

**Virginia Department of Health (VDH)
Sewage Handling and Disposal Advisory Committee (SHADAC)
June 19, 2017 Meeting Summary**

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

Remote Locations: Loudoun County Government Center
1 Harrison Street SE
Leesburg, Virginia 20175

Christiansburg Health Department
210 South Pepper Street, Suite A
Christiansburg, Virginia 24073

List of Attendees at Primary Meeting Location:

SHADAC Members

Mike Lynn, Chairman – Home Builders Association of Virginia
Curtis Moore – Virginia Onsite Wastewater Recycling Association
Bill Sledjeski – Virginia Association of Professional Soil Scientist
Valerie Rourke – Virginia Department of Environmental Quality
Adam Feris – Virginia Environmental Health Association
Dwayne Roadcap – Virginia Department of Health
Sean McGuigan – Manufacturer (sitting in for Colin Bishop)

VDH Staff and Members of the Public

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|----------------------|----------------------|-----------------------|
| Marcia Degen - VDH | Dave Tiller – VDH | Paul Saunders - DPOR |
| Todd Grubbs - VDH | Jay Conta - VDH | Trisha Henshaw - DPOR |
| Angela Redwine - VDH | Anthony Creech - VDH | |

List of Attendees at Remote Meeting Locations:

SHADAC Members

Scott Fincham – Virginia Association of Counties (sitting in for Alan Brewer)

VDH Staff and Members of the Public

Jerry Franklin – VDH

Administrative

1. Welcome.

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

2. Approve agenda.

Mr. Moore moved to approve the agenda. Mr. Feris seconded the motion. All members were in favor.

3. Review summary from April 14, 2017 meeting.

Mr. Moore moved to approve the summary. Mr. Feris seconded the motion. All members were in favor.

Public Comment Period

There were no public comments.

Standing Agenda Items

1. Issues related to internal VDH policies and processes.
 - i) AOSS recordation form.

This issue was a follow up from the previous SHADAC meeting. Mr. Roadcap commented that there is a statewide form for recording that a property is served by an alternative onsite sewage system (AOSS). He commented that Loudoun County has a local ordinance to require recordation letters to include details about the system in the recordation form. If the design changes someone may need to record another document to detail the changes.

Mr. Roadcap commented that VDH is looking at the potential of revising the regulations to make the recordation document associated with the operation permit, and not the construction permit. This would make the details associated with what is installed.

Chairman Lynn asked why the form ever needs to be different.

Mr. Roadcap reiterated that his understanding is the variation in Loudoun is based on a local ordinance. He also clarified that the state form is guidance. However, local court clerks have different requirements, so the forms may look slightly different in other localities.

Other comment on this issue included:

- State code says localities cannot have different requirements for operation and maintenance of AOSS.

- In Fairfax, you have to record the form and then the health department gives the owner the permit. In other localities, the form just has to be recorded before the owner receives an operation permit.
- Districts not requiring a new form to be recorded again for a repair or voluntary upgrade of an existing AOSS.
- Realtors have commented that when a house settles no one sees the recordation form. Are we actually accomplishing anything? Is this the right tool?

Mr. Roadcap commented that VDH will try to clarify that document can be recorded any time before the operation permit.

Mr. Moore commented that the intent is to make sure that the owner knows.

ii) Replacement of pumps.

Chairman Lynn stated there is a definition of maintenance in the Regulations for Alternative Onsite Sewage Systems (AOSS Regulations) which supersede the Sewage Handling and Disposal Regulations (SHDR). He asked whether the definition of maintenance in the AOSS Regulations is also the definition of maintenance for conventional systems.

Mr. Roadcap stated that maintenance is defined in the Code. The House Bill 558 report recommended revising the definition of maintenance. A permit is not required to do maintenance for a conventional system. For alternative systems you have to submit a report. Staff from the Fairfax Health Department are planning on coming to the next SHADAC meeting to discuss local authority for pump replacement for conventional systems. Mr. Roadcap noted his understanding is Fairfax's expectation is that notice is provided and then environmental health staff conduct an inspection. The House Bill 558 report recommends reporting of maintenance for all systems.

Mr. Ferris commented that the concern is maintenance, if not reported, could include corrections that do not meet the regulations.

Mr. Sledjeski commented that in Fairfax pump lines had to be sealed by a professional engineer (PE); he suspects Fairfax will want a PE seal on the replacement of a pump.

Chairman Lynn commented that the removal of sludge is a reportable incident and that he does not think the Virginia Environmental Information System (VENIS) is set up to accept sludge removal.

Mr. Moore commented that he thinks the concept was VENIS would be like a third party systems.

Old Business

1. Discuss regulatory reform options.
 - i) Conflicting regulations options.

The SHADAC discussed a list of regulatory reform options regarding conflicting regulations put together by a subcommittee on regulatory reform.

Mr. Ferris noted there is a conflict between the SHDR and the Private Well Regulations regarding 60 degree arc siting of systems downslope from a well. He also noted a conflict with separation distance to forcemains in those two regulations.

Mr. Moore noted that the subcommittee looked at the issues with a holistic approach. He noted that the subcommittee discussed several options for an onsite program, such as enabling ordinances at a local level with program manuals and a national model concept. He noted there are several model ordinances available, but he did not believe they are sufficient.

Mr. Sledjeski noted in his experience, one fundamental state code is beneficial.

Mr. Moore suggested that VDH staff inventory local ordinance requirements and putting that information on the website to highlight localities where there are more stringent requirements.

Additional conversation on this topic included:

- May be helpful for the memorandum of agreements between localities and local health departments spelled out how the ordinance will be different from state regulations, and the authority for that requirement.
- The contracts outline the state programs that VDH will provide. If there are local ordinances, then the locality can include ordinances in the agreement.
- There are certain levels of conflict. More restrictive separation distances in local ordinances are a major issue.
- Some issues where local ordinances may be improperly implemented by local health department staff.
- There are cases where localities are requiring vacuum testing of tanks without a safe and satisfactory guidance for performing the test. What happens if someone gets hurt?
- The localities should at least provide the authority to the local health departments for ordinances.
- What percent of staff time is spent resolving issues with conflicting local ordinances?
- Not sure what additional public health protection the local ordinances provide.
- When local ordinances come up for review, the local health department often supports more restrictive requirements.
- Think it would help if local health departments tell the owner they are ready willing and able to issue a state permit, when the application doesn't not comply with local ordinances.
- At the end of the day, it cost people more money in some localities to install a sewage system because of local ordinance.
- You cannot use certain products in some localities.

Mr. Roadcap commented that the guidance is that if a local health department denies an application for a local ordinance, that the local health department notify the owner that they meet

the state requirements but the application does not meet the local ordinance and give the owner the appeal rights provided by the local ordinance.

ii) Paradigm shift options.

Next, the SHADAC discussed a list of regulatory reform options regarding paradigm shift put together by a subcommittee on regulatory reform.

Chairman Lynn asked whether there is a need to modify the regulations from a 30,000 foot view, and revising the program based on the shift to private sector evaluators.

Mr. Moore commented that it does not seem effective to have a district level between the state level for the program. Mr. Moore added that as the paradigm shifts, VDH may need to look internally and say you don't need one person in each locality to deal with onsite.

Mr. Roadcap commented that one of the items VDH is discussing internally is separating permitting and enforcement. The issue is the funding. Each county contributes a certain percentage of the local health department funds, and they expect certain types of services.

Chairman Lynn commented that centralizing the evaluation and review of private sector designs would improve consistency.

Mr. Moore commented that the discussion harkens back to the old regional sanitarians.

Mr. Roadcap commented that VDH has been working closely with the Virginia Department of Environmental Quality (DEQ) on projects which require creating a complete inventory of private wells. He noted that VDH was also recently approached by a company that has created a toilet to tap treatment system. VDH is in the middle of trying to update the AOSS Regulations and trying to keep wastewater recycling in mind. These are all examples of the paradigm shift currently happening in the onsite program.

Mrs. Rourke commented that discussion about the spectrum of water management ties into the need for more interconnection with other VDH programs and other agencies. We are starting to see where alternative systems could possibly move towards drinking water with additional treatment. When DEQ developed the Water Reclamation Regulations, it restricted direct reuse based on feedback from VDH. States like California are pushing ahead with direct potable reuse. If DEQ were to amend that in the future, they would seek VDH's input.

Mr. Roadcap commented that VDH's shellfish program is using DNA testing to determine the source of bacteriological contaminants. The United States Geological Survey recently did a test in Fairfax that found a significant nitrogen impact from a cluster of home on onsite sewage systems. These were provided as addition examples of the paradigm shift in the onsite program.

2. AOSS Regulations revision process update.

Mr. Roadcap commented that the fast track for direct dispersal is moving forward. VDH has set up three workgroups to address other potential changes to the AOSS Regulations. One, working on section 80 of the AOSS Regulations, met one time and there is a draft that will be going to them soon. That workgroup will then hold a second meeting. Once that group finalizes its thoughts the draft revisions will be brought back to the SHADAC. Another group met to discuss section 70 of the AOSS Regulations and another workgroup is looking at the 180 day sampling requirements. Both of those groups have met one time. The sampling group is exploring eliminating the 5 year sampling requirement and replacing it with field testing and triggers. Recommendations from those subgroups will be brought back to the SHADAC.

3. HB 2477 implementation.

i. GMP 2015-01 update.

Mr. Tiller walked through several suggested revisions to GMP 2015-01. The first was to a proposal to clarify septic tank effluent to a pad as an alternative system.

Mr. Moore suggested that VDH may want to expand the definition to include “where septic effluent is disposed by gravity following the requirements in 12VAC5-610-930.”

Chairman Lynn asked septic tank effluent to a pad could be considered an alternative system.

Mr. Roadcap commented that VDH is seeking to clarify that the agency’s interpretation is that septic tank effluent to a pad is an alternative system.

Mr. Tiller then discussed a proposed modification to the cover page to include the following language: “The potential for both conventional and alternative systems has been discussed with the owner/applicant.”

Chairman Lynn suggested that VDH should also tell the owner about alternative options.

Mr. Roadcap commented that the statement would go on the cover page, which would be one of the forms for the policy and VDH staff would use the form as well.

Next, Mr. Tiller discussed proposed language for transfer of valid construction permits.

Mr. Conta asked for a definition of the term “valid” construction permit.

Chairman Lynn asked whether the proposed revision is in direct conflict with the regulations.

Mr. Moore asked how VDH would receive permission to access the property without the new owners name or contact information. He suggested adding a step where VDH is provided the new owners information.

Mr. Tiller also discussed a proposed change to language in GMP 2015-01. Mr. Tiller noted that the section was revised based on comments from the previous SHADAC meeting, and that VDH is also seeking input from land surveyors.

- ii. 100% inspections.

Mr. Grubbs addressed the SHADAC regarding an additional revision to GMP 2015-01 to develop a procedure for VDH staff to inspect all onsite sewage systems as required by HB 2477. He noted that for VDH designs the current inspection procedure would not change. The intent of the procedure for VDH inspection of private sector designs is to provide value and not hold up the process. The Code of Virginia still requires the certifying private sector designer to inspect the system at the time of installation. The private designer is responsible for inspecting the entire system, completing an as-built drawing, and providing an inspection report.

