

Virginia Department of Health
Sewage Handling and Disposal Advisory Committee (SHADAC) Meeting
November 8, 2017
Meeting Summary

Location: James Madison Building
Upper Basement Conference Room 11
109 Governor Street
Richmond, Virginia 23219

List of Attendees:

SHADAC Members

Mike Lynn, Chairman – Home Builders Association of Virginia
Dwayne Roadcap – Virginia Department of Health
Curtis Moore – Virginia Onsite Wastewater Recycling Association
Vincent Day – Virginia Section American Institute of Professional Geologist
Chris Beatley – Manufacturer (sitting in for Colin Bishop)
Adam Feris – Virginia Environmental Health Association
Joel Pinnix – American Council of Engineering Companies of Virginia
Alan Brewer – Virginia Association of Counties
Cody Vigil – Manufacturer
V'Lent Lassiter – Chesapeake Bay Local Assistance Department
Channing Blackwell – Virginia Society of Professional Engineers
Bill Sledjeski – Virginia Association of Professional Soil Scientist
Curt Linderman – Virginia Department of Environmental Quality (sitting in for Valerie Rourke)

VDH Staff and Members of the Public

Lance Gregory – VDH	Todd Grubbs – VDH	Marcia Degen – VDH
Karri Atwood – VDH	Paul Saunders	Becky Golden
Mike Burch		

Administrative

1. Welcome.

Chairman Lynn welcomed the committee members, VDH staff, and the public to the meeting.

Mr. Roadcap announced that he would be taking a new position as director of the Office of Drinking Water.

Mr. Gregory stated that VDH is working to fill vacant positions on the SHADAC. Once the vacant positions are filled, VDH would begin working on updating current member appointments.

2. Approve agenda.

Mr. Pinnix request to add a discussion on the fast-track regulations under item one.

Mr. Moore moved to approved agenda.

Mr. Brewer seconded the motion.

All members were in favor of the motion.

3. Review summary from August 11, 2017 meeting.

Mr. Moore move to approve the summary.

Mr. Brewer seconded the motion.

All members were in favor of the motion.

Public Comment Period

There were no public comments.

Standing Agenda Items

1. Issues related to internal VDH policies and processes.

i. Print form for local ordinance denials.

Mr. Grubbs commented that he is working on a template letter for local health departments to use when issuing denials based on a local ordinance. The template letter would be placed in the VDH database as a print form. Mr. Grubbs stated the current draft is to have one letter covering both state and local comments on the application.

Mr. Moore asked whether the letter would have appeal language if denied based on a local ordinance.

Mr. Grubbs commented that the current draft would provide an appeal process, start with an informal fact finding conference.

ii. Fast-track regulations.

Mr. Pinnix commented that the fast-track regulations which took effect July 17, 2017, allows a relief from direct dispersal treatment standards and operation and maintenance standards if you meet certain conditions. However, he believes the language is little bit confusing. He noted that the conditions are if you are under 1,000 gallons per day (gpd), the existing system is already direct dispersal, then you can do a repair or voluntary upgrade and get relief from treatment or operation and maintenance standard. To do so, the system must provide 50% total nitrogen

reduction, treatment level 3 (TL-3) effluent with disinfection and standard operation and maintenance monitoring. When you look at the language, it says all repairs and upgrades have to comply with those requirements to get relief. However, you can actually get a waiver from any treatment standard, and if you ask for a waiver it has to be granted. Mr. Pinnix asked, if an owner installs something less than TL-3, 50% total nitrogen reduction, and disinfection, and ask for a waiver, do they still get relief from the operation and maintenance. He commented that VDH is saying yes, but he does not believe that is what the language says. Mr. Piinix made a motion to request that VDH issue a policy articulating that if an owner takes a treatment waiver, they still receive relief from the operation and maintenance requirements for direct dispersal.

Mr. Moore seconded the motion.

Chairman Lynn commented that he does not see the harm in having a policy.

Mr. Pinnix commented that he doesn't have issue with interpretation. When there is ambiguity, the agency is given deference over interpretation.

All members were in favor of the motion.

Old Business

1. HB 2477 Report.
 - i. GMP 2017-01.

Mr. Gregory provided the committee with an overview of the draft report. He noted the bill requires VDH to submit report to the General Assembly by November 1, 2017. VDH requested and received extension to November 15, 2017. House Bill 2477 has eight specific tasks; Guidance Memorandum and Policy (GMP) 2017-01, deals with task number 1, 2, and 8 in HB 2477. The first task requires designer to disclose conventional onsite sewage system (COSS) options to owners. VDH revised the certification statement and modified cover page to address this task. We mention in that draft report that VDH will continue to monitor the revisions and discuss issues with the SHADAC.

Mr. Gregory stated that GMP 2017-01 lays out the process for VDH to perform 100% inspections of onsite sewage system, including contractors providing 24 hour notice. The inspection will confirm location, depth, sizing and treatment level. The draft report notes that without a statutory change, the notification to VDH is voluntary.

Mr. Moore asked whether the inspection notice is in the approval letter for the permit,

Mr. Gregory noted that it would be a great idea, and that VDH can add that to the permit print form.

Mr. Gregory noted that the transfer of valid construction permit is also contained in GMP 2017-01. Statements have been added to VDH print forms, but they are in testing and OEHS is asking districts to test.

Mr. Moore asked whether permits issued prior to the policy or legislation would be allowed to transfer.

Mr. Gregory noted that his understanding is the transferability is retroactive for existing permits.

Mr. Pinnix noted that as private sector consultant, his contract says there is no third party beneficiary. As soon as the permit transfers, he is off the hook.

Chairman Lynn commented that another private consultant proposed a voluntary upgrade or expansion that would require treatment. The owner went to the local health department, and the local health department said the owner could install a conventional with reduction for gravelless system. Chairman Lynn asked whether he is required to advise the owner of the gravelless option.

ii. Education and outreach.

Mr. Gregory commented that the draft report speaks about two pilot projects for education and outreach, and includes an established process for education and outreach. The first pilot project was at a statewide level for SepticSmart Week. VDH got a Governor's proclamation, put out information on social media, and there were activities at local health departments. VDH will go back and look at data and see whether there was impact from the outreach effort, such as did it increase operation and maintenance reporting. The second effort is ongoing with Smith Mountain Lake Association. VDH is developing information to put on our website, looking at broad guidance for onsite systems. We'll then work with Smith Mountain Lake stakeholder to use that information on a local level.

iii. Community health assessments.

