardship and Protection:** Regulation of septic systems to ensure they are being properly maintained will help reduce the risk of sewage contaminating local waters.
- **Indigenous Relations:** Septic regulations will help protect Baynes Sound, an area of economic and cultural importance to K’ómoks First Nation, while also helping reduce environmental health risks to lands and waters within K’ómoks traditional territory.

Strategic Considerations - Regional Growth Strategy Goals							
Housing	✓	Ecosystems, Natural Areas and Parks	✓	Local economic development	✓	Transportation	
Infrastructure	✓	Food Systems		Public Health & Safety	✓	Climate Change	

Enhanced septic regulations will work towards CVRD Regional Growth Strategy goals as follows:

- **Housing:** In areas without sewer servicing, development of diverse housing options is supported by proper management of on-site septic systems.
- **Ecosystems, natural areas and parks:** Properly maintained septic systems help protect the natural environment.
- **Local economic development:** Enhanced septic system regulations could create additional economic opportunities for qualified on-site wastewater professionals.
- **Infrastructure:** In rural areas where sewer servicing would be cost prohibitive, properly maintained septic systems provide affordable, effective and efficient wastewater treatment that conserves land, water and energy resourced.

- Public health and safety: Enhanced septic regulations will help reduce public health risks associated with poorly maintained or aging septic systems.

Intergovernmental Factors

CVRD staff have had regular contact with Island Health, the Ministry of Health, and Ministry of Municipal Affairs representatives on the concept of local government septic regulations. A letter of support from Island Health has been provided and is attached as Appendix A. A letter of support from the Ministry of Health is in development and will be provided to the CVRD to support the OIC request.

While septic systems are in use in some areas in member municipalities, inclusion of these areas as part of a regional district mandatory maintenance program would require municipal participation in the service area, and regional district authority to regulate septic system use within a member municipality. To date, there have been no discussions with municipal staff in this regard. Given the limited number of systems estimated in member municipalities, and the jurisdictional challenges in bringing these systems into a proposed regional district program, there would likely be limited value in municipal participation in a CVRD mandatory maintenance program for septic systems.

In advance of the spring 2024 public engagement on the program, staff will engage further with provincial staff on expectations for First Nations engagement. At this time, the CVRD has not identified any impacts to First Nations through the proposed program.

Citizen/Public Relations

Onsite sewage system owners who have a thorough understanding of how their system works and the benefits of proper maintenance and care have the best likelihood of following a recommended maintenance regime. The CVRD's septic education program has been very successful in this regard, with almost 400 attendees at the in-person and virtual workshops held to date. Continuing this existing education program is recommended whether or not a regional district septic regulatory program is established.

A communication plan has been developed for spring 2024 to educate and gather feedback from residents on the preferred approach selected by the electoral area directors. Both an in-person and virtual public information sessions will be held and information will be placed on Engage Comox Valley and CVRD websites for more information. Promotion of the sessions will happen through the CVRD update weekly ad, social media and incorporated within corporate newsletters. Feedback from these sessions will be provided to electoral area directors before summer 2024 for further direction.

Attachments: Appendix A – May 2022 Letter of Support from Island Health

Excellent health and care, for everyone,
everywhere, every time.



Sent via email

May 5, 2022

Darry Monteith
Comox Valley Regional District
770 Harmston Avenue
Courtenay, BC V9N 0G8
dmonteith@comoxvalleyrd.ca

Dear Darry Monteith:

RE: Island Health Support of Local Government Involvement in Oversight of Sewerage System Maintenance

Island Health is aware and supportive of the Comox Valley Regional District's efforts to investigate options for local government involvement in improving oversight of onsite septic system maintenance requirements. As you are aware, since 2005 the Health Authorities no longer have a dedicated inspection role of sewerage systems, as this is when the Sewerage System Regulation changed to one of a professional reliance model.

Island Health has been working in collaboration with the CVRD to share data on the sewage records for the Royston / Union Bay areas as we are in support of the community sewer-servicing proposal. We have provided a letter of support in the recent grant application to assist in funding that proposed project. The data sharing exercise demonstrated concerning results around the numbers of properties for which there is no record of any sewerage system (Royston 29% of properties had no file and Union Bay with 44% of properties with no file). This suggests either that the systems are exceptional old, pre-dating legislative requirements or that the systems have been installed or altered without following the legislated process and therefore may or may not meet minimum construction requirements.

Further to that, approximately 70% of the existing sewage files have systems installed prior to the year 2000. Although the life span of a sewerage system is quite variable depending on a multiplicity of factors, an average life span of 20 to 25 years is a rough estimate. This suggests that many of these systems are coming to the end of their operational life span and will soon need replacement.

The proper design, installation and maintenance of sewerage systems is essential to ensure its proper function and thus protect public health. Sewage that is not properly treated can impact drinking water by entering wells, leach onto the surface of the ground or into surface water (both fresh and marine) thus impacting public health and the environment.

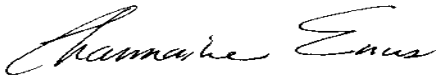
In 2016/2017 there was a Norovirus outbreak linked to the consumption of BC oysters. This outbreak affected more than 400 people and impacted the Baynes Sound shellfish farms that were some of the farms linked to Norovirus outbreak. In 2018, the BC Centre for Disease Control issued a final report of the findings of a working group (provincial and federal agencies as well as technical experts), that explored potential causes of Norovirus in the environment. The solution moving forward indicated that in order to prevent contamination of oysters with Norovirus we must control the amount of untreated

sewage entering the marine environment. Private septic field seepage was listed as one of these sources. The most recent Norovirus outbreak affecting the Baynes Sound shellfish producers reinforces the need to continue with actions to improve the disposal of wastewater in this area.

The adoption of a septic regulatory bylaw by the CVRD could be supported under the Public Health Bylaws regulation. This would address other areas of high density that would not be part of the proposed sewer expansion project, such as Ships Point. This would also support the Royston and Union Bay areas in the event that the sewer expansion project does not move forward.

We are committed to continue to work collaboratively with the CVRD and other stakeholders on efforts to advance the septic regulation work and encourage the CVRD to continue to explore options and proceed with work to provide enhanced local oversight of septic maintenance.

Yours in health,



Charmaine Enns, MD, MHSc, FRCPC
Medical Health Officer

cc: Nancy Clements, Healthy Built Environment/Drinking Water/Land Use Consultant, Island Health
Charlene MacKinnon, Senior Environmental Health Officer, Island Health
Ella Derby, Environmental Health Officer, Island Health