The installer will be responsible for contacting the local health department one business day prior to the installation. VDH staff could then inspect the system at any point once construction has begun. The VDH inspection would not be a complete review, and would focus on confirming the location, treatment level, depth, and sizing of the installation. Staff would also collect GPS coordinates. If the private sector designer approves the installation, the system can be covered prior to VDH's inspection, provided notice was given.

- iii. Education and Outreach.
- iv. Community health assessments.
- v. Quality assurance manual update.
- vi. Separating work unit functions.
- vii. Data collection and sharing.

Mr. Gregory briefly commented on VDH's efforts to address additional components of HB 2477, such as education and outreach, community health assessments, and quality assurance manual updates. He noted that all draft proposals would be brought to the SHADAC for review.

Mr. Roadcap commented that VDH has created an internal workgroup to assess the potential for separating permitting and enforcement work unit functions. Draft proposal will be brought to the SHADAC for review.

Adjourn

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

Date: June 19, 2017
Time: 10 am to 2 pm
Primary Location: James Madison Building
5th Floor Main Conference Room
109 Governor Street
Richmond, Virginia 23219

Remote Locations: Loudoun County Government Center
1 Harrison Street SE
Leesburg, Virginia 20175

Christiansburg Health Department
210 South Pepper Street, Suite A
Christiansburg, Virginia 24073

Administrative (15 minutes)

1. Welcome. (5 minutes)
2. Approve agenda. (5 minutes)
3. Review summary from April 14, 2017 meeting. (5 minutes)

Public Comment Period

Standing Agenda Items (20 minutes)

1. Issues related to internal VDH policies and processes. (20 minutes)
 - i) AOSS recordation form. (10 minutes)
 - ii) Replacement of pumps. (10 minutes)

Old Business (45 minutes)

1. Discuss regulatory reform options. (45 minutes)
 - i) Conflicting regulations options. (45 minutes)

Break (10 minutes)

Old Business Continued (50 minutes)

1. Discuss regulatory reform options. (45 minutes)
 - ii) Paradigm shift options. (45 minutes)
2. AOSS Regulations revision process update. (5 minutes)

Break (10 minutes)

Old Business Continued (90 minutes)

3. HB 2477 implementation. (90 minutes)

- i. GMP 2015-01 update. (20 minutes)
- ii. 100% inspections. (40 minutes)
- iii. Education and Outreach. (5 minutes)
- iv. Community health assessments. (5 minutes)
- v. Quality assurance manual update. (5 minutes)
- vi. Separating work unit functions. (5 minutes)
- vii. Data collection and sharing. (10 minutes)

Adjourn

MEMORANDUM

DATE: March 17, 2017

TO: Mike Lynn, Chair, Sewage Handling and Disposal Advisory Committee

FROM: Alan Brewer, Chair, Regulatory Reform Subcommittee

THROUGH: Regulatory Reform Subcommittee: Lance Gregory, Morgan Kash, Curtis Moore, Valerie Rourke

SUBJECT: Options for Regulatory Reform

BACKGROUND: At the April 15, 2015 Sewage Handling and Disposal Advisory Committee (Committee) meeting, members and other stakeholders were asked to identify items they felt should be discussed at future meetings. Committee members then “voted” for items that they thought should be the highest priority for Committee to consider. At the December 2, 2015 meeting, the Committee discussed issues related to regulatory review and revision. During this discussion Committee members noted that many of the priority items identified on April 15, 2015 were related to regulatory reform. As a result of these ongoing discussions, the Committee created a Regulatory Reform Subcommittee (Subcommittee) and directed that Subcommittee to “*assess and propose to the SHADAC, options for regulatory reform*”.

The Subcommittee met five times in 2016. Meeting summaries can be found at the Town Hall website - [Virginia Regulatory Town Hall Home Page](#). The Subcommittee used a systematic process to effectively and efficiently meet its objective. This process included the following steps:

- Affirm the responsibilities and purpose of the Subcommittee.
- Obtain an understanding of the current regulatory framework and conditions.
- Identify areas of the current program that work well.
- Identify challenges/issues with the current program.
- Identify options for regulatory reform.

PROCESS:

Affirm the responsibilities and purpose of the Subcommittee

The Subcommittee recognized, and the Committee confirmed, that the options for regulatory reform should not be limited to regulations. The intent of the directive was to offer options to reform any aspect of the Virginia Department of Health (VDH) Onsite Sewage and Water Services Programs (OS&WSOP). The Subcommittee agreed to a goal to serve as the criteria for development of options to be provided to the Committee.

The goal of the Subcommittee is to present a broad set of options for regulatory and programmatic reform that are protective of public health and the environment, and result in a consumer friendly, flexible, progressive and collaborative program.

Importantly, the Subcommittee did not limit their discussions to existing conditions, authorities, or likelihood of adoption or success. Effectively, the discussions were not bound by “historic baggage” and other constraints.

Obtain an understanding of the current regulatory framework and conditions

Due to the diverse composition, perspectives, and experiences of Subcommittee members, VDH staff provided for the benefit of the Subcommittee an overview of core functions and responsibilities, and regulations administered by OS&WSP (see Attachment 1). This information was a catalyst for developing options.

Identify areas of the current program that work well

The Subcommittee recognized that there are aspects of the existing program and regulations that work well and should not be discounted when considering options for reform. These aspects were discussed at length during meetings. The essence of these discussions can be found in the meeting summaries, particularly the summary of the May 11, 2016 meeting.

Identify challenges/issues with the current program

Before attempting to identify options for reform, the Subcommittee first characterized the challenges and issues with the existing program. In other words, the Subcommittee described the problems before discussing potential solutions. The list of challenges identified by the Subcommittee is included as Attachment 2. The Subcommittee provided this list to the Committee in May 2016 for input and did not receive any comments. The Subcommittee grouped the challenges into four categories: Conflicting Regulations, Program Administration, Paradigm Shift, and Resource. Categorizing the challenges helped the Subcommittee focus their discussions of possible solutions.

Conflicting Regulations includes issues related to contradictions, inconsistencies, incompatibilities, and variations in practices, policies, ordinances, regulations and codes.

Program Administration includes issues related to managing, directing, overseeing and governing program responsibilities.

Paradigm Shift includes issues where a fundamental change in approach or underlying assumptions is necessary for change.

Resource issues are related to financial disparity, inflexibility and reasonableness of the program.

Identify options for regulatory reform

Building on the previous steps in the process, the Subcommittee was able to enumerate options for regulatory reform. It is important to note that the options described below are not recommendations from the Subcommittee, they are simply possibilities for the Committee to evaluate further.

OPTIONS FOR REGULATORY REFORM:

Conflicting Regulations Options

- Codify that VDH will enforce local ordinances when they are more stringent than state requirements.
- Create a model ordinance that localities could chose to adopt so every locality has the same standard for requirements not included in the state regulations.
- Prohibit localities from having local ordinances that are more stringent than state regulations.
- Create a process where VDH's regulations are a higher level view of requirements, and then allow VDH to create an implementation manual to apply the regulations. VDH could then revise the implementation manual without going through the regulatory process every time.
- Combine regulations where possible.
- Conduct a comprehensive assessment of all the regulations to identify and resolve conflict.
- Review all of the policies and codify areas where there needs to be an enforceable requirement rather than guidance.
- Review local ordinances and national industry standards and incorporate good practices in the regulations.
- If a national model code becomes available, shift to the building code model for adopting regulations.
- The Health Commissioner could advocate for a national model code.
- VDH could work with other agencies in a more prescribed manner than just having them sit on the SHADAC and other committees and have the different agencies meet at some frequency to discuss changes and overlap. The first point of discussion at the inter-agency meetings should be to determine where conflicts exist.
- Eliminate the regulations and let local governments or another agency take over the program.

Program Administration Options:

- Dictate by policy that VDH will not enforce local ordinances.
- Codify or mandate that local ordinances must follow the Administrative Processes Act.
- Dictate that appeals of local ordinances must go through VDH.
- Have regional sanitarians to help with consistency across the state.
- Revise regulations so that they only contain requirements that VDH is willing to enforce through the courts.
- Match VDH resources areas that have the highest risk to public health. This would require an assessment of responsibilities, resources and outcomes.
 - Hire a consultant to evaluate VDH's responsibilities/tasks, the associated risk, and where resources should be directed;

-OR-

- VDH evaluates its responsibilities/tasks, the associated risk, and where resources should be directed.
- Provide stakeholders with VDH's goals and measures for the program.
- Change the way VDH inputs and uses data to improve enforcement of alternative onsite sewage system (AOSS) operation and maintenance (O&M).
- Allocate more resources to O&M.
- Administer O&M from the Central Office; evaluate the potential to centralize the initial enforcement phase for O&M (e.g. sending notices to owners).
- Use the private sector more for data collection and entry.
- Propose a statutory or regulatory change so that licensees could have their license revoked if they falsify a document.
- Instead of making the owner responsible for O&M of the system, make the operator responsible or mandate joint responsibility in an effort to make the operator responsible for compliance and enforcement.
- Create a renewable operations permit for all AOSS, not just the large systems.
- Rather than mandating O&M, create more conservative regulations (e.g. more conservative site condition requirements).
- Create a program for conventional onsite sewage system O&M.
- Allow VDH staff to perform non-enforcement contact with owners when potential issues are observed but the issues do not rise to the level of enforcement.

Paradigm Shift Options:

- Use a risk based regulatory model that takes into account items like sensitive sites and lot size.
- Modify the program to a watershed perspective not a statewide standpoint.
- Engage a consultant or contractor outside of VDH to evaluate the potential to refocus efforts to what is really important; don't do things just because they've always been done.
- Evaluate whether there are other VDH programs (e.g. Community Health Services, Health Equity) that can assist with community health issues related to onsite sewage and private wells.
- Incorporate a responsible management entity (RME) model into the regulatory scheme.
- Where there is jurisdictional overlap with other agencies, have VDH provide more information regarding human health impacts.
- Allow licensed entity's to design and install systems outside the regulations provided they are willing to bond the system.
- Require that completion statements are signed by a licensed installer.
- Require that licensed operators get hauler permits; VDH inspector has to certify that the installer is licensed.
- Have VDH establish an internal working group to improve communication between offices and agencies.

Resource Options

- Establish a repair fund.
- Regarding betterment loans, evaluate the potential for a program where VDH backs betterment loans, and determine what can be done to allow the program to better serve low income homeowners.
- Incorporate a funding structure into new fees.
- Charge fees for services that currently do not have a fee.
- Work with the Department of Environmental Quality and other partners to get greater access to the state revolving loan funds for onsite sewage system projects.
- Allow localities to establish sewer service districts countywide. Everyone in the district pays a monthly fee, and when their onsite sewage system fails the service authority is responsible for the repair. Could also use private provider models.

The Subcommittee sincerely appreciates the opportunity to provide this information to the Committee and looks forward to future discussions related to the options presented.

ATTACHMENTS:

1. VDH - Current Regulatory Environment
2. List of Challenges

ATTACHMENT 1

Virginia Department of Health Onsite Sewage and Water Services Program Structure

The Code of Virginia (the Code) established the Virginia Department of Health (VDH) to administer and provide comprehensive environmental health services, to educate citizens about health and environmental matters, develop and implement health resource plans, collect and preserve health statistics, assist in research, and abate hazards and nuisances to the health and the environment. The purpose of these activities is to improve the quality of life in the Commonwealth.