Mr. Gregory noted there is big push to focus on population health and community health assessments. The first step to incorporate environmental health into that process is to help local health department identify stakeholders for the process. OEHS has provided resources to local health departments and provided training on community health assessments from an environmental perspective. Mr. Gregory noted that years ago Loudoun County identified neighborhoods in need or with inadequate sewage disposal and brought those communities to the attention of community leaders. He stated that process could be a good model for other areas in the state.

Mr. Brewer commented that Loudoun conducted a county wide needs assessment based on risk, and then incorporated that assessment into the capital improvement budget. The Board of Supervisors decided that community water and wastewater were a public good, and set out a plan to fund projects.

iv. Separating work unit functions

Mrs. Atwood commented that VDH developed a workgroup to review this component of HB 2477. The workgroup recommended to separate work unit functions first at a local level, and then at a regional level as resources allow.

v. Data collection and sharing.

Mr. Gregory commented that the HB 2477 report discusses VDH's recent request for proposal regarding the database, and that a new database will be in place in 2019 that addresses the goals in HB 2477.

Mr. Moore recommended having staff from the Division of Data Management and Process Improvement come to speak at the next SHADAC meeting regarding the database.

2. Legislative Proposals

Next, the committee discussed three legislative proposals being put forward by VDH. The first deals with a transition of onsite sewage system and private well evaluation and design to the private sector.

Mr. Pinnix stated that he asked Delegate Hodges where VDH gets its authority to provide these services. Mr. Pinnix stated that Delegate Hodges reached out to legislative services, and they said there was no statutory authority.

Mr. Gregory and Mr. Roadcap commented on the historic perspective of the program. VDH was initially the only provider of these services when the program began in the 1960s. Additionally, the budget bill set up different fees for bare applications without private sector work.

Mr. Gregory stated that the transition proposal is based on recommendations from House Bill 558 report. There are six pieces to the proposal: 1) allow well drillers to provide site evaluations, 2) VDH would cease providing services not associated with building permit or repair of failing systems on July 1, 2018, 3) on July 1, 2018 VDH would cease providing new construction service when not for a principle place of residence, 4) on July 1, 2018, owners would be required to petition VDH to provide services, 5) VDH would develop guideline for owners to demonstrate hardship as provider of last resort, and 6) within 5 years, VDH would cease providing service unless there is hardship based on a progression of reducing income eligibility.

Mr. Gregory also noted that the proposal to transition services include a budget amendment to allow VDH to charge fees for services which are currently provided for free.

Comments regarding the transition of services proposal included:

- VDH should provide an example of the petition for services.
- Might consider including a statement to allow for inter-agency expertise.

- Need to revise the language regarding federal poverty guidelines to clarify whether it is the applicant or the property owner, and whether it is individual or household income level.
- Should move the sentence regarding when VDH will cease providing services to the end of the proposal.
- Need to reduce the number of steps based on income; people at 400% of the federal poverty guideline can afford private sector services.
- Private well designs require a professional engineer.
- May consider limiting the scope of the types of evaluations well drillers can provide (i.e. single family residential wells).

Mr. Gregory noted that the companion piece to the proposed transition is the budget proposal. The concept is to charge new fees for repairs, voluntary upgrades, and safe, adequate, and proper evaluations. The proposal is based on the House Bill 558 report.

Comments regarding the transition of services proposal included:

- In the existing budget language, the fees are listed as “no more than”. Using similar language for the proposed fees may be more palatable.
- Suggest including inflation adjuster in the budget bill and looking at what other states are charging.
- How many permits (new construction, repairs, voluntary upgrades, certification letters) did VDH issue in 2016.

Mr. Gregory commented on another legislative proposal to revise the definition of maintenance. The revision proposes to incorporate component replacements into maintenance, such as the simple replacements for distribution boxes, tanks. Another proposal would require reporting. The purpose of the proposal is to streamline the process for owners and VDH.

Comments regarding the proposed revision to the definition of maintenance included:

- VDH could streamline the process internally with an expressed application process.
- VDH will not receive reports on simple repairs and upgrades completed under the revised definition of maintenance.
- If maintenance must be done by operator, it may help with reporting.
- Need to say that maintenance can be done by an operator.
- Need to clarify what drainfield piping means.
- There is a significant issue with infiltration into tanks. Replacing a tank is major construction activity and it should have oversight.
- Installers are being short-changed.

Mr. Gregory concluded the discussion with a third proposal dealing with operation and maintenance of conventional systems. He noted the goal of this proposal is to obtain reporting for maintenance, such as the simple component replacements in the revised definition of maintenance and septic pump outs.

Comments regarding the proposal for conventional onsite sewage system operation and maintenance included:

- Localities already have authority to require conventional onsite sewage system operation and maintenance.
- Alternative onsite sewage system operation and maintenance is not being managed well.
- Don't see how the industry could be against operation and maintenance for conventional onsite sewage system.
- The Board of Health doesn't have authority.
- Beneficial from a programmatic standpoint to have one entity that collects the information and tracks in a statewide base,
- How will you get owners to buy-in to this program?
- Will require a regulatory process.
- In Washington State they were able to get a complete inventory by capturing the pump-outs information.
- Need to separate from language for conventional and alternative systems.

3. AOSS Regulations revision process update.

- i. Performance requirements, 12VAC5-613-80.
- ii. Sampling requirements, 12VAC5-613-100.
- iii. TL-3 approvals, 12VAC5-613-70.

Mrs. Atwood provided a presentation to the committee regarding the current progress of the periodic review of the Regulations for Alternative Onsite Sewage Systems (12VAC5-613, the AOSS Regulations). The AOSS Regulations recently went through a periodic review. There were 34 public comments focused on 12VAC5-613-70, 80, 90, and 100, and lack of clarity and enforcement. VDH formed work groups based on the subsections, and held several meetings to discuss revisions to each. VDH drafted amendments based on what we heard. The drafted was posted on townhall and sent to subgroups for more feedback. The goal is to develop consensus recommendations and present to SHADAC.

