Virginia Department of Health (VDH)
Sewage Handling and Disposal Advisory Committee (SHADAC)
June 1, 2016

Meeting Location:

5th Floor, Main Conference Room
James Madison Building
109 Governor Street
Richmond, Virginia 23219

List of Attendees:

Advisory Committee Members

Joel Pinnix	Bill Sledjeski	Mike Lynn	Alan Brewer
Karen Fried	Adam Feris	Curtis Moore	Cody Vigil
Dwayne Roadcap	V'lent Lassiter	Valerie Rourke	

VDH Staff and Members of the Public

Laura Farley	Larry Land	Peter Brooks	Mike Burch
Reed Johnson	Marcia Degen	Lance Gregory	Todd Grubbs
Angela Redwine	Kristin Marie Clay		

Welcome.

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

Travel Reimbursements

Mr. Gregory distributed travel reimbursements to committee members.

Approve agenda.

Mr. Moore made a motion to approve the agenda. The motion was seconded and the committee approved the agenda.

SHADAC appointments.

There were no new appointments for the meeting.

Review summary from March 23, 2016 meeting.

Mr. Pinnix asked whether a quote from Mr. Roadcap regarding the revised Alternative Discharge Regulations was accurate. Mr. Roadcap agreed with the quote.

Mr. Moore made a motion to approve the summary and Mr. Vigil seconded the motion. The committee voted in favor of approving the summary.

Public Comment

There were no public comments.

Update from Regulatory Reform Subcommittee.

Mr. Brewer provided an update on the regulatory reform subcommittee. He commented that the subcommittee has been working on identifying challenges within the onsite program as well as the successes of the program. Mr. Brewer stated the subcommittee's next step is to start developing a list of options to bring back to the full SHADAC at the next meeting in August.

Chairman Lynn asked whether the subcommittees work was separate from work on the House Bill 558 plan.

Mr. Brewer commented that the subcommittee was staying on focus on its initial goal, but understand that House Bill 558 could influence the outcome.

Chairman Lynn asked for some examples of major challenges or successes identified by the subcommittee.

Mr. Moore commented that one success is that the health department works hard to provide good customer service. He noted that the biggest challenge is letting go of historical baggage within the program and thinking outside of the box.

Issues related to internal VDH policies and processes; *standing agenda item*.

No issues were brought forward for discussion.

GMP 2016-03: TL-3 Field Testing

Dr. Degen provided an update on a new Guidance Memorandum and Policy (GMP); GMP 2016-03. She commented that VDH is working on a fast-track regulatory action to handling direct dispersal, and staff are also looking at a process to bring GMP 2016-03 into the regulations. GMP 2016-03 provides a general approval process for TL-2 and TL-3 units, and creates a new central listing. If a treatment unit is NSF 40 Class 1 approved, it will be generally approved for treatment level 2 (TL-2); TL-2 approval can also be obtained with other testing protocols. For treatment level 3 (TL-3), the unit must first be generally approved for TL-2. The treatment device must also be certified by a professional engineer to meet 10/10 BOD5 and TSS. The testing requirements are similar to GMP 147; 20 systems sampled quarterly for one year, grab or

composite samples. There are five manufacturers approved for TL-3, and their approvals expire in November. However, manufacturers can request variances for extensions or to accept out of state data.

Mr. Sledjeski asked whether a designer is taking responsibility that a specified system will meet the effluent quality standards.

Mr. Pinnix commented that there is actually a case in the Virginia Supreme Court where the professional engineer is being held responsible for a non-compliant stormwater design.

Dr. Degen commented that the five year certification only applies to products approved prior to adoption of the Alternative Onsite Sewage System Regulations.

Mr. Brewer asked whether there a de-listing process.

Dr. Degen stated there is not. If the agency were to take such an action, it would be a case decision and the agency would have to notify the manufacture of how it came to the decision and provide the manufacturer with an opportunity to request a hearing.

Chairman Lynn asked whether VDH thought about how expirations affect systems in the ground.

Dr. Degen commented that units that are in the ground were compliant when they were installed, so VDH wouldn't go back on those systems.

GMP 101 Rescinded

Mr. Roadcap commented that GMP 101 was a list of criteria for mass drainfields. VDH now has regulations that cover those designs.

SAP Policy

Mr. Grubbs provided an update on the agency's effort to create a policy in response to House Bill 648. House Bill 648 was intended to streamline the process for safe, adequate and proper reviews. The policy, as currently drafted, will start with a request form the building official to the health department. Staff will then determine if there is a change in flow or strength. If there is, then it needs a new permit. If not, then staff will look at whether it has a private sector evaluation. If it does, VDH could approved based on the private sectors evaluation. If it does not, then VDH will conduct a site visit to see whether the system complies with current regulations. One option is to approve all systems as non-conforming, and if the owner objects to that then we would conduct a more detailed evaluation. If we don't approve the request, then we should also issue a notice of alleged violation. Mr. Grubbs noted the difficulty with this potential process is system that are close to failing but not necessarily failing.

Mr. Pinnix asked what happens when VDH goes out and observes do a distribution box full of water; it is not failing, but it is a problem. Mr. Pinnix stated that from his point of view that is a

malfunctioning system.

Mr. Lynn commented that in an old draft policy, for it to be safe, there had to be an expectation that the system would continue to function with normal maintenance.

Mr. Brewer commented that in other industries they use the term not functioning as design.

Mr. Moore commented that VDH has an obligation to inform the owner of issues that should be corrected.