The Division of Onsite Sewage and Water Services, Environmental Engineering, and Marina Programs (DOSWSEEMP) and local health department (LHD) Environmental Health (EH) staff are tasked with administering sections of the Code dealing with onsite sewage systems, alternative discharging systems, and private wells (the Onsite Sewage and Water Services Program). Activities outlined by the Code within the Onsite Sewage and Water Services Program include:

- Long range planning for the handling and disposal of onsite sewage.
- Review (office and field) of applications with corresponding work from private sector designers for subdivision reviews, permit approvals, letters for residential development, and private well construction.
- Issuance of construction permits or denials for applications with corresponding work from private sector designers.
- Field review and system design of certain applications without corresponding work from private sector designers to issue or deny permits for the construction, installation, and modification of a sewerage system or treatment works.
- Development of the Engineering Design Review Panel (EDRP).
- Implement regulations regarding operation and maintenance of alternative discharging sewage systems.
- Conduct regular inspections of alternative discharging sewage systems.
- Establish and implement regulations governing the collection, conveyance transportation, treatment and disposal of sewage by onsite sewage systems and alternative discharging sewage systems.
- Establish and implement regulations regarding the maintenance, inspection, and reuse of alternative onsite sewage systems (AOSS).
- Collection of fees and assessment of fee waivers for onsite sewage system and private well permit applications.
- Establish and maintain a statewide web-based reporting system to track the operation, monitoring, and maintenances of AOSS.
- Establishment and administration of a uniform schedule of civil penalties for violations of onsite sewage and alternative discharge regulations.
- Process appeals for adverse case decisions.
- Establish and implement an onsite sewage indemnification fund.
- Process and grant waivers, where applicable, from treatment and pressure dosing requirements.

- Establish and implement a betterment loan eligibility program.
- Process permit applications and waiver request for voluntary upgrades.
- Administer the Onsite Operation and Maintenance Fund.
- Process safe, adequate and proper evaluations.
- Enter into agreements with any appropriate federal agency to regulate and monitor the collection, transportation, conveyance, treatment and disposal of sewage.
- Establish and facilitate the Sewage Handling and Disposal Appeal Review Board.
- Establish and implement regulations pertaining to the location and construction of private wells.

Under authority provided by the Code, the Board of Health has promulgated the following regulations pertained to the Onsite Sewage and Water Services Program: the Sewage Handling and Disposal Regulations (12VAC5-610), the Regulations for Alternative Onsite Sewage Systems (12VAC5-613), the Fee Regulations (12VAC5-620), the Private Well Regulations (12VAC5-630), the Alternative Discharging Sewage Treatment Regulations (12VAC5-640), and the Schedule of Civil Penalties (12VAC5-650). The primary purpose(s) for each of these regulations is listed below:

Sewage Handling and Disposal Regulations

- To assure that all sewage is handled and disposed of in a safe and sanitary manner;
- To guide the State Health Commissioner in her determination of whether a permit for handling or disposing of sewage should be issued or denied; and
- To guide property owners in the requirements necessary to secure a permit for handling and disposing of sewage.

Regulations for Alternative Onsite Sewage Systems

- To establish a program for regulating the operation and maintenance of AOSS;
- To establish performance requirements for AOSS;
- To establish horizontal setbacks for AOSS that are necessary to protect public health and the environment;
- To discharge the Board's responsibility to supervise and control the safe and sanitary collection, conveyance, transportation, treatment, and disposal of sewage by onsite sewage systems and treatment works as they affect the public health and welfare;
- To protect the quality of surface water and ground water;
- To guide the Commissioner in determining whether a permit or other authorization for an AOSS shall be issued or denied;
- To inform property owners, applicants, onsite soil evaluators, system designers, and other persons of the requirements for obtaining a permit or other authorization for an AOSS; and
- To develop, as DOSWSEEMP deems necessary, best management practices for the purpose of recognizing acceptable methods to reduce pollution from AOSSs.

Fee Regulations

- To establish a procedure for determining the fees for services provided by the department for onsite sewage systems, alternative discharge systems, and private wells;
- To establish procedures for the refund of fees; and
- To establish procedures for the waiver of fees.

Private Well Regulations

- To Ensure that all private wells are located, constructed and maintained in a manner which does not adversely affect ground water resources, or the public welfare, safety and health.;
- To guide the Commissioner in her determination of whether a permit for construction of a private well should be issued or denied;
- To guide the property owner or his agent in the requirements necessary to secure a permit for construction of a private well; and
- To guide the property owner or his agent in the requirements necessary to secure an inspection statement following construction.

Alternative Discharging Sewage Treatment Regulations

- To ensure that discharging systems are permitted, constructed, and operated in a manner which protects the environment and protects the public welfare, safety and health;
- To guide the commissioner in her determination of whether a permit for construction and operation of a discharging system should be issued or denied;
- To guide the property owner or his agent in the requirements necessary to secure a permit for construction of a discharging system;
- To guide the owner or his agent in the requirements necessary to secure an operation permit following construction;
- To guide the owner or his agent in the requirements necessary to operate and maintain a discharging system;
- To guide the Commissioner in her determination of whether a discharging system is being operated in a manner which protects public health and the environment; and
- To guide the Commissioner in her determination of what actions are appropriate to correct violations of this chapter.

Schedule of Civil Penalties

- To establish a uniform schedule of civil penalties for violations of 12VAC5-610 (includes 12VAC5-613), and 12VAC5-640;
- To support enforcement activities necessary to discharge the Board's responsibility to supervise and control the safe and sanitary collection, conveyance, transportation, treatment, and disposal of sewage as they affect the public health and welfare;
- To support enforcement activities necessary to discharge the Board's responsibility to exercise due diligence to protect the quality of ground and surface waters; and
- To guide the Commissioner in charging civil penalties.

In addition to these regulatory sections, the Board also promulgated the Authorized Onsite Soil Evaluator Regulations (12VAC5-615) to implement, administer, and enforce licensing requirements for onsite soil evaluators. However, the 2007 Virginia General Assembly enacted House Bill 3134, which transferred implementation, administration, and enforcement of licensing to the Department of Professional and Occupational Regulation. DOSWSEEMP is currently in the process of developing a proposed action to repeal 12VAC5-615.

The administration of the Code and these regulations are essentially broken into two staffing segments: DOSWSEEMP staff and local health department EH staff. The general duties of each of those segments is provided below.

Central Office

DOSWSEEMP staff are responsible for programmatic activities such as: providing assistance within the legislative process; regulatory development; policy and guidance development; agency staff and industry stakeholder training; database management; programmatic data analysis; website management; variance processing; indemnification fund processing; product evaluations; EDRP processing; Sewage Handling and Disposal Advisory Committee facilitation; agency representation before the Sewage Handling and Disposal Appeals Board; providing assistance to local health departments for appeals processing; providing technical assistance to local health department when dealing with complex cases; development of agreements with federal and state agencies, where applicable (e.g. Chesapeake Bay Watershed Implementation Plan); long range planning; and overall program quality assurance.

Local Health Departments

The local health department EH staff are responsible for programmatic activities such as: processing applications; issuing or denying permits for onsite sewage systems, alternative discharging sewage systems, and private wells (with or without accompanying work from private sector designers); inspection of onsite sewage systems, alternative discharging sewage systems, and private wells; data entry for onsite sewage system, alternative discharging system, and private well applications, permits, installations, and operation; processing request from local governments for development (safe, adequate and proper evaluations, subdivisions proposals, special use permits, etc.); issuance of operation permits for onsite sewage systems and alternative discharging systems; issuance of inspection statements for private wells; issuance of pump and haul permits; inspection and approval of sewage handlers; providing courtesy reviews of private sector evaluations; sewage and water complaint investigations; administration of enforcement actions when violations of sewage and well regulations are observed; enforcement of required operation and maintenance for AOSS and alternative discharging sewage treatment systems; conducting informal fact finding conferences; conducting Level I and Level II reviews of private sector work; conducting field evaluations and designs for bare applications; inspection of discharge systems; and administration of other activities outline through agreements with local governments.

ATTACHMENT 2

Virginia Department of Health
Sewage Handling and Disposal Advisory Committee
Regulatory Reform Subcommittee
June 20, 2016

Challenges/Issues Categorized

| Challenge / Issue | Category |
|---|--|
| Issues regarding local ordinance enforcement when the site/design fully complies with state regulations, but not local ordinance. There are a lot of localities that have ordinances that do not conform with VDH regulations (e.g. Louisa County ordinance requires cast iron sewer pipe). | Program Administration/Conflicting Regulations |
| Various layers of regulations and local ordinances that don't always align. That leads to conflict or confusion. | Program Administration/Conflicting Regulations |
| GMPs at times are treated as regulation and not guidance. They also at times conflict or do not align with all regulations or other policies. | Program Administration/Conflicting Regulations |
| Customer service and transparency become issues because of the conflicts between the various layers of regulations and local ordinances. | Conflicting Regulations |
| Historical baggage. | Paradigm Shift |
| Need more interconnection with other programs within VDH, and other agencies at state and federal levels. When there is potential overlap of VDH programs with those of other state agencies, really need to spell it out in the regulations or MOUs. | Paradigm Shift |
| Need to look at wastewater as part of a spectrum of water management (e.g. VDH also needs to look at its role in surface water and groundwater quality and management issues). | Paradigm Shift |
| Community wastewater problems are different than individual system problems, but the current program treats them the same. | Paradigm Shift |
| What is a "failing system"? Need to distinguish between repairs and voluntary upgrades. | Paradigm Shift |
| The regulations provide somewhat of a preferential benefit to someone that can afford to install an alternative system on sites where less expensive conventional systems cannot be used (e.g. direct dispersal - poor person couldn't develop the property but a rich person can). | Paradigm Shift |
| Installers upset that unlicensed contractors are still getting their system installations approved. | Paradigm Shift |

| Challenge / Issue | Category |
|--|---|
| EPA design manual says onsite sewage programs should become more involved with watershed protection planning. This is not currently the case in Virginia. For instance, a locality has an impaired waterway. The locality determines the best way to address that issue is stream buffers, so the county spends significant funds on buffers. But then under state regulations developer installs an onsite sewage systems within the buffer because it meets the regulations even though it's not part of the County's plan to improve the impaired waterway. This relates to two other challenges noted below: (1) Need to look at wastewater as part of a spectrum of water management, and (2) Need more interconnection with other programs within VDH, and other agencies at state and federal levels. | Paradigm Shift |
| Concerned about permits for alternative systems being issued in areas that clearly shouldn't be developed (e.g. sensitive receiving environments) even though the site meets the minimum regulations. | Program Administration / Paradigm Shift |
| Are VDH resources aligned with the goals of the program? (first flush vs. ongoing maintenance). | Program Administration |
| Lack of enforcement on O&M, and regulatory oversight. | Program Administration |
| Perception that VDH staff think just because a PE signs off on a design they (VDH staff) have to permit the design. | Program Administration |
| Issue with consistency and lack of enforcement statewide, possibly resulting from the elimination of the regional sanitarians. | Program Administration |
| Blurred line when a VDH employee steps over from being a regulator to being a designer. | Program Administration |
| Information dissemination is a challenge, especially regarding O&M. | Program Administration |
| The fee structure for repairs. Should repair permits really be free for everyone? Should we even be reclassifying repairs versus construction permits? Why not make everything a construction permit that must fully comply with the regulations? Should there be a sliding scale for the cost of repairs based on the income of the household serviced by the system? | Program Administration / Resource |
| The Betterment Loan program doesn't work for low income homeowners. | Resource |
| There is one regulatory standard that has no flexibility to deal with income. Regulations can facilitate grants/exemptions, but there needs to be another financial solution from an external source. | Resource |
| How do you handle case with a \$10,000 trailer on a \$5,000 lot that needs a \$20,000 septic system? | Resource |