The SHADAC discussed elements of the AOSS Regulations regarding sampling for total nitrogen:

- There is no way for a design to be compliant if the background total nitrogen level is above the standard.
- If the existing regulations already require groundwater monitoring, then monitoring at the property boundary is the most conservative approach.
- Prefer to have sampling right at the system, because I'd have the most control.

New Business

1. Process to Revise the Sewage Handling and Disposal Regulations

Mr. Gregory noted that staff would be beginning the process to revised the regulations.

Chairman Lynn suggested starting with a narrow list from the SHADAC subcommittee on regulatory actions.

Mr. Moore comment there is a benefit to have small workgroups for different sections of the regulations.

2. Recordation Requirement for AOSS.

Chairman Lynn commented that there seems to be a lot of running around for a document that nobody sees. Think the intention was good.

Mr. Pinnix commented that the requirement is statutory. He added that in Loudoun you have to record type of system among a list of other items.

Mr. Blackwell commented that the recordation requirement does save on the back end when you look at the land records.

3. SB 1577 Report.

Mr. Roadcap commented that he expected to have a draft report later in the week for stakeholder feedback with a goal of submitting it to the General Assembly by December 1st.

Mrs. Atwood comment that the draft recommends revising 100.D and E to improve confidence in results. VDH is also working to post operation and maintenance sampling data online by December 1, 2017.

Mr. Pinnix commented that there was a bunch of data available in 2009 from manufacturers that pursued TL-3 approval. When he looked at tolerance limits, the manufacturers had a 50% chance of getting a sample that was 30/30 BOD and TSS. Data from 2017 was remarkably similar.

Adjourn

**Virginia Department of Health
Sewage Handling and Disposal Advisory Committee (SHADAC) Meeting
Agenda**

Date: November 8, 2017
Time: 10 am to 2 pm
Primary Location: James Madison Building
Upper Basement Conference Room 11
(Moving to 5th Floor Main Conference Room at noon)
109 Governor Street
Richmond, Virginia 23219

Administrative (15 minutes)

1. Welcome. (5 minutes)
2. Approve agenda. (5 minutes)
3. Review summary from August 11, 2017 meeting. (5 minutes)

Public Comment Period

Standing Agenda Items (20 minutes)

1. Issues related to internal VDH policies and processes. (20 minutes)
 - i. Print form for local ordinance denials.

Old Business (30 minutes)

1. HB 2477 Report. (30 minutes)
 - i. GMP 2017-01. (30 minutes)

Break (10 minutes)

Old Business Continued (45 minutes)

1. HB 2477 Report Continued (30 minutes)
 - ii. Education and outreach. (10 minutes)
 - iii. Community health assessments. (5 minutes)
 - iv. Separating work unit functions (10 minutes)
 - v. Data collection and sharing. (5 minutes)

2. Legislative Proposals (15 minutes)

Break (10 minutes)

Old Business Continued (60 minutes)

3. AOSS Regulations revision process update. (60 minutes)
 - i. Performance requirements, 12VAC5-613-80. (20 minutes)
 - ii. Sampling requirements, 12VAC5-613-100. (20 minutes)
 - iii. TL-3 approvals, 12VAC5-613-70. (20 minutes)

Break (10 minutes)

New Business (40 minutes)

1. Process to Revise the Sewage Handling and Disposal Regulations (10 minutes)
2. Recordation Requirement for AOSS. (10 minutes)
3. SB 1577 Report. (20 minutes)

Adjourn

Draft HB 2477 Report Overview

Vision

The strategic vision of VDH is to shift site evaluation and design services for onsite sewage systems and private wells to the private sector in an orderly manner so limited VDH resources can be focused on improving public health and groundwater supplies.

HB 2477 Implementation

VDH's response and implementation of the specific tasks contained in HB 2477 is as follows:

Task #1: *Require, in cases in which site evaluations and design services for onsite sewage systems and private wells are provided by private sector service providers, that such site evaluation and design service providers disclose to the property owner when a conventional onsite sewage system is an option.*

GMP 2017-01 requires private sector service providers and VDH staff to certify on their design that options for COSS and AOSS were discussed with the property owner. Will continue to monitor the disclosure statement through SHADAC meetings and agency interaction with citizens. VDH will update its policy and procedures, if necessary.

Task #2: *Revise agency regulations and policies to require VDH staff to inspect all onsite sewage systems and private wells designed by private sector service providers.*

GMP 2017-01 request that contractors provide VDH with at least 24-hour notice before commencing construction of onsite systems designed by the private sector. Once notified, VDH staff will conduct a site visit during the installation to confirm the location, treatment level, depth, and sizing of the installation. Without a code change, notification by the contractor community will be voluntary. Will monitor and seek voluntary compliance.

Task #3: *Expand efforts to educate the public concerning the design, operation, and maintenance of onsite sewage systems and private wells.*

VDH developed an outline for onsite sewage and private well education and outreach programs, and is using the outline for two pilot projects: one on a statewide level and one on a local level. Will continue to develop outreach programs for stakeholders and develop lessons learned from the two pilot projects.

Task #4: *Expand efforts to incorporate onsite sewage systems and private well data into community health assessments.*

OEHS worked with LHD's to develop a list of possible stakeholders to include in community health assessments and a list of external environmental data sources that can be used as part of a community health assessment. OEHS also provided training on a national protocol for conducting community based EH assessments.

Task #5: *Enhance quality assurance checks and inspection procedures for the review of evaluations, designs, and installations by private sector service providers and update VDH's quality assurance manual to reflect this change in the agency's business model.*

Onsite Quality Assurance Manual includes new procedures for inspections. The new manual also has an improved method for tracking adherence to quality assurance measures. Updates to GMPs also promote consistency.

Task #6: *Consider separating work unit functions regarding permitting and enforcement for onsite sewage systems and private wells to ensure that staff reviewing evaluations and designs for permitting purposes are separate and independent from staff performing enforcement functions.*

Considering a local enforcement model for initial implementation of separating work unit functions. The local enforcement model operates similarly to VDH's current model, except the future model will separate permitting and enforcement functions, allowing for greater expertise and efficiency in each area. Will consider a regional enforcement model when adequate resources are available.

