

Virginia Department of Health
House Bills 887 and 888 Listening Session
May 15, 2018
Session Summary

Location: Russell County Conference Center
139 Highland Drive
Lebanon, Virginia 24266

Facilitator: Lance Gregory

List of Attendees:

Richard Rouse	Brian Stanley	Keith Deel	Edward Neel
Jeanette Duncan	Todd Musick	Savannah Hay	Dave Kinder
Travis Holt	Bill Skeen	Ronald Howell	Brad Stallard
Chris Cantrell	Josh McCoy	Justin Stanley	

1. Welcome

Mr. Gregory welcome attendees to the session. He commented that the purpose of the session was to receive feedback from stakeholders regarding VDH's implementation plan for two bills from the 2018 General Assembly session, House Bills 887 and 888, which will have a significant impact on the onsite sewage and private well program.

2. Overview of House Bill 887 and House Bill 888

Mr. Gregory began the session by providing a brief overview of the two bills.

House Bill 887 modifies the definition of maintenance. The definition states that a permit is not required by VDH to conduct maintenance, but adds that such permitting may be required by local ordinance. The bill adds sewer lines, conveyance lines, distribution boxes, and header lines to the definition, and clarifies that onsite sewage system installers can replace some system components as maintenance. These changes will become effective July 1, 2018.

House Bill 888 establishes a process for evaluation and design work for onsite sewage systems and private wells to be transitioned to the private sector. The plan begins on July 1, 2018, by allowing master water well system providers to conduct evaluations and designs for private wells. Also on July 1, 2018, all applications for certification letters, voluntary upgrades, subdivision evaluations, and work not for a principal place of residence will require an evaluation and design from a license private sector professional.

The transition of new construction, repair, and safe, adequate and proper services will begin on July 1, 2019. Property owners that meet income eligibility criteria outlined in the bill can still receive services from VDH. Additionally, any owner meeting a hardship, as outline in guidelines established by VDH, can still receive services from VDH. VDH must post draft

hardship guidelines by November 1, 2018, to allow stakeholder an opportunity to comment on the draft guidelines prior to their implementation on July 1, 2019.

3. Draft Implementation Plan

After discussing the outline of the two bills, Mr. Gregory shared VDH's draft implementation plan with stakeholders and asked for their thoughts on various aspects of the plan.

a. Change in the definition of maintenance.

Mr. Gregory stated that VDH's goal is to have a policy by June 30, 2018, to implement House Bill 887. The key points of the policy will be to clarify what improvements can be completed as maintenance without a permit from VDH, and clarify that a local permit may still be required through local ordinance. Mr. Gregory comment that a third bill, House Bill 885, sought to give VDH authority to establish operation and monitoring requirements for conventional onsite sewage systems, including reporting of maintenance. The bill did not pass, and was continued to 2019. As such, VDH cannot require reporting of maintenance for conventional onsite sewage systems, including those items that previously required a permit. He asked whether stakeholders felt that VDH's policy should outline guidance for voluntary reporting of maintenance for conventional onsite sewage systems.

Comments and questions from stakeholders included:

- If VDH staff identify a deteriorated distribution box during a safe, adequate, and proper evaluation, do staff simply inform the owner to fix it.
- How will this change be handled from a database standpoint?
- Are applications for repairs withdrawal if the necessary improvements meet the definition of maintenance?
- Can an owner ask to be receive a permit?
- For voluntary reporting, recommend option for online or paper reporting.
- Best way to get information is if staff provide inspection services.
- Does the contractor have a legal right to ask VDH to perform an inspection if we don't have a permit?
- For voluntary reporting VDH needs the owners name, physical location, tax map number, and some type of site sketch.
- Is a permit required if the component is moved from the original location?
- Voluntary inspections could be like a complaint investigation, where the owner gives us permission.
- Need to clarify that owners cannot do work on their own system.

b. Accepting work from water well system providers.

Next, Mr. Gregory discussed development of a policy for private well evaluations and designs completed by private well drillers. VDH's goal is to have the policy in place by June 30, 2018.

The key point will be to outline the requirements for submissions from well driller, and how VDH would handle applications where an onsite soil evaluator (OSE) or professional engineering (PE) designs an onsite sewage system and a well driller designs the well on the same property at the same time. Mr. Gregory stated that he anticipates the submission requirements for well drillers to mirror requirements for OSEs and PEs.