~~August~~ January 14, 2017~~5~~

MEMORANDUM

TO: District Health Directors
Environmental Health Managers
Office of Environmental Health Services Staff
~~VPI Contract Soil Scientists~~
Onsite Soil Evaluators
Professional Engineers

GMP #2017~~5~~-01

THROUGH: Marissa J. Levine, MD, MPH, FAAFP
State Health Commissioner

THROUGH: Allen Knapp, Director
Office of Environmental Health Services

FROM: Dwayne Roadcap, Director
Division of Onsite Sewage and Water Services, Environmental Engineering
and Marina Programs

SUBJECT: GUIDANCE MEMORANDUM AND POLICY 2017~~5~~-01: Onsite Sewage Application
Expectations and Requirements. This policy revises GMP 2015-01. GMP 2015-01 is
~~hereby rescinded.~~

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Part I: Background, Scope, General Requirements

A. Authority.

This policy is authorized by the *Private Well Regulations* (12 VAC 5-630, the *Well Regulations*), the *Sewage Handling and Disposal Regulations* (12 VAC 5-610, the SHDR), the *Regulations for Alternative Onsite Sewage Systems* (12 VAC 5-613, the AOSS Regulations) and the *Alternative Sewage Treatment Discharging Regulations for Single Family Homes* (12 VAC 5-640, the Discharging Regulations). This interim policy is further authorized by §32.1-164 of the *Code of Virginia (Code)*, which provides the Board of Health (Board) with the powers and duties to establish:

1. Processes for filing an application for an onsite sewage disposal system permit with the Virginia Department of Health (VDH).
2. Procedures for issuing letters recognizing onsite sewage sites in lieu of issuing onsite sewage construction permits.
3. Criteria for granting, denying and revoking permits for onsite sewage disposal systems.

B. Purpose, Scope, and Applicability.

The purposes of this document are to:

1. Inform applicants of the expectations for certification letters, subdivision approvals and construction permits in the onsite sewage and private well programs;
2. Provide guidance to agency staff and private sector professionals for processing the above applications; and
3. Establish expectations and deadlines for processing applications.

Comment [TD1]: This policy lays out roles for the private sector also.

This policy applies to all applications submitted to the VDH, including applications with supporting work from private sector designers. VDH shall accept, review, and approve or deny applications in accordance with the *Code*, applicable regulations, and VDH policies.

C. Definitions. The following words and terms have the following meanings unless the context clearly indicates otherwise:

“Backlog” is deemed to exist when the processing time for more than 10% of a local or district health department’s complete bare applications for construction permits exceeds a predetermined number of working days (e.g., a 15-day backlog exists when the processing time for more than 10% of permit applications exceeds 15 working days). When calculating backlogs, only applications for construction permits shall be counted.

“Bare Application” means an application for a construction permit or a certification letter submitted without supporting documentation from a private sector designer.

“Conventional Onsite Sewage System” (COSS) means a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield. An example of a COSS is an in-ground system design (See 12VAC5-594, A. and B.) where septic tank effluent is dispersed by gravity following the requirements in 12VAC5-930.

Comment [TD2]: A STE pad would be considered an AOSS.

“Complete Application” means an application for a construction permit or certification letter that includes all necessary information needed to process the application as specified by code, regulation or this policy.

“Deemed Approved” or “Deemed Approval” means that VDH has not taken action to approve or disapprove an application for a permit, an individual lot certification letter, multiple lot certification letters, or subdivision approval for residential development within the time limits prescribed in §§ 32.1-163.5 and 32.1-164 G of the *Code of Virginia*. In such cases, an application submitted in proper form pursuant to this chapter is deemed approved. “Deemed approved” means that the application is approved only with respect to the Board of Health’s regulations.

Sites previously denied by VDH and proprietary, pre-engineered systems deemed by VDH to comply with the Board’s regulations are not subject to the provisions of deemed approval.

“Multiple Lot Certification Letters” means two or more applications for certification letters filed by the same owner for existing or proposed lots to serve detached, individual dwellings.

“Onsite Soil Evaluator” (OSE) 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.

“OSE/PE” means a licensed onsite soil evaluator, a professional engineer, or a professional engineer working in consultation with a licensed onsite soil evaluator.

“Processing Time” means the number of working days from the date a complete application is received by a local health department to the date a permit or certification letter is issued or denied. Working days characterized by severe weather conditions shall not be included in any calculation of processing time.

Comment [TD3]: Changed to be in alphabetical order.

“Professional Courtesy Review” means a site-specific field review requested by an OSE/PE prior to the submission of an application for a construction permit or certification letter or a general field consultation (not site-specific) regarding a proposed subdivision.

~~“Processing Time” means the number of working days from the date a complete application is received by a local health department to the date a permit or certification letter is issued or denied. Working days characterized by severe weather conditions shall not be included in any calculation of processing time.~~

“Single Lot Construction Permit/Certification Letter” means one application filed by an owner for a sewage disposal system construction permit or certification letter to serve an individual dwelling on one lot or parcel of land.

“Subdivision Review” means the review of a proposed subdivision plat by a local health department for a local government pursuant to a local ordinance and §§ 15.2-2242 and 15.2-2260 of the *Code of Virginia* and 12 VAC 5-610-360 of the *Sewage Handling and Disposal Regulations* for the purposes of determining and documenting whether an approved sewage disposal site is present on each proposed lot.

D. Roles and Responsibilities.

1. The Virginia Department of Health (VDH) shall:

- a. Review applications as necessary to assure compliance with applicable regulations and the department’s policies prior to approval or disapproval of an application.
- b. Conduct paperwork (Level 1) and field (Level 2) reviews prior to approving or denying applications as necessary to protect public health and the environment.

~~e. Conduct construction inspections of private sector designed systems as necessary to protect public health and the environment.~~

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~~d.c.~~ Provide a site-specific field courtesy review when requested by an OSE/PE as time and resources may allow. Such requests shall not be included in any calculation of backlogs nor shall they be subject to the time limits contained in this policy or to deemed approval. The professional courtesy review is voluntary and will be provided at the sole discretion of the local health department. Staff will not render case decisions for requests for courtesy reviews.

~~e.d.~~ Initiate procedures to revoke or modify permit approval, certification letter or subdivision approval when there is reason to believe the approval does not substantially comply with applicable regulations. VDH may revise a permit, certification letter, or subdivision approval upon the owner filing a new application or as outlined in Part III Section C of this document.

2. The OSE/PE shall:

- a. Certify that work performed meets all applicable regulations when that work is used to seek a permit, letter, or other approval from VDH.
- b. Assure site evaluations and designs comply with all applicable regulations and this policy when applicable. See GMP #153 (or successor policy), Va. Code § 32.1-163.6, and other requirements within this policy.
- c. Inspect sewage systems installed based upon work submitted in support of a permit application subsequently approved by VDH.

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d. Complete an inspection and provide an inspection report and a completion statement to VDH for any sewage disposal system installed pursuant to a construction permit based on a design certified by the OSE/PE. ~~VDH may, but is not required to, inspect systems designed by a private sector OSE/PE.~~

Comment [TD4]: Following HB 2477.

~~e. Disclose to property owners when a conventional onsite sewage system is an option and document disclosure on the cover page under the certification statement. The certification statement will include the following *“The potential for both conventional and alternative systems has been discussed with the owner/applicant.”*~~

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Comment [TD5]: Following HB 2477.

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3. Professional Relationships

VDH staff and private sector designers must be mindful of the sometimes subjective nature of onsite sewage system evaluations and designs. On any site there may be a number of possible solutions to install an onsite sewage system, all of which must comply with the regulatory requirements.

It is paramount that VDH staff and private sector designers respect one another's professional judgment in such variable circumstances. A private sector designer forms an independent professional opinion based on an objective evaluation of all the relevant information available and his/her professional judgment. At the same time, VDH staff is equally qualified to form independent professional opinions based on an evaluation of the relevant information available.

When making case decisions, VDH employees must distinguish their professional opinion from an administrative responsibility to process permit applications based on facts. It is the private sector designer's responsibility to assure that his/her evaluation and design are completed in accordance with all applicable laws and regulations. Deference should be given to the private sector designer's professional judgment unless factual evidence is available to show that an evaluation and/or design does not comply with applicable laws and regulations.

When problems occur, VDH is obligated to take appropriate enforcement actions to assure public health and environmental protection. Local and district environmental health staff and directors are responsible for problem solving situations encountered regarding site approvals, system design, and construction.

VDH is a partner in trying to identify solutions. Private sector designers are expected to take primary responsibility for solving problems on sites where a permit is requested based on the private sector designer's supporting documentation. In all cases, the first steps to resolving problems should attempt to identify non-adversarial solutions that are mutually agreeable to the owner, the designer, and the agency.

E. General Requirements.

1. All requests for VDH approvals or reviews must be made on the appropriate application form (or in writing for courtesy reviews). The owner of record must give VDH permission to enter

the property to process the application or request. Generally, applications for construction permits and certification letters begin with filing an application; requests for review of proposed subdivisions are initiated by a local government; and requests for courtesy reviews are initiated by a private sector OSE/PE.

2. All evaluation reports and designs submitted to VDH must be in the form specified by regulation, the Code of Virginia, and applicable agency policy. The designer must certify that the application substantially complies with the applicable regulations.
3. With respect to individuals involved in the design of any onsite sewage disposal system, VDH will require the designer to affix a professional engineer (PE) seal or provide a signed certification statement stating that the designer is exempt from the engineering requirements. The exemption statement shall identify the specific exemption under which the plans and specifications were prepared and certify that the designer is authorized to prepare such plans pursuant to the exemption. If the design is submitted without the required seal or statement, the application will be considered incomplete and will not be accepted. If the required seal or statement is provided, the local health department will evaluate the work for compliance with VDH regulations and policies and render an appropriate decision. Upon request, VDH will provide the Department of Professional and Occupational Regulation (DPOR) with reports containing information on individuals who invoke the exemption from the engineering requirements and information on the number and type of systems designed pursuant to said exemption.
4. The owner of the property or his agent is responsible for filing an application with the local health department. A complete application is required to apply for and receive a construction permit, certification letter, or denial.
- 4.5. Valid construction permits for onsite sewage systems and private wells are transferable to new property owners. Valid construction permits remain in force through property transfers. A new application is not required and the construction permit and operation permit will remain in the original owner's name. At the owner's request, VDH will revise "owner information" for valid construction and operation permits in VENIS. All sewage disposal construction permits are null and void when (i) conditions such as house location, sewage system location, sewerage system location, well location, topography, drainage ways, or other site conditions are changed from those shown on the application; (ii) conditions are changed from those shown on the construction permit; or (iii) more than 18 months elapse from the date the permit was issued.