Task #7: *Improve the collection and management of data about onsite sewage systems and private wells, including (i) creating a web-based reporting system for conventional onsite sewage system operation and maintenance, (ii) accepting applications and payments online, (iii) making onsite sewage system and private well records available online, (iv) creating a complete electronic record of all permitted onsite sewage systems and private wells in the Commonwealth, and (v) creating procedures for tracking Notices of Alleged Violations and corrective actions.*

A new EH data management system is slated to be in place by January 1, 2019. The new system will include: a web-based reporting system for COSS; a method for accepting applications and payments online; a method for making onsite sewage and private well records available online; and tracking Notices of Alleged Violations and corrective actions. VDH has also instituted several pilot projects to develop a process for creating a complete inventory of onsite sewage systems and private wells. Also created a new data management division.

Task #8: *Revise agency policies to allow the transfer of valid construction permits for onsite sewage systems and private wells to new property owners.*

GMP 2017-01 contains procedures to facilitate the transfer of valid construction permits. VDH will continue to monitor the implementation with the SHADAC and other stakeholders.

Recommendations

Recommendation #1

Amend the Code of Virginia to give well drillers the authority to perform sanitary surveys for locating wells and submitting work to VDH.

Recommendation #2

Amend § 32.1-163 of the Code of Virginia to revise the definition of maintenance, such that paperwork is reduced for certain types of repairs or voluntary upgrades.

Recommendation #3

Amend § 32.1-164 of the Code of Virginia to establish an O&M program and reporting for COSS, which will improve program oversight and protection of public health and groundwater.

Recommendation #4

Amend the Code of Virginia to shift onsite sewage system evaluations and design services which are not associated with a building permit or the repair of a failing system (i.e., subdivision reviews, certification letters, and voluntary upgrades) to the private sector by July 1, 2018.

Recommendation #5

Amend the Code of Virginia to shift new construction evaluations and designs which are not for a principle place of residence to the private sector by July 1, 2018.

Recommendation #6

Amend the Code of Virginia to require VDH to establish guidelines to help property owners with a specific hardship and be a provider of last resort.

Recommendation #7

Amend the Code of Virginia to require applicants to petition VDH to provide evaluation and design services for new construction, repairs, and safe, adequate, and proper (SAP) evaluations.

Recommendation #8

Amend the Code of Virginia to ensure the orderly transition of evaluations and designs for new construction, repair, and SAP evaluations over a five-year period based on a sliding scale of income eligibility.

Recommendation #9

Amend the Appropriations Act to allow VDH to retain its current level of funding during and after the transition of direct services to private sector service providers. Keep VDH funded to maintain staffing levels necessary to provide oversight, improve O&M of AOSS and alternative discharging sewage systems, improve management of onsite sewage system and private well data, and incorporate onsite sewage systems and private wells into community health planning.

Recommendation #10

Amend the Code of Virginia to create a fund to cover the cost of designing and installing repairs for failing onsite sewage systems and private wells for income eligible property owners.

Virginia Department of Health

Program for the operation and maintenance of conventional sewage systems.

Draft Legislation

§ 32.1-164. Powers and duties of Board; regulations; fees; onsite soil evaluators; letters in lieu of permits; inspections; civil penalties.

A. The Board shall have supervision and control over the safe and sanitary collection, conveyance, transportation, treatment, and disposal of sewage by onsite sewage systems and alternative discharging sewage systems, and treatment works as they affect the public health and welfare. The Board shall also have supervision and control over the maintenance, inspection, and reuse of conventional onsite sewage systems and alternative onsite sewage systems as they affect the public health and welfare. In discharging the responsibility to supervise and control the safe and sanitary treatment and disposal of sewage as they affect the public health and welfare, the Board shall exercise due diligence to protect the quality of both surface water and ground water. Upon the final adoption of a general Virginia Pollutant Discharge Elimination permit by the State Water Control Board, the Board of Health shall assume the responsibility for permitting alternative discharging sewage systems as defined in § 32.1-163. All such permits shall comply with the applicable regulations of the State Water Control Board and be registered with the State Water Control Board.

In the exercise of its duty to supervise and control the treatment and disposal of sewage, the Board shall require and the Department shall conduct regular inspections of alternative discharging sewage systems. The Board shall also establish requirements for maintenance contracts for alternative discharging sewage systems. The Board may require, as a condition for issuing a permit to operate an alternative discharging sewage system, that the applicant present an executed maintenance contract. Such contract shall be maintained for the life of any general Virginia Pollutant Discharge Elimination System permit issued by the State Water Control Board.

B. The regulations of the Board shall govern the collection, conveyance, transportation, treatment and disposal of sewage by onsite sewage systems and alternative discharging sewage systems and the maintenance, inspection, and reuse of conventional onsite sewage systems and alternative onsite sewage systems. Such regulations shall be designed to protect the public health and promote the public welfare and may include, without limitation:

1. A requirement that the owner obtain a permit from the Commissioner prior to the construction, installation, modification or operation of a sewerage system or treatment works except in those instances where a permit is required pursuant to Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1.
2. Criteria for the granting or denial of such permits.
3. Standards for the design, construction, installation, modification and operation of sewerage systems and treatment works for permits issued by the Commissioner.
4. Standards governing disposal of sewage on or in soils.
5. Standards specifying the minimum distance between sewerage systems or treatment works and:
 - (a) Public and private wells supplying water for human consumption,
 - (b) Lakes and other impounded waters,
 - (c) Streams and rivers,
 - (d) Shellfish waters,
 - (e) Ground waters,
 - (f) Areas and places of human habitation,
 - (g) Property lines.
6. Standards as to the adequacy of an approved water supply.
7. Standards governing the transportation of sewage.
8. A prohibition against the discharge of untreated sewage onto land or into waters of the Commonwealth.
9. A requirement that such residences, buildings, structures and other places designed for human occupancy as the Board may prescribe be provided with a sewerage system or treatment works.
10. Criteria for determining the demonstrated ability of alternative onsite systems, which are not permitted through the then current sewage handling and disposal regulations, to treat and dispose of sewage as effectively as approved methods.
11. Standards for inspections of and requirements for maintenance contracts for alternative discharging sewage systems.