Comments from stakeholders on this aspect included:

- Separate well and septic applications.
- For septic applications VHD needs to be aware of what the owner is going to do for water.

c. Defining principal place of residence.

Mr. Gregory stated that VDH also plans to establish a policy by June 30, 2018, regarding the transition of voluntary upgrades, certification letters, subdivision evaluations, and construction not for a principal place of residence to the private sector. He commented that while the transition for voluntary upgrades, certification letters, and subdivision evaluations is fairly straight forward, there are questions about how to define principal place of residence.

Comments from stakeholders on this aspect included:

- The initial policy regarding principal place of residence needs to start broad.
- Do accessory structures to the principal place of residence require private sector work?
- Don't define what is a principal place of residence, define what is not.

d. Hardship guidelines.

Mr. Gregory noted that likely the most pivotal aspects of House Bill 888 is the development of hardship guidelines. These guidelines would apply to all applicants for new construction, repair, and safe, adequate, and proper services, even if they do not meet the income eligibility criteria. He commented that the bill specifically directs VDH to address availability of service providers, cost of services, and disciplinary actions.

Comments and questions from stakeholders on this aspect included:

- Should have ongoing hardship for income; suggest 200% of federal poverty guidelines across the board.
- Look at sliding scale for income.
- Hardship cannot preclude the private sector entry into the market.
- There needs to be a mechanism to incentives the private sector work.
- Adding the other considerations beyond income eligibility muddies the water.
- Need training for VDH staff on AOSS and discharge system, if we are going to do more work.
- Don't think VDH should have anything to do with cost.

- If DPOR takes disciplinary action against a designer then VDH should take them off the service provider website.

e. Petition for services.

Mr. Gregory noted that VDH will need to develop a form for owners to petition VDH to provided services based on income eligibility or hardship. Mr. Gregory commented that he expects the form to be a second page to the application, and he shared an outline of the income eligibility criteria based on the 2018 Federal Poverty Guidelines.

f. Transitioning services.

Mr. Gregory commented that VDH will develop a final policy which incorporates all of the previously mentioned policies into a comprehensive plan for the transition of evaluation and design services.

Additional comments from stakeholders regarding both bills included:

- VDH should have a centralized mechanism for reporting licensing violations to DPOR.
- Need to add the license number on the completion statement.

4. Adjourn

Virginia Department of Health
House Bill 887 and House Bill 888 Listening Sessions
Agenda

1. Welcome (Lance Gregory)
2. Overview of House Bill 887 and House Bill 888 (Lance Gregory)
3. Draft Implementation Plan (Lance Gregory)
 - a. Change in the definition of maintenance.
 - b. Accepting work from water well system providers.
 - c. Defining principal place of residence.
 - d. Hardship guidelines.
 - e. Petition for services.
 - f. Transitioning services.
4. Open for Public Comment on Draft Implementation Plan.

VDH Onsite Sewage and Water Programs: HB 887 and 888 Listening Session

Lance Gregory

Director

Division of Onsite Sewage and Water Services,
Environmental Engineering, and Marina Programs

Virginia Department of Health

(804) 864-7491

Purpose

- Highlight bills that impact the onsite sewage system and private well programs.
- Discuss VDH implementation plans.
- Receive feedback from you.

HB 887

“Maintenance means, *unless otherwise provided in local ordinance*, (i) performing adjustments to equipment and controls or (ii) in-kind replacement of normal wear and tear parts *that do not require a construction permit for adjustment or replacement of the component* such as light bulbs, fuses, filters, pumps, motors, *sewer lines, conveyance lines, distribution boxes, header lines*, or other like components. “Maintenance” includes pumping the tanks or cleaning the building sewer on a periodic basis. *Notwithstanding any local ordinance, “maintenance” does not* include replacement of tanks, drainfield piping, *subsurface drainfields*, or work requiring a construction permit and installer. *Unless otherwise prohibited by local ordinance, a conventional onsite sewage system installer or an alternative onsite sewage system installer may perform maintenance work limited to in-kind replacement of light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines.*

HB 887

- Doesn't require a VDH permit.
- Local ordinance can require a local permit.
- Adds sewer lines, conveyance lines, distribution boxes, and header lines.
- Does not include tanks, drainfield piping, or subsurface drainfields.
- Installers can replace light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines.