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Comment [TD6]: Change follows HB 2477.

Comment [TD7]: A comment from SHADAC is VDH will lose the right of entry to inspect.

Part II: Applications

A. Applications: General

1. Incomplete applications delay timely and accurate decision making. Applicants are encouraged to assure all submittals are complete at the time of submission by following the guidelines below.
2. Applications submitted to VDH are either bare applications (i.e., without evaluation or designs from a private sector OSE/PE) or applications with complete supporting documentation as

required for the type of application currently submitted (e.g., construction permit, certification letter, et al.) from a private sector OSE/PE.

3. This section outlines the minimum administrative and documentation requirements for processing an application. VDH staff OSEs are required to comply with the Work Product Expectations (WPEs) listed in Part II Section J below. Private sector OSEs and PEs are strongly encouraged to comply with the WPEs. VDH may make reasonable requests for additional documentation for any application when the agency deems such information necessary for making a case decision; failure to provide such documentation may result in denial of the application.

B. Construction Permit Applications

1. General: All applications with supporting work from a private sector OSE/PE for construction permits shall contain the following:
 - a. The correct and complete application;
 - b. The appropriate fees;
 - c. A site and soil evaluation report;
 - d. A proposed well site location and well specifications (when a private well is proposed);
 - e. Construction drawings and specifications for the system; and
 - f. A statement *on the cover page* certifying that the site and soil conditions and design substantially comply with applicable regulations.
 - g. When the application is for a repair permit or a voluntary upgrade permit, a completed Condition Assessment Form Malfunction ~~Assessment~~ (Form 14).

Comment [TD8]: This part is to conform with the voluntary upgrade/repair policy.

For bare applications, a VDH OSE shall provide the items c through g as part of the application processing procedure.

2. System Designs.
 - a. The OSE/PE must provide sufficient detail to allow an installer and well driller to accurately construct the onsite sewage system and private well (if applicable). Plans and specifications must be sufficient to allow the successful installation of the treatment works.
 - b. Construction drawings shall comply with 12VAC5-610-460. As a minimum, drawings must show property lines, all existing and proposed structures, existing and proposed sewage systems and water supplies, slope, any topographic features which may impact the design of the system and well (if applicable), and existing and proposed easements and utilities within a distance from the edge of the proposed soil absorption system and reserve area (when applicable) equal to the horizontal setback required for that particular feature (e.g., 70 feet for shellfish growing waters, 100-feet for Class III-C wells). The designer should provide any other information necessary to determine compliance with the

applicable horizontal setbacks contained in Table 5.4 of the SHDR, 12VAC5-610-950, and 12VAC5-613-200.

- c. When applicable, the drawing of the proposed sewage system shall show sewer lines, septic tank, treatment units, pump station, conveyance system, reserve area, and other relevant features which may affect the proper operation and functioning of the system or be affected by the system. When a private drinking water supply is to be located on the same lot, all sources of pollution necessary to determine compliance with Table 3.1 of the *Well Regulations*, 12VAC5-630-380, shall be shown.
- d. Design calculations used to establish the design parameters must be included where applicable:
 - i. Calculations indicating that the proposed design complies with minimum separation distance to seasonal ground water, rock, or other limiting factor shall be provided to determine compliance with Tables 4.3 and 4.4 of the SHDR, 12VAC5-610-597, and the performance requirements of the *AOSS Regulations*, if applicable.
 - ii. Minimum depth of trenches and separation of trenches shall be provided to determine compliance with 12VAC5-610-950.
 - iii. Pump tank volumes and emergency storage requirements shall be provided to determine compliance with 12VAC5-610-880.
 - iv. When a pump is used in an onsite system design, the calculations shall show the static head, friction head and total dynamic head at the design flow of the pump to determine compliance with 12VAC5-610-880.
 - v. Trench bottom area and number of trenches shall be provided as necessary to determine compliance with Table 5.4 of the SHDR, 12VAC5-610-950, or Table 1 of the *AOSS Regulations*, 12VAC5-613-80, when applicable.
 - vi. Calculations for low pressure distribution, drip irrigation, etc. shall be provided as necessary to determine compliance with 12VAC5-610-940, 12VAC5-610-955, and the performance requirements of the *AOSS Regulations*, 12VAC5-613-80 thru 110, when applicable.
 - vii. Calculations for Wisconsin mound, other fill systems, etc. shall be provided as necessary to determine compliance with 12VAC5-610-960 and the performance requirements of the *AOSS Regulations*, 12VAC5-613-80 thru 110, when applicable.

Additional information may be necessary depending on the regulations applicable to the specific site. See 12VAC5-610, 12 VAC5-613 and Va. Code §32.1-163.6 for more information.

C. Certification Letter Applications

1. All applications submitted pursuant to Va. Code §32.1-163.5 with supporting work from a private sector OSE/PE for certification letters must include the following information:
 - a. The correct and complete application;
 - b. The appropriate fees;
 - c. A site and soil evaluation report;
 - d. A site sketch in compliance with 12VAC5-610-460;
 - e. A proposed well site location and well class (when a private well is proposed);
 - f. Information on proposed treatment level, proposed trench bottom area and proposed sewage volume and flow; and
 - g. A statement on the cover page certifying that the site and soil conditions substantially comply with applicable regulations.

When processing a bare application for a certification letter, the VDH OSE shall include items c through g.

2. Each site certified by an OSE/PE for a certification letter must be located by surveying the perimeter of the soil absorption area and showing that area on a survey plat **unless waived pursuant to this policy**. This plat should be incorporated as part of the site and soil evaluation report
3. All applications for multiple certification letters must include the information for a single-lot certification letter and be processed in accordance with local ordinances for subdivision reviews. Additionally, a preliminary subdivision plat that provides the information specified in paragraph 1 is expected.

D. Subdivision Review Applications

1. All applications for reviewing proposed subdivisions must come from an authorized agent of the local government having jurisdiction. An owner or applicant cannot initiate a request for a subdivision review independent of the local subdivision process.
 - a. The subdivision process is a local function that is governed by local ordinances.
 - b. Va. Code §15.2-2242 of the *Code* provides that localities may adopt ordinances requiring the applicable health official to render a preliminary opinion regarding the suitability of the subdivision for the installation of subsurface sewage disposal systems.
 - c. Va. Code § 15.2-2260 provides that a local subdivision agent must forward preliminary plats to appropriate state agencies if approval of a feature or features of the plat by a state agency is necessary. This section further provides that any state agency making a review of a plat must complete its review within 45 days

from receipt. If the agency does not approve the plat, then it must state the specific reasons for disapproval in writing.

- d. The SHDR provides guidance when review of subdivision plats is required by local ordinances. All requests for subdivision review must include the following:
 - i. A letter from the authorized agent of the local government requesting review of the proposed subdivision and a statement certifying that the subdivision package has been determined to be complete;
 - ii. Site and soil evaluation reports by a OSE/PE for each proposed lot;
 - iii. Proposed well site locations and well class when private wells are proposed;
 - iv. A preliminary subdivision plat. The plat must include all the information required by local ordinances and the following: locations of proposed onsite sewage systems and reserve areas (if applicable), all proposed and existing streets, utilities, storm drainage, water supplies, easements, and lot lines for each proposed lot, and original topographic contour lines by detail survey. The plat should be prepared according to suggested scales contained in Appendix L of the *SHDR*, 12VAC5-610-1170:7.
 - v. A statement on the cover page certifying that the site and soil conditions and designs substantially comply with applicable regulations.
 - vi. A signed statement from the owner of record giving VDH permission to enter the property for the purposes of reviewing the site and soil conditions both prior to the review and approval and afterward (if necessary) for quality control purposes and to protect public health and the environment.

E. Documentation Required for Site Evaluation Reports.

1. All reports must be properly marked as substantially complying (approved) or not complying (rejected) with applicable regulations.
2. Each soil profile hole augered or dug during a soil investigation must be described completely and accurately and located on a site sketch. All holes used to establish the suitability of a site must show that the site substantially complies with applicable regulations.
3. The SHDR require a minimum of five soil profile descriptions for each separate area being established as suitable for a soil absorption system (e.g. primary and/or reserve area). If, in the opinion of the site evaluator, a site exhibits sufficient uniformity of topography and profile, the number may be reduced to three. Profile holes must be placed so as to be representative of the soil absorption area.

4. The depth of each major horizon of all soil profiles must be documented using U. S. Department of Agriculture soil textural classes (including the percent and size of coarse fragments) and soil colors. Soil colors (matrix and mottle patterns) are to be determined and reported using the *Munsell Soil Color Charts*. All colors must be reported using the Munsell notations for hue, value and chroma (e.g. 5YR 5/6). Color names may be added. Abbreviations of terms (e.g. soil color, texture, etc.) are not acceptable.
5. All holes or pits in the area of the proposed soil absorption system must be described as to depth to seasonal water table or seasonal saturation.
6. Depth to rock or restrictive layers must be described when applicable.
7. The estimated percolation rate must be reported. When permeability tests are conducted (including percolation tests, hydraulic conductivity tests, and other measures of soil permeability), a copy of all test results must be included. Permeability tests conducted by a licensed designer do not require VDH supervision.
8. Estimated shrink-swell potential, if moderate or greater, must be noted.
9. Soil concretions shall be noted, where applicable.
10. Other relevant soil features that, in the opinion of the evaluator, are necessary to document that the site is sufficient to accommodate an onsite sewage treatment and dispersal system and to support the proposed design.
11. The site evaluation shall indicate the landscape position and the degree of slope in the area of the proposed system installation.
12. A site sketch in accordance with 12VAC5-610-460 shall be provided with each site and soil evaluation report. See Part II, Section J (9), page 18, of this policy for Work Product Expectations related to site sketches.

F. Survey Plats.

This section of the policy is intended to supersede GMP 152 and is applicable to permits and certification letters whether or not such work is supported by private sector professionals.

1. All applications for sewage disposal system certification letters, ~~onsite and~~ sewage disposal system construction permits and alternative discharging system permits must be accompanied by a copy of a survey plat unless waived pursuant to this policy. For construction permit drawings, private sector OSEs/PEs may opt to show the perimeter of the soil absorption area(s) on a copy of a survey plat. VDH does not prescribe the professional's methods or equipment to accomplish the performance expectations of this policy; however, VDH strongly recommends that all sites, including those for construction permits, be surveyed by a licensed surveyor and platted accordingly. This policy does not circumvent survey requirements contained under 18VAC10-20-370, 18VAC10-20-380, 18VAC10-20-382, 18VAC10-20-390, 18VAC10-20-392 and 18VAC10-20-395.

Comment [TD9]: To clarify survey requirement.