12. Notwithstanding the provisions of subdivision 1 above and Chapter 3.1 of Title 62.1, a requirement that the owner obtain a permit from the Commissioner prior to the construction, installation, modification, or operation of an alternative discharging sewage system as defined in § 32.1-163.

13. Criteria for granting, denying, and revoking of permits for alternative discharging sewage systems.

14. Procedures for issuing letters recognizing onsite sewage sites in lieu of issuing onsite sewage system permits.

15. Performance requirements for nitrogen discharged from alternative onsite sewage systems that protect public health and ground and surface water quality.

C. A fee of \$75 shall be charged for filing an application for an onsite sewage system or an alternative discharging sewage system permit with the Department. Funds received in payment of such charges shall be transmitted to the Comptroller for deposit. The funds from the fees shall be credited to a special fund to be appropriated by the General Assembly, as it deems necessary, to the Department for the purpose of carrying out the provisions of this title. However, \$10 of each fee shall be credited to the Onsite Sewage Indemnification Fund established pursuant to § 32.1-164.1:01.

The Board, in its regulations, shall establish a procedure for the waiver of fees for persons whose incomes are below the federal poverty guidelines established by the United States Department of Health and Human Services or when the application is for a pit privy or the repair of a failing onsite sewage system. If the Department denies the permit for land on which the applicant seeks to construct his principal place of residence, then such fee shall be refunded to the applicant.

From such funds as are appropriated to the Department from the special fund, the Board shall apportion a share to local or district health departments to be allocated in the same ratios as provided for the operation of such health departments pursuant to § 32.1-31. Such funds shall be transmitted to the local or district health departments on a quarterly basis.

D. In addition to factors related to the Board's responsibilities for the safe and sanitary treatment and disposal of sewage as they affect the public health and welfare, the Board shall, in establishing standards, give due consideration to economic costs of such standards in accordance with the applicable provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

E. Further a fee of \$75 shall be charged for such installation and monitoring inspections of alternative discharging sewage systems as may be required by the Board. The funds received in

payment of such fees shall be credited to a special fund to be appropriated by the General Assembly, as it deems necessary, to the Department for the purpose of carrying out the provisions of this section. However, \$10 of each fee shall be credited to the Onsite Sewage Indemnification Fund established pursuant to § 32.1-164.1:01.

The Board, in its regulations, shall establish a procedure for the waiver of fees for persons whose incomes are below the federal poverty guidelines established by the United States Department of Health and Human Services.

F. Any owner who violates any provision of this section or any regulation of the Board of Health or the State Water Control Board relating to alternative discharging sewage systems or who fails to comply with any order of the Board of Health or any special final order of the State Water Control Board shall be subject to the penalties provided in §§ 32.1-27 and 62.1-44.32.

In the event that a county, city, or town, or its agent, is the owner, the county, city, or town, or its agent may initiate a civil action against any user or users of an alternative discharging sewage system to recover that portion of any civil penalty imposed against the owner which directly resulted from violations by the user or users of any applicable federal, state, or local laws, regulations, or ordinances.

G. The Board shall establish and implement procedures for issuance of letters recognizing the appropriateness of onsite sewage site conditions in lieu of issuing onsite sewage system permits. The Board may require that a survey plat be included with an application for such letter. Such letters shall state, in language determined by the Office of the Attorney General and approved by the Board, the appropriateness of the soil for an onsite sewage system; no system design shall be required for issuance of such letter. The letter may be recorded in the land records of the clerk of the circuit court in the jurisdiction where all or part of the site or proposed site of the onsite sewage system is to be located so as to be a binding notice to the public, including subsequent purchases of the land in question. Upon the sale or transfer of the land which is the subject of any letter, the letter shall be transferred with the title to the property. A permit shall be issued on the basis of such letter unless, from the date of the letter's issuance, there has been a substantial, intervening change in the soil or site conditions where the onsite sewage system is to be located. The Board, Commissioner, and the Department shall accept evaluations from licensed onsite soil evaluators for the issuance of such letters, if they are produced in accordance with the Board's established procedures for issuance of letters. The Department shall issue such letters within 20 working days of the application filing date when evaluations produced by licensed onsite soil evaluators are submitted as supporting documentation. The Department shall not be required to do a field check of the evaluation prior to issuing such a letter or a permit based on such letter; however, the Department may conduct such field analyses as deemed necessary to protect the

integrity of the Commonwealth's environment. Applicants for such letters in lieu of onsite sewage system permits shall pay the fee established by the Board for the letters' issuance and, upon application for an onsite sewage system permit, shall pay the permit application fee.

H. The Board shall establish a program for the operation and maintenance of conventional and alternative onsite systems. The program shall require:

1. The owners of ~~an~~ conventional and alternative onsite sewage system systems, as defined in § 32.1-163, to have that system operated by a licensed operator, as defined in § 32.1-163, and visited by the operator as specified in the operation permit;
2. The licensed operator to provide a report on the results of the site visit utilizing the web-based system required by this subsection. A fee of \$1 shall be paid by the licensed operator at the time the report is filed. Such fees shall be credited to the Onsite Operation and Maintenance Fund established pursuant to § 32.1-164.8;
3. A statewide web-based reporting system to track the operation, monitoring, and maintenance requirements of each system, including its components. The system shall have the capability for pre-notification of operation, maintenance, or monitoring to the operator or owner. Licensed operators shall be required to enter their reports onto the system. The Department of Health shall utilize the system to provide for compliance monitoring of operation and maintenance requirements throughout the state. The Commissioner shall consider readily available commercial systems currently utilized within the Commonwealth; and
4. Any additional requirements deemed necessary by the Board.

I. The Board shall promulgate regulations governing the requirements for maintaining conventional onsite sewage systems and alternative onsite sewage systems.

J. The Board shall establish a uniform schedule of civil penalties for violations of regulations promulgated pursuant to subsection B that are not remedied within 30 days after service of notice from the Department. Civil penalties collected pursuant to this chapter shall be credited to the Environmental Health Education and Training Fund established pursuant to § 32.1-248.3.