HB 888

- 7/1/2018
 - Private well evaluations by master water well system providers.
 - Cease services not associated with a building permit or repair.
 - Cease new construction services not for a principal place of residence.
- 11/1/18
 - Post draft hardship guidelines on VDH website.
- 7/1/2019
 - Establish final hardship guidelines.
 - Require petition for services; income or hardship eligibility.
- 7/1/2023
 - Services only to applicants demonstrating a hardship.

Draft Implementation

HB 887 – Implementation Plan

- Provide policy to implement the change in definition.
- Deadline: June 30, 2018.
- Key Points:
 - What HB 887 allows as maintenance that previously required a permit.
 - Clarify that permits may still be require pursuant to local ordinance.
- Your thoughts: Voluntary maintenance reporting for COSS.
 - Using existing system evaluation form.

HB 888 – Implementation Plan

- Policy for accepting evaluations and designs for private wells from well drillers.
- Transition voluntary upgrades, certification letters, subdivision evaluations, and new construction not for a principal place of residence.
- Develop hardship guidelines.
- Public outreach and education regarding transition of services and new fees.
- Develop petition for VDH direct services.
- Policy/process to implement transition of new construction, repair, and SAP services, with VDH as provider of last resort.

HB 888 - Implementation Plan

- Policy for accepting evaluations and designs for private wells from well drillers.
- Deadline: June 30, 2018
- Key Points:
 - Outline requirements for private well evaluations and designs from well drillers.
 - Outline how well only designs from well drillers will be handled for properties where a septic only design is submitted by an OSE/PE.

HB 888 – Implementation Plan

- Transition voluntary upgrades, certification letters, subdivision evaluations, and new construction not for a principal place of residence.
- Deadline: June 30, 2018
- Key Points:
 - Specify that all applications for voluntary upgrades, certification letters, subdivision evaluations, and new construction not for a principal place of residence must be accompanied by private sector work.
 - Clarify the meaning of the term “principal place of residence”.
 - Develop and post outreach material.

Where do we draw the line for principal place of residence?

- Third party applying on behalf of the ultimate owner (e.g. contractor, realtor, builder).
- Building a home for a family member, that will use the home as a principal place of residence.
- Spec homes.
- Rental property.
- Vacation home.

HB 888 – Implementation Plan

- Develop hardship guidelines.
- Deadline: November 1, 2018 (draft); July 1, 2019 (final).
- Key Points:
 - Availability of service providers. (3, 5, 10?)
 - Mechanism for determining availability.
 - Cost of services. (1.5x average, 2x average?)
 - Mechanism for determining cost.
 - How disciplinary action factors into hardship determinations.
 - Should VDH provide AOSS evaluation and design services.
 - Other concerns?

HB 888 – Implementation Plan

- Public outreach and education regarding transition of services and new fees.
- Deadline: January 1, 2019
- Key Points:
 - Notify the public of the transition.
 - Proposed budget includes fees for repairs, voluntary upgrades, and SAP.

HB 888 – Implementation Plan

- Develop petition for VDH direct services.
- Deadline: June 30, 2019
- Key Points:
 - How VDH determine income eligibility.
 - How VDH determines hardship (e.g. reference to hardship guidelines).
 - Create petition form.

HB 888 – Income Eligibility

Family Size	400% FPG 7/1/19 to 6/30/20	300% FPG 7/1/20 to 6/30/21	200% FPG 7/1/21 to 6/30/22	100% FPG 7/1/22 to 6/30/23
1	\$48,560	\$36,420	\$24,280	\$12,140
2	\$65,840	\$49,380	\$32,920	\$16,460
3	\$83,120	\$62,340	\$41,560	\$20,780
4	\$100,400	\$75,300	\$50,200	\$25,100
5	\$117,680	\$88,260	\$58,840	\$29,420
6	\$134,960	\$101,220	\$67,480	\$33,740
7	\$152,240	\$114,180	\$76,120	\$38,060
8	\$169,520	\$127,140	\$84,760	\$42,380

HB 888 – Implementation Plan

- Policy/process to implement transition of new construction, repair, and SAP services, with VDH as provider of last resort.
- Deadline: June 30, 2019
- Combines policies, outreach materials, forms, and hardship guidelines into a comprehensive implementation policy for HB 888 transition.