~~1. identifying the proposed sewage disposal system and/or reserve area, proposed dwelling, and any other features impacting placement of the sewage disposal system, unless waived pursuant to this policy.~~

~~2. All applications for alternative discharging systems must be accompanied by a survey plat prior to the issuance of the permit unless waived pursuant to this policy.~~

~~3.1.~~ The survey plat requirement for sewage disposal system certification letters, onsite sewage disposal system construction permits and alternative discharging systems ~~or onsite sewage system construction permits and sewage disposal system certification letters~~ may be waived if the following criteria are met:

- a. The owner shall submit a complete application and fee if applicable.
- b. The owner shall request a waiver from the survey requirement by completing Form 11.
- c. The two main goals are to ensure the sewage system is located on the correct property and in the correct location on the property. The Environmental Health Specialist Senior (EHSS) shall evaluate the risk that the goals will not be met. Before granting a waiver, the local health department shall determine there is a low risk of improper placement of the sewage system. The EHSS will determine the risk by reviewing the application package for completeness, evaluating the owner's answers on Form 11, and by conducting a complete site and soil evaluation for bare applications or a Level 2 Review for applications with supporting work from a private sector OSE/PE, which includes verification of identified property boundary markers.
- e. Certification letters do not expire. There must be a high level of confidence the proposed absorption area(s) can be re-located in the distant future prior to granting a survey waiver for a certification letter.

~~4.2.~~ Prior to issuance of an Operation Permit where a survey plat waiver has been granted, the owner shall sign a statement (See Form 12) confirming that the sewage disposal system has been installed on his property and in the permitted location.

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G. Denials of Applications (not a principal place of residence):

The owner(s) or agent thereof shall indicate on the application form whether or not the requested approval is a construction permit or certification letter for a system that is intended to serve his or her principal place of residence. The following procedures apply for denials for construction permits and certification letters when the applicant has not indicated that the system intends to serve his or her principal place of residence; the following procedure also applies to all denials of subdivision reviews.

1. VDH will deny applications that do not comply with applicable regulations and cite the applicable regulatory requirements. Denial letters must clearly state in plain English the rights and administrative remedies available to the owner.

2. The applicant must elect which potential remedy to pursue. The applicant may not pursue multiple administrative remedies simultaneously. With denials for systems not intended to serve a principal place of residence, the mutually exclusive administrative remedies are as follows:
 - a. The applicant may submit one new application within 90 days from the date that the original application was denied without paying an additional fee;
 - b. The applicant may appeal the denial by requesting an informal fact-finding conference (IFFC) before VDH pursuant to §2.2-4019 of the *Code*. To obtain an IFFC before VDH, the applicant must submit a written request to the District Health Director within 30 days of receipt of the denial; or
 - c. For denials of submittals under §32.1-163.6 of the *Code*, the applicant or the professional engineer responsible for the onsite sewage system design, with the applicant’s written consent, may request an IFFC before the engineering design review panel. To request an IFFC before the engineering design review panel, a written request must be submitted to the District Health Director within 30 days of the professional engineer’s receipt of the denial.

3. If the applicant elects to submit a new application within 90 days and does not appeal the original denial, no fee will be charged for that second submittal. However, VDH will assess the full fee for any subsequent application. The time limits for processing the application (when applicable) begin anew on the day of each resubmission. The following table illustrates the fees to be assessed when processing applications:

Table 1: Fees for Re-submissions – Not a Principle Place of Residence (new applications)

| Application | Fee Attached |
|---|--------------|
| First Application | Full Fee |
| Second Application if submitted within 90 days of denial of first application (and the applicant does not appeal the original denial) | No Fee |
| Any subsequent application | Full Fee |

4. An applicant for a construction permit or a certification letter may request a refund of the application fee if the applicant voluntarily withdraws his application before VDH issues or denies the requested permit, letter or subdivision review. The application fee will be refunded if the application is withdrawn before VDH makes a site visit for the purpose of evaluating the application.

H. Denials of applications (principal place of residence)

The owner(s) or agent thereof shall indicate on the application form whether or not the requested approval is a construction permit or certification letter for a system that is intended to serve as his or her principal place of residence. The following procedures apply to denials of onsite sewage construction permits when the applicant has indicated that the system is intended to serve as the applicant’s principal place of residence.

1. VDH will deny applications that do not comply with the applicable regulations and cite the applicable regulatory requirements. Denial letters must clearly state in plain English the rights and administrative remedies available to the owner.
2. The applicant must elect which potential remedy to pursue. The applicant may not pursue multiple administrative remedies for the same denial. With denials for systems intended to serve a principal place of residence, the mutually exclusive administrative remedies are as follows:
 - a. In accordance with 12VAC5-620-90, the owner or agent thereof may apply for and obtain a refund of the application fee for any denial of a permit or letter on land on which the owner seeks to construct his or her principal place of residence. He or she may do so by executing an affidavit (Form 13) and submitting it to the local health department within 12 months of the date of denial. Local health departments shall attach a copy of Form 13 to any denial of a construction permit or certification letter for principal place of residence. The applicant may not obtain a refund if he or she is pursuing an administrative appeal of the denial or if he or she has submitted another application for which the fee was waived. Such application fees shall not be refunded unless any administrative appeals based on the denial have either been resolved or waived by the applicant; such waiver can be explicit via the execution of affidavit Form 13 or implicit by virtue of a failure to exercise appeal rights within the timeframe specified in the denial letter;
 - b. The applicant may submit one new application within 90 days from the date that the original application was denied without paying an additional fee;
 - c. The applicant may appeal the denial by requesting an IFFC before VDH pursuant to Va. Code Section 2.2-4019. To obtain an IFFC before VDH, the applicant must submit a written request to the District Health Director within 30 days of his or her receipt of the denial; or
 - d. For denials of submittals under §32.1-163.6 of the *Code*, the applicant or the professional engineer responsible for the onsite sewage system design, with the applicant's written consent, may request an IFFC before the engineering design review panel. To request an IFFC before the engineering design review panel, a written request must be submitted to the District Health Director within 30 days of the professional engineer's receipt of the denial.
3. If the applicant elects to submit a new application within 90 days and does not appeal the original denial or request a refund, then no fee will be charged for that second submittal. VDH will assess the full fee for any subsequent application. The time limits for processing the application (when applicable) begin anew on the day of each resubmission.

Table 2: Fees for Re-submissions – Principle Place of Residence (new applications)

| Application | Fee Attached |
|-------------|--------------|
|-------------|--------------|

| | |
|---|----------|
| First Application | Full Fee |
| Second Application if submitted within 90 days of denial of first application (and the applicant does not appeal the original denial or request a refund) | No Fee |
| Any subsequent application | Full Fee |

4. An applicant for a construction permit or a certification letter may request a refund of the application fee if the applicant voluntarily withdraws his or her application before VDH issues or denies the requested permit or letter. The application fee will be refunded if the application is withdrawn before VDH makes a site visit for the purpose of evaluating the application.

I. Prioritizing Applications

This section is intended to replace GMP 51 and provide guidance for processing applications to meet applicant needs and make the best use of agency resources. It is not possible to develop a set of criteria that will account for all possible circumstances, but VDH staff should follow these guidelines as closely as possible.

1. Applications for onsite sewage permits and approvals are categorized as follows, in order of priority:
 - a. Priority Level 1: Applications for construction permits to repair failing systems.
 - b. Priority Level 2: Applications for construction permits where the applicant has concurrently applied for a building permit.
 - c. Priority Level 3: Applications for certification letters.
 - d. Priority Level 4: Applications for voluntary up-grades.
 - e. Priority Level 5: Applications for multiple-lot certification letters or subdivision approvals.
2. Applications for construction permits to repair a failing system should always receive immediate attention, due to the public health hazard.
3. Each district may set the proportions of time among the different priority levels to best meet local needs, unless processing time for priority levels 1 and 2 exceeds 15 days. In that case, processing of lower level priority applications should be delayed as necessary to allow processing of priority 1 and priority 2 applications within 15 days.
4. VDH's policy is to encourage the use of private sector OSEs and PEs for site evaluation and design. Districts should consider that processing applications with complete supporting documentation from the private sector requires less staff time when prioritizing applications *within* each priority level (e.g. all other aspects of the applications being equal, if a bare application for new construction is submitted on the same date as an application for new construction with supporting documentation from a private OSE/PE, then the application with supporting documentation should receive priority for review). Further, districts should encourage applicants to obtain the services of a private sector OSE/PE.

J. Work Product Expectations:

The following are Work Product Expectations (WPEs) established for all designers of onsite sewage systems, including those employed by VDH. These WPEs are intended to serve as guidelines for documentation *in addition to the minimum requirements outlined previously in this document*. The WPEs are the standard expected of VDH employees. Private sector OSEs and PEs are strongly encouraged to comply with these standards since doing so should reduce misinterpretations and lead to more efficient processing of applications.

A failure to adhere to these WPEs shall not result in the denial of an application. However, as is the case with any application, VDH has discretion to conduct a Level 2 review if the designer fails to adhere to a particular WPE. If the Level 2 review reveals that applicable regulations have not been complied with, then VDH shall deny the application.

~~1-2.~~ The pages of all submittals should be consecutively numbered beginning with the first page using the format "Page x_of y". The cover page should, at a minimum, contain a list of the documents contained in the supporting design package, a property identification, the property owner's name and address, the OSE/PE's contact information, date of plans, and revision dates. To assure that contractors have the correct set of plans, the health department's approval letter must correspond to the date on the cover page or the date of last revision on the cover page, if revisions are made.

~~2-3.~~ OSE/PEs, at his or her discretion, may make minor revisions to a permit, certification letter or subdivision approval issued in reliance on his or her evaluations or designs. Private sector OSE/PEs should notify VDH when the OSE/PE has revised his or her evaluations and designs. All OSE/PEs should notify the property owner when such evaluations and designs have been revised. All revisions must comply with applicable regulations. See Part III, Section C of this document for additional details.

~~3-4.~~ All applications with footprints, sites, and areas planned for treatment works and/or private wells should have the proposed areas identified with accuracy and precision of three feet or less. The OSE/PE or surveyor must provide sufficient information to allow a person with the knowledge, skills, and abilities of an Environmental Health Specialist (EHS), an onsite wastewater system installer, or water well systems provider to locate the area in the field using the paperwork and field markers, when applicable. Field markers may include permanent field stakes or distances and bearings to identifiable landmarks. Trees and wooden stakes are not considered permanent field markers.

~~4. An OSE/PE may opt to show the location of a site for a construction permit (not a certification letter or proposed subdivision) by drawing the perimeter of the absorption area to scale on a survey plat or a copy of a survey plat. VDH does not prescribe the professional's methods or equipment to accomplish the performance expectations of this policy; however, VDH strongly recommends that all sites, including those for construction permits, be surveyed by a licensed surveyor and platted accordingly.~~

5. Preliminary subdivision plats for subdivision applications should show the immediate area in and around each proposed system, including the soil absorption system, using a contour

interval shown in Table 3; the contour area shown outside the soil absorption system should be sufficient to establish the relationship of the area to relevant topographic features such as, but not limited to, drainage ways, sink holes, road cuts, and steep slopes. A minimum distance of 20 feet is recommended.