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be not more than \$100 for the initial violation and not more than \$150 for each additional violation. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties

exceeding a total of \$3,000. Penalties shall not apply to unoccupied structures which do not contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious, or dangerous diseases. The Department may pursue other remedies as provided by law; however, designation of a particular violation for a civil penalty pursuant to this section shall be in lieu of criminal penalties, except for any violation that contributes to or is likely to contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious, or dangerous diseases.

The Department may issue a civil summons ticket as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the Department prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court with jurisdiction in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation, the Department shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding.

This section shall not be interpreted to allow the imposition of civil penalties for activities related to land development.

K. The Department shall establish procedures for requiring a survey plat as part of an application for a permit or letter for any onsite sewage or alternative discharging sewage system, and for granting waivers for such requirements. In all cases, it shall be the landowner's responsibility to ensure that the system is properly located as permitted.

Virginia Department of Health

Revise the definition of maintenance for onsite sewage systems.

Draft Legislation

§ 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 performing adjustments to equipment and controls and in-kind replacement of normal wear and tear parts such as light bulbs, fuses, filters, pumps, motors, distribution boxes, septic tanks, pump chambers, or other like components that do not require a construction permit for adjustment or replacement of the component. Maintenance includes pumping the tanks or cleaning the building sewer on a periodic basis. Maintenance shall not include replacement of ~~tanks, drainfield piping, distribution boxes~~ subsurface drainfields, or work requiring a construction permit and installer.

"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.

Virginia Department of Health

Eliminate evaluation and design services for onsite systems and wells.

Draft Legislative Proposal

Be it enacted by the General Assembly of Virginia:

That the Department of Health shall take steps to eliminate evaluation and design services for onsite sewage systems and private wells provided by the Department of Health. In doing so, the Department of Health shall:

1. By July 1, 2018, accept private evaluations and designs for private wells, in compliance with the Board of Health's regulations for construction of private wells, designed and certified by a certified water well system provider pursuant to § 54.1-1129.1.
2. By July 1, 2018, cease providing onsite sewage system evaluations and design services that are not associated with a building permit or the repair of a failing sewage system. Hardship exceptions shall not apply to these services.
3. By July 1, 2018, cease providing new construction evaluation and design services for an application that is not for a principle place of residence. Hardship exceptions shall not apply to these services.
4. By July 1, 2018, require an applicant for an onsite sewage system, alternative discharging sewage system, or private well construction permit to petition the Department of Health, in accordance with the below-stated means testing schedule, to provide evaluation and design services associated with a building permit or the repair of a failing system that is for a principle place of residence.
5. By July 1, 2019, establish guidelines to maintain the Department of Health as a provider of last resort for a property owner who demonstrates a specific hardship in obtaining private sector evaluation and design services associated with a building permit or the repair of a failing system that is for a principle place of residence.
6. Starting July 1, 2023, the Department shall only provide design and evaluation services to an applicant who demonstrates a hardship in accordance with guidelines developed by the Department of Health. The transition of remaining evaluation and design services shall include: i) requiring means testing of applicants who petition the Department of Health for evaluation and design services for onsite sewage systems and private wells by July 1, 2019; ii) providing services only to applicants below 400% of the federal poverty guidelines established by the United States Department of Health and Human Services or who demonstrate a hardship by July 1, 2019; iii) reducing income eligibility to applicants below 300% of the federal poverty guidelines established by the United States Department of Health and Human Services by July 1, 2020; iv) reducing income eligibility to applicants below 200% of the federal poverty guidelines established by the United States Department of Health and Human Services by July 1, 2021, and v) reducing income eligibility to applicants at or below 100% of the federal poverty guidelines established by the United States Department of Health and Human Services by July 1, 2022.

Item 295

First Year - FY2017 Second Year - FY2018

		\$252,828,388
Community Health Services (44000)	\$252,828,388	\$253,299,396
Local Dental Services (44002)	\$4,676,787	\$4,676,787
Restaurant and Food Safety, Well and Septic Permitting and Other Environmental Health Services (44004)	\$37,227,550	\$37,227,550
Local Family Planning Services (44005)	\$26,672,443	\$26,672,443
Support for Local Management, Business, and Facilities (44009)	\$62,967,015	\$63,438,023
Local Maternal and Child Health Services (44010)	\$43,702,355	\$43,702,355
Local Immunization Services (44013)	\$13,967,693	\$13,967,693
Local Communicable Disease Investigation, Treatment, and Control (44014)	\$19,294,860	\$19,294,860
Local Personal Care Services (44015)	\$4,365,001	\$4,365,001
Local Chronic Disease and Prevention Control (44016)	\$11,706,618	\$11,706,618
Local Nutrition Services (44018)	\$28,248,066	\$28,248,066
Fund Sources:		
General	\$99,535,119	\$99,838,355
Special	\$106,425,406	\$106,593,178
Dedicated Special Revenue	\$3,508,809	\$3,508,809
Federal Trust	\$43,359,054	\$43,359,054

Authority: §§ 32.1-11 through 32.1-12, 32.1-31, 32.1-163 through 32.1-176, 32.1-198 through 32.1-211, 32.1-246, and 35.1-1 through 35.1-26, Code of Virginia; Title V of the U.S. Social Security Act; and Title X of the U.S. Public Health Service Act.

A.1. Starting July 1, 2023, the Department shall only provide design and evaluation services to an applicant who demonstrates a hardship in accordance with guidelines developed by the Department of Health.

Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$425.00, for a construction permit for on-site sewage systems designed for less than 1,000 gallons per day, and alternative discharging systems not supported with certified work from an ~~authorized~~ onsite soil

evaluator or a professional engineer working in consultation with an ~~authorized~~ onsite soil evaluator.

2. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$350.00, for the certification letter for less than 1,000 gallons per day not supported with certified work from an ~~authorized~~ onsite soil evaluator or a professional engineer working in consultation with an ~~authorized~~ onsite soil evaluator.

3. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$225.00, for a construction permit for an onsite sewage system designed for less than 1,000 gallons per day when the application is supported with certified work from a licensed onsite soil evaluator.

4. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$320.00, for the certification letter for less than 1,000 gallons per day supported with certified work from an ~~authorized~~ onsite soil evaluator or a professional engineer working in consultation with an ~~authorized~~ onsite soil evaluator.

5. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$300.00, for a construction permit for a private well.

6. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$1,400.00, for a construction permit or certification letter designed for more than 1,000 gallons per day.

7. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$425.00, for a permit to repair an onsite sewage system or an alternative discharging system designed for less than 1,000 gallons per day not supported with certified work from an onsite soil evaluator or a professional engineer working in consultation with an onsite soil evaluator. This fee shall be waived for persons with income below 200% of the federal poverty guidelines as established by the United States Department of Health and Human Services when the application is for a pit privy or for a repair of a failing onsite or alternative discharging sewage system.

8. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$225.00, for a permit to repair or voluntarily upgrade an onsite sewage system or alternative discharging system designed for less than 1,000 gallons per day supported with certified work from an onsite soil evaluator or a professional engineer. This fee shall be waived for persons with income below 200% of the federal poverty guidelines as established by the United States Department of Health and Human Services when the application is for a pit privy or for a repair of a failing onsite or alternative discharging sewage system.

9. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$150.00, to provide written authorizations pursuant to § 32.1-165 not supported with certified work from a qualified professional.

10. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$100.00, to provide written authorizations pursuant to § 32.1-165 supported with certified work from a qualified professional.

11. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$1,400.00, for a permit to repair or voluntarily upgrade an onsite sewage system designed for more than 1,000 gallons per day.

7 12. The State Health Commissioner shall appoint two manufacturers to the Advisory Committee on Sewage Handling and Disposal, representing one system installer and the Association of Onsite Soil Engineers.

B.1. The State Health Commissioner is authorized to develop, in consultation with the regulated entities, a hotel, campground, and summer camp plan and specification review fee, not to exceed \$40.00, a restaurant plan and specification review fee, not to exceed \$40.00, an annual hotel, campground, and summer camp permit renewal fee, not to exceed \$40.00, and an annual restaurant permit renewal fee, not to exceed \$40.00 to be collected from all establishments, except K-12 public schools, that are subject to

inspection by the Department of Health pursuant to §§ 35.1-13, 35.1-14, 35.1-16, and 35.1-17, Code of Virginia. However, any such establishment that is subject to any health permit fee, application fee, inspection fee, risk assessment fee or similar fee imposed by any locality as of January 1, 2002, shall be subject to this annual permit renewal fee only to the extent that the Department of Health fee and the locally imposed fee, when combined, do not exceed the fee amount listed in this paragraph. This fee structure shall be subject to the approval of the Secretary of Health and Human Resources.


2. The Department of Health shall examine the cost recovery from larger establishments to determine if the services are adequately supported and report to the Chairmen of the House Appropriations and Senate Finance Committees by December 15, 2017.

C. Pursuant to the Department of Health's Policy Implementation Manual (#07-01), individuals who participate in a local festival, fair, or other community event where food is sold, shall be exempt from the annual temporary food establishment permit fee of \$40.00 provided the event is held only one time each calendar year and the event takes place within the locality where the individual resides.

D. The State Health Commissioner shall work with public and private dental providers to develop options for delivering dental services in underserved areas, including the use of public-private partnerships in the development and staffing of facilities, the use of dental hygiene and dental students to expand services and enhance learning experiences, and the availability of reimbursement mechanisms and other public and private resources to expand services.

E. The Department of Health shall continue to implement a sustainable preventive model to begin July 1, 2014, except in the Mount Rogers, Western Tidewater, and Norfolk Health districts, and full transition by January 1, 2016. The model shall ensure that (i) trained personnel are in place; (ii) the focus on those areas of the Commonwealth in the most need of these dental services, including those areas with higher risk factors including a concentration of diabetic and free lunch populations and a higher than average Medicaid-eligible population; and (iii) the development of evaluation metrics to assist in ensuring efficient and effective use of funding and services.

F. Out of this appropriation, \$387,744 the first year and \$387,744 the second year from the general fund and \$267,602 the first year and \$267,602 the second year from nongeneral funds is provided to address the cost of leasing or expanding local health department facilities.



Periodic Review of the AOSS Regulations, 12 VAC5-613

SHADAC MEETING
NOVEMBER 8, 2017

What is a Periodic Review?

- ▶ § 2.2-4017. Periodic review of regulations.
- ▶ Each Governor shall mandate through executive order a procedure for periodic review during that Governor's administration of regulations of agencies within the executive branch of state government. The procedure shall include (i) a review by the Attorney General to ensure statutory authority for regulations and (ii) a determination by the Governor whether the regulations are (a) necessary for the protection of public health, safety and welfare and (b) clearly written and easily understandable.
- ▶ The Governor may require each agency (i) to review all regulations promulgated by that agency to determine whether new regulations should be adopted and old regulations amended or repealed, and (ii) to prepare a written report summarizing the agency's findings about its regulations, its reasons for its findings and any proposed course of action.

Public Comments Received

- ▶ 34 comments received. Three main provisions most comments focused on:
 - ▶ 12 VAC5 613-70, General Approval Process, TL3 Standard
 - ▶ 12 VAC5-613-80 & 90, Loading Rate Charts, Groundwater protection
 - ▶ 12 VAC5-613-100, Sampling frequency, access to sampling data
 - ▶ General comments focusing on lack of clarity and enforcement of O&M

Workgroups Formed

- ▶ Primarily from SHADAC and others who expressed interest
 - ▶ Formed 3 workgroups initially to brainstorm ideas based on 12 VAC5-613-70; 12 VAC5-613-80 & 90; and 12 VAC5-613-100 amendments
 - ▶ Each group tasked with coming up with ideas for amendment for respective provision

Workgroup Meetings

- ▶ So far, we have held meetings on 5/17, 5/24, 9/20/, and 11/1.
- ▶ Minutes Posted on Townhall except for 11/1 which will be posted this week.
 - ▶ May 17th meeting with 12 VAC5-613-70 Group
 - ▶ May 24th meeting with 12 VAC5-613 80 & 90 Group and 12 VAC5-613-100 Group
- ▶ After first round of meetings, VDH staffed worked on drafting proposed amendments based on brainstorming ideas in workgroups.