Mrs. Rourke commented that in the subcommittee meetings the issue of how you define a failure seemed to be a big issue.

Mr. Sledjeski stated that he did not understand how you can go out an observe water in the distribution box and say that is safe, adequate and proper.

Mr. Moore commented that the reason you get a safe, adequate, and proper evaluation is because someone is getting ready to make a significant financial investment into the home. They may choose not to make that investment if they know the system is not functioning as designed.

Mr. Roadcap commented that there are thousands of systems that were installed under less stringent regulations. When a house burns down, we have to say no to a new building permit because the system doesn't meet today's standards. This change in law allows the agency to say yes the system is non-conforming.

Mr. Moore commented that VDH may need to decide how it will handle NOAV's with unoccupied structures. Might need another way to say no, because there is evidence of a malfunction.

Mr. Roadcap commented that building officials will often ask VDH to review types of construction that are not for human occupancy. Our basic authority does not include responding to those types of request. However, we can provide the building official with information on our setbacks.

Mr. Lynn commented that we have got to stop saying it is okay to pollute just because you're already doing it. He added that he would like to see the committee take a position on saturated trenches. The Commissioner wants to know how to improve the health in Virginia, and that would be a big step.

Technical Advisory Committee for Revisions to the Private Well Regulations

Mr. Gregory stated that VDH is putting together a technical advisory committee to review the Private Well Regulations and provide suggestions for revisions. VDH would like two designers on the committee. Mr. Gregory asked for volunteers from the SHADAC.

HB 558 – Website and data

Mr. Gregory provided a brief overview of the website created for the House Bill 558 project. He also discuss that VDH would be posting data being used in the House Bill 558 project to the website shortly.

Mr. Lynn commented that he is getting a lot of request that the SHADAC and VDH is looking at good and right data. He asked whether anyone has any concerns that the data VDH is using is not accurate or whether anyone feels that VDH is skewing the data.

Mr. Moore commented that it may be worthwhile to take a county that could cross reference the data being used in the report with local health department log books.

Mr. Sledjeski stated that he had heard the same concerns as Mr. Lynn. He believed if there are any inaccuracies it is with the data entry, not the analysis.

Mr. Lynn commented that if the raw data is on the website, people can make their own determination.

HB 558 – Interim Report #1 feedback.

Mr. Gregory then asked for feedback from the SHADAC on the House Bill 558 Draft Interim Report 1.

Mr. Moore asked whether engineers are required to provide the certification statement and whether we need a statutory requirement for the engineers.

Mr. Lynn recommended taking out any information from charts for work that VDH cannot provide today anyway.

Mr. Moore asked whether VDH could also ask the service providers how much they charge.

Mr. Roadcap asked whether that is something VOWRA is willing to put together.

The SHADAC agreed that VDH should work with VOWRA to survey service providers on the cost of services provided.

Mr. Sledjeski commented that the first thing designers look for is a conventional system. He wondered if in today's world site evaluation has changed.

Mr. Lynn asked whether designers are doing the right thing putting a conventional system in the ground when there is something better out there.

Mr. Moore commented that VDH could charge fees for repairs for high income earners.

Mr. Lynn asked to go around the table and have everyone provide one comment or one question on the draft report.

Mr. Vigil commented on the underserved areas in Southside and Southwest Virginia; there is no one in those areas and people rely on VDH.

Mrs. Lassiter commented that it did strike her that the private sector will provide the inspection of themselves sometimes, which seems odd.

Mr. Lynn commented that VDH inspects themselves; adding he thinks there will be more co-inspection.

Mr. Feris commented that it is one thing to inspect something that you designed, but it is another thing to inspect the system you built.

Mr. Sledjeski commented that there are very few permits being issues in Southside and Southwest Virginia. Having an opt in or opt out process would allow some movement of private sector into those areas.

Mr. Lynn commented that his number one issue is that if there is any part of this process resulting in VDH employees continuing to provide direct services in some form or fashion, does that change how those offices have to be staffed. If you never did a soil evaluation, does the skill set of that person change. Does it really get VDH to their goal of being regulatory enforcement, outreach, etc.

Mr. Roadcap commented that he doesn't think VDH needs different people; they would be doing different things.

Adjourn

Virginia Department of Health
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Agenda

Date: June 1, 2016
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Location: James Madison Building
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Administrative (25 minutes)
1. Welcome. (5 minutes)
2. Travel Reimbursements (5 minutes)
3. Approve agenda. (5 minutes)
4. SHADAC appointments. (5 minutes)
5. Review summary from March 23, 2016 meeting. (5 minutes)

Public Comment Period

Old Business (25 minutes)
1. Update from Regulatory Reform Subcommittee. (10 minutes)
2. Issues related to internal VDH policies and processes; *standing agenda item*. (15 minutes)

Break (10 Minutes)

New Business (45 minutes)
1. Policy Updates (40 minutes)
    a. GMP 2016-03: TL-3 Field Testing
    b. GMP 101 Rescinded
    c. SAP Policy
2. Technical Advisory Committee for Revisions to the Private Well Regulations (5 minutes)

Break (10 minutes)

Continue New Business (60 minutes)
3. HB 558 – Website and data (15 minutes)
4. HB 558 – Interim Report #1 feedback. (45 minutes)

Break (5 minutes)

Continue New Business (60 minutes)
5. HB558 – Additional feedback.

Adjourn

At the meeting pages 16 through 42 of House Bill 558 Draft Interim Report 1 were provided. The complete draft report is available at http://166.67.66.226/EnvironmentalHealth/Onsite/hb558/documents.htm .