Table 3: Contour Interval for Subdivision Plats

| Slope (%) | Contour Interval |
|-----------|------------------|
| 0-5 | 2 |
| 6-25 | 5 |
| 26-50 | 10 |

6. All submittals should document compliance with Chesapeake Bay Preservation Act requirements and other applicable state laws and local ordinances;
7. All drawings should be drawn to scale. Critical dimensions must be shown on the drawing. This includes measurements to critical system components (e.g. distribution box, well site or area, etc.) which should be located using triangulation from appropriate field markers. When a well area is designated, the boundaries shall be clearly defined and limited on all sides.
8. The WPEs related to site evaluations are stated below.
 - a. All site evaluation reports should be signed and dated.
 - b. The maximum acceptable separation distance between observation holes during a soil investigation is 100 feet. The use of common holes between adjacent proposed sewage disposal system sites to describe both sites should be avoided.
 - c. Soil features should be described using the standards contained in the USDA NRCS Field Book for Describing and Sampling Soils.
 - d. When backhoe pits or other excavations are used during a site and soil evaluation, the complete range of soil characteristics exposed should be described (depth to mottles, rock percentage and depth to rock or other restrictive layers and variability in rock depth). OSHA Regulations apply when working in pits.
 - e. A site and soil evaluator should describe the following soil characteristics as he or she deems necessary:
 - i. Soil consistence;
 - ii. Soil structure (grade, size and type);
 - iii. Soil color patterns (kind, quantity, size, contrast, color, shape location, moisture state, hardness and boundary);
 - iv. Soil parent material and physiographic province; and
 - v. Estimated clay mineralogy and the existence of observable minerals (feldspar, mica, quartz, etc.)

vi. Root penetration.

9. The WPEs related to site sketches are as follows:

- a. Site sketches should represent the topography in the vicinity of the proposed onsite sewage system as well as the topography in the vicinity of any private water supply (existing or proposed) so as to establish the topographic relationship between such water supplies and sources of contamination including, but not limited to, the proposed soil absorption system.
- b. Sketches should be neat, legible, and drawn to scale when possible. The sketch should provide accurate documentation (distances) for profile holes and other features and suitable reference points. The site sketch should show existing and proposed property lines for the subject property and any other property lines within ten feet of the perimeter of the proposed soil absorption area and/or proposed structure.
- c. Within 200 feet of the edge of the proposed soil absorption area, the following must be shown:
 - i. Existing and proposed wells, springs, and cisterns. If a private water supply is proposed, the location and construction of the proposed water supply (or supplies) must comply with the *Well Regulations*.
 - ii. Existing and proposed onsite sewage systems;
 - iii. Shellfish waters, lakes, streams, other bodies of water, and surface impoundments used for drinking water; and,
 - iv. Sinkholes, drainage ways, flood plains, drainage ditches, and tile drainage.
- d. Site sketches should document percent slope and direction (an acceptable topographic map may be substituted);
- e. Site sketches should document all existing and proposed structures, buildings, etc. within 100 feet of the perimeter of the proposed soil absorption area and private water supply (if applicable);
- f. Site sketches should document easements, rights of way, driveways, roads, and buried and above-ground utilities within 20 feet of the perimeter of the proposed soil absorption area.

Part III: VDH Review

A. Application Review.

1. All applications and fees must be logged in. Local and district health departments are responsible for entering data into VDH's data system, the Virginia Environmental Information System (VENIS). As a best practice, all applications should be reviewed for completeness at

the time they are received. That way, if the application is incomplete for any reason, VDH can contact the applicant and/or designer to provide the missing information so that VDH can fully evaluate the application within the timeframes specified by the *Code of Virginia* and this policy.

2. An incomplete application should not be logged in, nor should fees be accepted for an application that is known to be incomplete at the time it is filed. Whenever possible, administrative support staff should be responsible for these tasks. If an incomplete application is accepted, it shall be denied.
3. VDH's program for reviewing applications for permits, certification letters, and requests for subdivision approval will employ two basic levels of review: the in-office (paperwork) Level 1 review and the field, Level 2 review.
 - a. A Level 1 review determines whether an application at face value is complete. The Level 1 review confirms the site and/or the design certified by the OSE/PE substantially complies with applicable regulations.
 - b. A Level 1 review consists of administrative and technical reviews and *does not include field review*. Local and district health departments should complete a Level 1 review of every application as soon as practicable.
4. For Level 1 reviews, staff should review VDH records to verify the site was not previously denied a permit and the proposed treatment works or well does not conflict with the minimum set back distances for features on adjacent properties. This review of VDH records constitutes a quality assurance review and is not a substitute for a sanitary survey, which is necessary to positively establish setbacks with certainty. The ultimate responsibility for establishing setback distances remains with the OSE/PE certifying the submitted work.
5. The Level 2 review (field check or quality assurance check) is a detailed onsite evaluation of the site conditions and the design certified by a private sector OSE/PE. The Level 2 review is discretionary and should be performed on at least 10% of applications submitted with supporting work from each private sector OSE/PE. In addition, staff is strongly encouraged to conduct a Level 2 review when a submittal lacks a WPE specified in this policy.
 - a. If a Level 2 review is not performed and the application complies with the minimum requirements of the applicable regulations and this policy based upon the Level 1 review, then a construction permit or certification letter must be issued within the required or expected time frames. Applications that do not comply with the minimum requirements of the applicable regulations must be denied. The denial must be linked to the appropriate OSE/PE using VENIS.
 - b. A Level 2 review assesses the performance of private sector evaluators and designers by sampling a subset of the work submitted by the OSE/PE.
 - c. Local and district health departments should complete Level 2 Reviews of a minimum of 10% of the sites and/or designs certified by each private sector

OSE/PE. Local and district health departments may conduct additional Level 2 reviews as necessary.

- d. Level 2 reviews must be conducted within the processing times expected for the application. Staff should conduct Level 2 reviews prior to approving or denying an application, unless pursuant to a request from the owner or agent, the designer, or the contractor responsible for installing the system.
 - e. A Level 2 review may include conducting soils borings, examining backhoe pits or other excavations, a sanitary survey, permeability testing, or other actions necessary to assure that a site or design complies with applicable regulations.
 - f. The local or district health department will perform Level 2 reviews using the best methods available, including evaluating open backhoe pits or a hand auger. An owner will not be required to hire a backhoe for a Level 2 review if one is unavailable at the time of VDH's Level 2 review.
 - g. Except in extraordinary circumstances, the local or district health department shall notify the owner and the OSE/PE when intending to conduct a Level 2 review.
 - h. If a Level 2 review reveals that a site and/or a design do not substantially comply with applicable regulations, the application will be denied. The denial letter must be linked to the appropriate OSE/PE using VENIS.
6. The local health department shall provide a copy of each approval or denial based on an OSE or OSE/PE certification to the licensed individual that certified the site. Additionally, a copy of any Level 1 and Level 2 forms used in the review of the submittal shall be provided to the owner and the OSE/PE. This policy is not intended to create a burdensome procedure or extensive copying process. Sending a copy of the approval or denial letter including the permit identification number (when the approval is for a construction permit), and a copy of the Level 1 and Level 2 forms (when applicable), normally shall be sufficient to comply with this policy. If for whatever reason, the Department's permit is different from that certified by the OSE/PE, then the Department shall also include a copy of the permit, and an explanation of the revision(s), in addition to the approval letter so that all differences are readily identified.

B. Revalidating Expired OSE/PE Permits; Relying on Previous Certifications.

1. In general, VDH will rely upon the certified evaluation or design of an OSE/PE when considering renewal or revalidation of an expired permit as long as the OSE/PE provides reasonable assurance no substantive intervening changes have occurred.
2. When VDH has issued a construction permit in reliance upon the work of an OSE/PE and that permit has expired the following shall apply:

- a. Pursuant to Va. Code § 32.1-164.1:1: “if a building permit has been obtained or building construction has commenced, the permit may be extended for an additional 18 months.” Unless the local or district health department is aware of specific facts supporting a conclusion that the permit does not substantially comply with applicable regulations or no construction has commenced, then staff will extend the permit by adding eighteen months to the original term of the permit upon request. No additional extensions may be permitted.
 - b. Before a permit is extended, the local or district health department will require a signed statement from the property owner or OSE/PE affirming that there has been no “substantial, intervening change in the soil or site conditions where the onsite sewage system is to be located and building construction commenced prior to expiration of the permit.”
 - c. No new OSE certification is required when an applicant seeks to renew an expired permit with no changes in the design or location of the system or in the location of the structure.
3. In some circumstances ~~new-new certification~~certifications along with new applications and fees are required. Examples of such situations include, but are not limited to, new approvals (letter, permit, or subdivision lot), modification of an existing approval, and changes to an existing or expired construction permit design.

Comment [TD10]: Following FAQ

C. Design Changes

The OSE/PE, with the consent of the owner, may make certain design changes to a valid construction permit without prior approval of the health department. No new application or fee shall be required. Such changes must comply with the following:

1. For onsite sewage systems the design change shall not affect any of the following design parameters:
 - a. The proposed daily flow (GPD);
 - b. The proposed waste strength (e.g. residential, commercial);
 - c. The proposed level of treatment (including nitrogen reduction and disinfection);
 - d. The proposed dispersal area foot print (location or size); or
 - e. The proposed dispersal method; (minor adjustments to the dispersal area are allowed).^[1]
2. All changes for onsite sewage systems must fully comply with all applicable codes, regulations and policies.
3. The designer shall provide the health department with complete documentation including a list of all changes and revised specifications, calculations and drawings as part of a complete

^[1]Minor adjustments will be allowed to installation depth and dispersal area configuration that are i) supported by site and soil evaluations on file (i.e., no additional site or soil evaluation required), ii) contained within the perimeter of the originally designated absorption area, and iii) do not require additional field (Level II) review.

revised design package. Such documentation should be submitted prior to installation of the system.

4. The designer and owner are responsible for ensuring that all design changes are communicated to the onsite sewage system installer and/or water well system installer.

For private wells, all design changes will require a new application and a new fee. Therefore, it is vital that the OSE/PE discuss the proposed well location with the owner and their well driller (if possible) prior to submitting an application. The use of well areas is encouraged in areas deemed appropriate by the OSE/PE. The use of well areas can avoid unnecessary follow-up site evaluations. Where dry holes or low yielding wells are common, or other conditions indicate their use (such as with close loop geothermal well systems), a well area may be more appropriate than a well site. When a well area is designated and a dry hole is encountered, a well driller may drill multiple wells without reapplying for a new permit for each new site, provided the dry holes are properly abandoned in accordance with the *Well Regulations*.

VDH will review any changes before issuing an operation permit or well approval. Any changes that do not fully comply with this section and applicable regulations may result in the construction permit being deemed null and void. In such case, the owner will be required to submit a new application and a new application fee. If improperly installed, the owner may be required to abandon the sewage system and/or private well.

The designer and owner are responsible for assuring that any design changes fully comply with all applicable laws and regulations. The cost to correct an error created by a design change initiated by the owner or designer without prior approval by VDH will not be considered a hardship when processing a variance request.