Ideas Generated at May Meetings

- ▶ 12 VAC5-613-100, proposal was similar to Alternative Discharging Regulations which provided for automatic sample when system out of compliance. This was drafted to address members concerns about inadequate enforcement and performance of systems.
 - ▶ Members felt this option would be too expensive for homeowners and difficult to implement.
- ▶ Talked about cheaper alternative to BOD, investigated the possibility of using field parameters
 - ▶ After evaluation, VDH found several sewage treatment plants that was pulling both samples at the same time and no identifiable correlation between the two

Ideas from *May* continued....

- ▶ Added in provision in 12 VAC5-613-70 for accepting out of state data, if data collected in USDA Plant Hardiness Zones 1a through 7b
- ▶ Amending 12 VAC5-613-80.15 to mirror 12 VAC5-610-800 regarding bulking of solids
- ▶ Adding clarity to 12 VAC5-613-80 Tables 1 & 2

September Amendments

- ▶ VDH staff presented proposed amendments to workgroups on September 20, 2017. Workgroup provided more feedback and VDH staff re-drafted amendments
- ▶ Amendments from September:
 - ▶ 12 VAC5-613-70
 - ▶ Added in de-listing provision.
 - ▶ Members in November meeting felt strongly that should wait until a robust O&M enforcement program was in place before de-listing
 - ▶ Remove influent sampling
 - ▶ Added in out-of-state data for General Approval
 - ▶ Units collected under NSF 360
 - ▶ Units collected in other states in same plant hardiness zones

September Amendments Continued

12 VAC5-613-100

- ▶ Changed initial grab sample to 45-180 days to allow for adequate system start-up
- ▶ For small systems, clarifies sampling a treatment unit instead of at the end of all treatment
- ▶ Defined compliance for sampling. We heard the concern about excessively out of compliance systems as 1.5x the samples. (Currently enforcement strategy is bad sample + other violation; some members concerned about a systems that is excessively out of compliance and no enforcement taken until another event occurs).
- ▶ More sampling for enforcement. November meeting members did not like this provision as it added expense for homeowners.
- ▶ Added in enforcement for large systems, 1.5 times the applicable standard for annual sampling. If they were three times over automatically into enforcement. If more frequent than annual, it was an average of 12 months.
- ▶ Annual sampling changed from 1-10k to 1 to 5k. Next category was 5k to 40k.

September Amendments Continued

- ▶ 12 VAC5-613 80 & 90
 - ▶ 80- clarified Table 1 & 2
 - ▶ Options from original stakeholder groups in May. September meeting members present did not think section needed amendment.
 - ▶ One adding in soil descriptors
 - ▶ One adding in ranges for different dispersal methods
 - ▶ 80.15- bulking of solids, we drafted language from SHDR. September group members felt that it was not needed.

September Amendments

- ▶ 12 VAC5-613-90(B) sets the TN limit at project boundary at 5 mg/l. Groundwater was already required by section, VDH added in how groundwater monitoring would be accomplished.
 - ▶ Everyone over 5k gallons per day

Minimum 1 upgradient, 2 downgradient monitoring wells into first permanent water table. Background sampling required and sample annually for TN. Semi-annual sampling for pH, chlorides and conductivity.
- ▶ 90(D). Chesapeake Bay requirements.
 - ▶ 90(D)(1): small systems, clarifying language. Split into residential and non-residential.
 - ▶ Residential- compliance with a BMP recognized by Division.

September amendments continued

- ▶ 12 VAC5-613-90 (D)(1)(b): Changing standard from 20 to 24 to meet the 50% reduction as used by the model. Clarifies that monitoring needed for TN reduction that allows for reduction through the soil.
- ▶ 12 VAC5-613-90(D)(2): changed 10,000 gpd to 40,000. Removed in-situ sampling, added in the potential to use soil reductions to modify the effluent concentration.
- ▶ 12 VAC5-613-90(D)(3): Same as (D)(2), anything over 40k, removed in-situ, added in potential to use soil reductions
- ▶ 12 VAC5-613-90 (D)(4): Proposed striking this provision. DEQ has submitted comment that they are opposed to striking this provision.

September Workgroup Comments

- ▶ Comments received during the meeting were:
 - TL3 inappropriate standard
 - ▶ Recommendation to change BOD5 standard to CBOD5 for all treatment levels
 - ▶ Workgroup did not think we should do more sampling as it is a financial burden to homeowners and enforcement program for sampling lacking
 - ▶ 80 tables, if you put dispersal methods in, it will limit other possible methods, making regs too prescriptive
 - ▶ 12 VAC5613-90, one member said that he wanted to use soil attenuation rates as proposed by Chesapeake Bay Foundation. VDH will evaluate new BMPS as they come along.
 - ▶ 12 VAC5-613-70-Table de-listing procedure until adequate enforcement of O&M takes place

November 1, 2017 Workgroup Meeting

- ▶ Only 12 VAC5-613-70 was discussed as we ran out of time to discuss other provisions.
 - ▶ Only provisions that were new from September meeting to the proposed VDH amendments was removing influent from 12 VAC5-613-70 (2) and adding a draft de-certification provision in subsection (5).

Comments received from workgroup

- Some members say drop TL3 completely and only have an add-on unit
- Changing BOD to CBOD5 throughout the entire regulation
- Until we have robust enforcement, no de-listing procedure because no confidence in the data
- Discussed NSF 360 data and eliminate the proposed hardness zones and Replace plant hardness zones with specific states
- Out of state data should have similar O&M requirements

SB 1577

- ▶ Be it enacted by the General Assembly of Virginia:
- ▶ *1. § 1. That the Department of Health shall evaluate the need for 180-day biochemical oxygen demand sampling of small alternative onsite sewage systems that serve no more than three attached or detached single-family residences with a combined average flow of less than or equal to 1,000 gallons per day of residential strength sewage, or a structure with an average daily sewage flow of less than or equal to 1,000 gallons per day of residential strength sewage, and shall report its findings to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1, 2017.*
- ▶ Talked about 1577 during the workgroup meetings in May and September, did not get to it in November meeting

Questions and Thoughts?

- ▶ If you are interested in being a part of the workgroup discussions, please let me know.
- ▶ VDH would like to finalize some amendments to go forward so that we may draft a NOIRA and begin the Townhall process in the beginning of the year.

Thank you!

Karri B. Atwood

Karri.Atwood@vdh.virginia.gov

(540) 223-1795