D. Professional Courtesy Reviews.

1. VDH will provide consultative field reviews with an OSE/PE when requested if possible. The courtesy review must be requested prior to the filing of any application with VDH, or prior to filing any documents with a local government for a proposed subdivision. The courtesy review is discretionary and not subject to time limits.
2. Courtesy reviews are not intended to relieve an OSE/PE of the responsibility for determining whether a site complies with applicable regulations.
3. The OSE/PE requesting a courtesy review must file a request in writing and the property owner must provide permission for VDH to enter the property.
4. The OSE/PE must provide a brief, written description of the specific questionable or marginal site or soil feature where the courtesy review is being requested.
5. Requests should be logged into VENIS. All activities, evaluations, and results of the courtesy review shall be documented.

6. VDH determinations regarding site and soil characteristics from courtesy reviews are not case decisions and no written response is required. They cannot be appealed nor are they binding on any party.
7. VDH may limit professional courtesy reviews. If a local or district health department elects not to provide a requested courtesy review, it must inform the OSE/PE in writing.

E. Processing time limits for applications subject to deemed approval.

1. VDH shall review and process applications subject to deemed approval within the time frames specified in Table 4. If the application is denied, then VDH shall set forth in writing the reasons for denial.

Table 4: Processing Times for Applications subject to Deemed Approval

| Type of Application | Time Limit |
|-----------------------------------|-----------------|
| Individual Permit Application | 15 working days |
| Individual Certification Letter | 20 working days |
| Multiple Lot Certification Letter | 60 days |
| Subdivision Review | 60 days |

F. Processing time limits for applications NOT subject to deemed approval.

1. Applications submitted pursuant to Va. Code Section 32.1-163.6 are not subject to deemed approval; however, the *Code* requires VDH to process them within 21 or 60 days, depending on the application.
 - a. Within 21 calendar days from the date of application for treatment works sized at 1,000 gallons per day or smaller, and within 60 calendar days from the date of application for treatment works sized at more than 1,000 gallons per day, the Department shall (i) issue the requested approval, or (ii) set forth in writing the specific reasons for denial.
2. Any application for a proprietary, pre-engineered system that has been deemed by VDH to comply with the Board's regulations should be processed in the time frames identified in Table 4. VDH may accept evaluations and designs for such proprietary, pre-engineered systems in accordance with this policy; however, the processing time limits and deemed approval shall not apply to any such application.
3. For requests for courtesy reviews, VDH should inform the OSE/PE within seven days whether the courtesy review can be scheduled. The courtesy review should be made within 180 days of the request if possible.

Part IV: Final Inspections

~~A. The local health departments will perform 100% construction inspections of all onsite sewage systems and wells for both VDH and private sector designs. At a minimum, staff will obtain and~~

record (in VENIS) GPS coordinates for all onsite sewage disposal systems, alternative discharge systems and private wells as specified in previous GMP's. Inspections will take place prior to issuance of the Operation Permit.

A. General Requirements and Expectations:

Onsite Sewage System - VDH OSE Design:

1. Following issuance of a permit, the licensed installers shall notify the appropriate local or district health department one (1) business day in advance of construction to request a final inspection.
2. VDH staff will inspect the entire system to determine whether the installation complies with all applicable regulations and the permit. All observations must be documented during inspection and entered into VENIS.
3. Location information of the tank and distribution box will be recorded by VDH staff by entering the GPS coordinates into the VENIS database.
4. VDH staff must complete an as-built drawing of the installation. Field measurements should be taken to the septic tank, the distribution box, and other necessary components.
5. VDH staff should secure the contractor's completion statement at the time of inspection.
6. If no deficiencies are noted during the inspection, VDH staff shall inform the installer of the satisfactory inspection. An inspection statement reporting the proper installation of the system will be provided to the property owner within two (2) business days of the inspection, and shall note any additional information required to obtain an operation permit.
7. If deficiencies are noted during the inspection, VDH staff shall inform the installer of the deficiencies. If the deficiencies can be corrected during the inspection, VDH staff will note the correction. If the deficiencies cannot be corrected during the inspection, VDH staff will notify the owner of the deficiencies in writing either certified mail or hand delivery within one (1) business day and include information regarding the owner's right to appeal the decision to deny approval of the installation.

Onsite Sewage System - Private Sector OSE/PE Design:

1. Following issuance of a permit, the licensed installers shall notify the certifying private sector OSE/PE in advance to request a final inspection. The necessary notification timeframe is determined by the private sector OSE/PE, in consultation with the installer (many private sector OSEs/PEs provide requested inspection notification timeframes within their proposed designs). Before starting construction, the installer shall also notify the appropriate local or district health department at least one (1) business day in advance to request a final inspection.
2. In accordance with Va. Code § 32.1-164.1.E, the certifying private sector OSE/PE shall inspect the system at the time of installation, the private sector OSE/PE is responsible for the final

inspection of their system design; the responsibility shall extend to any subsequent re-issuance of the permit (e.g. renewal, change of owner, etc.). The certifying private sector OSE/PE is responsible for inspecting the entire system to determine whether the installation complies with the applicable regulations and the permit. The OSE/PE must complete an as-built drawing of the installation. Field measurements should be taken to the septic tank, the distribution box, and other necessary components. The private sector OSE/PE should secure the contractor's completion statement at the time of inspection and file with the applicable local health department as soon as possible.

3. VDH is responsible for informing the OSE/PE of the re-issuance of a permit by sending a copy of the permit approval letter to the OSE/PE who originally designed the system.
4. The VDH inspection can take place at any point during the installation. VDH staff will focus on the location, treatment level, depth, and sizing of the installation. Location information should be recorded by VDH staff by entering GPS coordinates of the tank and distribution box into the VENIS database. The VDH construction inspection of private sector submittals may not be a complete system review and will not include additional soil evaluations. VDH staff are encourage to conduct their inspection prior to, or in coordination with, the private sector OSE/PEs inspection.
5. When conducting a joint inspection, VDH staff may secure the contractor's completion statement at the time of inspection. However, if VDH staff is not present at the time when the private sector OSE/PE completes the final inspection, the private sector OSE/PE should secure the contractor's completion statement and provide a copy to the appropriate district or local health department along with the inspection report.
6. If VDH staff observes deficiencies during the inspection, VDH staff shall inform the certifying private sector OSE/PE and installer of the deficiencies. If the deficiencies can be corrected during the inspection, VDH staff will note the correction. If the deficiencies cannot be corrected during the inspection, VDH staff will notify the owner of the deficiencies in writing either certified mail or hand delivery within one (1) business day and include information regarding the owner's right to appeal the decision to deny approval of the installation.
7. If the certifying private sector OSE/PE does not observe any deficiencies during the inspection, the certifying private sector OSE/PE should inform the installer of the satisfactory inspection. The installer can then cover the system, even if VDH staff has yet to conduct their inspection provided VDH was given notice of the installation. If VDH staff were not notified, VDH may withhold final approval pending further review with the installer. In accordance with Va. Code § 32.1-164.1.E, the certifying private sector OSE/PE shall provide an inspection report to the appropriate district or local health department documenting their inspection observations and recommendation to approve the system installation. No system components shall be covered until the certifying private sector OSE/PE has inspected and approved the system components.
8. If the private sector OSE/PE observes deficiencies during the inspection, the OSE/PE shall inform the owner, VDH staff, and installer of the deficiencies. If the deficiencies can be corrected during the inspection, the OSE/PE will note the correction. If the deficiencies cannot be corrected during the inspection, the OSE/PE shall provide a written inspection report noting

the deficiencies to VDH. VDH staff will notify the owner that an inspection approval from the OSE/PE is required and that the OSE/PE has declined to certify the installation within one (1) business day of receiving the inspection statement. VDH will also notify the owner of their right to petition VDH to inspect the installation and render a final case decision approving or disapproving the installation. Decisions to grant or deny petitions for VDH inspections will be determined on a case-by-case basis.

Private Wells:

An OSE/PE is expected to perform a final inspection for any private well installed pursuant to a construction permit based on a design certified by the OSE/PE. VDH is required to inspect all onsite systems and private wells, including those installed pursuant to a construction permit design certified by a private sector OSE/PE. The well driller shall notify the local health department and private sector OSE/PE (if applicable) prior to starting a new well. Inspections may be made during construction or prior to placing the well in service; however, staff is encouraged to inspect during the grouting process

General Requirements and Expectations:

- ~~1. An OSE/PE is expected to perform a final inspection for any sewage disposal system installed pursuant to a construction permit based on a design certified by the OSE/PE. VDH may, but is not required to, inspect systems designed by a private sector OSE/PE. Installers should always notify the appropriate local or district health department whenever they are ready for a final inspection, regardless of whether that inspection is the responsibility of a private sector OSE/PE or VDH.~~
- ~~2. Each OSE/PE should attempt to secure the contractor's completion statement at the time of inspection and file with the applicable local health department as soon as possible.~~
- ~~3. Local and district health departments should perform final inspections of at least 10% of private sector OSE/PE designed systems. Local and district health departments are discouraged from conducting final inspections as a routine method for accomplishing Level 2 Reviews.~~
- ~~4. Whenever an OSE/PE is responsible for the final inspection of an onsite system, that responsibility shall extend to any subsequent re-issuance of the permit (e.g. renewal, change of owner, etc.). VDH is responsible for informing the OSE/PE of the re-issuance of a permit by sending a copy of the permit approval letter to the OSE/PE who originally designed the system.~~
- ~~5. Whenever an OSE/PE conducts an inspection of a system and cannot approve it, the OSE/PE should immediately notify the owner in writing and send a copy of the notice to the appropriate local or district health department. The written notice must include an explanation of the reasons for the OSE/PE's refusal to approve. Whenever an OSE/PE requires corrective actions prior to determining a system is properly installed, the inspection report and completion statement must document those corrective actions.~~
- ~~6. OSE/PEs should always submit as-built installation drawings. Field measurements should be taken to the septic tank, the distribution box, and other necessary components. If the sewage~~

Comment [TD11]: To follow HB 2477.

~~system's location and details did not change from the construction permit, then the OSE/PE should note that information on the inspection report.~~

~~An OSE/PE is expected to perform a final inspection for any private well installed pursuant to a construction permit based on a design certified by the OSE/PE. VDH is required to inspect all private wells, including those installed pursuant to a construction permit based on a designed certified by a private sector OSE/PE. The well driller shall notify the local health department and private sector OSE/PE (if applicable) prior to starting a new well. Inspections may be made during construction or prior to placing the well in service.~~

Index of Forms. Forms are available upon request from the Division or they may be obtained by visiting the VDH website: *vdh.virginia.gov*. Forms are subject to change without notice; therefore, all OSEs and PEs are encouraged to periodically review the VDH website to ensure they are using the most current forms.

- Form 1: Application for a Sewage Disposal System and/or Private Well Construction Permit
- Form 2: Cover Page
- Form 3: OSE/PE inspection form
- Form 4: Example request for subdivision review
- Form 5: Request for professional courtesy review
- Form 6: Site and soil evaluation report
- Form 7: Example construction drawing page
- Form 8: Example system specifications worksheet
- Form 9: Example private well specification worksheet
- Form 10: Example private well abandonment specification worksheet
- Form 11: Request for Survey Waiver
- Form 12: Verification of Sewage System Location
- Form 13: Refund Affidavit
- Form 14: ~~Condition Assessment Form~~ ~~Malfunction Assessment~~

Comment [TD12]: We need to change the form on the website and state where the form is located in all three policies (2017-01, 2017-02 and 2017-03).